

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Environmental Protection

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON:

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CHAPTER NUMBER AND RULE TITLE:

Snow Dumps: Exemption from Waste Discharge License, 06-096 CMR 573 (effective September 1, 1988)

STATUTORY AUTHORITY:

38 M.R.S.A. §§ 341-H and 413

DATE AND PLACE OF PUBLIC HEARING: n/a

COMMENT DEADLINE:

June 1, 2012 by 5:00 P.M. Comments may be submitted by mail, e-mail or fax to the contact person listed above. To ensure the comments are considered, they must include your name and the organization you represent, if any.

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE:

The purpose of this rule amendment (repeal and replace) is to define siting criteria and best management practices for pollution prevention associated with snow dumps that, when followed, will not result in a discharge of pollutants and will not require a waste discharge permit. Further, the amended rule will specify that the owner or operator of a snow dump facility that can not meet the siting criteria and best management practices may apply for a general permit, when available. A general permit scheme of permitting snow dumps will expedite the permitting process and have lower annual permit fees.

The Department held a public hearing on December 6, 2011 on the proposed amendments to *Snow Dumps: Exemption from Waste Discharge License*, 06-096 CMR 573. The comment period closed on January 6, 2012. In response to evidence received at the hearing and written comments received from interested parties, the Department is proposing to adopt certain changes to the proposed rule that will result in a rule that differs substantially from the Department's proposed rule. The Maine Administrative Procedure Act (MAPA), 5 M.R.S.A. § 8052(5) requires that "[if] an agency determines that a rule that the agency intends to adopt is substantially different from the proposed rule, the agency shall request comments from the public concerning the changes from the proposed rule." Accordingly, the Department is requesting comments on the proposed changes to the proposed rule.

ANALYSIS AND EXPECTED OPERATION OF THE RULE:

The original rule was adopted in 1988 and was intended to provide exemption criteria from the requirement to obtain a waste discharge license pursuant to 38 M.R.S.A. §413. The statute does not provide exemptions for discharges of pollutants from snow dumps; thus, the 1988 rule does not have legal basis for establishing "exemption criteria." The proposed revised rule establishes siting criteria and best management practices that, when followed, will not result in a discharge of pollutants from snow dumps. Since meeting the siting criteria and following the BMPs results in no discharge of pollutants, there is no need for the owner or operator of the snow dump to obtain a waste discharge permit. If an owner or operator of a snow dump cannot comply with the conditions set forth in the rule for no discharge of pollutants, the owner/operator may apply for a waste discharge permit. The Department intends to develop a general permit for this category of discharge to provide an expedited and less costly mechanism for snow dump facility owners/operators.

FISCAL IMPACT OF THE RULE:

A Cost Benefit Analysis has been determined unnecessary at this time. This rule revision is anticipated to result in no increased costs to the regulated community and, in fact, may reduce licensing fees through development of a general permit. The rule revisions are not anticipated to result in an appreciable increased cost to the Department.