

§1310-N. Solid waste facility licenses

No person may locate, establish, construct, expand the disposal capacity of or operate any solid waste facility unless approved by the department under the provisions of this chapter. When the proposed facility is located within the jurisdiction of the Maine Land Use Planning Commission, in addition to any other requirement, the department shall require compliance with existing standards of the commission. [PL 1993, c. 680, Pt. A, §37 (RPR); PL 2011, c. 682, §38 (REV).]

1. Licenses. The department shall issue a license for a waste facility whenever it finds that:

A. The facility will not pollute any water of the State, contaminate the ambient air, constitute a hazard to health or welfare or create a nuisance; [PL 1993, c. 680, Pt. A, §37 (RPR).]

B. In the case of a disposal facility, the facility provides a substantial public benefit, determined in accordance with subsection 3-A; [PL 2013, c. 458, §1 (AMD).]

C. In the case of a disposal facility or a solid waste processing facility that generates residue requiring disposal, the volume of the waste and the risks related to its handling and disposal have been reduced to the maximum practical extent by recycling and source reduction prior to disposal. This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling or to any other facility exempt from the requirements of subsection 5-A. The department shall find that the provisions of this paragraph are satisfied when the applicant demonstrates that the applicable requirements of subsection 5-A have been satisfied; and [PL 2013, c. 458, §1 (AMD).]

D. The practices of the facility are consistent with the State's solid waste management hierarchy set forth in section 2101. The department shall adopt rules incorporating the State's solid waste management hierarchy as a review criterion for licensing approval under this subsection. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2013, c. 458, §1 (NEW).]

[PL 2013, c. 458, §1 (AMD).]

1-A. Surface water protection. The department may not issue a license for a solid waste facility if it finds that the proposed facility will cause an unreasonable threat to the quality of a classified body of surface water. In determining whether the proposed facility poses an unreasonable threat, the department shall require the applicant to provide evidence demonstrating that:

A. The soils on the proposed facility site are suitable to the nature of the undertaking; [PL 1995, c. 126, §1 (NEW).]

B. An appropriate erosion and sedimentation control plan has been developed and will be implemented on the site; and [PL 1995, c. 126, §1 (NEW).]

C. The proximity of any classified surface water bodies to the proposed solid waste facility has been considered during the site selection process and during the development of the erosion and sedimentation control plan. [PL 1995, c. 126, §1 (NEW).]

[PL 1995, c. 126, §1 (NEW).]

2. Finding of environmental suitability.

[PL 1989, c. 585, Pt. E, §25 (RP).]

2-A. Aquifer protection. The department may not issue a license for a solid waste disposal facility when it finds that the proposed facility overlies a significant sand and gravel aquifer or when the department finds that the proposed facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer it does not overlie, or to an underlying fractured bedrock aquifer.

A. "Significant sand and gravel aquifer" is defined as a porous formation of ice-contact and glacial outwash sand and gravel that contains significant recoverable quantities of water likely to provide drinking water supplies. [PL 1993, c. 680, Pt. A, §37 (RPR).]

B. "Fractured bedrock aquifer" is defined as a consolidated rock formation that is fractured and that is saturated and recharged by precipitation percolating through overlying sediments to a degree that will permit wells drilled into the rock to produce a sufficient water supply for domestic use. [PL 1993, c. 680, Pt. A, §37 (RPR).]

C. In determining whether or not the proposed facility poses an unreasonable threat to the quality of a significant sand and gravel aquifer or to an underlying fractured bedrock aquifer, the department shall require the applicant to provide:

(1) A thorough hydrogeological assessment of the proposed site and the contiguous area including any classified surface waters, significant sand and gravel aquifers and fractured bedrock aquifers that could be affected by the proposed facility during normal operation or in the event of unforeseen circumstances including the failure of any engineered barriers to ground water flow. The assessment must include a description of ground water flow rates, the direction of ground water flow in both the horizontal and vertical directions, and the degree of dilution or attenuation of any contaminants that may be released from the proposed site and flow toward any classified surface water, significant sand and gravel aquifer or fractured bedrock aquifer. [PL 1993, c. 680, Pt. A, §37 (RPR).]

[PL 1993, c. 680, Pt. A, §37 (RPR).]

2-B. Traffic movement.

[PL 1993, c. 383, §36 (RP).]

2-C. Proximity to residential areas.

[PL 1991, c. 43, §1 (RP); PL 1991, c. 43, §4 (AFF).]

2-D. Setback requirements for transfer stations. The department may not issue a permit or a license for a municipal solid waste transfer station unless the location of the handling site conforms to the following setback requirements.

A. For a transfer station on an island that is not connected to the mainland by a road, the department shall establish setback distances on a case-specific basis in accordance with this paragraph:

(1) No predetermined minimum setback from a property boundary, residence or public road established in statute or rule applies. A proposed setback from such a location must be reasonable and compatible with the abutting land use. If all abutting landowners give written approval to the location of the handling site, the department shall find that the proposed setback to a property boundary, residence or public road is reasonable and compatible with abutting land use. If all abutting landowners do not give written approval, the department shall make an independent determination of the reasonableness and the compatibility of the setback to a property boundary, residence or public road.

(2) No predetermined minimum setback from an active or closed landfill established in statute or rule applies. The proposed setback from an active or closed landfill must be reasonable and compatible with the abutting land use. The department shall make an independent determination of the reasonableness and compatibility of the proposed setback to an active or closed landfill.

(3) To the fullest extent possible, the department shall ensure that the handling site of a transfer station on an island is located in a manner that minimizes any adverse impact on the island residents. [PL 1995, c. 73, §1 (RPR).]

B. For all other transfer stations, the handling site may not be within 250 feet of any abutting property boundary, unless:

- (1) The department finds the use of the abutting property to be compatible with the operation of a transfer station on the proposed location. If the department finds use of the abutting property to be compatible, the handling site may be within 250 feet of the boundary but not within 250 feet of any permanent structure on that abutting property; or
- (2) The municipality obtains the written permission of all property owners within 250 feet of the proposed handling site. [PL 1995, c. 73, §2 (AMD).]

This subsection does not apply to transfer station permit or license renewals.
[PL 1995, c. 73, §§1, 2 (AMD).]

2-E. Automobile dismantling, recycling and salvage operations. The department may not issue a license for a solid waste facility that is larger than 3 acres in size and that is the location of automobile dismantling, recycling and salvage if the automobile dismantling, recycling and salvage operations take place within 100 feet of a well that serves as a public or private water supply. This prohibition does not include a private well that serves only the facility or the owner's or operator's abutting residence. [PL 1993, c. 680, Pt. A, §37 (RPR).]

2-F. Siting standards. The department shall issue a license for a new or expanded solid waste facility when it finds that the following standards, in addition to any other requirements of this chapter, have been met.

A. The applicant has the financial and technical ability to develop the project in a manner consistent with state environmental standards and with the provisions of this chapter. [PL 1993, c. 680, Pt. A, §37 (RPR).]

B. The applicant has made adequate provision for traffic movement of all types into, out of and within the proposed solid waste facility. The department shall consider traffic movement both on site and off site. In making its determination, the department shall consider the following factors:

- (1) Vehicular weight limits;
- (2) Road construction and maintenance standards;
- (3) Vehicle type;
- (4) Public safety and congestion on any public or private road traveled by vehicles transporting waste to or from the proposed facility; and
- (5) Other relevant factors. [PL 1993, c. 680, Pt. A, §37 (RPR).]

C. The applicant has made adequate provision for fitting the proposed solid waste facility harmoniously into the existing natural environment and the proposed solid waste facility will not unreasonably adversely affect existing uses, scenic character, air quality, water quality or other natural resources in the municipality or in neighboring municipalities. In determining whether an applicant has made adequate provision for fitting the proposed solid waste facility harmoniously into the existing natural environment, the department may consider the effect of at least 1.5 feet of relative sea level rise by 2050 and 4 feet of relative sea level rise by 2100 as specified by the department by rule. Rules adopted by the department pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2021, c. 590, Pt. B, §2 (AMD).]

D. The proposed solid waste facility will be built on soil types that are suitable to the nature of the undertaking and will not cause unreasonable erosion of soil or sediment. [PL 1993, c. 680, Pt. A, §37 (RPR).]

E. The proposed solid waste facility will not pose an unreasonable risk that a discharge to a significant ground water aquifer will occur. [PL 1993, c. 680, Pt. A, §37 (RPR).]

F. The applicant has made adequate provision for utilities including water supplies, sewerage facilities, solid waste disposal and roadways required for the project, and the proposed solid waste facility will not have an unreasonable adverse effect on the existing or proposed utilities and roadways in the municipality or area served by those services. [PL 1993, c. 680, Pt. A, §37 (RPR).]

G. The project will not unreasonably cause or increase the flooding of the alteration area or adjacent properties nor create an unreasonable flood hazard to a structure. [PL 1993, c. 680, Pt. A, §37 (RPR).]

[PL 2021, c. 590, Pt. B, §2 (AMD).]

2-G. Setback requirement for land application and off-site storage of sludge. The department may not issue a license for a sludge land application site that is within 75 feet of a river, perennial stream or great pond. The department may not issue a license for a sludge storage site or storage facility off the site of generation that is within 250 feet of a river, perennial stream or great pond. Upon the written request to the department of a person who owns property that abuts a sludge land application site or storage facility, the department shall restrict the sludge application or sludge storage site to no less than 50 feet from that abutting property boundary. The board may establish other setbacks by rule. [PL 1999, c. 393, §5 (NEW).]

3. Public benefit determination.

[PL 1995, c. 465, Pt. A, §14 (RP); PL 1995, c. 465, Pt. C, §2 (AFF).]

3-A. Public benefit determination. Public benefit determination is made in the following manner.

A. For the following facilities, the department determines public benefit and shall employ a rebuttable presumption of public benefit:

(1) Solid waste disposal facilities less than 6 acres in size that accept only inert fill, construction and demolition debris, debris from land clearing and wood wastes; and

(2) Solid waste disposal facilities used exclusively for the disposal of waste generated by the owner of the facility except that the facility may accept, on a nonprofit basis, waste not generated by the owner provided that the amount so accepted does not exceed 15% of all solid waste accepted on an annual average. [PL 1995, c. 465, Pt. A, §15 (NEW); PL 1995, c. 465, Pt. C, §2 (AFF).]

B. For all other facilities, the commissioner shall make the determination of public benefit in accordance with section 1310-AA, and the commissioner's determination under that section is not subject to review by the department or the board as part of the licensing process under this section.

[PL 1995, c. 465, Pt. A, §15 (NEW); PL 1995, c. 465, Pt. C, §2 (AFF).]

[PL 1995, c. 465, Pt. A, §15 (NEW); PL 1995, c. 465, Pt. C, §2 (AFF).]

4. Presumption of public benefit.

[PL 1989, c. 585, Pt. E, §27 (RP).]

5. Recycling and source reduction determination.

[PL 2007, c. 583, §3 (RP).]

5-A. Recycling and source reduction determination. The requirements of this subsection apply to solid waste disposal facilities and to solid waste processing facilities that generate residue requiring disposal.

A. An applicant for a new or expanded solid waste disposal facility shall demonstrate that:

(1) The proposed solid waste disposal facility will accept solid waste that is subject to recycling and source reduction programs, voluntary or otherwise, at least as effective as those imposed by this chapter and other provisions of state law. The department shall attach this requirement as a standard condition to the license of a solid waste disposal facility governing the future acceptance of solid waste at the proposed facility; and

(2) The applicant has shown consistency with the recycling provisions of the state plan.

This paragraph does not apply to the expansion of a commercial solid waste disposal facility that accepts only special waste for landfilling. [PL 2007, c. 583, §4 (NEW).]

B. The provisions of this paragraph apply to solid waste processing facilities that generate residue requiring disposal.

(1) An applicant for a new or expanded solid waste processing facility that generates residue requiring disposal shall demonstrate that all requirements of this paragraph will be satisfied. On an annual basis, an owner or operator of a licensed solid waste processing facility that generates residue requiring disposal shall demonstrate compliance with all the requirements of this paragraph. The annual demonstration of compliance must be included as an element of the facility's annual report to the department submitted in conformance with the provisions of subsection 6-D, paragraph B and department rules.

(2) A solid waste processing facility that generates residue requiring disposal shall recycle or process into fuel for combustion all waste accepted at the facility to the maximum extent practicable, but in no case at a rate less than 50%. For purposes of this subsection, "recycle" includes, but is not limited to, the reuse of waste generated within the State as defined in section 1303-C, subsection 40-A, paragraph C; the recovery of metals from waste; the use of waste or waste-derived product as material substitutes in construction; and the use of waste as boiler fuel substitutes.

At least 50% of the waste that a solid waste processing facility characterizes as recycled under this subparagraph must have been reused or recycled by the facility through methods other than placement of the waste in a solid waste landfill, except that a solid waste processing facility that was in operation during calendar year 2018, that accepts exclusively construction and demolition debris and that accepted more than 200,000 tons of such debris in calendar year 2018 shall:

(a) Reuse or recycle at least 15% of such debris through methods other than placement in a solid waste landfill by July 1, 2024;

(b) Reuse or recycle at least 20% of such debris through methods other than placement in a solid waste landfill by July 1, 2025;

(c) Reuse or recycle at least 30% of such debris through methods other than placement in a solid waste landfill by July 1, 2026;

(d) Reuse or recycle at least 40% of such debris through methods other than placement in a solid waste landfill by July 1, 2027; and

(e) Reuse or recycle at least 50% of such debris through methods other than placement in a solid waste landfill by July 1, 2028.

(3) A solid waste processing facility subject to this paragraph shall demonstrate consistency with the recycling provisions of the state plan.

(4) The requirements of this paragraph do not apply to solid waste composting facilities; solid waste processing facilities whose primary purpose is volume reduction or other waste processing or treatment prior to disposal of the waste in a landfill or incineration facility; solid waste processing facilities that are licensed in accordance with permit-by-rule provisions of the

department's rules; or solid waste processing facilities that are exempt from the requirements of the solid waste management rules related to processing facilities adopted by the board.

(5) If the department amends the rules relating to fuel quality for construction and demolition wood fuel and the amendment adversely affects the ability of a solid waste processing facility to meet the 50% standard in subparagraph (2), the department may not enforce the requirements of subparagraph (2) against that processing facility and the department shall submit to the joint standing committee of the Legislature having jurisdiction over natural resources matters a report relating to the rule change. The joint standing committee of the Legislature having jurisdiction over natural resources matters may submit legislation related to the report.

The department shall adopt rules to implement the provisions of this paragraph. Rules adopted pursuant to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A. [PL 2023, c. 283, §1 (AMD).]

[PL 2023, c. 283, §1 (AMD).]

6. Terms and compliance schedules. Except as provided in subsection 6-D, licenses are issued under terms and conditions the department prescribes, and for a term not to exceed 5 years. The department may establish reasonable time schedules for compliance with this article and rules adopted by the board. A licensed or unlicensed municipal solid waste landfill operating on December 31, 1991 may continue to operate until December 31, 1992 unless the commissioner finds that continued operation of a landfill poses an immediate hazard to the public health or the environment, including, without limitation, a threat to a public or private water supply.

[PL 1993, c. 680, Pt. A, §37 (RPR).]

6-A. Relicensing. Notwithstanding subsection 6, a transfer station or a recycling facility licensed under this chapter is not subject to relicensing unless the standards in effect at the time the previous license was issued are changed or the facility significantly changes its operation. For the purposes of this subsection, a transfer station includes any associated area or use that is permitted by the license, such as areas used to burn or chip wood or brush and areas used to store or handle white goods or tires, but does not include any associated wood waste or demolition debris landfills.

[PL 1993, c. 680, Pt. A, §37 (RPR).]

6-B. Unlicensed landfills operating after December 31, 1992. Notwithstanding subsection 6, the commissioner shall enter into an agreement with a municipality allowing that municipality to operate an unlicensed municipal solid waste landfill after December 31, 1992 if the commissioner determines that the municipality has:

A. Selected an alternative solid waste handling or disposal option that is licensed or capable of being licensed; [PL 1993, c. 680, Pt. A, §37 (RPR).]

B. Proposed to the department a reasonable and mutually acceptable schedule for implementing that option; and [PL 1993, c. 680, Pt. A, §37 (RPR).]

C. Agreed to cease accepting waste at the unlicensed landfill on a date certain. [PL 1993, c. 680, Pt. A, §37 (RPR).]

An agreement under this subsection between a municipality and the department may not include any provision that prevents the municipality from using its unlicensed landfill for the disposal of municipal solid waste during the term of the agreement. Notwithstanding any provision of an agreement entered into under this subsection, the commissioner shall order an unlicensed landfill to cease operating if the commissioner finds that continued operation of the landfill poses an immediate hazard to the public health or the environment, including without limitation a threat to a public or private water supply.

[PL 1993, c. 680, Pt. A, §37 (RPR).]

6-C. Summary of federal regulations. The commissioner shall provide a summary of the criteria for municipal solid waste landfills set forth in 40 Code of Federal Regulations, Part 258 (1992) to each

municipality operating a licensed or unlicensed municipal solid waste landfill on the effective date of this subsection. The summary must describe the operational and, where possible, the economic implications under federal and state rules of accepting waste at a municipal solid waste landfill after October 8, 1993.

[PL 1993, c. 680, Pt. A, §37 (RPR).]

6-D. Solid waste facilities licensed under rules valid on or after May 24, 1989. A solid waste facility license issued under applicable solid waste management rules valid on or after May 24, 1989 remains in effect unless modified under section 341-D, subsection 3 or revoked or suspended under section 342, subsection 11-B. These licensees must:

- A. Comply with applicable operating rules adopted by the board; [PL 1993, c. 680, Pt. A, §37 (NEW).]
- B. Comply with annual facility reporting rules adopted by the board; and [PL 1993, c. 680, Pt. A, §37 (NEW).]
- C. Beginning 5 years after the date of issuance of the license, pay an annual facility reporting fee established by the commissioner. The annual fee established in this paragraph must be an amount equal to 20% of the relicensing fee that would have applied to that facility. [PL 1993, c. 680, Pt. A, §37 (NEW).]

Notwithstanding the terms of this subsection, a license issued to a solid waste facility that is not a solid waste landfill may be voluntarily surrendered by the license holder upon department approval.

[PL 2015, c. 124, §8 (AMD).]

6-E. Unlicensed wood-waste, construction and demolition debris landfills. An unlicensed municipal solid waste landfill accepting waste consisting exclusively of wood, landscape refuse or construction and demolition debris and operating as of the effective date of this subsection, may:

- A. Continue to operate until April 9, 1994; and [PL 1993, c. 732, Pt. C, §19 (NEW).]
- B. Continue to operate until December 31, 1995 if:
 - (1) The landfill was operating as of December 31, 1993; and
 - (2) The landfill is a separate and discrete disposal unit that does not overlie or overlap a municipal solid waste landfill that accepts or has accepted "household waste" as defined in 40 Code of Federal Regulations, Part 288, Section 258.2. [PL 1993, c. 732, Pt. C, §19 (NEW).]

Municipalities continuing to operate unlicensed wood-waste, construction and demolition debris landfills under paragraph B shall submit a progress report to the department on or before January 31, 1995. The report must include a description of the alternative handling and disposal method that the town plans to implement prior to December 31, 1995 and an implementation schedule.

Notwithstanding this subsection, the commissioner shall order an unlicensed landfill to cease operating if the commissioner finds that continued operation of the landfill poses an immediate hazard to the public health or the environment, including without limitation a threat to a public or private water supply.

[PL 1993, c. 732, Pt. C, §19 (NEW).]

6-F. Agreements regarding unlicensed wood-waste, construction and demolition debris landfills operating after December 31, 1995. The commissioner may enter into an agreement with a municipality operating an unlicensed wood-waste, construction and demolition debris landfill as authorized under subsection 6-E, paragraph B, allowing that municipality to continue operating after December 31, 1995, if:

A. The municipality agrees to comply with the applicable operating requirements of rules adopted by the board pertaining to site access, litter control, erosion prevention, side slopes, compaction, cover, open burning and fire protection; [PL 1995, c. 160, §1 (NEW).]

B. The municipality is conducting a groundwater quality monitoring program at the landfill as of the effective date of this subsection and agrees to continue the program for the life of the facility, or the municipality implements, as a term of the agreement, a groundwater monitoring program approved by the department; and [PL 1995, c. 160, §1 (NEW).]

C. The municipality submits a facility site plan and narrative that indicate current and proposed final landfill grades and describe the general operating plan and proposed landfilling sequence at the site. [PL 1995, c. 160, §1 (NEW).]

Agreements entered into pursuant to the provisions of this subsection must be for terms of sufficient duration to allow for the planned use of remaining site capacity and the proper closure of these landfills. The department shall consider the terms of these agreements on a case-specific basis, based upon the information submitted in conformance with paragraph C.

Unlicensed wood-waste, construction and demolition debris landfills may not, under the terms of agreements entered into pursuant to this subsection, expand horizontally onto areas where waste has not previously been disposed of, unless the area is licensed under the applicable provisions of this chapter. Notwithstanding this subsection the commissioner shall order an unlicensed landfill to cease operating if the commissioner finds that continued operation of the landfill poses an immediate hazard to the public health or the environment, including, but not limited to, a threat to a public or private water supply.

[PL 1995, c. 160, §1 (NEW).]

7. Criminal or civil record. The department may refuse to grant a license under this article if it finds that the applicant or, if the applicant is other than a natural person, any person having legal interest in the applicant has been found guilty of a criminal or civil violation of laws administered by the department or other laws of the State, other states, the United States or another country.

[PL 1993, c. 680, Pt. A, §37 (RPR).]

8. Exemption. The disposal of construction and demolition debris, land clearing debris and wood wastes is exempt from the requirements of this chapter when:

A. The disposal facility is less than one acre in size; [PL 1993, c. 680, Pt. A, §37 (RPR).]

B. The disposal facility is located on the same parcel of property where the waste is generated; and [PL 1993, c. 680, Pt. A, §37 (RPR).]

C. Only one exempt disposal facility is located on a single parcel of property, except that additional disposal facilities on the same parcel that are less than one acre in size and that were in existence prior to the effective date of this subsection do not require a license under this chapter if no additional waste is disposed of in those additional facilities after the effective date of this subsection. [PL 1993, c. 680, Pt. A, §37 (RPR).]

[PL 1993, c. 680, Pt. A, §37 (RPR).]

9. Host community agreements. The following provisions apply to a solid waste disposal facility, except that this subsection does not apply to a facility owned by the State or to a facility described in section 1303-C, subsection 6, paragraph E or F.

A. The department may not issue a license for a solid waste disposal facility unless a host community agreement is in place as described in this subsection. [PL 2007, c. 406, §2 (AMD).]

A-1. A solid waste disposal facility must have in place a host community agreement with all applicable host communities during the development and operation and through closure of that facility, except that a solid waste disposal facility owned by a municipality that meets the provisions

of, section 1303-C, subsection 6, paragraph B is not required to have in place a host community agreement with the host community that is the geographic site of the facility. A host community agreement for the purposes of this section must, when applicable, include the provisions set forth in paragraph B, except that a host community agreement in effect prior to the effective date of this paragraph is not required to include the provisions set forth in paragraph B. [PL 2007, c. 406, §2 (NEW).]

B. Based upon the nature, size and projected impacts of the proposed facility, host community agreements must, when applicable, include provisions regarding:

- (1) Improvement, maintenance and repair of local roads directly affected by traffic to and from the facility and of other infrastructural elements directly affected by the facility;
- (2) Development and maintenance of adequate local emergency response capacity to accommodate the facility;
- (3) Financial support for personnel or other means to provide technical assistance to the municipality in interpreting data and to advise the municipality on other technical issues concerning the facility; and
- (4) Other issues determined on a case-specific basis by the applicant and municipality to be appropriate given the nature of the proposed facility.

The department shall adopt rules concerning the expenditure of funds made available to a municipality under the provisions of subparagraph (3) to ensure that funds are used to provide direct technical support to the municipality necessary for the conduct of municipal planning and decision making. [PL 1995, c. 465, Pt. A, §16 (NEW); PL 1995, c. 465, Pt. C, §2 (AFF).]

C. In the event that the parties to a host community agreement required under this subsection cannot agree on the terms of agreement, the parties shall submit the dispute for resolution in accordance with this paragraph.

(1) The parties shall submit the dispute for mediation. The commissioner shall present to the parties a list of 5 experienced and qualified mediators. Each party may strike 2 names from the list. After each party has been afforded 2 opportunities to strike, either the sole remaining person or the first unchallenged person on the list must be appointed by the commissioner as the mediator assigned to mediate the dispute. In assembling the list of proposed mediators, the commissioner may consider the panel of mediators offered by the Court Alternative Dispute Resolution Service created in Title 4, section 18-B.

(2) If mediation fails to result in an agreement between the parties, the parties shall submit the dispute for arbitration. The commissioner shall present to the parties a list of 5 experienced and qualified arbitrators. Each party may strike 2 names from the list. After each party has been afforded 2 opportunities to strike, either the sole remaining person or the first unchallenged person on the list must be appointed by the commissioner as the arbitrator assigned to determine the dispute. In assembling the list of proposed arbitrators, the commissioner may consider the panels of arbitrators offered by the Court Alternative Dispute Resolution Service created in Title 4, section 18-B or by the American Arbitration Association or a successor organization.

- (a) Both the facility and the host community are bound by the decision of the arbitrator.
- (b) Unless otherwise provided for in this subparagraph, the arbitration must be conducted in accordance with the rules of the American Arbitration Association or a successor organization for the conduct of commercial arbitration proceedings.
- (c) Costs associated with the arbitration must be shared equally between the parties.
- (d) The arbitrator shall submit the decision to the commissioner.

(e) Either party may appeal the decision of the arbitrator to the Superior Court. [RR 2021, c. 2, Pt. A, §132 (COR).]
[RR 2021, c. 2, Pt. A, §132 (COR).]

10. Water supply testing. Upon written request to the department from the owner of property abutting a commercial solid waste disposal facility that accepts special waste for landfilling, the department shall require the facility licensee to have conducted biannual sampling and analysis of a private water supply well used by the requestor for drinking water. This subsection applies only if the requestor owned and resided and the private water supply well existed on that property prior to the time the property became an abutting property. For purposes of this subsection, "abutting" means both contiguous to the property on which the facility is located, including directly across a public or private right-of-way, and within one mile of the location of the facility.

A. Sampling and analysis must be conducted by a certified laboratory selected by the property owner in a manner specified by, and that meets criteria developed by, the department. The criteria must allow for split samples to be taken by the laboratory selected by the property owner and by a laboratory selected by the licensee. [PL 1999, c. 691, §1 (NEW).]

B. The water supply must be analyzed for all parameters or chemical constituents determined by the department to be appropriate and consistent with department rules regarding solid waste management. The laboratory performing the sampling and analysis shall provide written copies of sample results to the licensee, the landowner and the commissioner. [PL 1999, c. 691, §1 (NEW).]

C. If the analysis indicates possible contamination from the facility, the commissioner shall require the licensee to conduct additional sampling and analysis in conformance with department rules regarding solid waste management to determine more precisely the nature, extent and source of contamination. The commissioner shall, if necessary, require this sampling beyond the boundaries of the property abutting the facility. [PL 1999, c. 691, §1 (NEW).]

D. If a facility adversely affects a public or private water supply by contamination, pollution, degradation, diminution or other means that result in a violation of the state drinking water standards as determined by the commissioner, the licensee shall restore the affected supply at no cost to the consumer or replace the affected supply with an alternative source of water that is of like quantity and quality to the original supply at no cost to the consumer. [PL 1999, c. 691, §1 (NEW).]

E. The licensee shall provide owners of property abutting the facility with written notice of their rights under this subsection on a form prepared by the commissioner as follows:

- (1) On or before December 1, 2000, for a commercial solid waste disposal facility that accepts special waste for landfilling licensed under this chapter prior to October 1, 2000; and
- (2) At or before the time of license issuance for a commercial solid waste disposal facility that accepts special waste for landfilling licensed under this chapter on or after October 1, 2000. [PL 1999, c. 691, §1 (NEW).]

This subsection applies to a new, expanded or existing commercial solid waste disposal facility that accepts special waste for landfilling. When licensing any such facility, the department shall incorporate the provisions of this subsection into the license. The provisions of this subsection apply only to a commercial solid waste disposal facility that accepts special waste for landfilling. [PL 1999, c. 691, §1 (NEW).]

11. Waste generated within the State. Consistent with the Legislature's findings in section 1302, a solid waste disposal facility owned by the State may not be licensed to accept waste that is not waste generated within the State. [PL 2019, c. 619, §5 (AMD).]

12. Citizen advisory committee notification. Except for applications for minor alterations, the department may not issue a license or an amendment to a license to a solid waste disposal facility owned by the State unless the provisions of this subsection are satisfied.

- A. For purposes of this subsection, the following terms have the following meanings.
- (1) "Appointing authority" means an entity authorized pursuant to law or resolve to appoint a member to a citizen advisory committee.
 - (2) "License" means a license, permit, order or approval issued by the department pursuant to this chapter.
 - (3) "Minor alteration" means an alteration that in the department's judgment does not have a potential to impact the environment or public health or welfare or to create a nuisance. [PL 2011, c. 543, §1 (NEW).]
- B. The owner or operator of a solid waste disposal facility shall:
- (1) At least 10 days prior to filing an application for a license or an amendment to a license with the department, send to each member of the relevant citizen advisory committee established pursuant to law or resolve a notice that a copy of the license or amendment application will be sent to each appointing authority in accordance with subparagraph (2). The notice must be sent by United States Postal Service, certified mail, return receipt requested; and
 - (2) At the time of filing an application for a license or an amendment to a license with the department, send to each municipality and any other appointing authority a copy of the license or amendment application. The copy must be sent by United States Postal Service, certified mail, return receipt requested or by a commercial mail delivery service with a comparable proof of delivery. [PL 2011, c. 543, §1 (NEW).]
- C. When filing a license or amendment application, the owner or operator of a solid waste disposal facility shall submit to the department a copy of the certified mail receipts or comparable proof of delivery received under paragraph B. [PL 2011, c. 543, §1 (NEW).]

The department may not issue a license or an amendment to a license prior to 30 days after the latest date of mailing of an application or notice sent in accordance with paragraph B. [PL 2011, c. 543, §1 (NEW).]

SECTION HISTORY

PL 1987, c. 517, §25 (NEW). PL 1987, c. 557, §1 (AMD). PL 1989, c. 157 (AMD). PL 1989, c. 585, §§E24-28 (AMD). PL 1989, c. 890, §§A40, B242 (AMD). PL 1991, c. 43, §§1,2 (AMD). PL 1991, c. 43, §§4,5 (AFF). PL 1991, c. 72, §7 (AMD). PL 1991, c. 169 (AMD). PL 1991, c. 241 (AMD). PL 1991, c. 622, §X14 (AMD). PL 1991, c. 644, §1 (AMD). PL 1991, c. 745, §3 (AMD). PL 1993, c. 191, §1 (AMD). PL 1993, c. 191, §4 (AFF). PL 1993, c. 378, §§5,6 (AMD). PL 1993, c. 383, §36 (AMD). PL 1993, c. 680, §A37 (RPR). PL 1993, c. 732, §§B1,2,C19 (AMD). PL 1995, c. 73, §§1, 2 (AMD). PL 1995, c. 126, §1 (AMD). PL 1995, c. 160, §1 (AMD). PL 1995, c. 465, §§A13-16 (AMD). PL 1995, c. 465, §C2 (AFF). PL 1995, c. 642, §9 (AMD). PL 1997, c. 393, §§A47,48 (AMD). PL 1999, c. 393, §5 (AMD). PL 1999, c. 691, §1 (AMD). PL 2001, c. 212, §5 (AMD). PL 2007, c. 406, §2 (AMD). PL 2007, c. 414, §§2, 3 (AMD). PL 2007, c. 583, §§2-4 (AMD). PL 2009, c. 412, Pt. A, §1 (AMD). PL 2011, c. 543, §1 (AMD). PL 2011, c. 682, §38 (REV). PL 2013, c. 243, §1 (AMD). PL 2013, c. 458, §1 (AMD). PL 2015, c. 124, §8 (AMD). PL 2019, c. 619, §§4, 5 (AMD). PL 2021, c. 590, Pt. B, §2 (AMD). PL 2021, c. 626, §2 (AMD). RR 2021, c. 2, Pt. A, §132 (COR). PL 2023, c. 283, §1 (AMD).

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