



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

**To: Members of the Board of Environmental Protection**  
**From: Paula M. Clark, Director, Division of Solid Waste Management, Bureau of Remediation and Waste Management**  
**Date: January 7, 2010**  
**Re: Chapters 400, 401,409 – Revisions to the Solid Waste Management Rules Concerning Recycling Rates at Solid Waste Processing Facilities**

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**Statutory and Regulatory Reference:** The regulatory framework for the proposed rulemaking is the Maine Solid Waste Management Rules Chapter 400 – General Provisions, Chapter 401 – Landfill Siting, Design and Operation, and Chapter 409 – Processing Facilities. 38 MRSA §1310-N(5-A)(B) directs the department to promulgate rules concerning recycling of waste at processing facilities.

**Scope:** The proposed rules establish standards and requirements applicable to solid waste processing facilities that generate residue requiring disposal. The rule also establishes standards related to the use of construction and demolition debris processing residue as cover or grading material at landfills.

**Description:** The department requests the Board’s approval to post proposed revisions to Chapters 400, 401 and 409 to public hearing. The above cited statute requires that applicants for new or expanded solid waste processing facilities that will generate residue requiring disposal demonstrate that the facility will “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%.” These applicants must also demonstrate consistency with the recycling provisions of the State Recycling and Waste Management Plan. Existing solid waste processing facilities that generate residue requiring disposal must annually demonstrate consistency with the recycling standards in their annual reports to the department. The statute requires that the department adopt rules to implement these provisions and to define the term “maximum extent practicable” by April 1, 2010.

The proposed rule revisions establish waste characterization requirements for wastes accepted by processing facilities and for residues that leave the facilities for disposal. Proposed reporting requirements include waste characterization results, a demonstration that the recycling standard has been achieved, and an explanation/justification of the rate of residue disposal. The proposed rule also includes specific standards and requirements related to the use of residues from the processing of construction and demolition debris (“CDD”) as cover or grading material at landfills. The statute specifically recognizes these uses as “recycling” for purposes of evaluating compliance with the recycling provisions of the law. The draft rule prescribes the circumstances and conditions under

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which CDD processing residues can be used for these purposes. These residues contain wallboard/gypsum which can contribute to the formation of hydrogen sulfide gas in landfills.

**Environmental Issues:** The rule seeks to maximize recycling and reduce volumes of waste disposed. Accomplishing this outcome is consistent with the state's statutory hierarchy of solid waste management and helps to conserve landfill capacity. The draft provisions related to the use of CDD processing residues for landfill cover or grading material were specifically designed to protect public health and safety by ensuring that hydrogen sulfide emissions from landfills are within established limits.

**Department Recommendation:** The department recommends that the Board post the proposed rule revisions to public hearing.

**Estimated Time of Presentation:** 20 minutes.