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An Act To Continue To Ensure the Long-term Capacity of Municipal Landfills

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 38 MRSA §1303-C, sub-§1-C is enacted to read:

1-C. Bypass. "Bypass" means any solid waste that is destined for disposal, processing or beneficial use at a solid waste facility but that cannot be disposed of, processed or beneficially used at that facility because of the facility's malfunction, insufficient capacity, inability to process or burn, downtime or any other comparable reason.

Sec. 2. 38 MRSA §1303-C, sub-§6, as amended by PL 2005, c. 612, §2, is further amended to read:

6. Commercial solid waste disposal facility. "Commercial solid waste disposal facility" means a solid waste disposal facility except as follows:

~~A. Beginning January 1, 2007, a solid waste facility owned by a public waste disposal corporation under section 1304-B, subsection 5 as long as the public waste disposal corporation controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility;~~

~~A-2. A solid waste facility that is owned by a public waste disposal corporation under section 1304-B, subsection 5 as long as the public waste disposal corporation controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility and, if the facility is a solid waste landfill, that accepts only waste that is generated within the State;~~

~~B. Beginning January 1, 2007 a solid waste facility owned by a municipality under section 1305 as long as the municipality controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility;~~

~~B-2. A solid waste facility that is owned by a municipality under section 1305 as long as the municipality controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility and, if the facility is a solid waste landfill, that accepts only waste that is generated within the State;~~

~~C. Beginning January 1, 2007, a solid waste facility owned by a refuse disposal district under chapter 17 as long as the refuse disposal district controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility;~~

C-2. A solid waste facility that is owned by a refuse disposal district under chapter 17 as long as the refuse disposal district controls the decisions regarding the type and source of waste that is accepted, handled, treated and disposed of at the facility and, if the facility is a solid waste landfill, that accepts only waste that is generated within the State;

~~D. Beginning January 1, 2007, a solid waste facility owned and controlled by the office under chapter 24;~~

D-2. A solid waste facility that is owned and controlled by the office under chapter 24 and, if the facility is a solid waste landfill, that accepts only waste that is generated within the State;

E. A solid waste facility owned and controlled by a single entity that generates at least 85% of the solid waste disposed of at the facility, except that the facility may accept from other sources, on a nonprofit basis, an amount of solid waste that is no more than 15% of all solid waste accepted on an annual basis. For purposes of this paragraph, "single entity" means an individual, partnership, corporation or limited liability company that is not engaged primarily in the business of treating or disposing of solid waste or special waste. This paragraph does not apply if an individual partner, shareholder, member or other ownership interest in the single entity disposes of waste in the solid waste facility. A waste facility receiving ash resulting from the combustion of municipal solid waste or refuse-derived fuel is not exempt from this subsection solely by operation of this paragraph; or

F. A private corporation that accepts material-separated, refuse-derived fuel as a supplemental fuel and does not burn waste other than its own.

~~Until January 1, 2007, for~~For purposes of this subsection, "waste that is generated within the State" includes residue and bypass generated by incineration, processing and recycling facilities within the State.

Sec. 3. Legislative findings. Maine's municipalities have the obligation to provide for the disposal of the solid waste generated by their citizens and businesses. Public waste disposal corporations and refuse disposal districts are formed by municipalities to provide for the disposal of the solid waste generated within the geographical boundaries of the participating municipalities. Municipal and public regional landfills, however, are becoming increasingly limited in capacity and expensive to Maine's people. The creation of new municipal and public regional landfills is often prohibitively expensive. The Legislature, in exercising its powers over municipalities, public waste disposal corporations and refuse disposal districts as instrumentalities and creations of the State, seeks to maximize the use of these landfills for the benefit of the people of the State and to prevent their potential diversion to uses by others. This law will ensure that municipal and public regional landfills are used for these public purposes.

Sec. 4. Retroactivity. This Act applies retroactively to January 1, 2007.

SUMMARY

Public Law 2005, chapter 612 amended the Maine Hazardous Waste, Septage and Solid Waste Management Act to exempt, until January 1, 2007, publicly owned solid waste landfills from the definition of "commercial solid waste disposal facility" as long as that facility accepted only waste that is generated within the State. This bill continues the exemption retroactive to January 1, 2007.