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LD 1639

Proposed amendment – Senator Carney

Amend the bill by striking everything after the enacting clause and before the summary and inserting the following:

Sec. 1. 38 MRSA §1303-C, sub-§40-A is amended to read:

40-A. Waste generated within the State. "Waste generated within the State" means:

A. Waste initially generated within the State;

B. Residue generated by an incineration facility or a recycling facility that is located within the State, regardless of whether the waste incinerated or processed by that facility was initially generated within the State or outside the State;

C. Residue generated by a solid waste processing facility that is located within the State, regardless of whether the waste processed by that facility was initially generated within the State or outside the State, as long as:

(1) The residue is used at a solid waste landfill for daily cover, frost protection or other operational or engineering-related purpose, including, but not limited to, landfill shaping or grading, and such use has been approved by the department under the landfill's license and such use complies with all applicable rules of the department and all applicable conditions of the landfill's license; and

(2) The use of the residue under subparagraph (1) complies with the requirements of section 1310-N, subsection 5-A, paragraph B, subparagraph (2);

D. Residue generated by a solid waste processing facility that is located within the State, regardless of whether the waste processed by that facility was initially generated within the State or outside the State, as long as:

(1) The residue does not meet the requirements of paragraph C; and

(2) The residue is generated by the facility only as an ancillary result of the facility's processing operations; and

E. Residue generated by a solid waste processing facility that is located within the State, regardless of whether the waste processed by that facility was initially generated within the State or outside the State, as long:

- (1) The residue does not meet the requirements of paragraph C or D;
- (2) The residue is not considered recycled under section 1310-N, subsection 5-A, paragraph B, subparagraph (2) and is disposed of at a solid waste landfill; and
- (3) The solid waste processing facility is in compliance with the requirements of section 1310-N, subsection 5-A, paragraph B, subparagraph (2).

Notwithstanding paragraphs B, C and E, if the total weight of the residue generated in a calendar year by an incineration facility, recycling facility or solid waste processing facility that is disposed of or otherwise placed in a solid waste landfill in that calendar year exceeds the total weight of the solid waste initially generated within the State that was incinerated or processed by that facility in that calendar year, any such excess residue generated by that facility is not considered “waste generated within the State.”

Sec. 2. 38 MRS §1310-N, sub-§5-A, ¶B, as amended by PL 2019, c. 619, §4, is further amended by amending subparagraph (2) to read:

(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 January 1, 2022;~~and~~
- (b) Reuse or recycle at least 20% of such debris through methods other than placement in a solid waste landfill by January 1, 2023;
- (c) Reuse or recycle at least 30% of such debris through methods other than placement in a solid waste landfill by January 1, 2024;

(d) Reuse or recycle at least 40% of such debris through methods other than placement in a solid waste landfill by January 1, 2025; and

(e) Reuse or recycle at least 50% of such debris through methods other than placement in a solid waste landfill by January 1, 2026.

~~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 may request and the department may grant a waiver of the applicable provisions of this subparagraph for a specified period of time if the facility is able to demonstrate that compliance with the applicable provisions of this subparagraph would result in an unreasonable adverse impact on the facility. The demonstration may include results of a 3rd party audit of the facility. In determining whether to grant such a waiver request, the department may consider trends in local, regional, national and international markets; the availability and cost of technologies and services; transportation and handling logistics; and overall costs that may be associated with various waste handling methods.~~

Sec. 3. 38 MRSA §1310-AA, sub-§3, ¶C, as amended by PL 2007, c. 338, §3 and affected by c. 338, §5, is further amended to read:

C. Is not inconsistent with local, regional or state waste collection, storage, transportation, processing or disposal; ~~and~~

Sec. 4. 38 MRSA §1310-AA, sub-§3, ¶D, as amended by PL 2007, c. 655, §10, is further amended to read:

D. For a determination of public benefit under subsection 1-A only, facilitates the operation of a solid waste disposal facility and the operation of that solid waste disposal facility would be precluded or significantly impaired if the waste is not accepted; and

Sec. 5. 38 MRSA §1310-AA, sub-§3, ¶E is enacted to read:

E. For a proposed facility or the expansion of a facility, is not inconsistent with ensuring environmental justice for the community in which the facility or expansion is proposed.

As used in this paragraph, “environmental justice” means the right to be protected from environmental pollution and to live in and enjoy a clean and healthful environment regardless of ancestry, class, disability, ethnicity, income, national origin or religion. “Environmental justice” includes the equal protection and meaningful involvement of all people with respect to the development, implementation and enforcement of waste management laws, regulations and licensing decisions.

Sec. 6. Department of Administrative and Financial Services, Bureau of General Services to evaluate options for renegotiation of operating services agreement governing operation of State-owned landfill. The Department of Administrative and Financial Services, Bureau of General Services shall evaluate options for the renegotiation of the operating services agreement of February 5, 2004, as amended, governing the operation of the State-owned solid waste landfill in Old Town for the purpose of ensuring that existing capacity at that landfill is prioritized for management of “waste initially generated within the State” within the meaning of the Maine Revised Statutes, Title 38, section 1303-C, subsection 40-A, paragraph A.

By January 15, 2023, the Department of Administrative and Financial Services, Bureau of General Services shall report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters the results of its evaluation under this section and shall provide any recommendations for legislative action necessary to ensure that existing capacity at the State-owned landfill is prioritized for management of “waste initially generated within the State.” After receiving the report, the joint standing committee may report out legislation to implement any such recommendations.

SUMMARY

This amendment replaces the bill and makes the following changes to the solid waste management laws.

1. It amends the definition of "waste generated within the State" to provide that if the total weight of the residue generated in a calendar year by an incineration facility, recycling facility or solid waste processing facility that is disposed of or otherwise placed in a solid waste landfill in that calendar year exceeds the total weight of the solid waste initially generated within the State that was incinerated or processed by that facility in that calendar year, any such excess residue generated by that facility is not considered “waste generated within the State.”
2. It provides that certain solid waste facilities that were in operation during calendar year 2018 and accept exclusively construction and demolition debris must reuse or recycle at least 30% of such debris through methods other than placement in a solid waste landfill by January 1, 2024, at least 40% of such debris through methods other than placement in a landfill by January 1, 2025 and at least 50% of such debris through methods other than placement in a landfill by January 1, 2026. Like the bill, the amendment also eliminates the provision of law that authorized such facilities to request a waiver from the Department of Environmental Protection from otherwise applicable reuse and recycling requirements.
3. Like the bill, it adds environmental justice to the public benefit determination standards for solid waste disposal facilities but it additionally provides a definition for “environmental justice.”

It also directs the Department of Administrative and Financial Services, Bureau of General Services to evaluate options for the renegotiation of the operating services agreement of February 5, 2004, as amended, governing the operation of the State-owned solid waste landfill in

Old Town for the purpose of ensuring that existing capacity at that landfill is prioritized for management of ‘waste initially generated within the State’ within the meaning of the Maine Revised Statutes, Title 38, section 1303-C, subsection 40-A, paragraph A. By January 15, 2023, the Department of Administrative and Financial Services, Bureau of General Services is directed to report to the joint standing committee of the Legislature having jurisdiction over environment and natural resources matters the results of that evaluation under this section and to provide any recommendations for legislative action necessary to ensure that existing capacity at the State-owned landfill is prioritized for management of “waste initially generated within the State.” After receiving the report, the joint standing committee may report out legislation to implement any such recommendations.