

2014 -- S 2441 SUBSTITUTE A

LC004721/SUB A/2

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2014

A N A C T

RELATING TO HEALTH AND SAFETY - REFUSE DISPOSAL

Introduced By: Senator Daniel DaPonte

Date Introduced: February 27, 2014

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 23-18.9-7 and 23-18.9-8 of the General Laws in Chapter 23-18.9
2 entitled "Refuse Disposal" are hereby amended to read as follows:

3 **23-18.9-7. Definitions.** -- As used in this chapter, the following terms shall, where the
4 context permits, be construed as follows:

5 (1) "Beneficial reuse material" means a processed, nonhazardous, solid waste not already
6 defined as recyclable material by this chapter and by regulations of the Rhode Island department
7 of environmental management that the director has determined can be reused in an
8 environmentally beneficial manner without creating potential threats to public health, safety,
9 welfare, or the environment or creating potential nuisance conditions.

10 (2) "Beneficial use determination" (BUD) means the case-by-case process by which the
11 director evaluates a proposal to use a specific solid waste as a beneficial reuse material for a
12 specific purpose at a specific location within the host municipality.

13 (3) "Cocktailing" means the adding, combining, or mixing of hazardous waste as defined
14 in ~~section~~ §23-19.1-4 with construction debris and demolition debris.

15 (4) "Construction and demolition (C&D) debris" means non-hazardous solid waste
16 resulting from the construction, remodeling, repair, and demolition of utilities and structures; and
17 uncontaminated solid waste resulting from land clearing. This waste includes, but is not limited
18 to, wood (including painted, treated, and coated wood and wood products); land-clearing debris;
19 wall coverings; plaster; drywall; plumbing fixtures; non-asbestos insulation; roofing shingles

1 and other roof coverings; glass; plastics that are not sealed in a manner that conceals other
2 wastes; empty buckets ten (10) gallons or less in size and having no more than one inch of
3 residue remaining on the bottom; electrical wiring and components containing no hazardous
4 liquids; and pipe and metals that are incidental to any of the previously described waste. Solid
5 waste that is not C&D debris (even if resulting from the construction, remodeling, repair, and
6 demolition of utilities, structures and roads, and land clearing) includes, but is not limited to,
7 asbestos; waste; garbage; corrugated container board; electrical fixtures containing hazardous
8 liquids, such as fluorescent light ballasts or transformers, fluorescent lights; carpeting; furniture;
9 appliances; tires; drums; containers greater than ten (10) gallons in size; any containers having
10 more than one inch of residue remaining on the bottom; and fuel tanks. Specifically excluded
11 from the definition of construction and demolition debris is solid waste (including what otherwise
12 would be construction and demolition debris) resulting from any processing technique, other than
13 that employed at a department-approved C&D debris processing facility, that renders individual
14 waste components unrecognizable, such as pulverizing or shredding.

15 (5) "Construction and demolition debris processing facility" means a solid waste
16 management facility that receives and processes construction and demolition debris ~~of more than~~
17 ~~fifty (50) tons per day~~. These facilities must demonstrate, through records maintained at the
18 facility and provided to the department, that seventy-five percent (75%) of all material received
19 by the facility is processed and removed from the site within six (6) weeks of receipt on a
20 continuous basis, and that in no case stores material on site for over three (3) months; provided,
21 however, these facilities do not include municipal compost facilities.

22 (6) "Construction and demolition debris separation facility" means a facility that
23 receives, separates, ~~and~~ or screens construction and demolition debris into its components for
24 subsequent resale or processing ~~which~~ that includes, but is not limited to, grinding, shredding,
25 crushing, or landfilling at another location separate and apart from the location on which the
26 separation occurs.

27 (7) "Director" means the director of the department of environmental management or any
28 subordinate or subordinates to whom the director has delegated the powers and duties vested in
29 him or her by this chapter.

30 (8) "Expansion" means any increase in volume, size, or scope, either vertically,
31 horizontally, or otherwise; provided, however, that this section does not apply to the vertical
32 expansion of the Charlestown ~~M~~municipal landfill until the closure date of July 1, 2000.

33 (9) "Person" includes an individual, firm, partnership, association, and private or
34 municipal corporation.

1 (10) "Recyclable materials" means those materials separated from solid waste for reuse.
2 The director of the department of environmental management through regulations shall specify
3 those materials that are to be included within the definition of recyclables. The materials to be
4 included may change from time to time depending upon new technologies, economic conditions,
5 waste stream characteristics, environmental effects, or other factors.

6 (11) "Segregated solid waste" means material separated from other solid waste for reuse.

7 (12) "Solid waste" means garbage, refuse, tree waste as defined by subsection 14 of this
8 section, and other discarded solid materials generated by residential, institutional, commercial,
9 industrial, and agricultural sources, but does not include solids or dissolved material in domestic
10 sewage or sewage sludge or dredge material as defined in chapter 6.1 of title 46, nor does it
11 include hazardous waste as defined in chapter 19.1 of this title, nor does it include used asphalt,
12 concrete, or Portland concrete cement.

13 (13) "Solid waste management facility" means any plant, structure, equipment, real and
14 personal property, except mobile equipment or incinerators with a capacity of less than one
15 thousand pounds (1,000 lbs.) per hour, operated for the purpose of processing, treating, or
16 disposing of solid waste but not segregated solid waste. Any solid waste management facility that
17 stores waste materials containing gypsum on site over three (3) months must install and maintain
18 an active gas collection system approved by the department of environment management.

19 (14) (a) "Tree Waste" means all parts of a tree, including stumps, branches, and logs
20 ~~which~~ that shall be considered solid waste for purposes of this chapter unless the tree waste meets
21 the following criteria:

22 (1) The tree waste remains on the property where it was generated; or

23 (2) The tree waste remains in the possession of the person who generated it and is stored
24 above the ground surface, on property that the same person controls, for purposes of recycling
25 and reuse; or

26 (3) The tree waste, whether generated on or off-site, is being actively managed as a
27 usable wood product such as landscape mulch, wood chips, firewood, or mulch.

28 (b) The application of the criteria set forth in this section shall not be deemed to
29 abrogate, diminish, or impair the enforcement of the requirements established pursuant to chapter
30 28.1 of this title or the authority of the state and/or a city or town to protect the public health,
31 safety or welfare from a public nuisance resulting from the storage and handling of tree waste.

32 **23-18.9-8. Licenses.** -- (a) (1) No person shall operate any solid waste management
33 facility or construction and demolition (C&D) debris processing facility or expand an existing
34 facility unless a license is obtained from the director except as authorized by ~~section~~ §23-18.9-8.

1 The director shall have full power to make all rules and regulations establishing standards to be
2 met for the issuance of the licenses.

3 (2) The director shall promulgate rules and regulations governing the uses and content of
4 materials accepted and generated by a construction and demolition debris processing facility. Any
5 costs associated with testing these materials by the facility or by the department to verify the
6 results of the facility's tests shall be borne by the facility. Each facility shall be required to
7 establish a fund with the department to cover the cost of these tests.

8 (b) Any person who desires to construct a solid waste management facility or install any
9 equipment in a solid waste management facility must first submit to the director for approval
10 plans and specifications and other related data required by the director.

11 ~~(e) Processing facilities that accept less than one hundred and fifty (150) tons per day of~~
12 ~~construction and demolition debris (C&D) are exempt from the requirement of obtaining a solid~~
13 ~~waste management facility license; however, they are not exempt from complying with all other~~
14 ~~applicable requirements for the construction and operation of a construction and demolition~~
15 ~~debris processing facility and are subject to the rules and regulations for these facilities~~
16 ~~promulgated in accordance with this section.~~

17 ~~(d)~~(c) No construction and demolition debris processing facility shall be issued a license
18 or be able to operate unless it has:

19 (1) Received a letter of compliance from the host municipality that all applicable zoning
20 requirements and local ordinances of the host municipality have been complied with.

21 (2) Submitted a fire protection plan ~~which~~ that has been approved by the local fire chief,
22 or his or her designee in which the facility is located; and

23 (3) For the purposes of this subsection, the letter of compliance from the host
24 municipality shall issue from either:

25 (i) The town or city manager with town or city council approval in a municipality with a
26 managerial form of government; or

27 (ii) The elected mayor with town or city council approval in a ~~municipal~~ municipality
28 with a non- managerial from of government.

29 (4) If, after thirty (30) days of receipt of a written request to the city or town by the
30 applicant for a license requesting a letter of compliance, the letter of compliance is not issued
31 because the host municipality finds that the requirements of the applicable zoning requirements or
32 other ordinances have not been met, a letter of non-compliance must be issued setting forth the
33 particular requirements that have not been met. If after a license is issued, the host community
34 finds that all applicable zoning or other applicable ordinances are no longer complied with they

1 are authorized to issue a non-compliance letter.

2 (5) Upon issuance of a letter of non-compliance, the applicant for a license shall have all
3 rights of appeal under the provisions of chapter 24 of title 45 as to zoning issues and any other
4 rights to appeal that may be applicable as to the determination of non-compliance with other
5 ordinances.

6 (i) In the case of an application or renewal of an existing license for an increase in the
7 acceptance and processing of the amount of (C&D) debris per day the letter of non-compliance
8 shall stay the issuance of the license allowing said increase until the appeal process provided for
9 herein is final.

10 (ii) In the case of an application or renewal of an existing license that does not request an
11 increase in the acceptance and/or processing of the amount of (C&D) debris per day where the
12 applicant for renewal has timely filed an appeal as contained herein, the letter of non-compliance
13 shall not be used as grounds for denial of the approval of the renewable license; however, if upon
14 final determination by a zoning board or court of competent jurisdiction upon appeal, it is found
15 that the facility is in non-compliance, ~~said~~ the license shall be revoked by the director.

16 ~~(e)~~(d) The local fire chief, or his or her designee, is authorized to conduct random,
17 unannounced inspections of facilities licensed under this section to ~~insure~~ ensure continued
18 compliance with the approved fire protection plan. If any facility at the time of inspection is
19 found not to be in compliance with the approved plan, that facility shall immediately cease
20 operation until the time that ~~they~~ it corrects any deficiency and the local fire chief or his or her
21 designee finds the facility is in compliance with the approved fire protection plan.

22 ~~(f)~~(e) Any facility that is found to be in violation of the fire protection plan under this
23 section on three (3) separate inspections, within any three-~~(3)~~-year (3) time period, shall have its
24 license to operate under this section revoked.

25 ~~(g)~~(f) A municipality that desires to evaluate available technologies, equipment, or
26 methodologies for managing solid waste, may request approval from the director to perform a
27 limited demonstration pilot project prior to submission of an application for a license.
28 Demonstration projects shall not exceed fifty (50) tons per day maximum capacity. The
29 municipality must first submit to the director, for approval, plans and specifications, including
30 fire protection plans and other related data as required by the director. The municipality shall also
31 give public notice of the request and allow a thirty-~~(30)~~-day (30) period for the director to receive
32 public comment on the proposed project. After the close of the public comment period, the
33 director is authorized to approve or deny the request. Approval for a demonstration pilot project
34 shall be granted for a period not exceeding six (6) months.

1 ~~(h)~~(g) Any facility that is licensed or registered by the department under this chapter as
2 of July 1, 2006, that accepts greater than three (3) cubic yards of tree waste as defined by
3 ~~subsection~~ §23-18.9-7(14) shall be considered an existing tree waste management facility.
4 Existing tree waste management facilities shall notify the department and the local fire chief of
5 the existence and scope of their tree waste management activities in writing no later than August
6 30, 2006, and shall incorporate their tree waste management activities in a revised operating plan
7 as part of the next renewal of their license or registration.

8 ~~(h)~~(h) Any construction and demolition (C&D) debris processing facility under this
9 section that is within a one thousand feet (1000') radius of a residential zone district shall ~~not be~~
10 conduct all operations covered under the license inside ~~a structure completely enclosed by four~~
11 ~~solid walls~~ the confines of an enclosed, permanent building ~~allowed to accept and/or process in~~
12 ~~excess of one hundred fifty (150) tons per day of construction and demolition (C&D) debris~~
13 ~~where the owner or owners of the greater part of the land within a one thousand foot (1,000')~~
14 ~~radius of the property boundary lines of the facility files an objection to the granting of a license~~
15 ~~permitting the acceptance and/or processing in excess of one hundred fifty (150) tons per day of~~
16 ~~construction and demolition debris.~~

17 (i) Granting of a license, license renewal, or permission for an equipment addition under
18 this section shall in no way affect the applicant's responsibility to comply with all zoning and
19 other local ordinances, nor the applicant's responsibility to obtain any local permits, except as
20 specifically provided by Rhode Island General Law. When multiple uses are in place on a site
21 with a licensed solid waste facility, the terms and conditions of the license are only applicable to
22 the activities and operations subject to the license and not the other uses of the property.

23 SECTION 2. This act shall take effect upon passage.

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EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF
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RELATING TO HEALTH AND SAFETY - REFUSE DISPOSAL

1 This act would modify the definition of a construction and demolition (C&D) debris
2 processing facility by eliminating the daily amount of C&D debris a facility may receive and
3 process. It would further require such a facility that is located within a one thousand foot (1000')
4 radius of a residential zone district conduct all operations within an enclosed structure.

5 This act would take effect upon passage.

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