

MAINE STATE LEGISLATURE

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STATE OF MAINE
DEPARTMENT OF ADMINISTRATIVE & FINANCIAL SERVICES
BUREAU OF GENERAL SERVICES
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GOVERNOR

KIRSTEN LC FIGUEROA
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WILLIAM LONGFELLOW
DIRECTOR

To: Senator Stacy Brenner, Senate Chair
Representative Lori Gramlich, House Chair
Members of the Joint Standing Committee on Environment and Natural Resources
From: William Longfellow, Director, Bureau of General Services
RE: P.L. 2021, ch. 626 – Renegotiation of Operating Services Agreement Governing
Operation of State-Owned Solid Waste Landfill in Old Town
Date: January 18, 2023

Background and Introduction

P.L. 2021, ch. 626, § 6, required the Department of Administrative and Financial Services, Bureau of General Services (BGS) 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, 38 MRSA §1303-C (40-A)(A).” The referenced statute defines “waste generated within the State” as “waste initially generated within the State.”

To close the “out of state waste loophole” in the statute, the Legislature via P.L. 2021, ch. 626, § 1, amended the statute to add the following language:

Beginning February 1, 2023, 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.

Impact of P.L. 2021, Ch. 626

P.L. 2021, ch. 626, § 1 becomes effective on February 1, 2023. Unless Casella/NEWSME challenges the statute, previously permitted out of state waste going to JRL will be eliminated. The impact will be to prioritize capacity for waste initially generated within the State.

It should be noted, prioritizing capacity for waste generated in Maine does not necessarily lead to a reduction in the volume of material disposed of or used as cover at Juniper Ridge. Landfills require daily “cover” to control odors, reduce rodent activity, and prevent windblown trash. Daily cover will still be used but will be from in-state generated wastes. Daily cover is still required at Juniper Ridge and will need to be replaced by other materials for that same purpose, if JRL is to continue to accept the wastes it does.

A second impact of this law will be the reduction of the amount of oversized bulky wastes going to JRL from the Lewiston facility. The primary purpose of this oversized bulky waste (OBW), some of which is from out of state, was to “bulk up” liquid or viscous sludge and sludge-like materials. Without the OBW, sludge bulking will have to be done with other materials if JRL is to continue to accept the wastes it does.

In some cases, the replacement materials will be similar to materials sourced from out of state wastes, which in theory, would prioritize overall landfill capacity in Maine, but would not reduce the volume at Juniper Ridge. Replacement material, unfortunately, also could consist of soil which does not preserve landfill capacity at Juniper Ridge or any of the state’s landfills.

Because Section 2.11 (a) of the OSA reserves to Casella the right to adjust tipping fees in the event of changes in law which materially affect the cost of landfill operations, costs incurred to incorporate substitute materials into “cover” may be passed on to customers.

The Operating Services Agreement

The OSA was signed in 2004 and has a 30-year term. It defines roles and responsibilities at the Juniper Ridge Landfill (JRL) as between Casella and the State. The OSA includes several provisions pertaining to out of state waste.

BGS was charged with evaluating options for the renegotiation of the operating service agreement and providing recommendations for legislative action necessary to ensure that existing capacity at the state-owned solid waste landfill in Old Town is prioritized for management of waste initially generated within the State. **However, whereas P.L. 2021, ch. 626 supersedes those provisions of the OSA pertaining to out of state waste, the intended objective has been accomplished without necessitating renegotiation of the Operative Services Agreement.**