

2012 -- S 2441

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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2012

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A N A C T

RELATING TO HEALTH AND SAFETY -- REFUSE DISPOSAL

Introduced By: Senators Ottiano, and Lynch

Date Introduced: February 16, 2012

Referred To: Senate Environment & Agriculture

It is enacted by the General Assembly as follows:

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

3 **23-18.9-8. Licenses.** -- (a) (1) No person shall operate any solid waste management
4 facility or construction and demolition (C&D) debris processing facility or expand an existing
5 facility unless a license is obtained from the director except as authorized by section 23-18.9-8.
6 The director shall have full power to make all rules and regulations establishing standards to be
7 met for the issuance of the licenses.

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

13 (3) The director must have all solid waste management facilities or construction and
14 demolition (C&D) debris processing facilities, tested for arsenic and heavy metals present in the
15 soil. The director shall not issue a license to any facility shown to have arsenic and heavy metal
16 levels that exceed levels established by the department.

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

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

7 (d) No construction and demolition debris processing facility shall be issued a license or
8 be able to operate unless it has:

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

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

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

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

17 (ii) The elected mayor with town or city council approval in a municipal with a non-
18 managerial form of government.

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

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

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

34 (ii) In the case of an application or renewal of an existing license that does not request an

1 increase in the acceptance and/or processing of the amount of (C&D) debris per day where the
2 applicant for renewal has timely filed an appeal as contained herein the letter of non-compliance
3 shall not be used as grounds for denial of the approval of the renewable license; however, upon
4 final determination by a zoning board or court of competent jurisdiction upon appeal, it is found
5 that the facility is in non-compliance said license shall be revoked by the director.

6 (e) The local fire chief or his or her designee is authorized to conduct random,
7 unannounced inspections of facilities licensed under this section to insure continued compliance
8 with the approved fire protection plan. If any facility at the time of inspection is found not to be in
9 compliance with the approved plan that facility shall immediately cease operation until the time
10 that they correct any deficiency and the local fire chief or his or her designee finds the facility is
11 in compliance with the approved fire protection plan.

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

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

25 (h) Any facility that is licensed or registered by the department under this chapter as of
26 July 1, 2006 that accepts greater than three (3) cubic yards of tree waste as defined by subsection
27 23-18.9-7(14) shall be considered an existing tree waste management facility. Existing tree waste
28 management facilities shall notify the department and the local fire chief of the existence and
29 scope of their tree waste management activities in writing no later than August 30, 2006, and
30 shall incorporate their tree waste management activities in a revised operating plan as part of the
31 next renewal of their license or registration.

32 (i) Any construction and demolition (C&D) debris processing facility under this section
33 that is within a one thousand feet (1000') radius of a residential zone district shall not be allowed
34 to accept and/or process in excess of one hundred fifty (150) tons per day of construction and

1 demolition (C&D) debris where the owner or owners of the greater part of the land within a one
2 thousand foot (1,000') radius of the property boundary lines of the facility files an objection to the
3 granting of a license permitting the acceptance and/or processing in excess of one hundred fifty
4 (150) tons per day of construction and demolition debris.

5 [\(j\) All sites within the state that are designated as "brownfield site," as that term is](#)
6 [defined by section 101 of the comprehensive environmental response, compensation and liability](#)
7 [act of 1980 \(42 U.S.C. 9601\), shall be subject to the provisions of section 23-18.9-8.](#)

8 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 require the director of the Rhode Island department of environmental
2 management to consider testing for arsenic and heavy metals in licensing solid waste
3 management-facilities or construction and debris processing facilities and the provisions of this
4 chapter would extend to all "brownfield sites."

5 This act would take effect upon passage.

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