

Department of Legislative Services  
Maryland General Assembly  
2010 Session

FISCAL AND POLICY NOTE

Senate Bill 333 (Senators Mooney and Frosh)  
Education, Health, and Environmental Affairs

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**Environment - Permits to Construct Incinerators - Limitation on Issuance near  
National Parks**

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This bill prohibits the Secretary of the Environment from issuing a permit to construct an incinerator within one mile of a battlefield, wildlife, or recreational area in the National Park System. The bill does not apply to the Baltimore-Washington Parkway. In addition, the term “incinerator” does not include crematoria or on-site hospital incinerators.

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**Fiscal Summary**

**State Effect:** The bill does not materially affect State finances or operations.

**Local Effect:** Local finances related to solid waste disposal may be significantly affected as a result of the bill’s prohibition to the extent the bill prohibits the construction of proposed incinerators. **This bill imposes a mandate on a unit of local government.**

**Small Business Effect:** Potential meaningful.

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**Analysis**

**Current Law/Background:** A person may not construct, modify, operate, or use any source, including an incinerator, which causes air emissions without a permit. Generally, there are two types of incinerators: (1) municipal solid waste (MSW) incinerators used for waste disposal and energy generation; and (2) medical waste incinerators used to dispose of hospital wastes.

Incinerators are pervasively regulated under State and federal environmental and public health laws due to their wide-ranging effects on all environmental media and community resources. For example, one MSW incinerator facility may utilize water resources, discharge both air and water pollution, and produce solid and potentially hazardous waste, but another MSW incinerator may generate renewable energy, reduce waste disposal to county landfills, and prevent greenhouse gas emissions related to global climate change. Several agencies, including the Maryland Department of the Environment (MDE), the Department of Health and Mental Hygiene, the Public Service Commission, and the Department of Natural Resources' Power Plant Research Project are involved in permitting, regulatory enforcement, and research activities related to incinerators.

There are about 90 MSW incinerators currently operating nationwide, including four MSW incinerator sites in Maryland. These four incinerator facilities have the capacity to generate several hundred megawatts (MW) of energy (267 MW of which are certified as Tier 2 renewable sources in Maryland) and to handle several thousand tons of MSW per day. The Northeast Maryland Waste Disposal Authority (NMWDA) advises that planning is underway to add a new MSW incinerator facility in Frederick County, and Baltimore City advises that an energy facility that may qualify as an MSW incinerator is being planned for a site within the city.

As discussed, MSW incinerators are both hailed for their waste disposal and renewable energy attributes and widely regulated due to various environmental impacts. As an energy source, MSW incinerators compare very favorably to coal and oil electricity generators in terms of carbon dioxide, sulfur dioxide, and nitric oxides emissions. However, MSW incinerators are significant contributors to the environmental deposition of mercury, dioxin, furan, and other toxic metals and organic compounds. Nevertheless, since U.S Environmental Protection Agency regulation under federal solid and hazardous waste laws began in the early 1990s, emissions of these toxic pollutants have fallen dramatically.

Recycling is generally considered the most environmentally optimal method of solid waste management. However, in the absence of composting or reusing waste materials, the MSW stream must either be disposed of in a landfill or incinerated. A number of jurisdictions, including Baltimore, Carroll, Frederick, Harford, and Montgomery counties, and Baltimore City now rely on incinerators as a significant component of their solid waste management plans. And because MSW incinerators are able to sell both metals extracted from the incoming waste stream as well as energy recovered from the incineration process, the additional revenues help defray other costs associated with incinerator operations and counties' overall solid waste management programs.

The National Park Service oversees the management of nearly 400 parks nationwide. Federal law designates 15 different units within the National Park System, including national battlefields, recreational areas, and parkways; there is no federal designation for a national wildlife area. There are 24 national park units in Maryland.

**Local Fiscal Effect:** Legislative Services advises that at least one proposed incinerator will not be eligible to receive a permit from MDE under the bill. NMWDA advises that the proposed MSW incinerator to be located in Frederick County is located in an area affected by the bill's prohibition. According to NMWDA, the proposed facility has been approved by the county commissioners of both Carroll and Frederick counties, which have expended significant resources to date in planning the MSW incinerator. Further, Frederick County advises that the net present value of expected revenues and savings from the new facility is between \$42.0 and \$198.2 million over a 30-year period, including electricity generation revenue, but excluding savings that may accrue from foregone wastewater infrastructure costs.

The bill may also jeopardize a proposed \$900 million waste-to-energy project in Baltimore City, worth several million dollars in future tax revenues, if it is not able to secure the necessary permits due to the bill. However, Legislative Services cannot confirm whether the proposed facility is within one mile of a national battlefield, wildlife area, or recreational area.

To the extent that any jurisdiction is prohibited from building an MSW incinerator as a result of the bill, other nearby counties and municipalities may also lose millions of dollars in the aggregate, as a result of foregone savings associated with lower waste disposal costs. Affected counties may also need to revise county solid waste management plans.

**Small Business Effect:** To the extent that future construction associated with building new incinerators is prevented by the bill, small construction and engineering contractors will be adversely affected. In addition, small businesses generally may pay higher fees to the extent a jurisdiction's solid waste disposal costs increase under the bill. The bill may have a meaningful beneficial impact on small businesses engaged in other forms of waste disposal, however.

**Additional Comments:** Legislative Services advises that it is unclear whether the bill prohibits the expansion of existing incinerators. The definition of "construction" in State regulations governing solid waste disposal includes "rehabilitating or improving an existing facility." However, this fiscal and policy note assumes that "construction" in the bill means only new construction of an applicable incinerator. To the extent that construction includes modifications to existing incinerators, the bill's impact is

significantly greater, as it could require any affected existing incinerators to cease operations before they otherwise would.

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### **Additional Information**

**Prior Introductions:** A similar bill, SB 1009 of 2009, received an unfavorable report from the Senate Education, Health, and Environmental Affairs Committee.

**Cross File:** None.

**Information Source(s):** Baltimore City, Department of Natural Resources, Maryland Department of the Environment, Public Service Commission, Northeast Maryland Waste Disposal Authority, Department of Legislative Services

**Fiscal Note History:** First Reader - February 28, 2010  
ncs/lgc

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Analysis by: Evan M. Isaacson

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510