



Substitute House Bill No. 5145

Public Act No. 08-94

**AN ACT CONCERNING ENVIRONMENTAL JUSTICE
COMMUNITIES AND THE STORAGE OF ASBESTOS-CONTAINING
MATERIAL.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (*Effective January 1, 2009*) (a) As used in this section:

(1) "Environmental justice community" means (A) a United States census block group, as determined in accordance with the most recent United States census, for which thirty per cent or more of the population consists of low income persons who are not institutionalized and have an income below two hundred per cent of the federal poverty level, or (B) a distressed municipality, as defined in subsection (b) of section 32-9p of the general statutes;

(2) "Affecting facility" means any (A) electric generating facility with a capacity of more than ten megawatts; (B) sludge or solid waste incinerator or combustor; (C) sewage treatment plant with a capacity of more than fifty million gallons per day; (D) intermediate processing center, volume reduction facility or multitown recycling facility with a combined monthly volume in excess of twenty-five tons; (E) new or expanded landfill, including, but not limited to, a landfill that contains

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ash, construction and demolition debris or solid waste; (F) medical waste incinerator; or (G) major source of air pollution, as defined by the federal Clean Air Act. "Affecting facility" shall not include (i) the portion of an electric generating facility that uses nonemitting and nonpolluting renewable resources such as wind, solar and hydro power or that uses fuel cells, (ii) any facility for which a certificate of environmental compatibility and public need was obtained from the Connecticut Siting Council on or before January 1, 2000, or (iii) a facility of a constituent unit of the state system of higher education that has been the subject of an environmental impact evaluation in accordance with the provisions of sections 22a-1b to 22a-1h, inclusive, of the general statutes and such evaluation has been determined to be satisfactory in accordance with section 22a-1e of the general statutes;

(3) "Meaningful public participation" means (A) residents of an environmental justice community have an appropriate opportunity to participate in decisions about a proposed facility or the expansion of an existing facility that may adversely affect such residents' environment or health; (B) the public's participation may influence the regulatory agency's decision; and (C) the applicant for a new or expanded permit, certificate or siting approval seeks out and facilitates the participation of those potentially affected during the regulatory process; and

(4) "Community environmental benefit agreement" means a written agreement entered into by a municipality and an owner or developer of real property whereby the owner or developer agrees to develop real property that is to be used for any new or expanded affecting facility and to provide financial resources for the purpose of the mitigation, in whole or in part, of impacts reasonably related to the facility, including, but not limited to, impacts on the environment, traffic, parking and noise.

(b) (1) Applicants who, on or after January 1, 2009, seek to obtain

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any certificate under chapter 277a of the general statutes, new or expanded permit or siting approval from the Department of Environmental Protection or the Connecticut Siting Council involving an affecting facility that is proposed to be located in an environmental justice community or the proposed expansion of an affecting facility located in such a community, shall (A) file a meaningful public participation plan with such department or council and shall obtain the department's or council's approval of such plan prior to filing any application for such permit, certificate or approval; and (B) consult with the chief elected official or officials of the town or towns in which the affecting facility is to be located or expanded to evaluate the need for a community environmental benefit agreement in accordance with subsection (d) of this section.

(2) Each such meaningful public participation plan shall contain measures to facilitate meaningful public participation in the regulatory process and a certification that the applicant will undertake the measures contained in the plan. Such plan shall identify a time and place where an informal public meeting will be held that is convenient for the residents of the affected environmental justice community. In addition, any such plan shall identify the methods, if any, by which the applicant will publicize the date, time and nature of the informal public meeting in addition to the publication required by subdivision (3) of this subsection. Such methods may include, but not be limited to, (A) posting a reasonably visible sign on the proposed or existing facility property, printed in English, in accordance with any local regulations and ordinances, (B) posting a reasonably visible sign, printed in all languages spoken by at least twenty per cent of the population that reside within a one-half of a mile radius of the proposed or existing facility, in accordance with local regulations and ordinances, (C) notifying neighborhood and environmental groups, in writing, in a language appropriate for the target audience, and (D) notifying local and state elected officials, in writing.

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(3) Not less than ten days prior to the informal public meeting and not more than thirty days prior to such meeting, the applicant shall publish the date, time and nature of the informal public meeting with a minimum one-quarter page advertisement in a newspaper having general circulation in the area affected, and any other appropriate local newspaper serving such area, in the Monday issue of a daily publication or any day in a weekly or monthly publication. The applicant shall post a similar notification of the informal public meeting on the applicant's web site, if applicable.

(4) At the informal public meeting, the applicant shall make a reasonable and good faith effort to provide clear, accurate and complete information about the proposed facility or the proposed expansion of a facility and the potential environmental and health impacts of such facility or such expansion.

(5) The Department of Environmental Protection or the Connecticut Siting Council shall not take any action on the applicant's permit, certificate or approval earlier than sixty days after the informal public meeting.

(6) In the event that the Connecticut Siting Council has approved a meaningful public participation plan concerning a new or expanded facility and an informal public meeting has been held in accordance with this subsection, the Department of Environmental Protection may approve such plan and waive the requirement that an additional informal public meeting be held in accordance with this subsection.

(c) Any municipality, owner or developer may enter into a community environmental benefit agreement in connection with an affecting facility. Mitigation may include both on-site and off-site improvements, activities and programs, including, but not limited to: Funding for activities such as environmental education, diesel pollution reduction, construction of biking and walking trails, staffing

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for parks, urban forestry, support for community gardens or any other negotiated benefit to the environment in the environmental justice community. Prior to negotiating the terms of a community environmental benefit agreement, the municipality shall provide a reasonable and public opportunity for residents of the potentially affected environmental justice community to be heard concerning the need for, and terms of, such agreement.

Sec. 2. (NEW) (*Effective October 1, 2008*) Notwithstanding any provision of chapter 445 of the general statutes, no person or government agency shall permanently place, deposit, dispose of or store more than one thousand cubic yards of soil consisting of asbestos-containing material (1) from another site to a site that abuts or adjoins residential property, and (2) at a height of more than four feet above the existing grade of the land without the approval of a two-thirds majority of the legislative body of the municipality in which such property is located. For the purpose of this section "asbestos-containing material" shall have the same meaning as in section 19a-332 of the general statutes.

Approved May 27, 2008