



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 16, 2009
Environment Committee

Testimony Submitted by Commissioner Gina McCarthy
Department of Environment Protection

**Senate Bill No. 995 (RAISED) - AN ACT CONCERNING BENEFICIAL REUSE,
RECYCLING AND ILLEGAL DUMPING**

Thank you for the opportunity to present testimony regarding Senate Bill No. 995 (RAISED) - AN ACT CONCERNING BENEFICIAL REUSE, RECYCLING AND ILLEGAL DUMPING. We appreciate the Committee's willingness to raise this bill at the request of the Department of Environmental Protection (Department). This proposal, which we strongly support, would make some simple but important changes to existing environmental statutes:

Section 1

This section allows for individual determinations that an industry's waste materials may be beneficially used rather than disposed of as a solid waste.¹ Both the environment and Connecticut businesses would benefit from granting the Department the authority to issue individual beneficial use determinations.

This proposal would authorize the Commissioner to approve, on an individual basis, the reuse of solid waste that could serve as an effective substitute in other processes or products, thereby reducing the disposal of solid waste and minimizing the reliance on raw materials. Under current law, the Commissioner may only develop and issue general permits for the beneficial use of solid waste. This proposal would create additional authority for the Commissioner to evaluate and approve individual, site-specific or one-time beneficial use requests without issuing a state-wide general permit.

In many cases, the request for a beneficial use determination is based on specific materials and specific utilization which would not rise to the level of issuing a state wide general permit. The proposed revision requires that the agency describe the guidelines for decision-making and provides an opportunity for public notice and comments on the guidelines before they are finalized. Increasing opportunities for beneficial use helps ensure that we focus on reusing and recycling resources before incineration or disposal and is a key part of advancing Connecticut's implementation of the State's Solid Waste Management Plan. This type of authority is generally available in other states.

Sections 2 and 3

This proposal is necessary to make it clear to every household, property manager, institution, municipality, agency, and commercial business that recyclables should not be placed in the trash. To achieve this recycle mandate, the proposal requires that anyone contracting for solid

waste collection must ensure that provisions are also made for the collection of materials designated for recycling. For example, any household, apartment building manager, business, or municipality contracting for trash collection must have a contract with a hauler or different haulers to take recyclables as well as trash. It is important to note that this provision does not affect the ability to collect recyclables via single stream or dual stream collection methods; rather this provision is intended to prevent the mixing of non-recyclables with recyclables at any point in the collection process. Further, anyone offering a contract for collecting solid waste must provide clear written instructions on the separation of designated recyclables from other solid waste so that it is clear to citizens what must be recycled.ⁱⁱ

Section 4

This section seeks to strengthen the enforcement authority of municipalities and the Department to take action when illegal dumping activity is undertaken by a property owner on his/her property. This proposal does not seek to extend coverage to the compilation of a person's junk (such as rusted cars, used tires, etc.) on his own property. Rather the proposal is focused on cases of owners dumping others' wastes on their own property for monetary gain, involving situations such as: unpermitted landfills; tire piles, junk heaps; farm dumps; and unpermitted transfer stations.

Elimination of the ownership loophole in section 22a-250(c) and (d) will improve the tools available for authorities to address illegal dumping situations, as well as eliminate apparent conflicts with: section 22a-250(g) which allows the Commissioner and local officials to order the property owner to remove the wastes if the owner did the dumping; section 22a -208a which requires permits for establishing, constructing or operating a disposal area regardless of ownership; and section 22a -225 which allows actions against owners of any land on which a solid waste violation occurs, regardless of whether the property owner participated in the violation.

It is important to make clear the connection between this section and section 22a-250a which provides that local police officers and state police officers may seize a vehicle used as a means of committing a violation of subsection (c) or (d) of section 22a-250. We see dozens of cases in which property owners dump someone else's waste on their own property for monetary gain, resulting in expenditure of resources of local zoning and land use officials, as well as this Department, to resolve citizens' complaints. For example, a recent solid waste dumping case involved the disposal of hundreds of cubic yards of demolition wood and pressure-treated wood which were processed and disposed on-site by the property owner. The property owner did not comply with any of the three cease and desist orders issued by the town, and the Department is now pursuing enforcement to put an end to the illegal dumpingⁱⁱⁱ.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert La France, at 860-424-3401.

ⁱ On a technical note, we propose to correct a typographic citation in section (a) that references subsection (q) of section 22a-208a. It should be subsection (i) of subsection 22a-208a.

ⁱⁱ We recommend a minor adjustment to minimize a potential misinterpretation of the law. We recommend that at lines 96, 102, 106, 118, 119, and 120 the term "recyclable item" be changed to "designated recyclable" to make clear that the intent of the law is that recycling is mandatory specifically for those items that have been designated as such in regulation. Otherwise, even with the term defined at the end of the section, the law could be misinterpreted to mean that *any* recyclable item must be recycled within three months of the establishment of service to a municipality, and this is a broader effect than what is intended here.

ⁱⁱⁱ We recommend that at Line 243 the word "solely" be inserted after "consists" to clarify that no off site material can be comingled with on site material in order to be exempt from the "deemed discarded" provision. One final note is the typo in the title that should be corrected so that the word "Refuse" becomes "Reuse" or "Use."

