



General Assembly

February Session, 2016

***Raised Bill No. 5385***

LCO No. 1674



Referred to Committee on ENVIRONMENT

Introduced by:  
(ENV)

***AN ACT CONCERNING THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION'S MATERIALS MANAGEMENT PROGRAMS.***

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

1 Section 1. Section 22a-207 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2016*):

3 For the purposes of this chapter and chapter 103b:

4 (1) "Commissioner" means the Commissioner of Energy and  
5 Environmental Protection or his authorized agent;

6 (2) "Department" means the Department of Energy and  
7 Environmental Protection;

8 (3) "Solid waste" means unwanted or discarded solid, liquid,  
9 semisolid or contained gaseous material, including, but not limited to,  
10 demolition debris, material burned or otherwise processed at a  
11 resources recovery facility or incinerator, material processed at a  
12 recycling facility and sludges or other residue from a water pollution

13 abatement facility, water supply treatment plant or air pollution  
14 control facility;

15 (4) "Solid waste facility" means any solid waste disposal area,  
16 volume reduction plant, transfer station, wood-burning facility or  
17 biomedical waste treatment facility;

18 (5) "Volume reduction plant" means any location or structure,  
19 whether located on land or water, where more than two thousand  
20 pounds per hour of solid waste generated elsewhere may be reduced  
21 in volume, including but not limited to, resources recovery facilities,  
22 waste conversion facilities and other incinerators, recycling facilities,  
23 pulverizers, compactors, shredders, balers and composting facilities;

24 (6) "Solid waste disposal area" means any location, including a  
25 landfill or other land disposal site, used for the disposal of more than  
26 ten cubic yards of solid waste. For purposes of this subdivision,  
27 "disposal" means the placement of material at a location with the intent  
28 to leave it at such location indefinitely, or to fail to remove material  
29 from a location within forty-five days, but does not mean the  
30 placement of material required to be recycled under section 22a-241b  
31 in a location on the premises of a recycling facility, provided such  
32 facility is in compliance with all requirements of state or federal law  
33 and any permits required thereunder;

34 (7) "Recycling" means the [processing of solid waste to reclaim  
35 material therefrom] separation and recovery of usable materials from  
36 waste;

37 (8) "Recycling facility" or "recycling center" means land and  
38 appurtenances thereon and structures where recycling is conducted,  
39 including but not limited to, an intermediate processing center as  
40 defined in section 22a-260;

41 (9) "Resources recovery facility" means a facility [utilizing processes  
42 to reclaim energy from municipal solid waste] that combusts mixed

43 municipal solid waste to generate electricity;

44 (10) "Transfer station" means any location or structure, whether  
45 located on land or water, where more than ten cubic yards of solid  
46 waste, generated elsewhere, may be stored for transfer or transferred  
47 from transportation units and placed in other transportation units for  
48 movement to another location, whether or not such waste is stored at  
49 the location prior to transfer;

50 (11) "Municipality" means any town, city or borough within the  
51 state;

52 (12) "Municipal authority" means the local governing body having  
53 legal jurisdiction over solid waste management within its corporate  
54 limits which shall be, in the case of any municipality which adopts a  
55 charter provision or ordinance pursuant to section 7-273aa, the  
56 municipal resource recovery authority;

57 (13) "Regional authority" means the administrative body delegated  
58 the responsibility of solid waste management for two or more  
59 municipalities which have joined together by creating a district or  
60 signing an interlocal agreement or signing a mutual contract for a  
61 definitive period of time;

62 (14) "Region" means two or more municipalities which have joined  
63 together by creating a district or signing an interlocal agreement or  
64 signing a mutual contract for a definite period of time concerning solid  
65 waste management within such municipalities;

66 (15) "Solid waste management plan" means an administrative and  
67 financial plan for an area which considers solid waste storage,  
68 collection, transportation, volume reduction, recycling, reclamation  
69 and disposal practices for a twenty-year period, or extensions thereof;

70 (16) "Municipal collection" means solid waste collection from all  
71 residents thereof by a municipal authority;

72 (17) "Contract collection" means collection by a private collector  
73 under a formal agreement with a municipal authority in which the  
74 rights and duties of the respective parties are set forth;

75 (18) "Solid waste planning region" means those municipalities  
76 within the defined boundaries of regional councils of governments or  
77 as prescribed in the state solid waste management plan;

78 (19) "Biomedical waste" means infectious waste, pathological waste  
79 and chemotherapy waste generated during the administration of  
80 medical care or the performance of medical research involving humans  
81 or animals and which, because of its quantity, character or  
82 composition, has been determined by the commissioner to require  
83 special handling but excluding any solid waste which has been  
84 classified by the department as a hazardous waste pursuant to section  
85 22a-115 or is a radioactive material regulated pursuant to section 22a-  
86 148;

87 (20) "Generator of biomedical waste" means any person who owns  
88 or operates a facility that produces biomedical waste in any quantity,  
89 including, but not limited to the following: General hospitals, skilled  
90 nursing facilities or convalescent hospitals, intermediate care facilities,  
91 chronic dialysis clinics, free clinics, health maintenance organizations,  
92 surgical clinics, acute psychiatric hospitals, laboratories, medical  
93 buildings, physicians' offices, veterinarians, dental offices and funeral  
94 homes. Where more than one generator is located in the same building,  
95 each individual business entity shall be considered a separate  
96 generator;

97 (21) "Biomedical waste treatment facility" means a solid waste  
98 facility capable of storing, treating or disposing of any amount of  
99 biomedical waste, excluding any facility where the only biomedical  
100 waste treated, stored or disposed of is biomedical waste generated at  
101 the site and any licensed acute care facility or licensed regional  
102 household hazardous waste collection facility accepting untreated

103 solid waste generated during the administration of medical care in a  
104 single or multiple family household by a resident of such household;

105 (22) "Throughput" means the amount of municipal solid waste  
106 processed by a resources recovery facility determined by dividing the  
107 average annual tonnage of municipal solid waste by three hundred  
108 sixty-five days;

109 (23) "Municipal solid waste" means solid waste from residential,  
110 commercial and industrial sources, excluding solid waste consisting of  
111 significant quantities of hazardous waste as defined in section 22a-115,  
112 land-clearing debris, demolition debris, biomedical waste, sewage  
113 sludge and scrap metal;

114 (24) "Wood-burning facility" means a facility, as defined in section  
115 16-50i, whose principal function is energy recovery from wood for  
116 commercial purposes. "Wood-burning facility" does not mean a  
117 biomass gasification plant that utilizes land clearing debris, tree  
118 stumps or other biomass that regenerates, or the use of which will not  
119 result in a depletion of, resources;

120 (25) "Person" has the same meaning as in subsection (b) of section  
121 22a-2;

122 (26) "Closure plan" means a comprehensive written plan, including  
123 maps, prepared by a professional engineer licensed by the state that  
124 details the closure of a solid waste disposal area and that addresses  
125 final cover design, stormwater controls, landfill gas controls, water  
126 quality monitoring, leachate controls, postclosure maintenance and  
127 monitoring, financial assurance for closure and postclosure activities,  
128 postclosure use and any other information that the commissioner  
129 determines is necessary to protect human health and the environment  
130 from the effects of the solid waste disposal areas;

131 (27) "Designated recyclable item" means an item designated for  
132 recycling by the Commissioner of Energy and Environmental

133 Protection in regulations adopted pursuant to subsection (a) of section  
134 22a-241b, or designated for recycling pursuant to section 22a-208v or  
135 22a-256;

136 (28) "Composting facility" means land, appurtenances, structures or  
137 equipment where organic materials originating from another process  
138 or location that have been separated at the point or source of  
139 generation from nonorganic material are recovered using a process of  
140 accelerated biological decomposition of organic material under  
141 controlled aerobic or anaerobic conditions;

142 (29) "Source-separated organic material" means organic material,  
143 including, but not limited to, food scraps, food processing residue and  
144 soiled or unrecyclable paper that has been separated at the point or  
145 source of generation from nonorganic material;

146 (30) "Waste conversion facility" means a facility that uses thermal,  
147 chemical or biological process to convert solid waste into electricity,  
148 fuel, gas, chemicals or other products. "Waste conversion facility" does  
149 not include any resources recovery facility.

150 Sec. 2. Section 22a-208d of the general statutes is repealed and the  
151 following is substituted in lieu thereof (*Effective October 1, 2016*):

152 (a) On and after July 1, 1989, the Commissioner of Energy and  
153 Environmental Protection shall not issue a permit under section 22a-  
154 208a to construct or expand a resources recovery facility or a mixed  
155 municipal solid waste composting facility where any mixed municipal  
156 solid waste will be processed or a disposal area for ash residue  
157 generated by resources recovery facilities or mixed municipal solid  
158 waste unless said commissioner makes a written determination that  
159 such facility or disposal area is necessary to meet the solid waste  
160 disposal needs of the state and will not result in substantial excess  
161 capacity of resources recovery facilities, disposal areas or mixed  
162 municipal solid waste composting facilities in accordance with  
163 capacity targets established in the state-wide solid waste management

164 plan.

165 (b) The commissioner shall publish, at the expense of the applicant,  
166 notice of the preliminary determination of need for the proposed  
167 facility or disposal area in a newspaper having a substantial circulation  
168 in the area affected. Publication shall be within sixty days of  
169 determination by the commissioner that the application is complete.  
170 Any person may submit written comments on the preliminary  
171 determination of need in the same manner as provided by the  
172 commissioner for the submission of comments on the application. The  
173 commissioner shall not make a final determination of need for the  
174 facility or disposal area unless a permit is issued. A preliminary  
175 determination of need shall be void if a permit is not issued. As used in  
176 this section, "preliminary determination of need" means a statement by  
177 the commissioner of the need for a resources recovery facility, a mixed  
178 municipal solid waste composting facility or disposal area during the  
179 pendency of an application to construct such facility or area.

180 (c) (1) The applicant for a permit to construct or expand a resources  
181 recovery facility or a mixed municipal solid waste composting facility  
182 requiring a determination of need under subsection (a) of this section  
183 shall provide such information as the commissioner deems necessary,  
184 including but not limited to:

185 (A) The design capacity of the proposed facility;

186 (B) The planned operating rate and throughput for the facility;

187 (C) An explanation of any difference between the information  
188 provided under subparagraphs (A) and (B) of this subdivision;

189 [(D) The estimated amount of the following: (i) The mixed  
190 municipal solid waste generated by and received from each  
191 municipality and other customers that will send waste to the facility, in  
192 tons per day evidenced by contracts or letters of intent, (ii) the mixed  
193 municipal solid waste to be recycled pursuant to regulations adopted

194 by the commissioner under section 22a-241b, and (iii) change in the  
195 amount of mixed municipal solid waste generated because of  
196 population growth, waste generation, source reduction and industrial  
197 and commercial development over the design life of the facility.  
198 Information submitted under this subdivision shall include the  
199 methodology used to determine the estimates;]

200 [(E)] (D) A contingency plan for use of facility capacity if  
201 throughput declines or increases by at least ten per cent from the  
202 throughput estimated in the application;

203 [(F)] (E) An analysis of reasonable levels of reserve capacity for  
204 seasonal peaks and unexpected facility outages;

205 [(G)] (F) The capability of the applicant to complete the project;

206 [(H)] (G) The technical feasibility of the proposed facility; and

207 [(I) A demonstration that the throughput capacity of the proposed  
208 facility, when combined with the throughput capacity of all other  
209 resources recovery facilities with permits to construct under the  
210 provisions of section 22a-208a, existing resources recovery facilities  
211 with construction permits to expand and mixed municipal solid waste  
212 composting facilities, shall not exceed the total throughput capacity of  
213 resources recovery facilities and mixed municipal solid waste  
214 composting facilities needed to process waste generated in the state as  
215 set forth in the solid waste management plan adopted pursuant to  
216 section 22a-228.]

217 (2) In making the determination required under this section, the  
218 commissioner shall consider the information submitted under  
219 subdivision (1) of this subsection, the current and anticipated  
220 availability of throughput capacity for mixed municipal solid waste at  
221 resources recovery facilities, mixed municipal solid waste composting  
222 facilities, land disposal areas, recycling facilities and other facilities  
223 that process or dispose of mixed municipal solid waste that have



224 obtained all necessary permits to construct and any other information  
225 the commissioner deems pertinent and shall insure that no waste is  
226 accounted for more than once as a result of transfer from one vehicle or  
227 facility to another or for any other reason.

228 (d) (1) The applicant for a permit to construct a disposal area for ash  
229 residue generated by resources recovery facilities or mixed municipal  
230 solid wastes which requires a certificate of need under subsection (a) of  
231 this section shall submit such information as the commissioner deems  
232 necessary, including but not limited to, (A) the name of the resources  
233 recovery facilities or municipalities to be served by the disposal area;  
234 (B) the transportation system needed to serve the disposal area; (C) the  
235 available capacity of other disposal areas for ash residue or mixed  
236 municipal solid waste in the state that have obtained all necessary  
237 permits to construct; and (D) the design capacity of the disposal area.

238 (2) In making the determination required under this subsection, the  
239 commissioner shall consider the information submitted pursuant to  
240 subdivision (1) of this subsection and any other information the  
241 commissioner deems pertinent.

242 (e) The provisions of this section shall apply to any application for a  
243 permit under section 22a-208a for a resources recovery facility, for a  
244 disposal area for ash residue generated by resources recovery facilities,  
245 for a mixed municipal solid waste composting facility or for a disposal  
246 area for mixed municipal solid wastes which is pending on or  
247 submitted after July 1, 1989.

248 (f) This section shall not apply to an application for a permit or  
249 permit modifications of any resources recovery facility operating as of  
250 June 30, 1993, provided there is no expansion after that date of the  
251 facility's boilers or waste handling and processing equipment. Any  
252 such facility shall comply with all applicable environmental laws and  
253 regulations. Nothing in this subsection and no action taken by the  
254 commissioner pursuant hereto shall validate or invalidate any permit

255 or determination of need issued or approved prior to June 30, 1993, for  
256 any resources recovery facility not operating as of that date, or  
257 otherwise affect any action of the commissioner, proceedings or  
258 judicial review relating thereto, pending on or commenced after that  
259 date.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2016</i>	22a-207
Sec. 2	<i>October 1, 2016</i>	22a-208d

***Statement of Purpose:***

To amend certain definitions relating to solid waste management in order to more accurately reflect the nature of solid waste management facilities and to revise certain considerations employed during the determination of need process for such facilities.

*[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]*