



General Assembly

Substitute Bill No. 5385

February Session, 2016

* _____HB05385ENV____031416_____*

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 Section 22a-207 of the general statutes is repealed and the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;

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

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

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

48 the location prior to transfer;

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

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

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

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

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

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

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

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

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

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

96 (21) "Biomedical waste treatment facility" means a solid waste
97 facility capable of storing, treating or disposing of any amount of
98 biomedical waste, excluding any facility where the only biomedical
99 waste treated, stored or disposed of is biomedical waste generated at
100 the site and any licensed acute care facility or licensed regional
101 household hazardous waste collection facility accepting untreated
102 solid waste generated during the administration of medical care in a
103 single or multiple family household by a resident of such household;

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

108 (23) "Municipal solid waste" means solid waste from residential,

109 commercial and industrial sources, excluding solid waste consisting of
110 significant quantities of hazardous waste as defined in section 22a-115,
111 land-clearing debris, demolition debris, biomedical waste, sewage
112 sludge and scrap metal;

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

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

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

130 (27) "Designated recyclable item" means an item designated for
131 recycling by the Commissioner of Energy and Environmental
132 Protection in regulations adopted pursuant to subsection (a) of section
133 22a-241b, or designated for recycling pursuant to section 22a-208v or
134 22a-256;

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

140 controlled aerobic or anaerobic conditions;

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

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

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

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

164 (b) The commissioner shall publish, at the expense of the applicant,
165 notice of the preliminary determination of need for the proposed
166 facility or disposal area in a newspaper having a substantial circulation
167 in the area affected. Publication shall be within sixty days of
168 determination by the commissioner that the application is complete.
169 Any person may submit written comments on the preliminary
170 determination of need in the same manner as provided by the

171 commissioner for the submission of comments on the application. The
172 commissioner shall not make a final determination of need for the
173 facility or disposal area unless a permit is issued. A preliminary
174 determination of need shall be void if a permit is not issued. As used in
175 this section, "preliminary determination of need" means a statement by
176 the commissioner of the need for a resources recovery facility, a mixed
177 municipal solid waste composting facility or disposal area during the
178 pendency of an application to construct such facility or area.

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

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

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

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

188 [(D) The estimated amount of the following: (i) The mixed
189 municipal solid waste generated by and received from each
190 municipality and other customers that will send waste to the facility, in
191 tons per day evidenced by contracts or letters of intent, (ii) the mixed
192 municipal solid waste to be recycled pursuant to regulations adopted
193 by the commissioner under section 22a-241b, and (iii) change in the
194 amount of mixed municipal solid waste generated because of
195 population growth, waste generation, source reduction and industrial
196 and commercial development over the design life of the facility.
197 Information submitted under this subdivision shall include the
198 methodology used to determine the estimates;]

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

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

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

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

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

216 (2) In making the determination required under this section, the
217 commissioner shall consider the information submitted under
218 subdivision (1) of this subsection, the current and anticipated
219 availability of throughput capacity for mixed municipal solid waste at
220 resources recovery facilities, mixed municipal solid waste composting
221 facilities, land disposal areas, recycling facilities and other facilities
222 that process or dispose of mixed municipal solid waste that have
223 obtained all necessary permits to construct and any other information
224 the commissioner deems pertinent and shall insure that no waste is
225 accounted for more than once as a result of transfer from one vehicle or
226 facility to another or for any other reason.

227 (d) (1) The applicant for a permit to construct a disposal area for ash
228 residue generated by resources recovery facilities or mixed municipal
229 solid wastes which requires a certificate of need under subsection (a) of
230 this section shall submit such information as the commissioner deems
231 necessary, including but not limited to, (A) the name of the resources
232 recovery facilities or municipalities to be served by the disposal area;

233 (B) the transportation system needed to serve the disposal area; (C) the
234 available capacity of other disposal areas for ash residue or mixed
235 municipal solid waste in the state that have obtained all necessary
236 permits to construct; and (D) the design capacity of the disposal area.

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

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

247 (f) This section shall not apply to an application for a permit or
248 permit modifications of any resources recovery facility operating as of
249 June 30, 1993, provided there is no expansion after that date of the
250 facility's boilers or waste handling and processing equipment. Any
251 such facility shall comply with all applicable environmental laws and
252 regulations. Nothing in this subsection and no action taken by the
253 commissioner pursuant hereto shall validate or invalidate any permit
254 or determination of need issued or approved prior to June 30, 1993, for
255 any resources recovery facility not operating as of that date, or
256 otherwise affect any action of the commissioner, proceedings or
257 judicial review relating thereto, pending on or commenced after that
258 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

ENV *Joint Favorable Subst.*