



# House of Representatives

General Assembly

**File No. 346**

February Session, 2016

Substitute House Bill No. 5385

*House of Representatives, March 31, 2016*

The Committee on Environment reported through REP. ALBIS of the 99th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

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 Section 22a-207 of the general statutes is repealed and the  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

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	October 1, 2016	22a-207
Sec. 2	October 1, 2016	22a-208d

**ENV**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 17 \$</b>	<b>FY 18 \$</b>	<b>Outyears</b>
Various Municipalities	Potential Savings	None	None	Potential

**Explanation**

This bill classifies waste conversion facilities as volume reduction plants. Additionally, it allows resources recovery facilities to generate energy with mixed municipal solid waste (MSW) through combustion only, rather than using any other energy generation process.<sup>1</sup>

As these changes in definition relate to emerging technologies, and does not affect current waste conversion processes, the bill is not anticipated to result in a fiscal impact in FY 17 or FY 18.

However, the bill may result in savings to various municipalities in the outyears, to the extent new technologies result in lower-cost processing of MSW. A reduction in costs by these facilities may be passed on to municipalities through reduced tipping fees.

Lastly, the bill also reduces the amount of information a resources recovery facility must provide the Department of Energy and Environmental Protection with their permit application (known as a "determination of need"). As this process is already being streamlined

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<sup>1</sup> Volume reduction plants convert MSW into electricity, fuel, gas, or chemicals, through thermal, chemical, or biological processes, but they are not resource recovery facilities. There are currently 7 waste conversion and forty volume reduction plants.

by the agency, this also does not result in a fiscal impact.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

**OLR Bill Analysis****sHB 5385*****AN ACT CONCERNING THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION'S MATERIALS MANAGEMENT PROGRAMS.*****SUMMARY:**

This bill adds waste conversion facilities to the existing definition of volume reduction plants, which are places or facilities used to reduce solid waste at a rate of at least 2,000 pounds per hour. By law, a volume reduction plant is one type of solid waste facility, which must be permitted by the Department of Energy and Environmental Protection (DEEP).

Under the bill, a “waste conversion facility” converts solid waste into electricity, fuel, gas, chemicals, or other products through thermal, chemical, or biological processes, but it is not a resources recovery facility. Corresponding to the new definition, the bill limits resources recovery facilities (which are also a type of volume reduction plant) to combusting mixed municipal solid waste (MSW) to generate electricity, rather than using any process to reclaim energy from MSW.

The bill also reduces the amount of information a resources recovery facility or MSW composting facility (i.e., a facility that recovers organic material) applying for a DEEP permit must provide as part of the DEEP commissioner’s review of whether there is a need for the facility. This process is commonly referred to as a “determination of need.” By limiting the definition of resources recovery facility, the bill excludes waste conversion facilities from this need determination.

EFFECTIVE DATE: October 1, 2016

**DEEP DETERMINATION OF NEED**

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Existing law prohibits the DEEP commissioner from issuing a permit to construct or expand certain waste facilities or disposal areas unless he determines that they are needed to meet the state's solid waste disposal needs and will not result in substantial excess capacity. The bill specifies that the capacity targets are as provided in the state's solid waste management plan (see BACKGROUND).

The bill eliminates three pieces of information a resources recovery facility or mixed MSW composting facility must provide as part of the need determination process:

1. the estimated amount of mixed MSW (a) generated by and received from each municipality and other customers that will send waste to the facility and (b) that are designated recyclables for recycling;
2. the estimated change in the amount of mixed MSW generated due to population growth, waste reduction, source reduction, and industrial and commercial development over the facility's design life; and
3. a demonstration that the facility's throughput capacity (i.e., how much it can process), combined with the capacity of other permitted facilities, will not exceed the total capacity needed to process the state's waste.

Existing law, unchanged by the bill, requires the facilities to provide information about design capacity, planned operating rate and throughput, technical feasibility, capability to complete the project, reserve capacity, and contingencies for facility use.

## **BACKGROUND**

### ***Municipal Solid Waste***

By law, MSW is solid waste from residential, commercial, and industrial sources, but not waste that has significant amounts of hazardous or biomedical waste, land-clearing or demolition debris, sewage sludge, and scrap metal (CGS § 22a-207(23)).

**Solid Waste Management Plan**

The DEEP commissioner is currently revising the state’s solid waste management plan to include a strategy for diverting, through source reduction, reuse, and recycling, at least 60% of solid waste generated in Connecticut by January 1, 2024. The law requires the revision to be completed by July 1, 2016 (CGS § 22a-241a).

**COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 28 Nay 1 (03/11/2016)