



General Assembly

Amendment

February Session, 2016

LCO No. 5548



Offered by:
REP. ALBIS, 99th Dist.

To: House Bill No. 5381

File No. 236

Cal. No. 179

**"AN ACT CONCERNING REGULATORY AUTHORITY FOR
WASTEWATER PERMITTING PROGRAMS."**

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subsection (e) of section 22a-43 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective from*
5 *passage*):

6 (e) There shall be no right to further review except to the Appellate
7 Court by certification for review in accordance with the provisions of
8 subsection [(p)] (o) of section 8-8.

9 Sec. 502. Section 22a-207 of the general statutes is repealed and the
10 following is substituted in lieu thereof (*Effective October 1, 2016*):

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

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

14 (2) "Department" means the Department of Energy and
15 Environmental Protection;

16 (3) "Solid waste" means unwanted or discarded solid, liquid,
17 semisolid or contained gaseous material, including, but not limited to,
18 demolition debris, material burned or otherwise processed at a
19 resources recovery facility or incinerator, material processed at a
20 recycling facility and sludges or other residue from a water pollution
21 abatement facility, water supply treatment plant or air pollution
22 control facility;

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

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

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

42 (7) "Recycling" means the processing of solid waste to reclaim
43 material therefrom;

44 (8) "Recycling facility" or "recycling center" means land and

45 appurtenances thereon and structures where recycling is conducted,
46 including but not limited to, an intermediate processing center as
47 defined in section 22a-260;

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

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

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

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

64 (13) "Regional authority" means the administrative body delegated
65 the responsibility of solid waste management for two or more
66 municipalities which have joined together by creating a district or
67 signing an interlocal agreement or signing a mutual contract for a
68 definitive period of time;

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

73 (15) "Solid waste management plan" means an administrative and
74 financial plan for an area which considers solid waste storage,

75 collection, transportation, volume reduction, recycling, reclamation
76 and disposal practices for a twenty-year period, or extensions thereof;

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

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

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

85 (19) "Biomedical waste" means infectious waste, pathological waste
86 and chemotherapy waste generated during the administration of
87 medical care or the performance of medical research involving humans
88 or animals and which, because of its quantity, character or
89 composition, has been determined by the commissioner to require
90 special handling but excluding any solid waste which has been
91 classified by the department as a hazardous waste pursuant to section
92 22a-115 or is a radioactive material regulated pursuant to section 22a-
93 148;

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

104 (21) "Biomedical waste treatment facility" means a solid waste
105 facility capable of storing, treating or disposing of any amount of

106 biomedical waste, excluding any facility where the only biomedical
107 waste treated, stored or disposed of is biomedical waste generated at
108 the site and any licensed acute care facility or licensed regional
109 household hazardous waste collection facility accepting untreated
110 solid waste generated during the administration of medical care in a
111 single or multiple family household by a resident of such household;

112 (22) "Throughput" means the amount of municipal solid waste
113 processed by a resources recovery facility determined by dividing the
114 average annual tonnage of municipal solid waste by three hundred
115 sixty-five days;

116 (23) "Municipal solid waste" means solid waste from residential,
117 commercial and industrial sources, excluding solid waste consisting of
118 significant quantities of hazardous waste as defined in section 22a-115,
119 land-clearing debris, demolition debris, biomedical waste, sewage
120 sludge and scrap metal;

121 (24) "Wood-burning facility" means a facility, as defined in section
122 16-50i, whose principal function is energy recovery from wood for
123 commercial purposes. "Wood-burning facility" does not mean a
124 biomass gasification plant that utilizes land clearing debris, tree
125 stumps or other biomass that regenerates, or the use of which will not
126 result in a depletion of, resources;

127 (25) "Person" has the same meaning as in subsection (b) of section
128 22a-2;

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

138 (27) "Designated recyclable item" means an item designated for
139 recycling by the Commissioner of Energy and Environmental
140 Protection in regulations adopted pursuant to subsection (a) of section
141 22a-241b, or designated for recycling pursuant to section 22a-208v or
142 22a-256;

143 (28) "Composting facility" means land, appurtenances, structures or
144 equipment where organic materials originating from another process
145 or location that have been separated at the point or source of
146 generation from nonorganic material are recovered using a process of
147 accelerated biological decomposition of organic material under
148 controlled aerobic or anaerobic conditions;

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

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

157 Sec. 503. Section 22a-208d of the general statutes is repealed and the
158 following is substituted in lieu thereof (*Effective October 1, 2016*):

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

170 capacity targets established in the state-wide solid waste management
171 plan.

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

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

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

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

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

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

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

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

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

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

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

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

224 (2) In making the determination required under this section, the
225 commissioner shall consider the information submitted under
226 subdivision (1) of this subsection, the current and anticipated
227 availability of throughput capacity for mixed municipal solid waste at
228 resources recovery facilities, mixed municipal solid waste composting
229 facilities, land disposal areas, recycling facilities and other facilities
230 that process or dispose of mixed municipal solid waste that have
231 obtained all necessary permits to construct and any other information

232 the commissioner deems pertinent and shall insure that no waste is
233 accounted for more than once as a result of transfer from one vehicle or
234 facility to another or for any other reason.

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

245 (2) In making the determination required under this subsection, the
246 commissioner shall consider the information submitted pursuant to
247 subdivision (1) of this subsection and any other information the
248 commissioner deems pertinent.

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

255 (f) This section shall not apply to an application for a permit or
256 permit modifications of any resources recovery facility operating as of
257 June 30, 1993, provided there is no expansion after that date of the
258 facility's boilers or waste handling and processing equipment. Any
259 such facility shall comply with all applicable environmental laws and
260 regulations. Nothing in this subsection and no action taken by the
261 commissioner pursuant hereto shall validate or invalidate any permit
262 or determination of need issued or approved prior to June 30, 1993, for
263 any resources recovery facility not operating as of that date, or

264 otherwise affect any action of the commissioner, proceedings or
265 judicial review relating thereto, pending on or commenced after that
266 date."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>from passage</i>	22a-43(e)
Sec. 502	<i>October 1, 2016</i>	22a-207
Sec. 503	<i>October 1, 2016</i>	22a-208d