STATE OF CONNECTICUT
CONNECTICUT SITING COUNCIL
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September 6, 2017

Windham Solar, LLC
c/o Ecos Energy, LLC
ATTN: Mr. Christopher Little
222 South 9th Street
Suite 1600
Minneapolis, MN 55402

RE: **PETITION NO. 1323** – Windham Solar LLC petition for a declaratory ruling that no Certificate of Environmental Compatibility and Public Need is required for the proposed construction, maintenance and operation of three 2.0 Megawatt AC and two 1.0 Megawatt AC solar photovoltaic electric generating facilities on an approximate 43 acre parcel located at 134 Bilton Road, Somers, Connecticut.

Dear Mr. Little:

The Connecticut Siting Council (Council) received the petition for a declaratory ruling for the above-referenced facility on August 30, 2017.

According to Section 16-50j-39a of the Regulations of Connecticut State Agencies, "no declaratory ruling shall be issued to any person until a complete petition containing all information deemed relevant by the Council has been filed."

Staff has reviewed this petition for completeness and has identified a deficiency in compliance with Connecticut General Statutes §16-50k(a). Effective July 1, 2017, under Public Act 17-218, a copy of which is attached to this correspondence for your convenience, Connecticut General Statutes §16-50k(a) requires, "…**for a solar photovoltaic facility with a capacity of 2 or more megawatts**, to be located on prime farmland or forestland,… the Department of Agriculture represents, in writing, to the Council, that such project will not materially affect the status of such land as prime farmland or the Department of Energy and Environmental Protection represents, in writing, to the Council that such project will not materially affect the status of such land as core forest…"

There is neither a letter from the Department of Agriculture nor the Department of Energy and Environmental Protection submitted as part of the petition for a declaratory ruling that the above-referenced proposed facility will not materially affect the status of prime farmland or core forest.

Therefore, the petition is incomplete and not in compliance with the statute at this time. The Council recommends that the petitioner either:

1. Provide written correspondence from the Department of Agriculture that the proposed facility will not materially affect the status of prime farmland and/or written correspondence from the Department of Energy and Environmental Protection that the proposed facility will not materially affect the status of core forest on or before October 4, 2017. If additional time is needed to consult with the Department of Agriculture and the Department of Energy and Environmental Protection, please submit a written request for an extension of time prior to October 4, 2017; or

2. Submit the proposed project as an Application for a Certificate of Environmental Compatibility and Public Need pursuant to the provisions of Connecticut General Statutes §16-50*l*.

Thank you for your attention to this matter. Should you have any questions, please feel free to contact me at 860-827-2951.

Sincerely,

Melanie A. Bachman
Executive Director

c: Commissioner Robert Klee, Department of Energy and Environmental Protection
Commissioner Steven Reviczky, Department of Agriculture
The Honorable C.G. 'Bud' Knorr, Jr., First Selectman, Town of Somers
Jennifer Roy, Land Use Technician/Zoning Officer, Town of Somers
Council Members

Senate Bill No. 943

Public Act No. 17-218

AN ACT CONCERNING THE INSTALLATION OF CERTAIN SOLAR FACILITIES ON PRODUCTIVE FARMLANDS, INCENTIVES FOR THE USE OF ANAEROBIC DIGESTERS BY AGRICULTURAL CUSTOMER HOSTS, APPLICATIONS CONCERNING THE USE OF KELP IN CERTAIN BIOFUELS AND THE PERMITTING OF WASTE CONVERSION FACILITIES.

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

Section 1. (NEW) (*Effective July 1, 2017*) For purposes of sections 1 and 2 of this act and section 16-50k of the general statutes, as amended by this act: (1) "Core forest" means unfragmented forest land that is three hundred feet or greater from the boundary between forest land and nonforest land, as determined by the Commissioner of Energy and Environmental Protection; and (2) "prime farmland" means land that meets the criteria for prime farmland as described in 7 CFR 657, as amended from time to time.

Sec. 2. (NEW) (*Effective July 1, 2017*) In any solicitation issued under section 16a-3f, 16a-3g, 16a-3h or 16a-3j of the general statutes, as amended by this act, after July 1, 2017, the Commissioner of Energy and Environmental Protection shall consider the environmental impacts of any proposal located in the state that is received in response to such solicitation, including, but not limited to, the impacts to prime farmland and core forests and the reuse of sites with limited development opportunities such as brownfields and landfills, as identified by the commissioner.

Sec. 3. Subsection (a) of section 16-50k of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(a) Except as provided in subsection (b) of section 16-50z, no person shall exercise any right of eminent domain in contemplation of, commence the preparation of the site for, commence the construction or supplying of a facility, or commence any modification of a facility, that may, as determined by the council, have a substantial adverse environmental effect in the state without having first obtained a certificate of environmental compatibility and public need, hereinafter referred to as a "certificate", issued with respect to such facility or modification by the council. Certificates shall not be required for (1) fuel cells built within the state with a generating capacity of two hundred fifty kilowatts or less, or (2) fuel cells built out of state with a generating capacity of ten kilowatts or less. Any facility with respect

to which a certificate is required shall thereafter be built, maintained and operated in conformity with such certificate and any terms, limitations or conditions contained therein. Notwithstanding the provisions of this chapter or title 16a, the council shall, in the exercise of its jurisdiction over the siting of generating facilities, approve by declaratory ruling (A) the construction of a facility solely for the purpose of generating electricity, other than an electric generating facility that uses nuclear materials or coal as fuel, at a site where an electric generating facility operated prior to July 1, 2004, and (B) the construction or location of any fuel cell, unless the council finds a substantial adverse environmental effect, or of any customer-side distributed resources project or facility or grid-side distributed resources project or facility with a capacity of not more than sixty-five megawatts, as long as: [such] (i) Such project meets air and water quality standards of the Department of Energy and Environmental Protection, (ii) the council does not find a substantial adverse environmental effect, and (iii) for a solar photovoltaic facility with a capacity of two or more megawatts, to be located on prime farmland or forestland, excluding any such facility that was selected by the Department of Energy and Environmental Protection in any solicitation issued prior to July 1, 2017, pursuant to section 16a-3f, 16a-3g or 16a-3j, the Department of Agriculture represents, in writing, to the council that such project will not materially affect the status of such land as prime farmland or the Department of Energy and Environmental Protection represents, in writing, to the council that such project will not materially affect the status of such land as core forest. In conducting an evaluation of a project for purposes of subparagraph (B)(iii) of this subsection, the Departments of Agriculture and Energy and Environmental Protection may consult with the United States Department of Agriculture and soil and water conservation districts.

Sec. 4. Subsection (a) of section 16-50p of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(a) (1) In a certification proceeding, the council shall render a decision upon the record either granting or denying the application as filed, or granting it upon such terms, conditions, limitations or modifications of the construction or operation of the facility as the council may deem appropriate.

(2) The council's decision shall be rendered in accordance with the following:

(A) Not later than twelve months after the filing of an application for a facility described in subdivision (1) or (2) of subsection (a) of section 16-50i or subdivision (4) of said subsection (a) if the application was incorporated in an application concerning a facility described in subdivision (1) of said subsection (a); and

(B) Not later than one hundred eighty days after the filing of an application for a facility described in subdivisions (3) to (6), inclusive, of subsection (a) of section 16-50i, provided the council may extend such period by not more than one hundred eighty days with the consent of the applicant.

(3) The council shall file, with its order, an opinion stating in full its reasons for the decision. The council shall not grant a certificate, either as proposed or as modified by the council, unless it shall find and determine:

(A) Except as provided in subsection (b) or (c) of this section, a public need for the facility and the basis of the need;

(B) The nature of the probable environmental impact of the facility alone and cumulatively with other existing facilities, including a specification of every significant adverse effect, including, but not limited to, (i) electromagnetic fields that, whether alone or cumulatively with other effects, impact on, and conflict with the policies of the state concerning the natural environment, (ii) ecological balance, (iii) public health and safety, (iv) scenic, historic and recreational values, (v) agriculture, (vi) forests and parks, (vii) air and water purity, and (viii) fish, aquaculture and wildlife;

(C) Why the adverse effects or conflicts referred to in subparagraph (B) of this subdivision are not sufficient reason to deny the application;

(D) In the case of an electric transmission line, (i) what part, if any, of the facility shall be located overhead, (ii) that the facility conforms to a long-range plan for expansion of the electric power grid of the electric systems serving the state and interconnected utility systems and will serve the interests of electric system economy and reliability, and (iii) that the overhead portions, if any, of the facility are cost effective and the most appropriate alternative based on a life-cycle cost analysis of the facility and underground alternatives to such facility, are consistent with the purposes of this chapter, with such regulations or standards as the council may adopt pursuant to section 16-50t, including, but not limited to, the council's best management practices for electric and magnetic fields for electric transmission lines and with the Federal Power Commission "Guidelines for the Protection of Natural Historic Scenic and Recreational Values in the Design and Location of Rights-of-Way and Transmission Facilities" or any successor guidelines and any other applicable federal guidelines and are to be contained within an area that provides a buffer zone that protects the public health and safety, as determined by the council. In establishing such buffer zone, the council shall consider, among other things, residential areas, private or public schools, licensed child care centers, licensed youth camps or public playgrounds adjacent to the proposed route of the overhead portions and the level of the voltage of the overhead portions and any existing overhead transmission lines on the proposed route. At a minimum, the existing right-of-way shall serve as the buffer zone;

(E) In the case of an electric or fuel transmission line, that the location of the line will not pose an undue hazard to persons or property along the area traversed by the line;

(F) In the case of a facility described in subdivision (6) of subsection (a) of section 16-50i that is (i) proposed to be installed on land under agricultural restriction, as provided in section 22-26cc, that the facility will not result in a material decrease of acreage and productivity of the arable land, (ii) proposed to be installed on land near a building containing a school, as defined in section 10-154a, or a commercial child care center, as described in subdivision (1) of subsection (a) of section 19a-77, that the facility will not be less than two hundred fifty feet from such school or commercial child care center unless the location is acceptable to the chief elected official of the municipality or the council finds that the facility will not have a substantial adverse effect on the aesthetics or scenic quality of the neighborhood in which

such school or commercial child care center is located, or (iii) proposed to be installed on land owned by a water company, as defined in section 25-32a, and which involves a new ground-mounted telecommunications tower, that such land owned by a water company is preferred over any alternative telecommunications tower sites provided the council shall, pursuant to clause (iii) of this subparagraph, consult with the Department of Public Health to determine potential impacts to public drinking water supplies in considering all the environmental impacts identified pursuant to subparagraph (B) of this subdivision. The council shall not render any decision pursuant to this subparagraph that is inconsistent with federal law or regulations; and

(G) That, for a facility described in subdivision (5) or (6) of subsection (a) of section 16-50i, the council has considered the manufacturer's recommended safety standards for any equipment, machinery or technology for the facility.

Sec. 5. Subsection (e) of section 16-244u of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(e) (1) On or before October 1, 2013, the Public Utilities Regulatory Authority shall conduct a proceeding to develop the administrative processes and program specifications, including, but not limited to, a cap of ten million dollars per year apportioned to each electric distribution company based on consumer load, for credits provided to beneficial accounts pursuant to subsection **[**(c)**]** (b) of this section and payments made pursuant to subsection **[**(d)**]** (c) of this section, provided the municipal, state and agricultural customer hosts, each in the aggregate, and the designated beneficial accounts of such customer hosts, shall receive not more than forty per cent of the dollar amount established pursuant to this subdivision.

(2) In addition to the provisions of subdivision (1) of this subsection, the authority shall authorize six million dollars per year for municipal customer hosts, apportioned to each electric distribution company based on consumer load, for credits provided to beneficial accounts pursuant to subsection **[**(c)**]** (b) of this section and payments made pursuant to subsection **[**(d)**]** (c) of this section where such municipal customer hosts have: (A) Submitted an interconnection application to an electric distribution company on or before April 13, 2016, and (B) submitted a virtual net metering application to an electric distribution company on or before April 13, 2016.

(3) In addition to the provisions of subdivisions (1) and (2) of this subsection, the authority shall authorize, apportioned to each electric distribution company based on consumer load for credits provided to beneficial accounts pursuant to subsection (b) of this section and payments made pursuant to subsection (c) of this section three million dollars per year for agricultural customer hosts, provided each agricultural customer host utilizes a virtual net metering facility that is an anaerobic digestion Class I renewable energy source and not less than fifty per cent of the dollar amount for such agricultural customer hosts established under this subparagraph is utilized by anaerobic digestion facilities located on dairy farms that complement such farms' nutrient management plans, as certified by the Department of Agriculture, and that have a goal of utilizing one hundred per cent of the manure generated on such farm.

Sec. 6. (NEW) (*Effective from passage*) The Department of Energy and Environmental Protection, in consultation with the Department of Agriculture, may assist one or more companies in the submission of a petition to the Environmental Protection Agency for approval of kelp oil as a feedstock under the fuel pathway for the heating oil program within the Renewable Fuel Standard Program. Such assistance may include, but shall not be limited to, inquiring of the status of kelp and kelp oil for consideration as feedstock for heating oil by the Environmental Protection Agency under such program, providing any applicable or requisite information held by the department that may support such petition, and facilitating timely communications between the Environmental Protection Agency, other relevant state agencies and any such petitioning company in furtherance of any such petition.

Sec. 7. Section 22a-207 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

For the purposes of this chapter and chapter 103b:

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

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

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

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

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

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

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

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

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

(10) "Waste conversion facility" means a facility that uses thermal, chemical or biological processes to convert solid waste, including, but not limited to, municipal solid waste, into electricity, fuel, gas, chemical or other products and that is not a facility that combusts mixed municipal solid waste to generate electricity;

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

[(11)] (12) "Municipality" means any town, city or borough within the state;

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

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

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

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

[(16)] (17) "Municipal collection" means solid waste collection from all residents thereof by a municipal authority;

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

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

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

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

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

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

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

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

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

[(26)] (27) "Closure plan" means a comprehensive written plan, including maps, prepared by a professional engineer licensed by the state that details the closure of a solid waste disposal area and that addresses final cover design, stormwater controls, landfill gas controls, water quality monitoring, leachate controls, postclosure maintenance and monitoring, financial assurance for closure and postclosure activities, postclosure use and any other information

that the commissioner determines is necessary to protect human health and the environment from the effects of the solid waste disposal areas;

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

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

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

Sec. 8. Section 22a-207a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

(a) As used in [sections] section 22a-208d, [22a-208q] as amended by this act, and subsection (b) of section 22a-228: (1) "Composting" means a process of accelerated biological decomposition of organic material under controlled conditions; and (2) "mixed municipal solid waste" means municipal solid waste that consists of mixtures of solid wastes which have not been separated at the source of generation or processed into discrete, homogeneous waste streams such as glass, paper, plastic, aluminum or tire waste streams provided such wastes shall not include any material required to be recycled pursuant to section 22a-241b. [; and (3) "mixed municipal solid waste composting facility" means a volume reduction plant where mixed municipal solid waste is processed using composting technology.]

(b) As used in this chapter, "end user" means any person who uses a material for such material's original use or any manufacturer who uses a material as feedstock to make a marketable product.

Sec. 9. Section 22a-208d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2017*):

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

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

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

(A) The design capacity of the proposed facility;

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

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

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

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

(F) An analysis of reasonable levels of reserve capacity for seasonal peaks and unexpected facility outages;

(G) The capability of the applicant to complete the project;

(H) The technical feasibility of the proposed facility; and

(I) A demonstration that the throughput capacity of the proposed facility, when combined with the throughput capacity of all other resources recovery facilities with permits to construct under the provisions of section 22a-208a [,] and existing resources recovery

facilities with construction permits to expand [and mixed municipal solid waste composting facilities,] shall not exceed the total throughput capacity of resources recovery facilities [and mixed municipal solid waste composting facilities] needed to process waste generated in the state as set forth in the solid waste management plan adopted pursuant to section 22a-228.

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

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

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

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

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

Sec. 10. Section 22a-208q of the general statutes is repealed. (*Effective July 1, 2017*)

Approved July 10, 2017