

PA 08-94—sHB 5145

Environment Committee

Energy and Technology Committee

AN ACT CONCERNING ENVIRONMENTAL JUSTICE COMMUNITIES AND THE STORAGE OF ASBESTOS-CONTAINING MATERIAL

SUMMARY: This act requires applicants seeking a new or expanded permit, certificate, or siting approval for certain facilities (an “affecting facility”) in an environmental justice community from the Department of Environmental Protection (DEP) or the Connecticut Siting Council to (1) file and receive approval of a meaningful public participation plan, including an informal public meeting, with DEP or the Siting Council and (2) consult with officials of the town or towns where the facility will be located or expanded to evaluate the need for a community environmental benefit agreement.

Under the act, DEP and the Siting Council must wait at least 60 days after the informal public meeting to act on the applicant's request. The act specifies that any municipality, owner, or developer may enter into a community benefit agreement in connection with an affecting facility.

The act also restricts where people or government agencies may place, store, dispose of, or deposit certain asbestos-containing materials.

EFFECTIVE DATE: January 1, 2009, except for the provision concerning asbestos-containing materials, which is effective October 1, 2008.

REQUIREMENTS FOR APPLICANTS FOR NEW OR EXPANDED AFFECTING FACILITIES

Affecting Facilities

The act applies to applicants seeking permits, certificates, or approval from DEP or the Siting Council, starting January 1, 2009, for certain new or expanded facilities. These affecting facilities are:

1. electric generating facilities with capacities above 10 megawatts;
2. sludge and solid waste incinerators or combustors;
3. sewage treatment plants with a capacity over 50 million gallons per day;
4. intermediate processing centers, volume reduction facilities, or multi-town recycling facilities with a combined monthly volume over 25 tons;
5. new or expanded landfills, including those that contain ash, construction, and demolition debris or solid waste;
6. medical waste incinerators; and
7. major sources of pollution under the federal Clean Air Act (e. g. , large factories).

The act excludes from the definition of affecting facilities (1) portions of electric generating facilities that use non-emitting and non-polluting renewable resources such as wind, solar, and hydropower or that use fuel cells; (2) any facility that received a Siting Council certificate on or before January 1, 2000; and (3) any facility under the control of the state higher education system that has received a satisfactory environmental impact evaluation.

Environmental Justice Communities

The act applies to affecting facilities in environmental justice communities. An environmental justice community is (1) a U. S. census block group (part of a census tract) for which 30% or more of the population consists of low-income people who are not institutionalized and have an income of less than 200% of the federal poverty level or (2) a distressed municipality. This definition affects 59 municipalities (see BACKGROUND).

Public Participation Plan, Including Informal Public Meeting

The act requires the applicants to file and receive approval of a meaningful public participation plan from the appropriate agency or council. Under the act, meaningful public participation occurs when:

1. potentially affected residents have an appropriate opportunity to participate in decisions over permits, certificates, or approvals when proposed facilities or the expansion of existing facilities may harm their environment or health;
2. public input may influence the agency or council; and
3. the applicant seeks out and facilitates the participation of those potentially affected.

Applicants must certify that they will carry out the meaningful public participation plan. As part of the plan, they must organize an informal public meeting at a time convenient to the environmental justice community.

The act also requires the plan to identify methods by which the applicants will publicize the meeting's date, time, and nature. These may include posting a reasonably visible sign on the proposed facility in English, posting signs in any language spoken by at least 20% of the population residing within one-half mile of the facility, or notifying neighborhood and environmental groups and local and state elected officials in writing.

Between 10 and 30 days before the informal public meeting, applicants must publish a notice stating its date, time, and nature in a general circulation newspaper in the environmental justice community or other appropriate newspaper. The notice must be at least one-quarter page in the Monday issue of a daily publication, or in any day's issue in a weekly or monthly publication. The applicant must also publish this information online, if it has a website.

At the informal public meeting, the applicant must make a reasonable and good faith effort to provide clear, accurate, and complete information about the proposed facility or the proposed facility expansion and its potential environmental and health impacts on the public.

If the Siting Council approves a meaningful participation plan for a new or expanded affecting facility, and the municipality holds a public meeting regarding a community benefit agreement, DEP may waive the requirement for an additional informal public meeting in its approval of the meaningful participation plan.

Community Environmental Benefit Agreement

The act also requires the applicant to consult with the chief elected official or other officials of the town or towns in which the affecting facility will be located or expanded to determine the need for a community environmental benefit agreement. Under the act, "community environmental benefit agreement" means a written agreement between the potentially affected municipality and the owner or developer of the affecting facility whereby the owner or developer agrees to develop the property and provide financial resources to mitigate environmental and health impacts, including traffic, parking, and noise, on the community.

Mitigation may include both on-site and off-site improvements, programs, and activities, including funding for environmental education, diesel pollution reduction, construction of biking and walking trails, staffing for

parks, urban forestry, support for community gardens, or any other negotiated benefit to the environment in the environmental justice community.

Prior to agreement negotiations, the municipality must provide a reasonable and public opportunity for affected residents to voice concerns about the agreement and its terms.

HAZARDOUS WASTE

The act restricts where people and government agencies may place, deposit, dispose of, or store certain asbestos-containing material. By law, asbestos-containing material is material composed of any type of asbestos in quantities greater than 1% by weight, either alone or mixed with other fibrous or non fibrous material (CGS § 19-332).

Specifically, the act requires the approval of two-thirds of a municipality's legislative body to move more than 1,000 cubic yards of soil that consists of asbestos-containing material from another site to one that abuts or adjoins residential property at a height of more than four feet above the existing grade of the land.

BACKGROUND

Distressed Municipalities

In 2007, the federal Department of Housing and Urban Development designated the following municipalities as distressed:

Ansonia	Meriden	Putnam
Bridgeport	Naugatuck	Sprague
Bristol	New Britain	Torrington
Brooklyn	New Haven	Waterbury
Derby	New London	West Haven
East Hartford	North Canaan	Winchester
Enfield	Norwich	Windham
Hartford	Plainfield	
Killingly	Plymouth	

Other Affected Towns

The Environmental Coalition for Justice, with the Capitol Region Council of Governments, performed an analysis that shows that several additional municipalities are also affected municipalities under the act. The following municipalities are not distressed, but have census block groups with 30% of their population living below 200% of the federal poverty level:

Ashford	Mansfield	Stonington
Bloomfield	Middletown	Stratford
Danbury	North Haven	Thompson
East Haven	Norwalk	Vernon
East Windsor	Plainville	Wallingford
Fairfield	Salisbury	Waterford
Greenwich	Shelton	West Hartford
Griswold	Southbury	Westbrook
Groton	Southington	Wethersfield

Hamden
Manchester

Stafford
Stamford

Willington
Windsor
Windsor Lock

OLR Tracking: JTP: KS: SS: ts