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State Solid Waste Management Plan

Sec. 22a-228-1. Procedures for adopting and amending a statewide solid waste management plan and for granting temporary variances

(a) Plan adoption.

(1) The Commissioner of Environmental Protection shall prepare a statewide solid waste management plan in accordance with Public Act 85-436. He or she shall hold regional public hearings on a proposed plan and shall give at least thirty days notice of each hearing by publication in the Connecticut Law Journal. Notice of such hearing may be published in one or more newspapers having general circulation in each municipality as deemed necessary by the Commissioner. The notice shall state the date, time and place of the hearing, the subject matter of the hearing, the statutory authority for the plan, and the location where a copy of the plan may be examined.

(2) At least thirty days prior to the first hearing, the Commissioner shall send a copy of the proposed plan by certified mail, return receipt requested to the Connecticut Solid Waste Management Advisory Council, the Connecticut Resources Recovery Authority and the chief executive officer of each municipality.

(3) Any person or municipality may comment on the proposed plan. The Commissioner shall provide a time period of not less than forty-five days from the date the notice is published in the Connecticut Law Journal for review and comment. The Commissioner shall consider fully, after all public hearings, all written and oral comments respecting the proposed plan and shall mail to each person or municipality who commented or requested notification, notice of availability of the following documents at a designated location: the text of the final plan; a summary of the differences between the proposed and final plan and the reasons therefore; and the principal considerations raised in opposition to the proposed plan and the reasons for rejecting any such considerations. The Commissioner shall sign the final plan. The final plan shall take effect immediately upon signing by the Commissioner or such other time as he or she designates. The Commissioner shall send a copy of the final plan, by certified mail, return receipt requested, to the Connecticut Solid Waste Management Advisory Council, the Connecticut Resources Recovery Authority and the chief executive officer of each municipality.

(b) Plan amendment.

(1) The Commissioner may prepare, on his or her initiative or upon request of any municipality, an amendment to the statewide solid waste management plan adopted pursuant to Public Act 85-436 and subsection (a) of this section or amended pursuant to this subsection.

(2) Any municipality may, by vote of its legislative body, as defined by Section 1-1 (m) of the General Statutes, apply to the Commissioner for an amendment to the plan. The municipality shall submit such request to the Commissioner on forms provided by him or her and shall include such information as the Commissioner deems necessary, including but not limited to:

- (A) a description of the proposed amendment;
- (B) the reasons for the proposed amendment, including supporting documentation;
- (C) a detailed statement of the proposed amendment's effect on the plan adopted pursuant to Public Act 85-436 and subsection (a) of this section or amended pursuant to this subsection;
- (D) the identification of the municipalities affected by the proposed amendment and evidence in writing, whenever possible, of the opinion of the municipal legisla-

tive body, as defined by Section 1-1 (m) of the General Statutes, of any municipality affected by the proposed amendment;

- (E) the identification of any affected solid waste facility; and
- (F) other information deemed necessary by the Commissioner.

(3) The Commissioner may deny a request for an amendment and in doing so he or she shall forward to the municipality making the request a detailed statement of the reason(s). A copy shall be forwarded to the legislative body of each municipality affected by the proposed amendment as identified in subparagraph (b) (2) (D) of this section and each solid waste facility identified in subparagraph (b) (2) (E) of this section.

(4) If, in the Commissioner's judgment, a hearing on the proposed amendment would be in the public interest, the Commissioner shall schedule a hearing and at least ten working days prior to the hearing:

(A) send notice of the date, time and place of such hearing, by certified mail, return receipt requested, to the Connecticut Solid Waste Management Advisory Council, the Connecticut Resources Recovery Authority, the chief executive officer and municipal legislative body of each affected municipality as identified in subparagraph (b) (2) (D) of this section or identified in subparagraph (c) (1) (D) of this section and the owner or operator of each affected solid waste facility as identified in subparagraph (b) (2) (E) of this section or identified in subparagraph (c) (1) (E) of this section; and

(B) publish notice of the hearing in the Connecticut Law Journal, and as deemed necessary by the Commissioner, in one or more newspapers of general circulation in each affected municipality. Such notice shall include, but not be limited to: the date, time and place of the public hearing; the text or a summary of the proposed amendment and the principal reasons therefore; the location where the text and requests for amendment may be examined, if not included in the notice.

Any person or municipality may comment on the proposed amendment. The Commissioner shall provide a time period of not less than thirty days from the date the notice is published in the Connecticut Law Journal for review and comment and shall consider fully all written and oral comments respecting the proposed amendment.

(5) If the Commissioner does not intend to hold a public hearing on his or her own initiative, he or she shall give notice of the proposed amendment in the manner specified in subdivision (b) (4) of this section. Such notice shall include, but not be limited to: the text or a summary of the proposed amendment and the reasons therefore; the location where the text may be examined if not included in the notice; a statement that the Commissioner will hold a public hearing upon the written request of the chief executive officer or legislative body of any affected municipality, the owner or operator of an affected solid waste facility or twenty-five persons, provided notice of such request is received within ten working days from the date of publication or receipt of the mailed notice, whichever is later.

(6) If the Commissioner receives a request for a hearing pursuant to subdivision (b) (5) of this section, he or she shall schedule a hearing and give notice of the proposed amendment in the manner specified in subdivision (b) (4) of this section. Such notice shall be sent to each person or municipality who requested a hearing or notification thereof.

(7) The Commissioner shall send notice of his or her decision on a proposed amendment by certified mail, return receipt requested, following the hearing to each person or municipality who submitted comments on the proposed amendment and

each person or municipality who requested notice. The notice shall include, but not be limited to: the reasons for denial or the text or a summary of the final amendment; the location where the text may be examined if not included in the notice; a summary of how the final amendment differs from that proposed and the reasons therefore; and the principal considerations raised in opposition to the proposed amendment and the reasons for rejecting any such considerations.

(8) The Commissioner shall sign the amendment and send a copy by certified mail, return receipt requested, to the Connecticut Solid Waste Management Advisory Council, the Connecticut Resources Recovery Authority and the chief executive officer of each affected municipality. The amendment shall take effect immediately upon signing by the Commissioner or such other time as he or she designates.

(9) Two years after the adoption of the plan pursuant to Public Act 85-436 and subsection (a) of this section and thereafter at intervals of two years, the Commissioner shall incorporate all amendments to the plan, adopted pursuant to this subsection, in the text thereof. The Commissioner shall sign said plan which shall be effective immediately upon his or her signing or such other time as the Commissioner designates. The Commissioner shall send such copy of the plan, by certified mail, return receipt requested, to the chief executive officer of each municipality, the Connecticut Solid Waste Management Advisory Council and the Connecticut Resources Recovery Authority.

(c) **Temporary variances.**

(1) Any municipality may apply to the Commissioner for a variance from one or more provisions of the plan adopted pursuant to Public Act 85-436 and subsection (a) of this section or amended pursuant to subsection (b) of this section. The Commissioner may require a vote by the municipal legislative body, as defined by Section 1-1 (m) of the General Statutes. The municipality requesting a variance shall submit such request to the Commissioner on forms furnished or prescribed by him or her and shall supply such information as the Commissioner necessary, including but not limited to:

(A) the reasons for which the proposed variance is requested;

(B) a specific schedule of measures to be taken to bring the activity for which a proposed variance is being requested into compliance with the plan;

(C) the period for which the proposed variance is sought, and the justification for such time period;

(D) the identification of the municipalities affected by the proposed variance and evidence in writing, whenever possible, of the opinion of the municipal legislative body, as defined by Section 1-1 (m) of the General Statutes, of any municipality affected by the request;

(E) the identification of any affected solid waste facility; and

(F) any other information deemed necessary by the Commissioner.

(2) The Commissioner may deny a request for a variance and in doing so he or she shall forward to the municipality making the request a detailed statement of the reason(s). A copy shall be forwarded to the legislative body of each municipality affected by the proposed variance as identified in subparagraph (c) (1) (D) of this section and each solid waste facility identified in subparagraph (c) (1) (E) of this section.

(3) If, in the Commissioner's judgment, a hearing on the proposed variance or extension pursuant to subdivision (c) (7) of this section, would be in the public interest, he or she shall follow the requirements set forth in subdivision (b) (4) of this section with the exception of notice publication in the Connecticut Law Journal.

The Commissioner may establish time periods different than those of subdivision (b) (4) of this section, as he or she deems necessary.

(4) If the Commissioner does not intend to hold a public hearing on his or her own initiative, he or she shall follow the requirements set forth in subdivision (b) (5) of this section with the exception of notice publication in the Connecticut Law Journal. The Commissioner may establish time periods different than those of subdivision (b) (4) of this section, as he or she deems necessary.

(5) In making a determination regarding a variance, the Commissioner shall consider:

(A) the character and degree of injury to or interference with the reasonable use of property, the public health and safety, and the natural resources and environment of the State which is caused or threatened to be caused by the variance.

(B) the affect on the plan adopted pursuant to Public Act 85-436 and subsection (a) of this section or amended pursuant to subsection (b) of this section.

(C) the impracticability, both technological and economic, to comply with the plan.

(6) In acting on a request for a variance, the Commissioner shall balance the degree to which compliance with the plan or portion of the plan in question would create an undue hardship for the municipality making the request, against the benefit to the environment, the public, any affected municipality and any affected solid waste facility from the municipality's conformance with the plan or portion thereof.

(7) The Commissioner shall specify in writing the period for which a variance shall be valid, not to exceed one year. A municipality may apply for a variance extension no later than ninety days prior to the variance's termination date. The Commissioner, for good cause shown, may grant a request for an extension not made within the prescribed time.

(8) The Commissioner shall sign each variance and extension and send a copy, by certified mail, return receipt requested, to the Connecticut Solid Waste Management Advisory Council, the Connecticut Resources Recovery Authority and the chief executive officer of each affected municipality. The variance shall take effect immediately upon signing by the Commissioner or such other time as he or she designates.

(9) The Commissioner may revoke or suspend a variance in accordance with Section 4-182 of the General Statutes and Section 22a-3a-1 of the Regulations of Connecticut State Agencies, as amended.

(Effective September 19, 1986)