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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2009

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A N A C T

RELATING TO HEALTH AND SAFETY -- ENERGY

Introduced By: Senators Ruggerio, DaPonte, Goodwin, and Tassoni

Date Introduced: May 14, 2009

Referred To: Senate Judiciary

It is enacted by the General Assembly as follows:

1           SECTION 1. Section 23-19-11 of the General Laws in Chapter 23-19 entitled "Rhode  
2 Island Resource Recovery Corporation" is hereby amended to read as follows:

3           **23-19-11. Planning requirements.** -- Planning responsibilities of the corporation shall  
4 include, but not be limited to:

5           (1) The preparation of a statewide resource recovery system development plan which  
6 will indicate the location, type, and size of solid waste management facilities, including without  
7 limitation, transfer stations, waste processing facilities, and ultimate disposal facilities which may  
8 be required to serve the future needs of the state and its municipalities through the development  
9 of an integrated statewide resource recovery system for the effective management of solid waste;

10           (2) The plan shall be in conformity with the applicable provisions of the state guide plan;

11           (3) The plan will be subject to amendment;

12           (4) In developing the plan, the corporation will assure that:

13           (i) The orderly extension of future solid waste facilities and management systems are  
14 provided for in a manner consistent with the needs and plans of the whole area, and in a manner  
15 consistent with the state departments of health and environmental management rules and  
16 regulations for locating and operating solid waste facilities;

17           (ii) All aspects of planning, zoning, population estimates, engineering, and economics  
18 are taken into consideration to delineate with all practical precision those portions of the area  
19 which may reasonably be expected to be served by a given time frame, as determined by the

1 corporation;

2 (iii) Appropriate time schedules are set for the phasing in of the required component  
3 parts of the system.

4 (iv) Future solid waste disposal facilities shall be regional in size and emphasize the  
5 geographic and political nature of the surrounding area.

6 (5) In the interim prior to the completion of the statewide plan, the corporation is  
7 authorized to develop component facilities as may be required to carry out the purposes of this  
8 chapter; provided, however, upon completion of the plan, all projects of the corporation  
9 undertaken thereafter shall be in conformity with the plan; and

10 (6) The corporation shall cooperate with the department of environmental management  
11 and other state and local agencies in the development of a comprehensive statewide solid waste  
12 management plan, of which the corporation's statewide resource recovery system development  
13 plan shall be a component part. Nothing in this chapter shall be interpreted as limiting the  
14 authority of the department of environmental management to prepare a statewide, comprehensive,  
15 solid waste management plan, including, but not limited to, any plan required by any federal law,  
16 rules, or regulations to meet federal requirements that may be conditions precedent to receiving  
17 federal assistance.

18 ~~(7) The plan shall not include incineration of solid waste.~~

19 ~~(8)~~(7) The plan shall limit the use of landfills to providing temporary backup or bypass  
20 disposal capacity and residue disposals from waste processing facilities. The plan shall also seek  
21 to minimize landfilling of any type of waste and phase out the use of landfills for waste disposal.

22 ~~(9)~~(8) The plan shall include composting of yard waste and other appropriate organic  
23 wastes.

24 ~~(10)~~(9) The plan shall consider the financial feasibility of modifying, curtailing, or  
25 supplanting the provisions of chapter 19.1 of this title in light of the requirements for waste  
26 processing facilities.

27 ~~(11)~~(10) The plan shall primarily rely on a system of waste processing facilities.

28 ~~(12)~~(11) The plan shall provide that the corporation actively pursue research and develop  
29 new uses for materials recovered from solid waste to maximize revenue from recycled materials.

30 SECTION 2. Section 39-26-5 of the General Laws in Chapter 39-26 entitled "Renewable  
31 Energy Standard" is hereby amended to read as follows:

32 **39-26-5. Eligible renewable energy resources.** -- (a) For the purposes of the regulations  
33 promulgated under this chapter, eligible renewable energy resources are generation units in the  
34 NEPOOL control area using:

- 1 (1) Direct solar radiation;
- 2 (2) The wind;
- 3 (3) Movement or the latent heat of the ocean;
- 4 (4) The heat of the earth;
- 5 (5) Small hydro facilities;
- 6 (6) Biomass facilities using eligible biomass fuels and maintaining compliance with
- 7 current air permits; eligible biomass fuels may be co-fired with fossil fuels, provided that only the
- 8 renewable energy fraction of production from multi-fuel facilities shall be considered eligible;
- 9 (7) Fuel cells using the renewable resources referenced above in this section;
- 10 (8) ~~Waste to energy combustion of any sort or manner shall in no instance be considered~~
- 11 ~~eligible except for fuels identified in section 39-26-2(6).~~ Waste-to-energy technology at a facility
- 12 approved by the Rhode Island resource recovery corporation, subject to the permitting,
- 13 regulatory, and monitoring authority of the department of health and the department of
- 14 environmental management granted pursuant to section 23-19-12 and any other applicable section
- 15 of the general laws and; provided, such facility may only be sited at the central landfill as defined
- 16 in section 23-19-5 and subject to licensing as required in the Energy Facility Siting Act, and;
- 17 provided further, that in no case shall any facility be permitted unless the operation of such
- 18 facility shall meet all applicable standards established by the United States Environmental
- 19 Protection Agency pursuant to sections 111 and 129 of the Clean Air Act, 42 U.S.C. sections
- 20 7411, 7429.

21 (b) A generation unit located in an adjacent control area outside of the NEPOOL may

22 qualify as an eligible renewable energy resource, but the associated generation attributes shall be

23 applied to the renewable energy standard only to the extent that the energy produced by the

24 generation unit is actually delivered into NEPOOL for consumption by New England customers.

25 The delivery of such energy from the generation unit into NEPOOL must be generated by:

- 26 (1) A unit-specific bilateral contract for the sale and delivery of such energy into
- 27 NEPOOL; and
- 28 (2) Confirmation from ISO-New England that the renewable energy was actually settled
- 29 in the NEPOOL system; and
- 30 (3) Confirmation through the North American Reliability Council tagging system that
- 31 the import of the energy into NEPOOL actually occurred; or
- 32 (4) Any such other requirements as the commission deems appropriate.

33 (c) NE-GIS certificates associated with energy production from off-grid generation and

34 customer-sited generation facilities certified by the commission as eligible renewable energy

1 resources may also be used to demonstrate compliance, provided that the facilities are physically  
2 located in Rhode Island.

3 SECTION 3. Section 42-98-3 of the General Laws in Chapter 42-98 entitled "Energy  
4 Facility Siting Act" is hereby amended to read as follows:

5 **42-98-3. Definitions.** -- (a) "Agency" means any agency, council, board, or commission  
6 of the state or political subdivision of the state.

7 (b) "Alteration" means a significant modification to a major energy facility, which, as  
8 determined by the board, will result in a significant impact on the environment, or the public  
9 health, safety, and welfare. Conversion from one type of fuel to another shall not be considered to  
10 be an "alteration."

11 (c) "Board" for purposes of this chapter refers to the siting board.

12 (d) "Major energy facility" means facilities for the extraction, production, conversion,  
13 and processing of coal; facilities for the generation of electricity designed or capable of operating  
14 at a gross capacity of forty (40) megawatts or more; transmission lines of sixty-nine (69) Kv or  
15 over; facilities for the conversion, gasification, treatment, transfer, or storage of liquefied natural  
16 and liquefied petroleum gases; facilities for the processing, enrichment, storage, or disposal of  
17 nuclear fuels or nuclear byproducts; facilities for the refining of oil, gas, or other petroleum  
18 products; facilities of ten (10) megawatts or greater capacity for the generation of electricity by  
19 water power, and facilities associated with the transfer of oil, gas, and coal via pipeline; any  
20 energy facility project of the Rhode Island economic development corporation; the board may  
21 promulgate regulations to further define "major energy facility" to the extent further definition is  
22 required to carry out the purpose of this chapter, provided that any waste to energy facility shall  
23 ~~not~~ be deemed a major energy facility for the purposes of this chapter.

24 (e) "Clean coal technology" means one of the technologies developed in the clean coal  
25 technology program of the United States Department of Energy, and shown to produce emissions  
26 levels substantially equal to those of natural gas fired power plants.

27 SECTION 4. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO HEALTH AND SAFETY -- ENERGY

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- 1 This act would facilitate the creation of a waste-to-energy facility.
- 2 This act would take effect upon passage.

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