

2021 -- H 5923 SUBSTITUTE A

=====
LC001563/SUB A/4
=====

STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2021

A N A C T

RELATING TO HEALTH AND SAFETY- HIGH-HEAT WASTE FACILITY ACT OF 2021

Introduced By: Representatives Caldwell, Serpa, Carson, Handy, Morales, Craven,
Bennett, Potter, Donovan, and Speakman

Date Introduced: February 24, 2021

Referred To: House Environment and Natural Resources

It is enacted by the General Assembly as follows:

1 SECTION 1. Sections 39-26-2 and 39-26-5 of the General Laws in Chapter 39-26 entitled
2 "Renewable Energy Standard" are hereby amended to read as follows:

3 **39-26-2. Definitions.**

4 When used in this chapter:

5 (1) "Alternative compliance payment" means a payment to the renewable energy
6 development fund of fifty dollars (\$50.00) per megawatt-hour of renewable energy obligation, in
7 2003 dollars, adjusted annually up or down by the consumer price index, which may be made in
8 lieu of standard means of compliance with this statute.

9 (2) "Commission" means the Rhode Island public utilities commission.

10 (3) "Compliance year" means a calendar year beginning January 1 and ending December
11 31, for which an obligated entity must demonstrate that it has met the requirements of this statute.

12 (4) "Customer-sited generation facility" means a generation unit that is interconnected on
13 the end-use customer's side of the retail electricity meter in such a manner that it displaces all or
14 part of the metered consumption of the end-use customer.

15 (5) "Electrical energy product" means an electrical energy offering, including, but not
16 limited to, last-resort and standard-offer service, that can be distinguished by its generation
17 attributes or other characteristics, and that is offered for sale by an obligated entity to end-use
18 customers.

19 (6) "Eligible biomass fuel" means fuel sources including brush, stumps, lumber ends and

1 trimmings, wood pallets, bark, wood chips, shavings, slash, and other clean wood that is not mixed
2 with other solid wastes; agricultural waste, food, and vegetative material; energy crops; landfill
3 methane; biogas; or neat biodiesel and other neat liquid fuels that are derived from such fuel
4 sources.

5 (7) "Eligible renewable energy resource" means resources as defined in § 39-26-5.

6 (8) "End-use customer" means a person or entity in Rhode Island that purchases electrical
7 energy at retail from an obligated entity.

8 (9) "Existing renewable energy resources" means generation units using eligible renewable
9 energy resources and first going into commercial operation before December 31, 1997.

10 (10) "Generation attributes" means the nonprice characteristics of the electrical energy
11 output of a generation unit including, but not limited to, the unit's fuel type, emissions, vintage, and
12 policy eligibility.

13 (11) "Generation unit" means a facility that converts a fuel or an energy resource into
14 electrical energy.

15 (12) "High-heat waste processing facility" means a facility which:

16 (i) Generates electricity from the combustion, gasification, or pyrolysis of solid waste,
17 segregated solid waste, recyclable materials, construction and demolition (C&D) debris, hazardous
18 waste, or regulated medical waste;

19 (ii) Generates electricity from the combustion of fuel derived from the gasification or
20 pyrolysis of solid waste, segregated solid waste, recyclable materials, construction and demolition
21 (C&D) debris, hazardous waste, or regulated medical waste; or

22 (iii) Disposes of, processes, or treats solid waste, segregated solid waste, recyclable
23 materials, construction and demolition (C&D) debris, hazardous waste, or regulated medical waste
24 through combustion, gasification, pyrolysis, or any process that exposes waste to temperatures
25 above four hundred degrees Fahrenheit (400°F).

26 ~~(12)~~(13) "NE-GIS" means the generation information system operated by NEPOOL, its
27 designee or successor entity, that includes a generation information database and certificate system,
28 and that accounts for the generation attributes of electrical energy consumed within NEPOOL.

29 ~~(13)~~(14) "NE-GIS certificate" means an electronic record produced by the NE-GIS that
30 identifies the relevant generation attributes of each megawatt-hour accounted for in the NE-GIS.

31 ~~(14)~~(15) "NEPOOL" means the New England Power Pool or its successor.

32 ~~(15)~~(16) "New renewable energy resources" means generation units using eligible
33 renewable energy resources and first going into commercial operation after December 31, 1997; or
34 the incremental output of generation units using eligible renewable energy resources that have

1 demonstrably increased generation in excess of ten percent (10%) using eligible renewable energy
2 resources through capital investments made after December 31, 1997; but in no case involve any
3 new impoundment or diversion of water with an average salinity of twenty (20) parts per thousand
4 or less.

5 ~~(16)~~(17) "Obligated entity" means a person or entity who or that sells electrical energy to
6 end-use customers in Rhode Island, including, but not limited to: nonregulated power producers
7 and electric utility distribution companies, as defined in § 39-1-2, supplying standard-offer service,
8 last-resort service, or any successor service to end-use customers, including Narragansett Electric,
9 but not to include Block Island Power Company as described in § 39-26-7 or Pascoag Utility
10 District.

11 ~~(17)~~(18) "Off-grid generation facility" means a generation unit that is not connected to a
12 utility transmission or distribution system.

13 ~~(18)~~(19) "Renewable energy resource" means any one or more of the renewable energy
14 resources described in § 39-26-5(a).

15 ~~(19)~~(20) "Reserved certificate" means a NE-GIS certificate sold independent of a
16 transaction involving electrical energy, pursuant to Rule 3.4 or a successor rule of the operating
17 rules of the NE-GIS.

18 ~~(20)~~(21) "Reserved certificate account" means a specially designated account established
19 by an obligated entity, pursuant to Rule 3.4 or a successor rule of the operating rules of the NE-
20 GIS, for transfer and retirement of reserved certificates from the NE-GIS.

21 ~~(21)~~(22) "Self-generator" means an end-use customer in Rhode Island that displaces all or
22 part of its retail electricity consumption, as metered by the distribution utility to which it
23 interconnects, through the use of a customer-sited generation facility, and the ownership of any
24 such facility shall not be considered an obligated entity as a result of any such ownership
25 arrangement.

26 ~~(22)~~(23) "Small hydro facility" means a facility employing one or more hydroelectric
27 turbine generators and with an aggregate capacity not exceeding thirty megawatts (30 MW). For
28 purposes of this definition, "facility" shall be defined in a manner consistent with Title 18 of the
29 Code of Federal Regulations, section 92.201 et seq.; provided, however, that the size of the facility
30 is limited to thirty megawatts (30 MW), rather than eighty megawatts (80 MW).

31 **39-26-5. Renewable energy resources.**

32 (a) Renewable energy resources are:

33 (1) Direct solar radiation;

34 (2) The wind;

- 1 (3) Movement or the latent heat of the ocean;
- 2 (4) The heat of the earth;
- 3 (5) Small hydro facilities;
- 4 (6) Biomass facilities using eligible biomass fuels and maintaining compliance with current
- 5 air permits; eligible biomass fuels may be co-fired with fossil fuels, provided that only the
- 6 renewable energy fraction of production from multi-fuel facilities shall be considered eligible;
- 7 (7) Fuel cells using the renewable resources referenced above in this section;
- 8 (8) Waste-to-energy combustion of any sort or manner, [including, without limitation, high-](#)
- 9 [heat waste processing facilities](#), shall in no instance be considered eligible, except for fuels
- 10 identified in § 39-26-2(6).

11 (b) For the purposes of the regulations promulgated under this chapter, eligible renewable

12 energy resources are generation units in the NEPOOL control area using renewable energy

13 resources as defined in this section.

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

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

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

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

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

- 19 (1) A unit-specific bilateral contract for the sale and delivery of such energy into NEPOOL;
- 20 and
- 21 (2) Confirmation from ISO-New England that the renewable energy was actually settled in
- 22 the NEPOOL system; and
- 23 (3) Confirmation through the North American Reliability Council tagging system that the
- 24 import of the energy into NEPOOL actually occurred; or
- 25 (4) Any such other requirements as the commission deems appropriate.

26 (d) NE-GIS certificates associated with energy production from off-grid generation and

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

28 resources may also be used to demonstrate compliance, provided that the facilities are physically

29 located in Rhode Island.

30 SECTION 2. Title 23 of the General Laws entitled "HEALTH AND SAFETY" is hereby

31 amended by adding thereto the following chapter:

32 [CHAPTER 19.17](#)

33 [HIGH-HEAT WASTE FACILITY ACT OF 2021](#)

34 **23-19.17-1. Definitions.**

1 As used in this chapter:

2 (1) "Environmental justice focus areas" means as defined by the DEM in SOP Number
3 BEP-AWC-1, effective 6/26/09 and entitled, "Policy for Considering Environmental Justice in the
4 Review of Investigation and Remediation of Contaminated Properties," which states in part "DEM
5 mapped areas where the percent of the block group that is minority or the percent of the block group
6 that is low-income (under two (2) times federal poverty level) are high enough to rank in the top
7 fifteen percent (15%) of block groups state-wide. The census blocks meeting these criteria
8 established by the DEM in SOP Number BEP-AWC-1 shall be designated environmental justice
9 focus areas."

10 (2) "Environmental justice municipality" means any city or town that has, in whole or in
11 part, one or more environmental justice focus areas.

12 (3) "Hazardous waste" means any waste or combination of wastes of a solid, liquid,
13 contained gaseous, or semisolid form which because of its quantity, concentration, or physical,
14 chemical, or infectious characteristics may:

15 (i) Cause or significantly contribute to an increase in mortality or an increase in serious
16 irreversible or incapacitating reversible illness; or

17 (ii) Pose a substantial present or potential hazard to human health or the environment.

18 (A) These wastes include, but are not limited to, those which are toxic, corrosive,
19 flammable, irritants, strong sensitizers, substances which are assimilated or concentrated in and are
20 detrimental to tissue, or which generate pressure through decomposition or chemical reaction. In
21 addition, these wastes include "industrial waste" as the term is used elsewhere, unless the context
22 shall clearly indicate otherwise.

23 (4) "High-heat waste processing facility" means a facility which:

24 (i) Generates electricity from the combustion, gasification, or pyrolysis of solid waste,
25 segregated solid waste, recyclable materials, construction and demolition (C&D) debris, hazardous
26 waste, or regulated medical waste;

27 (ii) Generates electricity from the combustion of fuel derived from the gasification or
28 pyrolysis of solid waste, segregated solid waste, recyclable materials, construction and demolition
29 (C&D) debris, hazardous waste, or regulated medical waste; or

30 (iii) Disposes of, processes, or treats solid waste, segregated solid waste, recyclable
31 materials, construction and demolition (C&D) debris, hazardous waste, or regulated medical waste
32 through combustion, gasification, pyrolysis, or any process that exposes waste to temperatures
33 above four hundred degrees Fahrenheit (400°F).

34 (5) "Open space" means as defined in § 45-22.2-4.

1 (6) "Regulated medical waste" means as defined in § 23-19.12-3.

2 **23-19.17-2. Prohibition on new high-heat waste processing facilities.**

3 Notwithstanding any other law, rule, or regulation to the contrary, no permit or license shall
4 be issued for the construction or operation of a new high-heat waste processing facility, and no
5 application for a permit or license for such a facility shall be granted or issued by the state if the
6 facility:

7 (1) Is within two thousand feet (2,000') of any waters as defined in § 46-12-1;

8 (2) Is within two thousand feet (2,000') of open space or any state management area, or
9 park, or land held by any entity in trust for public use;

10 (3) Is within two thousand feet (2,000') of any floodplains, or flood hazard area as defined
11 in § 45-22.2-4;

12 (4) Is within one mile of a pre-existing public or private school providing education of any
13 grades 1 through twelve (12), a college or university, a childcare center, a preschool, an assisted
14 living facility or a nursing facility;

15 (5) Is within one mile of any area zoned for residential use; or

16 (6) Is located in an environmental justice municipality.

17 SECTION 3. This act shall take effect upon passage.

=====
LC001563/SUB A/4
=====

EXPLANATION
BY THE LEGISLATIVE COUNCIL
OF

A N A C T

RELATING TO HEALTH AND SAFETY- HIGH-HEAT WASTE FACILITY ACT OF 2021

1 This act would prohibit new high-heat waste processing facilities if they are located in
2 certain environmentally sensitive areas.

3 This act would take effect upon passage.

=====
LC001563/SUB A/4
=====