

Hearing Officer's Report to the Commissioner of Environmental Protection On the Hearings and Testimony Submitted on the Proposed State Solid Waste Management Plan, July 2006

**Prepared by
Michael Harder, Hearing Officer**

**Submitted to Gina McCarthy, Commissioner, Department of Environmental Protection
November 8, 2006**

Introduction

In accordance with Section 22a-228 of the Connecticut General Statutes (CGS), and regulations adopted thereunder, the Department of Environmental Protection (“the Department” or “DEP”) held public hearings on August 22, 23 and 29, 2006 for the purpose of receiving comments to the Department’s document entitled *Proposed Amendment to the State Solid Waste Management Plan, July 2006* (the “Proposed Plan”). Prior to the public hearings, the Department retained the services of a consultant, R.W. Beck, Inc., and worked with a group of stakeholders to draft the Proposed Plan. Also, public informational meetings were held on July 25 and August 1 and 2, 2006. As a result, the Proposed Plan that was the subject of the public hearings already reflected a great deal of public input. The public comment period closed on September 8, 2006.

After a full review of the record of public hearings and testimony submitted on the Proposed Plan, I present the following Report. As required by Section 22a-228-1 of the Regulations of Connecticut State Agencies (RCSA), this Report includes: (1) the principal considerations raised in opposition to the proposed Plan, and the reasons for rejecting any such considerations, and (2) a summary of the major differences between the proposed and final plans, and the reasons for any changes. After review and approval of this Report by the Commissioner of Environmental Protection, I recommend that the Proposed Plan be revised accordingly and adopted. The adopted Plan will serve as the basis for Connecticut’s solid waste management planning and decision making for the period 2005 through 2024.

The Department released the *Proposed Amendment to the State Solid Waste Management Plan, July 2006* in July 2006. On August 21, 2006, Commissioner Gina McCarthy appointed me, Michael Harder, as hearing officer for the Proposed Plan. In accordance with Section 22a-228-1 of the RCSA, public notice of the intent to adopt the Proposed Plan, its availability and the schedule for the public hearings was published on July 25, 2006 in the Connecticut Law Journal and on July 21, 2006 in newspapers of substantial circulation throughout Connecticut. The Proposed Plan and the public notice were also placed on the Department’s website. In accordance with the regulation, copies of the legal notice and the Proposed Plan were sent (certified, return receipt requested) to the Connecticut Resources Recovery Authority, the chief elected official and the legislative body of each municipality in Connecticut, and owners and operators of all permitted solid waste facilities in Connecticut. Several state agencies were notified, including the Departments of Administrative Services, Economic and Community Development, Transportation, Public Health, Public Safety, Public Works, the Connecticut Development Authority and the Office of Policy and Management. The regulation also requires that notice be sent to the Solid Waste Management Advisory Council, but that Council no longer exists. To comply with the intent of the law, notice was provided to the House and Senate leadership, the Environment Committee chairs and the Ranking Minority Leaders of the Connecticut Legislature. Notice was also sent to other key state legislators and interested stakeholders.

Many written comments were received during the published public comment period and those comments were considered in preparing this Report, as were all relevant oral comments made at the public hearings. These comments are now part of the formal record. Several comments were also received after the close of the public comment period. Some of these comments were similar to timely comments received from other parties, and are therefore considered in this Report. Any untimely comments that were not raised by others will be referred to the appropriate Department program area for future consideration and will also be made available to the Agency's Solid Waste Management Advisory Committee that is expected to be established subsequent to the anticipated adoption of the Plan. A listing of organizations and individuals who provided comment (both oral and written) on the Proposed Plan can be found in Appendix A at the end of this Report. This list also includes those comments that were received by the Department after the public comment deadline.

Summary of Comments Received and Hearing Officer's Response and Recommendations

Most of the comments received concerned one or more of the specific chapters or subject areas of the Proposed Plan. This Report is organized by those subject areas, which starts with the Proposed Plan's Vision Statement and then continues with comments found under each of the Proposed Plan's eight major objectives. Some of the comments that were made were combined in the discussion, such as those found under the Management of Solid Waste Requiring Disposal. Numerous specific suggestions were made regarding certain issues in order to improve the Plan's language or provide more information or emphasis. These have been duly noted and will be incorporated into the final Plan. Many comments were submitted in agreement on one or more issues. In general, this Report does not specifically discuss comments made in agreement or for the purpose of modifying language, instead focusing on the substantive issues on which objections were raised or agreement was indicated on an issue for which opposition was also expressed. The following are the specific areas addressed in this Report:

- **The Plan's Vision, Guiding Principles, and Goals**
- **Source Reduction (Objective #1)**
- **Recycling and Composting (Objective #2)**
- **Management of Solid Waste Requiring Disposal (Objective #3)**
 - **Issue of public versus private control of solid waste management**
 - **Issue of self-sufficiency for in-state disposal of Connecticut generated municipal solid waste (MSW)**
 - **Issue of lack in-state disposal capacity for Connecticut generated construction and demolition (C&D) waste**
 - **Energy related issues related to MSW Resources Recovery Facilities (RRF)**
- **Managing Special Wastes and Other Types of Solid Waste (Objective #4)**
- **Education and Outreach (Objective #5)**
- **Program Planning, Evaluation and Measurement (Objective #6)**
- **Permitting and Enforcement (Objective #7)**
- **Funding (Objective #8)**

Each of these subject areas includes: a listing (alphabetical order) of those who provided comment, a summary of the comments, and my response to these comments and recommendations.

■ The Plan’s Vision, Guiding Principles, and Goals

Comments made by:

Audubon Connecticut, Bristol Resource Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC/TROC), City of Middletown, Connecticut Business and Industry Association (CBIA), Connecticut Resources Recovery Authority (CRRA), Council of Environmental Quality (CEQ), Covanta Energy, League of Women Voters, Southeastern Connecticut Regional Resources Recovery Authority (SCRRA), Town of Branford, Town of Mansfield.

Summary of Comments:

- The League of Women Voters believes the Plan would benefit from the adoption of a concrete diversion rate and an explicit estimate of the funding needed.
- CEQ and the Town of Branford advocate for adoption of a 61% MSW disposal diversion rate because it is the diversion rate required to eliminate export of Connecticut generated solid waste.
- Covanta Energy, the owner and/or operator of four of Connecticut’s six resources recovery facilities took issue with one of the underlying premises found in the Plan that the Wallingford RRF will be closing in 2009. Covanta indicated that it is currently prepared to continue to operate the facility and recommended that the disposal capacity projections throughout the Plan be modified accordingly. Based on this new information, the 61% MSW disposal diversion rate that would eliminate the projected FY2024 in-state MSW disposal capacity shortfall would now be projected at 58% should the Wallingford RRF continue to operate through to the year 2024.
- BRRFOC/TROC recommends that in the narrative discussion found under the Vision Statement section of the Proposed Plan, retailers should be included along with *manufacturers, other companies and the product supply chain and their customers* share in the responsibility of reuse and recycling programs. BRRFOC/TROC also indicated that DEP should work on national and regional legislative solutions to problems associated with packaging. BRRFOC/TROC supports the strategy that disposal goals be established on a per capita basis.
- CBIA was *..concerned with the sentiment contained in the recommendations that states “while much of the burden accomplishing [the goals of the Plan] will fall on the Department, greater amount will necessarily be borne by municipalities and businesses”*. Also, CBIA indicated that they would discourage and oppose the use of mandates as a tool to advance recycling and source reduction for the business community, and rely on effective education and outreach.

Hearing Officer’s Response to Comments/Recommendations:

- The recommendation to adopt as a target a disposal diversion rate that would eliminate the in-state MSW disposal capacity shortfall of Connecticut generated municipal solid waste is consistent with a basic planning premise concerning self-sufficiency. The adopted 1991 State Solid Waste Management Plan was based on the premise that the State should have sufficient in-state recycling, processing and disposal capacity to handle all of the MSW generated in Connecticut and the ash residue generated by Connecticut resources recovery facilities, including Connecticut MSW and ash currently being disposed out-of-state. Furthermore, the 1991 Plan dealt solely with the solid waste needs of Connecticut and made no provision for capacity to handle MSW generated beyond state borders. Based on this, Connecticut very successfully moved forward and developed a strong infrastructure for managing the MSW that is generated in-state. This Proposed Plan continues to recognize that self-sufficiency in solid waste management represents good public policy for Connecticut for many reasons, including the ability to better control costs and other risks related to solid waste disposal. The Proposed Plan states that the CT DEP will use its authority as much as

possible to adhere to this approach. In developing the Proposed Plan, there were many discussions with Stakeholders regarding the targeted disposal diversion rate for MSW. The Proposed Plan recommended that the State pursue a 49% MSW disposal diversion rate by 2024. This rate was chosen based on current available data and with a recognition that it allows MSW disposal quantities to remain at 2005 levels through 2024 and that it stems any growth in the amount of MSW requiring disposal. The Proposed Plan also recognized that the 49% disposal diversion rate would not get the State to a position of self-sufficiency.

To eliminate the projected in-state disposal capacity shortfall by 2024, the Proposed Plan indicated that the State would need to achieve a 61% MSW diversion. The 61% disposal diversion rate as found in the Proposed Plan has been changed to the 58% disposal diversion rate because of new information that was gained during the public hearing process. Covanta Energy, the owner/operator of four of six RRFs in Connecticut, provided written testimony concerning its intent to continue operations at the Wallingford RRF. Their testimony stated...*For the avoidance of doubt, should CRRRA not elect to purchase the facility (Wallingford RRF) at the end of the term, Covanta is currently prepared to continue to operate the facility at its current high standard on a merchant basis as was envisioned in the Service Agreement.* Given this as fact, then Wallingford's 143,000 tons per year of MSW disposal capacity would remain available and continue past 2009. Based on this new information, a re-calculated projected in-state MSW disposal capacity shortfall was developed and entered as a factor in the projections being used by the Department.

Even though the Department needs more data and information to determine how to achieve this target rate and needs to become more expert on emerging technologies that can be used to more efficiently reduce and/or manage the waste stream, certain steps can be undertaken to address these concerns. By adopting a 58% diversion disposal rate, the State continues its strong commitment to the environment. The Proposed Plan reinforces this commitment by establishing as its foremost overarching goal of significantly reducing the amount of Connecticut generated solid waste requiring disposal through increased source reduction, reuse, recycling and composting. The Proposed Plan places the focus on those strategies that will maximize the amount of waste source reduced, recycled and composted.

Recommendation 1: It is recommended that the Plan establish as the goal a 58% MSW disposal diversion rate by the year 2024. In support of this goal, the Department will:

- conduct a waste characterization study; this study will be assigned a high priority/short-term implementation status for the Department;
 - continue to monitor the State's disposal diversion rates and conduct a comprehensive analyses of the disposal diversion rate at the mid-point of this planning period, by the year 2016, for the purpose of determining the success to date and future expectations in achieving the desired results; and
 - encourage and promote research, consider and evaluate new technologies, and assess and eliminate institutional barriers in order to establish such activities in-state.
- CBIA's concern regarding the municipalities and businesses bearing the majority of the burden of the Plan is understandable but may reflect a mistaken reading of the Proposed Plan. The Proposed Plan was making the point, shared by many others, that a great deal of the work envisioned by the Plan will be carried out by municipalities and private businesses, and not solely within the confines of state government. In the Proposed Plan, the consistent message throughout was the need to involve all the citizens of Connecticut to address the solid waste issues facing the State and Chapter 5 of the Plan outlined roles and responsibilities of both the public and private sectors. Further, the proposed Plan clearly advocates for significant funding for local and regional governments, and the private sector, to support these programs.

Recommendation 2: No change is recommended.

- CBIA’s concern regarding mandates was shared by others during the public hearing process. While the Department prefers voluntary measures in certain circumstances, it takes the position that mandates are appropriate in some situations.

Recommendation 3: No change is recommended.

- BRFFOC/TROC’s comment regarding the inclusion of retailers in sharing in the responsibility of reuse and recycling programs is valid.

Recommendation 4: It is recommended that the Plan be amended to include retailers in the list of entities sharing responsibility in reuse and recycling programs.

■ Source Reduction (Objective #1)

Comments made by:

Bristol Resource Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRFFOC/TROC), City of Middletown, Housatonic Resources Recovery Authority (HRRA), Mr. Robert Fromer, Town of Mansfield, Town of Thompson.

Summary of Comments

- The Town of Thompson recommends that all towns increase utilization of Environmentally Preferable Purchasing (EPP) practices. The City of Middletown also suggests that incentives be developed for businesses, governments and citizens to purchase recycled products.
- BRFFOC/TROC and HRRA are in favor of incentives for municipalities to establish Pay as You Throw (PAYT) programs, but opposed mandates on this issue.
- The Town of Mansfield suggests that the Plan support requirements, including legislation, regarding green building design following LEED standards.
- Mr. Robert Fromer comments that source reduction should be the primary means of achieving diversion goals since it requires the least energy consumption. Mr. Fromer suggests changing the state building code to require that building officials seek reasonable and prudent alternatives to building demolition, including building deconstruction, and that solid waste generation should be added to the Environmental Impact Analysis (EIA) required under the Connecticut Environmental Protection Act (CEPA). Mr. Fromer suggests banning plastic bags, Styrofoam cups and take-out food establishments.
- Several comments were made to increase efforts to reduce packaging.

Hearing Examiner’s Response to Comments/Recommendations

- Those comments made concerning Pay as You Throw (PAYT) and Environmentally Preferable Purchasing (EPP) programs are consistent with the recommendations found in the Proposed Plan. The Proposed Plan recognized that mandating these types of programs would be extremely controversial and possibly counterproductive to achieving the goals, but that the clear benefits call for incentives and other provisions to be put in place to increase the number of municipalities and other generators that will implement them.

Recommendation 5: No changes are recommended.

- The suggestions to change the state building code to incorporate requirements for deconstruction and to incorporate solid waste issues in the required EIA studies under CEPA raise good issues. However more discussion and information gathering is needed before the Department is in a position to actually make those recommendations.

Recommendation 6: It is recommended that the Plan be amended to identify these issues under the narrative found under the Source Reduction Opportunities and Priorities section and to make these issues known to the Agency’s Solid Waste Management Advisory Committee.

- It could reasonably be anticipated that the suggestions to ban plastic bags, styro-foam cups and take-out food establishments could create substantial controversy that would divert resources and attention from implementing higher priority strategies found in the Plan.

Recommendation 7: It is recommended that more needs to be done to educate the public concerning environmental sustainability with regard to everyday decision-making and the potential impacts to the environment. It is recommended that this issue of environmental sustainability be included in Objective 5 Education and Outreach, Strategies 5-1 through 5-3.

■ Recycling and Composting (Objective #2)

Comments made by:

Association of Post Consumer Plastic Recyclers, Bristol Resource Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC/TROC), Capitol Region Council of Governments (CRCOG), City of Bridgeport, City of Hartford, City of Middletown, Connecticut Audubon Society, Connecticut Construction Industries Association (CCIA), Council on Environmental Quality (CEQ), Connecticut Resources Recovery Authority (CRRA), Connecticut Teamsters, Environmental Justice Network, Housatonic Resources Recovery Authority (HARRA), League of Women Voters, People’s Action for Clean Energy (PACE), Several members of Connecticut Coalition for Environmental Justice (CCEJ), Southeastern Connecticut Regional Resources Recovery Authority (SCRARRA), Several private citizens, Sierra Club, Town of Branford, Town of Greenwich, Town of Mansfield, Town of Middletown, Town of Thompson, Town of Wallingford, Waste Management (WM), Willimantic Waste Paper Company Inc.

Summary of Comments

- Many of the comments made, including those from several municipalities and the Association of Post Consumer Plastic Recyclers, took the position that the beverage container statutes (commonly referred to as the bottle bill) should be expanded to include water bottles and other non-carbonated beverages. Many comments also included the recommendation that the deposit should be increased to ten or even twenty-five cents. The Connecticut Beer Wholesalers Association opposes the increase of the deposit amount, indicating that it would result in a reduction in beverage sales and the loss of excise tax revenue to the State. WM and HARRA also oppose the expansion of the bottle bill. WM opposes the expansion because such a change would adversely impact the revenues derived from their recycling programs, specifically the TROC region and many other towns in the State, and would further exacerbate the existing complications with escheats. HARRA’s opposition is based on the belief that it is more energy efficient to capture water bottles in recycling programs than through deposit redemption, that recycling rather than redemption is easier for consumers and costs less for grocery stores and other redemption businesses, and finally that redemption businesses already get paid for their efforts and should not be entitled to keep the escheats. In addition, HARRA also has a financial concern for the revenue that would be lost by them if water bottles are removed from the current recycling stream. However, HARRA indicated that their opposition to this would be less if adequate funding were provided to municipalities. Willimantic Waste Paper Company Inc. opposed adding water bottles to the beverage container statutes. The City of Bridgeport also opposed the

expansion of the bottle deposit because they felt that litter was sufficiently controlled by the current five-cent deposit.

- Many of the comments made were in agreement with the Proposed Plan that more items should be included in the list of mandatory recyclables: plastics #1 and #2, magazines, junk mail, boxboard, organics and electronics. One comment made urged that all plastics #1 through #6 should be recycled. WM suggested that the mandated recycling list include only #1 and #2 plastics and be limited to containers. The Town of Branford indicated that magazines be mandated but not plastics. HRRRA does not support adding any additional materials to the mandatory recycling list, including #1 and #2 plastics and magazines, even though these materials are already being recycled in the HRRRA region. HRRRA stated that allowing municipalities and recycling regions to add materials to the recycling stream voluntarily has already shown results in Connecticut and those results could be increased with funding incentives as proposed in other parts of the Proposed Plan.
- Many comments were made in opposition to additional recycling requirements unless funding is provided to municipalities, since much of the responsibility for implementation will be at the local level.
- Many comments were made indicating that the Plan should take a stronger position on the role composting can play in meeting the State's diversion goals including the area of home composting; one comment suggested expanded composting of sewage sludge. CRRA indicated that the Plan should direct that they do a feasibility study regarding composting of commercially generated organics, funded by the Solid Waste Assessment.
- WM suggested that the Plan come out in favor of single stream recycling, indicating that it is superior to dual stream. Another comment questioned whether single stream would help increase recycling or will compromise recycling and facilitate its demise.
- The Town of Wallingford commented that the State should provide assistance to standardized recycling programs. The Town indicated that recycling services offered by municipalities should be standardized by the State; funding to accomplish standardization could be provided through grants or incentives to municipalities. The Town indicated that standardized state-wide programs would simplify recycling for residents and businesses, simplify public outreach, reporting requirements and enforcement. CRCOG also advocated for a more uniform statewide recycling system that would be easier for residents to understand and follow.
- Several comments indicate that the Plan should identify economic incentives and other steps that can be taken, including tax incentives, to help create markets and otherwise stimulate demand for recyclables. The Town of Middletown suggests that the Plan include strategies to increase recycling and lower the cost of disposal of bulky waste. BRRFOC/TROC is of the opinion that most of the increase in diversion will come from commercial, institutional and industrial sources, so the Plan should focus the State's efforts on those areas, including the creation of incentives for small businesses.

Hearing Officer's Response to Comments/Recommendations

- The most significant objections raised under this issue were related to the proposals in the Plan to expand the bottle bill to non-carbonated beverages, and to increase the deposit to ten cents. The principal reasons for this opposition were as follows: (1) loss of revenue to municipalities and to recycling facilities currently processing plastic bottles, although some municipalities agreed with the proposed expansion; (2) loss of revenue to the State as a result of cross-border purchases (i.e. expansion of bottle bill will increase the cost of buying bottle bill beverages in Connecticut); and (3)

increased handling costs for retailers. The Department's reasons for proposing these changes were based on the fact that the deposit system is already in place and working well, and that it represents the best way to deal with the increased use of bottled water, juices and other beverages, often away from the home where they cannot be easily recycled. Further, the return rates in other states that have a higher deposit (10 cents) are found to be much higher (95%) than Connecticut's return rate (estimated at 67%) with the current deposit of five cents. Increased handling costs would be offset by the recommended increase in handling fees for distributors and retailers.

Recommendation 8: No changes are recommended to the final Plan on this issue, leaving in place the recommendations to expand the bottle bill to at least plastic water bottles, and increase the deposit amount to ten cents.

- The other issue that generated some opposition was the proposal to expand the list of mandatory recyclables to include magazines and #1 PET and #2 HDPE plastics. While many agreed with this proposal, some felt it didn't go far enough, and others disagreed with any new mandates, instead preferring voluntary measures. WM made the recommendation that only #1 PET and #2 HDPE plastic containers be mandated, and not include the other types of plastics. It is noted that many towns already collect these items, and that established markets exist for them. In researching recycling of plastics #1 PET and #2 HDPE, the Department learned that current in-state and out-of-state programs established certain criteria with regard to shape and size of containers.

Recommendation 9: No changes are recommended to the Plan and the strategy found in the Proposed Plan to add to the list of mandatory recyclables magazines and #1 PET and #2 HDPE plastic bottles stands.

- Several comments suggest that no new mandates or programs be imposed on municipalities unless adequate funding is provided. One of the three goals of the Plan is the need to adopt stable, long-term funding mechanisms that provide sufficient revenue for state, regional and local programs while providing incentives for increased waste reduction and diversion. The Plan also states that such funding is especially critical to support municipal recycling/source reduction programs. The Plan also identifies the role of the municipalities in many sections of the Plan, especially recognizing that real change will occur on the local level. The Plan also lays out for the reader some of the significant solid waste issues and the economic and environmental ramifications Connecticut will be facing in the next ten years.

Recommendation 10: No change is recommended.

- On the issue of composting, CRRA suggested that they be tasked with the responsibility of doing a feasibility study for establishing a large composting facility in Connecticut. While it is agreed that such a study should be done, it is not recommended that the Plan specifically assign the task to CRRA, at least at this time. A more detailed and full discussion must occur before a final decision is made regarding the process to be used to evaluate the future of composting. It is noted that the Proposed Plan recommended that the issue be taken up by the Agency Solid Waste Management Advisory Committee.

Recommendation 11: No change is recommended.

- The current State statutes and regulations identify only a mandated list of nine items to be recycled and it is the base from which municipalities implement recycling. Many municipalities and solid waste authorities are currently recycling materials that are not listed as mandated items. Some of the municipalities have chosen to go beyond the minimum because of their progressive public policy, public support and participation and economic benefits to their town operations. Other municipalities can take advantage of lessons learned by these communities and are encouraged by the Department to also seek ways to increase their recycling/diversion rates. The State should not discourage towns from being more progressive in their recycling programs. Some of the differences in town recycling

programs involve the recycling of PET and HDPE plastic bottles and old magazines. If these items are mandated statewide it will bring more consistency to recycling programs in different cities and towns. There is opportunity however, to bring some consistency with regard to making the public more aware of the State's recycling law and their role in recycling efforts on the local level.

Recommendation 12: It is recommended that the Proposed Plan include language under the Education and Outreach Strategy that consistent messages be made so as to reinforce the public's understanding that at a minimum certain items are mandated to be recycled.

- The City of Middletown seeks a specific proposal to be identified in the Plan that would reduce the amount and costs associated with bulky waste disposal. It is noted that the Proposed Plan makes several recommendations for increasing the diversion of C&D waste, including bulky waste, but does not include cost.

Recommendation 13: No change is recommended.

■ Management of Solid Waste Requiring Disposal (Objective #3)

Comments made by:

Bristol Resources Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC/TROC), City of Bridgeport, Connecticut Coalition for Environmental Justice (CCEJ – comments received from several members), Connecticut Department of Transportation (DOT), Connecticut Resources Recovery Authority (CRRRA), Council of Environmental Quality (CEQ), Covanta Energy, Housatonic Resources Recovery Authority (HRRRA), Southeastern Connecticut Regional Resources Recovery Authority (SCRRRA), Waste Management (WM), Willimantic Waste Paper Company, Inc., Town of Cheshire, and Town of Wallingford.

Summary of Comments

There were a number of issues raised under this Objective and among the issues most commented upon included the following: the issue of public versus private control of solid waste management, the debate over self-sufficiency for in-state disposal of Connecticut generated MSW; the lack of in-state disposal capacity for Connecticut generated C&D waste; and energy issues related to MSW RRFs.

Issue of Public versus Private control of solid waste management

- CRRRA and BRRFOC/TROC express concern that when most of the Resource Recovery Facilities (RRFs) shift to private control, several problems may result, including: (1) prices may increase; (2) too much capacity may be used by out-of-state sources, forcing Connecticut generators to seek more expensive out-of-state options; and (3) recycling, education and other non-core services may not be provided at reasonable cost, or at all. They take the position that the new 49% diversion goal may not be met with private control of the RRFs. They indicate that publicly controlled capacity provides an economic balance to the private sector, and would also help ensure that the more aggressive diversion goals will be met. They believe that their size allows them to control large volumes of recyclables and obtain better prices, further benefiting municipalities, and that the Plan should recognize the benefits of publicly controlled recycling facilities. At a minimum, they state that the Plan should recommend that the legislature study the public policy implications of this situation, and that legislation be advanced that would make permitting of facilities “...controlled for the public interest...” a high priority. SCRRRA agreed with CRRRA, although they pointed out that there are provisions for extension of some of the facility contracts so the change from public to private ownership may not happen as soon as some are predicting. HRRRA expresses similar concerns and commented that “...there are dangers if the pendulum swings too far in either direction.” HRRRA urged that the Department work through the proposed Agency Solid Waste Management Advisory Committee to find a consensus on this issue.

- The City of Bridgeport commented that the Plan should call for a publicly controlled MSW RRF ash residue landfill to be centrally located to reduce emissions and trucking costs.
- Willimantic Waste Paper Company Inc. disagreed that the private sector would not be interested in providing recycling and other non-core services, since that constitutes most of their business. They gave several examples of how they have provided recycling services for over twenty municipalities for more items and at competitive prices, and have expanded those services over the years. Willimantic Waste also stated that an effective partnership between the State, municipalities, and the private sector service providers is essential to achieving increased waste reduction and recycling in Connecticut and recommended that the final plan be revised to advocate the development of such partnerships.
- WM takes a strong position in favor of private ownership of waste management facilities, pointing out that other states rely on the private sector that offers competitive rates and services. They do not agree that private ownership will create problems for Connecticut, and they urge that the Plan should not imply as such. They suggest that a separate study be done before the Department considers changing the Plan to recommend more public control.

Issue of Self-sufficiency for in-state disposal of Connecticut generated MSW

- Many comments were made indicating that the Proposed Plan should take a stronger position in favor of self-sufficiency in solid waste disposal (ensuring that adequate disposal capacity exists in Connecticut for all MSW generated in Connecticut), and identify a strategy for doing so. BRRFOC/TROC advocates for a more detailed analysis of the advantages of self-sufficiency, including recognition that out-of-state land-filling may not be consistent with Connecticut's statutory hierarchy of preferred methods for handling waste. BRRFOC/TROC indicate that the Plan erroneously took the position that out-of-state facilities were the only option for additional municipal solid waste (MSW) disposal, and that the appendices were inconsistent with the body of the Plan regarding economic and environmental impacts. Covanta Energy takes the same position on this last point. CRRA, SCRRRA and WM all comment that the Plan should more strongly state that additional in-state capacity is needed. BRRFOC/TROC also comments that the proposed Plan makes no reference to U.S. Second Court of Appeals decisions that the Commerce Clause does not bar regulation of solid waste management that involves government participation, limiting the impact of the *Carbone v. Clarkstown* decision.
- CRRA and SCRRRA are concerned that the 49% diversion goal is aggressive and may not be met. They take the position that the Plan should recommend that additional in-state capacity is needed for MSW, ash residue and C&D. Both argue that if it is not established, Connecticut will be at increased price and environmental risk especially if the increased amounts of waste that will be generated in the future are sent out-of-state. They predict that if those out-of-state options were shut off or became too costly, a disposal crisis may result. They suggest that the Plan should include an analysis of future costs of using out-of-state options and, at a minimum, that the Plan should identify contingencies if those options were unavailable or too costly. They take the position that if the Plan is not strengthened on these points, future reviews of permit applications for new capacity may not be able to pass the statutorily required Determination of Need (Section. 22a-208d CGS). SCRRRA is concerned that the proposed Plan does not adequately recognize the significant potential for increased development in southeastern Connecticut, and the resulting need for additional disposal capacity for MSW and C&D waste. Several members of CCEJ oppose the creation of additional RRF capacity, instead recommending that the state increase efforts to reduce the amount of waste requiring disposal.

- CEQ recommends that the Plan take a stronger position in favor of eliminating exports of waste to other states, for reasons including the economic and environmental consequences (e.g., exporting dollars, and diesel emissions), but they stop short of recommending new in-state disposal capacity. They recommend adopting the 61% diversion rate as the state goal as a means of eliminating exports of waste to other states, but also recommend that the Plan identify how solid waste would be handled in-state if the 61% goal is not met.
- HRRRA opposes any barriers to out-of-state disposal.
- SCRRA, HRRRA and CRRA recommend that the Plan include a “contingency plan” to be implemented if out-of-state capacity becomes unavailable or “economically impractical”.
- BRRFOC/TROC commented that the Plan should advocate for updating the Determination of Need statute, and should include consideration of economics, competitiveness and emergency management issues.
- BRRFOC/TROC recommended that the Plan go into more detail regarding the statutory authority granted CRRA and explain how it could be utilized to achieve self-sufficiency. They also recommend that the Plan analyze and advocate for the expansion of municipal roles, with the goal of greater government control of solid waste management.
- Covanta Energy indicated that the underlying premise in the proposed Plan that the Wallingford RRF will close in 2009 when the facility’s energy contract and Covanta’s operating agreement with CRRA expire is not accurate. Covanta states that they are actively discussing ownership of the Wallingford RRF post 2010 with their client, CRRA, in accordance with the terms of the existing Service Agreement. They further indicate that should CRRA not elect to purchase the facility at the end of the term, Covanta is currently prepared to continue to operate the facility on a merchant basis as was envisioned in the Service Agreement. Covanta Energy recommends that the disposal capacity projections found throughout the Plan be modified accordingly.
- BRRFOC/TROC comment that the Plan should discuss in more detail the option of expanding existing facilities as a means of increasing in-state capacity.
- WM comments that the Plan should make it clear that the lifespan of their Putnam ash residue facility could be extended depending on several factors.
- BRRFOC/TROC comments that there are inconsistencies in the Appendices (G and I) that discuss cost analyses of out-of-state disposal and environmental impacts of disposal options. They specifically cite the benefits of the reduction in distances solid wastes are transported which will lower transportation cost and reduce air emissions, including NOx, PM2.5, and greenhouse gases.

Issue of the lack of in -state disposal capacity for Connecticut generated C&D waste

- WM suggests that the State should do a complete study of its siting standards, including consideration of the institutional, social, statutory, regulatory and economic constraints that have resulted in a lack of any new C&D landfill capacity recently.
- WM recommends a five-year deadline for the closure or retrofit of all existing unlined C&D landfills.
- DOT expressed concern regarding the Plan’s proposal to require disposal of C&D waste in lined landfills and to require that it be processed first since those requirements would increase the cost of

managing that waste, especially since there are no lined C&D landfills in Connecticut. Willimantic Waste suggests that any such requirement should be phased in over time.

- BRRFOC/TROC suggests that the Plan include a section on transfer stations to help explain the role they will play in achieving the state's goals.

Issue of energy classification

- CRRA and BRRFOC/TROC take the position that the Plan should discuss the benefits derived by the state from the electric energy provided by the RRFs. CRRA, BRRFOC/TROC and the Town of Wallingford recommend that the Plan support the designation of MSW as a Class I renewable energy source, similar to solar, hydroelectric, landfill gas, geothermal and wind. They argue that it is renewable and replaces a significant amount of fossil fuels. CCEJ and several private citizens took the position that it should not be considered a Class I source, without giving reasons.

Hearing Officer's Response to Comments/Recommendations

- There are strong opinions on both sides of the issue of public versus private control a point made clearer through the comments received in response to the proposed Plan. In fact there are differences regarding some of the facts related to this issue. Both arguments appear to have some validity. The Proposed Plan indicated that it was the Department's intent to raise the issue for public discussion and debate by all interested stakeholders, and any action deemed appropriate by the legislature and other decision makers. It was also noted that extension options exist in some of the service agreements and operating contracts, potentially providing more time to evaluate and debate this issue. That discussion is under way and should continue, ultimately involving the legislature and other appropriate decision makers.

Recommendation 14: No change is recommended.

- On the issue of self-sufficiency, the Proposed Plan already takes the position that self-sufficiency in solid waste disposal is good public policy, although some making comments requested that the Proposed Plan make this point more emphatically. With prudent monitoring of the situation, the Department should be able to anticipate the need for additional in-state capacity and act accordingly when new applications are submitted.

Recommendation 15: No change is recommended.

- In September 2006, the U.S. Supreme Court agreed to review a significant solid waste flow control case, United Haulers Association Inc. v. Oneida-Herkimer Solid Waste Management Authority, No. 05-1345. It is expected that the Supreme Court will make their ruling sometime mid-2007. The outcome of this case will be of interest to many stakeholders.

Recommendation 16: It is recommended that the Plan should make reference that the U.S. Supreme Court will be taking up this issue and that the Department should closely monitor the outcome of the decision.

- Regarding in-state disposal capacity for MSW, the Department's understanding prior to the public hearings that the Wallingford RRF would close when the present contract expires was based on the information available at the time the Proposed Plan was prepared. Based on comments from CRRA and Covanta Energy, however, there remains some uncertainty as to the future status of the Wallingford facility. Regardless of whether or not the Wallingford RRF continues or ceases its operations in 2009, there will remain a projected in-state disposal capacity shortfall for MSW.

Recommendation 17: It is recommended that the Plan be revised to show in-state capacity shortfall projections under both scenarios: the Wallingford facility closing and remaining open. However, as discussed above under Recommendation #1, it is recommended that the Plan

establish as the goal a 58% MSW disposal diversion rate to be achieved by the year 2024, recognizing that the Wallingford RRF will remain in operation through to 2024.

- BRRFOC/TROC comment that the Plan should advocate for changes to the Determination of Need statute is noted. In revisiting the provision in CGS Section 22a-208d, it requires the Department to determine that (1) need exists in the State for additional waste processing or disposal capacity before granting a construction or expansion permit for a RRF, mixed MSW disposal area, or RRF ash residue disposal area and that (2) such a facility will not result in substantial excess disposal capacity in Connecticut. The intent of the legislation was to ensure that Connecticut could establish a solid waste management infrastructure that provided for sufficient, but not excess, in-state disposal capacity to dispose of Connecticut generated MSW and MSW RRF ash residue. There are other opportunities in the regulatory process that allow for consideration of other socio-economic variables. The Determination of Need is a capacity issue and should remain as such.

Recommendation 18: No change is recommended.

- BRRFOC/TROC's comment that the Plan should discuss in more detail the option of expanding existing facilities as a means of providing more capacity is reasonable. However, it is noted that the Plan already recommends that this option be considered.

Recommendation 19: It is recommended that the Plan be strengthened on this point as necessary.

- The comments regarding development in Southeastern Connecticut and its impact on solid waste disposal needs were instructive. Local officials are concerned that major new developments will adversely impact certain municipalities' ability to properly manage their waste. It would therefore seem appropriate that the State, regional planning agencies, and municipalities should work with developers of significant new projects to ensure that they are consistent with the goals of this Plan.

Recommendation 20: It is recommended that an additional strategy be added to the Plan requiring the Department to work with developers, DECD, affected regional planning agencies, municipalities and other appropriate parties to incorporate plans in developments addressing such issues as green building design, source reduction, recycling, etc. Incentives should be identified, especially for larger developments.

- During the development of the Proposed Plan, the environmental impacts of disposal options were addressed. In addition to the findings in the Proposed Plan, the DEP's Bureau of Air Management also conducted an analysis of emissions of criteria and non-criteria pollutants for three MSW disposal scenarios. Each scenario addressed the handling of 380,000 tons per year of excess municipal solid waste the state expects to generate. The first scenario assumed that all the waste is burned at a resources recovery facility located in Connecticut either by increasing existing facility capacity or building a new facility. The remaining two scenarios assumed the excess capacity is shipped out of state to a landfill located in Ohio. The landfill was assumed to have no gas collection or controls. One scenario presented the emissions expected from transportation by rail and the other by truck. This analysis indicated that incineration of MSW in Connecticut would create more air emissions than transporting and disposing the MSW in a landfill in Ohio. However, this analysis did not include the emissions from the generation of power that would be replaced by the RRF derived power. It also did not evaluate any of the other environmental issues associated with land-filling, such as water quality, land use, etc. In the Proposed Plan, the finding was that in-state RRFs pose less potential risk of negative environmental impacts than landfills located either in or outside the State, generating lower air emissions. These issues require further analysis before any conclusion can be reached.

Recommendation 21: It is recommended that the Plan include a strategy for the Department to continue to evaluate all the environmental impacts of the alternatives for disposal of the MSW

shortfall. The Department should also examine its authority to require an applicant for new capacity to provide detailed information on such impacts.

- During the development of the Proposed Plan and the Public Hearing process, the issue of the lack of in-state disposal capacity for C&D waste and oversized MSW was acknowledged to be one of the most important issues for that segment of the waste stream. As stated in the Proposed Plan, there is a significant in-state disposal capacity shortfall for construction and demolition (C&D) waste. The Proposed Plan's C&D/Oversized MSW in-state disposal capacity shortfall, assuming the diversion rate remains at 7% through to the year 2024, projects an increase in the shortfall amount from today of 1 million tons to more than 1.4 million tons by 2024. The current cost of disposal for C&D is estimated at \$80 to \$100 per ton; over 80% of the C&D waste generated in Connecticut (not including clean fill) is disposed out-of-state. There is limited recycling of this waste material but the majority of it is disposed at out-of-state landfills. The Proposed Plan seeks to increase source reduction, reuse, recycling, composting, and beneficial use of various components of the C&D waste stream. The Proposed Plan also recognizes that not all C&D related waste can be reclaimed, and that some portions will require other management options. Those options could include: the use of C&D clean wood in clean and renewable energy applications, the burning of some types of processed C&D waste at Connecticut RRFs or waste to energy facilities, the continued export to out-of-state landfills and the disposal at newly developed in-state lined bulky waste landfills.

Recommendation 22: It is recommended that the Plan make a stronger statement regarding the need for in-state management for C&D waste. It is also recommended that the Department evaluate the continued operation of existing unlined C&D landfills to determine if any restrictions are appropriate, in addition to the existing recommendation allowing disposal of only processed C&D waste in the future. The Plan should not, without further public evaluation and discussion, recommend any other changes to the Department's standards for siting C&D landfills. The proposed Agency Solid Waste Management Advisory Committee may be an appropriate venue to bring attention to this matter.

- Regarding Resource Recovery Facility (RRF) ash residue, even though the one facility that will be operating post-closure of the Hartford landfill is privately owned (Waste Management – Putnam), it is still a fact that this facility has many years of available capacity left, even assuming it accepted all RRF ash residue generated in Connecticut, which is not the case at present. However, anticipating the time needed to permit, design and construct a new facility, the Department must be able to act favorably on an application for a new RRF ash residue facility at some point prior to the actual closure of the Putnam facility while there is still some capacity remaining.

Recommendation 23: It is recommended that the Plan acknowledge this issue more clearly without indicating that a need exists today.

- Regarding transfer stations, the Department agrees that they play an important role in managing solid waste in Connecticut. At this time, however, there are no specific recommendations that can be made for long term planning purposes other than assuring that Connecticut MSW transferred to disposal facilities through CT transfer stations does not contain significant amounts of designated recyclables and that Connecticut C&D waste passing through Connecticut transfer stations has been managed according to Best Management Practices to recycle as much as possible. Given that more segregating and sorting of materials may be occurring at these sites, some consideration must also be given to the physical site constraints.

Recommendation 24: It is recommended that the Plan include a table listing the transfer stations that are permitted and amend the narrative in the Plan where needed to provide more discussion where possible.

- The Department agrees that the energy generated by the RRFs helps to meet Connecticut’s growing energy needs and that extracting this energy from waste material is consistent with the statutory solid waste management hierarchy. However, the hierarchy also recognizes that the most environmentally preferable means for dealing with MSW is to not produce it to begin with and the next best management method is recycling. The burning of solid waste should not share in the additional benefits provided as incentives to promote clean and renewable, non-polluting energy sources. Furthermore, it is worth noting that there are many constituents of the MSW waste stream that are derived from petroleum and other non-renewable resources. Therefore clearly not renewable, RRF-derived energy should not be considered Class I but remain as a Class II. Any further debate on this issue is best left to the legislature and, therefore, no changes are recommended.

Recommendation 25: No change is recommended.

■ Managing Special Wastes and Other Types of Wastes (Objective #4)

Comments made by:

Bristol Resources Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC/TROC), City of Middletown, Connecticut Business and Industry Association (CBIA), Council of Environmental Quality (CEQ), Hewlett Packard Company, League of Women Voters, Philips Electronics, Southeastern Connecticut Regional Resources Recovery Authority (SCRRA), Several private citizens, Town of Branford, Town of Greenwich, Town of Stonington, We Recycle!, Inc.

Summary of Comments

- A few comments were received concerning some of the miscellaneous categories of special waste for which the Proposed Plan deferred discussion to future efforts, some through the Solid Waste Advisory Committee. For example, CEQ recommended including cost estimates and a plan to deal with the street sweeping issues, which they characterized as a “very real problem.” BRRFOC/TROC suggested that the Plan recommend that small businesses be included in the Household Hazardous Waste Program. SCRRA also indicated that the Plan should include provisions for better handling of household hazardous waste and biomedical waste. SCRWA urged the Department to include recognition of water treatment residuals in any permit streamlining strategies in the Plan.
- Many comments were made that spoke in favor of establishing an electronics recycling program, including several towns and regions that are already doing so. Philips Electronics recommended that the State implement an electronics-recycling program similar to the State of California’s that is based on an Advanced Recovery Fee (ARF). Philips Electronics points to the bottle bill and battery deposit law as examples of ARF programs already in place in Connecticut. Hewlett Packard spoke in favor of a producer responsibility type system; however, they were concerned that the system described in the Proposed Plan would be too costly (for example, by calling for the establishment of an Oversight Board). Other comments made were opposed to the creation of an oversight board or a disposal ban on electronics. SCRRA indicated that they already have a cost effective electronics program operating through We Recycle!, Inc.
- The City of Middletown suggested that the Plan include more strategies for the reduction in the amount and cost of disposal for bulky waste.

Hearing Officer’s Response to Comment/Recommendations

- As noted in the Proposed Plan, there are several categories of special waste that will likely require varying degrees of attention in the future. However, the Proposed Plan indicated that for most of those categories, the Department has a mechanism in place for addressing the particular category of waste, including guidance documents, policies and general permits. While those mechanisms may be

in need of updating or discussion at some point, the Department takes the position that those issues are best addressed through on going program activities as well as future efforts including discussions with the Agency Solid Waste Management Advisory Committee.

Recommendation 26: No change is recommended.

- Regarding electronics, the national discussion continues but a national model has not yet emerged. In addition, several municipalities, manufacturers and retailers have shown that there is a willingness and need to participate in an electronics-recycling program. Other parties, including some states, manufacturers and retailers, are moving forward with various voluntary initiatives. Because of the need for a unified, convenient and readily available system, the Department should proceed with its intent to propose legislation establishing a flexible but effective electronics program, with careful consideration of the amount of administrative oversight necessary. One of the Guiding Principles found in the Proposed Plan is Shared Responsibility. This means that all parties involved in designing, supplying materials, manufacturing, selling, and using a product will share in the responsibility for environmental impacts at every stage of that product's life. Local governments and consumers have historically borne the burden of waste management. Because of their central role in the product lifecycle, manufacturers must share the financial and/or physical responsibility for collecting and recycling products at the end of their useful lives. Shared responsibility also involves building partnerships and coalitions to solve specific waste management problems. In the Proposed Plan, the electronics issue exemplifies this type of approach and represents a progressive policy direction in managing certain portions of the solid waste stream. In developing an electronics recycling program, careful consideration must be given at a minimum to the following issues: convenience (time and distance) when recycling electronics, availability of locations and frequency of events to recycle, flexibility in the types of collections, economic impacts, recycling in an environmentally responsible manner, and who pays. There are a number of states that have moved forward on legislation concerning electronics recycling and Connecticut can benefit from those programs already in place in those states. It is important that an informed public dialogue take place so that Connecticut is positioned to implement an electronic recycling program in the very near term.

Recommendation 27: No change is recommended.

■ Education and Outreach (Objective #5)

Comments made by:

Bristol Resources Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC/TROC), City of Middletown, Connecticut Construction Industries Association (CCIA), Connecticut Resource Recovery Authority (CRRA), Environmental Justice Coalition, Housatonic Resources Recovery Authority (HRRA), Several private citizens, Town of Thompson, Town of Wallingford.

Summary of Comments

- Many comments were made that supported increased efforts and funding for outreach and education on recycling and other ways of reducing disposal of waste. The City of Middletown suggested that an outreach plan be developed and coordinated with towns, businesses, institutions and the media. BRRFOC/TROC disagreed with the Plan's narrative that education efforts at the local and regional levels have decreased. HRRA suggested that some research on what works would be appropriate before implementing some of the recommendations of this section.

Hearing Officer's Response to Comments/Recommendations

- No substantive objections were received by the Department on any of these recommendations. Rather, most comments were in the form of recommendations to enhance the strategies. It is likely

many of the suggestions would be reflected in the implementation of the strategies, such as development of an outreach plan and evaluating what has worked best in other areas before proceeding ahead.

Recommendation 28: It is recommended that the Plan make a stronger statement regarding the need for better communication and coordination between all stakeholders, especially state, local and regional organizations.

■ Program Planning, Evaluation and Measurement (Objective #6)

Comments made by:

Bristol Resources Recovery Facility Operating Committee/Tunxis Recycling Operating Committee BRRFOC/TROC, Capital Region Council of Governments (CRCOG), City of Hartford, Connecticut Resource Recovery Authority (CRRRA), Housatonic Resources Recovery Authority (HRRRA), Southeastern Connecticut Regional Resources Recovery Authority (SCRARRA), Town of Mansfield.

Summary of Comments

- Some comments suggest that the State indicate how frequently the *State Solid Waste Management Plan* would be updated.
- All those that commented on the proposal in the Plan to create an Agency Solid Waste Management Advisory Committee are in favor of this provision. BRRFOC/TROC and SCRARRA suggest that the Plan needs to be clearer on its duties and to whom it would report.
- CRRRA and SCRARRA indicated that the State should do a waste characterization study to identify where the most diversion will come from, and they and others commented that the Plan should then identify the best means and costs of achieving those diversion goals.
- BRRFOC/TROC support the proposal in the Plan to reduce the reporting burdens on municipalities and regional organizations, while CEQ recommends that the Plan commit the Department to enhanced measurement, and that it estimate the resources needed for this purpose.
- The City of Hartford, CRCOG and SCRARRA recommend that the State continue to evaluate new technologies as a means of reducing, recycling, reusing and/or disposing of waste in the future.
- HRRRA suggest that the Plan include provisions for dealing with emergencies such as loss of workers from a flu pandemic, a resource recovery facility going down for an extended period, etc.
- Some comments requested that the Plan layout more specifically that funding, staffing and resources that must be committed to achieving the goals listed in the Plan.
- Willimantic Waste Paper Company Inc. comments that any subcommittee established concerning market development for recyclables should include permanent representatives from private industry. Some comments made suggest creating regional material exchanges to promote recycling.

Hearing Officer's Response to Comments/Recommendations

- In the proposed Plan, the Department took the position that the *State Solid Waste Management Plan* should be revisited periodically through an iterative process. This meant that issues would be taken up as needed, but not at a prescribed frequency. Further, the entire Plan would not be revised each time part of it was opened for discussion. Such an approach would represent the best use of the Department's and others' resources.

Recommendation 29: No change is recommended.

- During the development of the Proposed Plan, the Department relied upon the expertise and opinions of an External Stakeholder Working Group and in the Proposed Plan, acknowledges their valued contributions in the drafting of the Plan. This Stakeholder Group was established very early in the process by the Agency for the purpose of providing input and comment on strategy and policy options. The Stakeholder Group was not intended to come to consensus on any issue or questions, nor was their participation to be construed as an endorsement of the Proposed Plan. The Stakeholder Group included representatives from municipalities and government associations, regional waste management authorities, the solid waste management industry, the recycling sector, community and environmental groups, and business and waste generating industries. The Proposed Plan lists as a strategy (6-3) that the Agency establish a standing Solid Waste Advisory Committee of affected stakeholders to help implement the new plan, revise the plan, identify emerging issues and find solutions. The strategy leaves it open as to how this new Advisory Committee will work. However, there are a number of working models within the Agency that the Department will need to consider more fully so as to ensure effective results. Prior to establishing the Advisory Committee, the Department should consult with interested stakeholders as to the possible working framework and a good starting point may be to speak with the members from the External Stakeholder Working Group. At a minimum, the Advisory Committee will be led by the Department, the process should continue to be inclusive of representative stakeholders from the public and private sectors, and Committee meetings open to the public.

Recommendation 30: No change is recommended.

- The recommendation to do a waste characterization study has considerable merit and in this Hearing Officer's Report, Recommendation #1 includes such a study as an action item that the Department should undertake in the short-term. This study would allow the Department to better target its efforts and better estimate associated costs for managing the waste stream. Waste characterization studies are used to assess: what is being disposed, what potentially could be recovered, and the effectiveness of current diversion and recovery programs. They provide information and data regarding changes in the waste stream and help identify potential for development of new materials markets. These types of studies also identify those sectors that are not fully complying with current recycling requirements, and thereby help to facilitate the efficient development of targeted source reduction, reuse, and recycling programs.

Recommendation 31: It is recommended that the Plan include a strategy for a waste characterization study to be undertaken as a high-priority/short-term priority project. The strategy should also allow for targeted waste characterization studies to be undertaken from time to time.

- During the development of the Proposed Plan, the Department's consultant performed an assessment of the Department's Information Management Systems as it related to solid waste reporting and databases. Their findings and recommendations are found in Chapter Four and Appendix B of the Proposed Plan. The Proposed Plan highlights the need for improving the Department's solid waste reporting system in order to obtain better solid waste data through reporting requirements that are less burdensome and less duplicative for reporting entities but still provide information needed for comprehensive solid waste management planning and evaluation. Also, improvements to the reporting system are needed to establish municipal and regional reduction goals that are less burdensome to accurately track and which will require more relevant reporting and measurement. The Department agrees with the comments concerning reporting measures, which were primarily in support of the strategies identified in the Proposed Plan. Consistent with the concerns of many comments received, the Plan should be revised to call for a comprehensive information management evaluation, including the involvement of the proposed Agency Solid Waste Management Advisory Committee, which will be critical in establishing an appropriate reporting system.

Recommendation 32: It is recommended that the Plan clarify Strategies 6-2 and 6-3 to include the involvement and participation by the Agency Solid Waste Management Advisory Committee in any comprehensive information management evaluation.

- Regarding the suggestion by HRRRA that the Plan include more provision for dealing with emergencies, it is noted that other efforts are under way to address some of those issues. For example, a separate state task force is developing contingency plans in the event of a flu pandemic. Also, the Department has developed and is in the process of updating, a debris management plan.

Recommendation 33: No change is recommended.

- With regard to more specificity on program implementation, the Proposed Plan does include a table (Table 5-1) that presents the annotated list of recommended strategies for solid waste management in Connecticut. Also shown on this table, for each strategy listed it includes the type of action needed, an assigned priority, new costs, a timeframe, and lead role/responsibility.

Recommendation 34: The Plan should include a new table (5-2) that presents the lists of recommended strategies in order of priority, beginning with High Priority and existing/short-term initiation time frames.

■ Permitting and Enforcement (Objective #7)

Comments made by:

Audubon Connecticut, Bristol Resources Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC/TROC), Connecticut Construction Industries Association (CCIA), Connecticut Business and Industry Association (CBIA), Connecticut Department of Transportation (CTDOT), City of Middletown, Connecticut Tire Dealers and Retreaders Association, Housatonic Resources Recovery Authority (HRRRA), Northeast Utilities (NU), Mr. Robert Fromer, The Scotts Company, South Central Connecticut Regional Water Authority (SCCRWA), Southeastern Connecticut Regional Resources Recovery Authority (SCRRRA), Town of Mansfield, Town of Thompson, Town of Wallingford, We Recycle!, Inc.

Summary of Comments

- Some comments agree with the Plan's proposal to permit or in some other way regulate solid waste haulers, but others are opposed to the proposal. Some comments also recommend simplifying regulations regarding recycling.
- Many comments are in agreement with the Proposed Plan's proposals regarding permitting and enforcement programs, especially those recommendations to streamline permitting of beneficial use activities and facilities that help achieve the State's waste diversion goals. For example, We Recycle! Inc. suggests that permitting of additional materials at existing recycling facilities should be more flexible than it is at present. CBIA urges the Department to be more aggressive in streamlining its permitting programs especially related to beneficial use activities and contaminated soil. Northeast Utilities urged the Department to move ahead with its permit streamlining efforts, specifically with respect to reuse options for contaminated soil, and through the designation of more categories of materials as universal waste.
- The Connecticut Tire Dealers and Re-treaders Association recommends that the State require all transporters of waste tires to be licensed by the Department so that dealers and re-treaders can be assured that their waste tires are properly handled.

- Several comments were opposed to the proposal to require applicants for new disposal capacity to pay into a fund that would support the creation of local advisory committees to be involved in the application process.
- Several comments supported the strategy to updating the solid waste statutes and regulations. For example, Covanta Energy suggested that certain terms used in permitting be carefully reviewed for consistency.
- A few comments suggested that permits for Resource Recovery Facilities should require that a certain minimum percentage of the waste burned at those facilities come from Connecticut.
- Audubon Connecticut indicated that capped landfills present a unique opportunity to provide significant acreage of both warm and cool season grassland as well as significant amounts of shrubland habitats in perpetuity and helps with the implementation of significant recommendations laid out in the DEP's Comprehensive Wildlife Conservation Strategy. Audubon Connecticut strongly recommends working with the DEP Wildlife Division to include reference to this opportunity in the State Solid Waste Management Plan.

Hearing Officer's Response to Comments/Recommendations

- Understandable opposition was expressed with regard to the proposal to require permitting or some other regulation of waste haulers. However, the Department's basis for this proposal is sound for several reasons. First, solid waste haulers are a critical link in ensuring that Connecticut's solid waste is disposed and transferred in compliance with state and municipal requirements. Second, in order for recycling to be effective, solid waste haulers need to be in compliance with state and municipal recycling requirements. Third, it is necessary to establish a more comprehensive system for reporting on the amount of MSW and C&D waste that is generated and disposed in Connecticut and to get more accurate information regarding the waste disposed and recycled in individual Connecticut municipalities. While it is necessary to establish additional regulatory requirements for haulers in order to do both, it is not necessary to develop a burdensome regulatory system to accomplish those ends. In fact the Governor's advisory group on the trash hauling industry has recently issued its final report. In it, the Department is directed to establish a permitting program for haulers.

Recommendation 35: It is recommended that the Plan be consistent with the Governor's Task Force Report recommendations that are carried forward.
- Regarding the proposal to establish a fee for the support of local advisory groups in permit application proceedings, the Department understands that applicants would be reluctant to do so. However, the Department's experience in such proceedings is that local citizens and town officials are often at a disadvantage as to having the adequate resources needed to comprehensively review and understand complex proposals for solid waste facilities.

Recommendation 36: No change is recommended.
- Regarding the suggestion that a certain minimum percentage of waste burned at RRFs be required to be Connecticut waste, it may be inconsistent with or interfere with municipalities' right to seek whatever disposal options they choose.

Recommendation 37: No change is recommended.
- The Department takes note of the many comments in support of strategies to improve and streamline the permitting and enforcement programs. During 2006, the Department improved its permitting processes by the issuance of a General Permit for Contaminated Soil and/or Sediment Management (Staging and Transfer) and the issuance of a Beneficial Use General Permit for Asphalt Roofing Shingles. The Department is also currently drafting a General Permit for Municipal Transfer

Stations, a renewal and revision of the current General Permit to Construct and Operate Certain Recycling Facilities that is due to expire in September 2007 and a General Permit for Contaminated Soil and Sediments (Beneficial Use). The Department has designated a project manager for beneficial use determinations and beneficial use General Permits and has also established an inter-bureau workgroup. The Department acknowledges and is in agreement with the need to update the solid waste statutes and regulations.

Recommendation 38: It is recommended that the Plan be strengthened on these issues and include as a recommendation that Stakeholders be encouraged to participate at appropriate steps of the process.

Recommendation 39: It is recommended that Strategy 7-5 be revised to state that the Department will conduct a comprehensive assessment of the state statutes and regulations as they relate to solid waste management and to the implementation of the State Solid Waste Management Plan. In its review, the Department should take into account broader environmental concerns, such as air and water issues.

Recommendation 40: It is recommended that a new strategy be written that will consider host community agreements as part of the rewriting of the regulations, but that this activity should not be precluded from occurring pending the adoption of regulations. Until such time, host community agreements should be considered on a case-by-case basis.

- The Department recognizes that wildlife habitat opportunities do exist for post-closure solid waste landfills given that these sites undergo proper closure, on-going maintenance and monitoring.

Recommendation 41: It is recommended that the Plan recognize the opportunities presented with closed landfills under permitting or other regulatory activities.

■ Funding (Objective #8)

Comments made by:

City of Bridgeport, City of Hartford, City of Middletown, City of Norwich, Connecticut Coalition for Environmental Justice (CCEJ), Connecticut Audubon, Connecticut Beer Wholesalers Association, Connecticut Conference of Municipalities (CCM), Connecticut Resources Recovery Authority (CRRRA), Connecticut Redemption Center Association, Council of Environmental Quality (CEQ), Fairfield County Environmental Justice Network, Mr. Robert Fromer, HRRA, League of Women Voters, Southeastern Connecticut Regional Resources Recovery Authority (SCRRA), Sierra Club, TOMRA North America (TOMRA), Town of Cheshire, Town of Mansfield, Town of Wallingford, WM, Willimantic Waste Paper Company Inc., Several private citizens.

Summary of Comments

- Well over half of those commenting agree that increased funding is needed to carry out the strategies in the Plan. HRRA indicate it should be the first priority of the Plan. Most of those commenting indicate that the majority of the increased funding should go to municipalities or regional entities to support their efforts to meet the goals of the Plan. However, several comments were made to suggest that legal authority be established to allow funding for private businesses to develop markets for recyclables or to help their recycling efforts. Other comments were also received in support of increased funding to help recycling businesses meet their obligations. Some comments suggested that the Plan reflect a decreasing financial role for government, and an increasing role for producers, manufacturers and consumers, thereby resulting in lower costs to administer the program.
- Several comments made suggest that the Plan should recommend capturing some or all of the unclaimed beverage deposits (escheats) to fund these programs. Sierra Club and CT Audubon take

the position that the escheats should be considered abandoned property that should then go to the state, as is the case with other abandoned property.

- The Connecticut Beer Wholesalers Association strongly opposes any attempts to capture the escheats, indicating that the unclaimed deposits help offset the distributors' costs of handling containers. TOMRA also opposes this means of increasing funding. SCRRRA and Willimantic Waste Paper Company Inc. suggest allowing the state's Material Recovery Facilities (MRFs) and other recycling facilities to redeem bottle bill containers, using the funds to help support recycling efforts.
- CCM recommends that State General Obligation Bond Funds be used for certain aspects of the Plan implementation including local infrastructure and collection systems. They also recommend that the following be added to the Plan section entitled "Critical Issues for Decision Makers" and include "enactment of new and ongoing fund sources for recycling and solid waste disposal." CCM also states that any municipally paid waste disposal should be exempt from the current \$1.50/ton assessment and any increase in that assessment.
- CRRA suggests that they be the recipient of funding to support such activities as household hazardous waste collection, residential electronics recycling, recycling education and anti-litter education.
- The City of Hartford supports the use of enforcement penalties to fund some of these programs, especially municipal recycling efforts.
- The City of Bridgeport opposed any increase in the solid waste assessment. However, the City of Hartford supported its expansion along with authority to pass along the increased revenue to municipalities. CCM was opposed to the assessment or any increase being applied to any "municipally paid waste disposal." BRRFOC/TROC suggested that a study be done on the need for and uses of the expansion of the assessment, including legal issues related to assessing the fee on waste destined for out-of-state disposal. WM did not oppose the expansion of the assessment but rather indicated that any expansion be preceded by a cost benefit analysis, and that any increase be applied uniformly. One comment suggests that State funding be withheld from certain types of government operations that are not in compliance with recycling requirements.
- Other comments were received advocating other sources of revenue such as a value added tax on consumer products and a tax on advertising of consumer products. BRRFOC/TROC suggested that the Plan consider the adoption of a uniform statewide tipping fee.
- Several comments were made recommending that the Plan identify the highest priority actions that are necessary to meet the adopted diversion goals, and the amount of funding that would be needed to implement those actions.

Hearing Officer's Response to Comments/Recommendations

- It is clear that new or expanded programs will cost more, at least initially, and that these costs must be shared among all stakeholders. Further, any new Department programs will compete for funds with many other worthwhile state and local needs, many of which are already under-funded. Nevertheless, there was almost universal agreement that without a stable, long-term source of funding, most of the goals of the Plan would not be met. During the process of developing the Proposed Plan, several potential sources of revenue to support these important programs were identified. Each of the potential sources has been considered to some degree in the past, and some have direct connections to solid waste or recycling programs. Regardless of the options chosen there will be considerable debate over how best to meet these needs, and this debate must take place in order to accomplish the goals of

this Plan. It should be noted that the following are recommendations for action, and it is ultimately up to the legislature to decide which programs are needed, and how to fund them.

Recommendation 42: It is clear that additional resources are needed at the state, local and regional levels. Therefore, the Department must initiate this debate by proposing one or more of the potential sources of funding in the upcoming legislative session. This proposal should recommend that a significant portion of the new funds be directed to municipal and regional programs. The Plan should also recommend that the Department work with the Department of Economic and Community Development to identify the types of economic assistance that are needed and could be provided to businesses, especially recycling, composting or other businesses that directly support the goals of this Plan.

Appendix A. Listing of Public Comments

Written comments submitted:

- Association of Postconsumer Plastic Recyclers, Steve Alexander, Executive Director (Exhibit 39).
- Audubon Connecticut, Patrick Comins, Director Bird Conservation (Exhibit 42).
- Mitch Bradley (Exhibit 51).
- Bristol Resource Recovery Facility Operating Committee/Tunxis Recycling Operating Committee (BRRFOC.TROC), Jonathan Bilmes, Executive Director (Exhibit 30).
- Capitol Region of Governments, Lyle Wray, Ph.D., Executive Director (Exhibit 35).
- City of Bridgeport, Public Facilities Department, John Cottell Jr., Utilities Manager (Exhibit 55).
- City of Hartford, Bhupen Patel, Director of Public Works (Exhibit 16, 22,).
- City of Middletown, Public Works Department, Kim O'Rourke, Recycling Coordinator (Exhibit 47).
- Connecticut Audubon Society, Elizabeth McLaughlin, Director of Environmental Affairs (Exhibit 19).
- Connecticut Beer Wholesalers Association, Inc., Patrick Sullivan (Exhibit 33, 53).
- Connecticut Business and Industry Association, Eric Brown, Associate Council (Exhibit 54).
- Connecticut Coalition of Environmental Justice, Jessica Tanner (Exhibit 32).
- Connecticut Conference of Municipalities (CCM) (Exhibit 26).
- Connecticut Construction Industries Association, Inc. (CCIA), Faith Gavin Kuhn, Director of Public Information (Exhibit 29).
- Connecticut Department of Transportation (CTDOT), Gregory Dorosh, Environmental Compliance (Exhibit 34).
- Connecticut Resources Recovery Authority (CRRA) (Exhibits 12, 14, 24, 49).
- Connecticut Tire Dealers and Retreaders Association, Lloyd Evans Jr., Executive Director (Exhibit 57).
- Council of Environmental Quality (CEQ), Karl Wagener, Executive Director (Exhibit 15).
- Covanta Southeastern Connecticut Company, Derek Grasso, Regional Environmental Manager (Exhibit 37).
- Barbara Currier Bell (Exhibit 27).
- Greenwich Recycling Advisory Board, Sally Davies Chairman (Exhibit 44).
- Housatonic Resources Recovery Authority (HRRA), Cheryl Reedy, Director (Exhibit 60).
- Hewlett-Packard Company, Heather Bowman, Business Policy Manager (Exhibit 52).
- League of Women Voters of Connecticut, Inc. (LWV), Cheryl Dunson, Vice President Public Issues (Exhibit 28).
- Tom Metzner, CTDEP (Exhibit 58).
- Milford Environmental Concerns Coalition, Ann Berman, Chair (Exhibit 11).
- Northeast Utilities System, Patricia McCoullough, Director Environmental Management (Exhibit 46).
- People's Action for Clean Energy, Inc. (PACE), Judi Friedman, Chair (Exhibit 50).
- Philips Electronics on Behalf of the Electronics Manufacturers Coalition for Responsible Recycling (Exhibit 20).
- Robert Frommer (Exhibit 18).
- Gerhard and Edith Schade (Exhibit 51).
- The Scotts Company, William Lechner, Vice President Environmental Health and Safety (Exhibit 40).
- Sierra Club, Connecticut Chapter, John Calandrelli, State Program Director (Exhibit 21).
- Southeastern Connecticut Regional Resources Recovery Authority (SCRRA) (Exhibit 23).
- South Central Connecticut Regional Water Authority, David Leiper, Environmental Compliance Analyst (Exhibit 43).
- TOMRA North America, Charles Riegle Jr., Vice President Government Affairs (Exhibit 31).
- Town of Branford, Solid Waste Management Commission, Margaret Hall, Solid Waste Manager (Exhibit 45,56).
- Town of Cheshire, Michael Milone, Town Manager and Joseph Michelangelo, Town Engineer/Director of Public Works (Exhibit 13).
- Town of Enfield, Office of the Town Manager, Matthew Coppler, Town Manager (Exhibit 48).
- Town of Mansfield, Department of Public Works, Virginia Walton, Recycling Coordinator (Exhibit 10).

- Town of Thompson, Transfer Station Advisory Committee, Al Landry, Moderator (Exhibit 25).
- Town of Wallingford, William Dickerson, Jr., Mayor (Exhibit 38).
- Waste Management, Robert Jacques, Manager of Business Development (Exhibit 41).
- WeRecycle!, James J. Hogan III, Director of Government Affairs (Exhibit 17).
- Willimantic Waste Paper Company Inc., Timothy DeVivo (Exhibit 36).

Oral Comments made during Public Hearings:

- Paul Falco, Stillwater Farm, Easton, CT
- Joe Roberto, Connecticut Redemption Centers Association
- John Hollis, Connecticut Teamsters
- Angie Staltaro, City of Bridgeport
- Catherine Woodhead, Environmental Justice Network.
- Jaime Viola, Connecticut Coalition for Environmental Justice
- Miriam Bergamini, Connecticut Coalition for Environmental Justice
- Clare Fonseci
- Bill Heleger, Connecticut Coalition for Environmental Justice
- Jorge Davila, Connecticut Coalition for Environmental Justice
- Henry Link
- June O’Neill
- Jose Arce, Connecticut Coalition for Environmental Justice
- Dr. Mark Mitchell Connecticut Coalition for Environmental Justice
- Melissa Emma
- John O’Rourke, Wheelabrator
- Joe Loyacano, Town of Norwich, Department of Public Works

Comments Received after close of Public Comment Period

- John Phetteplace
- Connecticut Water Works Association, Elizabeth Gara, Executive Director
- Dan William, Septic Chip
- Connecticut Department of Public Health, Lori Mathieu, Drinking Water Division

Administrative Exhibits

- Exhibit 1. Hard copy and CD of the Proposed Amendment to the State Solid Waste Management Plan, July 2006; Commissioner Gina McCarthy.
- Exhibit 2. Legal Notice, Connecticut Law Journal.
- Exhibit 3. Legal Notice, Regional Newspapers.
- Exhibit 4. Certified mailings.
- Exhibit 5. Notification to the Office of Secretary of State.
- Exhibit 6. Notice and availability of the Proposed Plan as listed on the CTDEP website.
- Exhibit 7. General mailings.
- Exhibit 8. CTDEP press release re/public meetings and public hearings.
- Exhibit 9. Commissioner McCarthy’s designation of Hearing Officer and Alternate.