

Environmental Justice Public Participation Fact Sheet

An Act Concerning Enhancements to the States Environmental Justice law (Public Act 20-6) updated Section 22a-20a of the Connecticut General Statutes (CGS) with an effective date of November 1, 2020, enhancing public participation. Section 22a-20a CGS and the Environmental Equity Policy 1993, ensure that *Environmental Justice Communities* are provided a more enhanced notice leading to *meaningful public participation* in certain permitting processes. This summary is an overview for implementation of section 22a-20a CGS and the Environmental Equity Policy. **All applicants seeking permits for facilities that fall under the definition of “affecting facility” or are an existing affecting facility applying to expand operations in an environmental justice community must comply with all public notice requirements as outlined below.**

Applicants filing an application with the Department, involving a new affecting facility or an expansion of an existing affecting facility, located in an environmental justice community, are required to:

- A. file a meaningful public participation plan, on a form prescribed by the Commissioner (DEEPEJ-PLAN-001);
- B. receive written Department Tentative Approval of the plan prior to filing any application for permit, certificate or approval;
- C. consult with the chief elected official or town manager of a municipality to evaluate whether such municipality contains five affecting facilities, if so negotiate a community benefit agreement at the time the application is filed.

1. *Environmental Justice Communities* are defined as follows:

- A. a United States census block group, as determined in accordance with the most recent United States census, for which thirty percent or more of the population consists of low income persons who are not institutionalized and have an income below two hundred percent of the federal poverty level, or
- B. a distressed municipality.

The affecting facilities must be located directly in the defined census block or the distressed municipality to be considered under the Act and the Policy.

2. *Affecting facilities* are defined as follows:

- A. an electric generating facility with a capacity greater than 10 megawatts;
- B. sludge or solid waste incinerators or combustors;
- C. sewage treatment plants with a capacity greater than 50 million gallons per day;

- D. intermediate processing center, volume reduction facility or multitown recycling facility with a combined monthly volume in excess of 25 tons;
- E. new or expanded landfill, including but not limited to, a landfill that contains ash, construction and demolition debris or solid waste;
- F. medical waste incinerators, and
- G. major sources of air pollution, as defined by the Clean Air Act.

Note: Under the Environmental Equity Policy, there are additional facilities that must submit an Environmental Justice Public Participation Plan and adhere to the notice requirements in section 22a-20a CGS. These facilities must be subject to an individual permit, be in an environmental justice community and must not already fall under the definition of “affecting facility”. When the above criteria are met, the following facilities apply:

- i. transfer stations;
- ii. biomedical waste treatment facilities (decontamination, autoclaving or other non-incinerator techniques approved by the commissioner);
- iii. *Resource Conservation and Recovery Act (RCRA) hazardous waste storage or treatment facilities seeking an operating permit (not applicable to Stewardship Permits);
- iv. *RCRA hazardous waste incinerators or landfills;
- v. non-RCRA hazardous waste storage or treatment facilities;
- vi. non-RCRA hazardous waste incinerators or landfills; and
- vii. hazardous waste transfer facilities (22a-454 Permits).

** The facilities identified in iii and iv in this subsection, are subject to notice requirements under the federal law, “RCRA Expanded Participation Rule”. Adhering to the Environmental Justice Plan requirements of section 22a-20a CGS will satisfy the federal notice requirements.*

3. **Meaningful public participation is defined as follows:**

- A. residents of an environmental justice community have an appropriate opportunity to participate in the process regarding a proposed facility or the expansion of an existing facility that may adversely affect such residents’ environment or health;
- B. public’s participation may influence the regulatory agency’s decision; and
- C. the applicant for a new or expanded permit, certificate or siting approval seeks out and facilitates the participation of those potentially affected during the regulatory process.

4. **A meaningful public participation plan shall, at a minimum, contain:**

- A. measures to facilitate meaningful public participation in the permitting process;
- B. certification that the applicant will undertake such measures;
- C. identification of a time and place for an informal public meeting that is convenient for the residents of the affected environmental justice community; and
- D. Identification of methods to publicize the informal public meeting, in addition to the publication of the notice of the informal public meeting. **Notice of the informal public meeting shall be undertaken by:**
 - 1. publishing the date, time and nature of the informal public meeting with a minimum one-quarter page advertisement;

2. publishing not less than 10 days prior to and no more than 30 days prior to the informal public meeting;
3. publishing in a newspaper of general circulation of the affected area, and any other appropriate local newspaper(s) serving the affected area;
4. publishing in the Monday issue for daily issues, or any day in a weekly or monthly publication;
5. posting on the applicant's website, if applicable;
6. notifying local and state elected officials in writing;
7. notifying neighborhood and environmental groups in writing in a language appropriate for the target audience. Language shall be ascertained using the most recent United States census; and
8. posting visible signs on the proposed or existing property in English, and in all languages spoken by at least 15 percent of the population that resides within a one-half mile radius of the proposed or existing facility. The sign needs to meet local regulations and ordinance standards.

For further guidance on public participation, please see: [GC3 Public Participation Checklist.pdf \(ct.gov\)](#)

For remote engagement guidance, please see: [EJPublicParticipationPlanRemoteGuidance.pdf \(ct.gov\)](#)

5. Expansion of an affecting facility is defined as follows:

- A. Expansion of an existing affecting facility is defined, in most cases, as an activity, which would require either a new permit or a permit modification. The Department strongly recommends contacting the relevant permitting program to determine whether your proposed activity is considered an expansion. A pre-application meeting may be the most efficient process to make this determination. For pre-application assistance, email DEEP.OPPD@ct.gov
- B. Prior to applying for an activity listed below when located at an existing affecting facility, the applicant/registrant shall submit an Environmental Justice Public Participation Plan and adhere to the notice requirements of section 22a-20a CGS.
 - Contaminated Soil and/or Sediment Management (Staging and Transfer);
 - Disassembling Used Electronics;
 - Municipal Transfer Stations;
 - Construction and Operation of a Commercial Facility for the Management of Recyclable Materials and Certain Solid Wastes;
 - Storage and Processing of Asphalt Roofing Shingle Waste (ARSW) for Beneficial Use and Recycling;
 - Storage and Processing of Scrap Tires for Beneficial Use.

6. *Community Environmental Benefit Agreement for Towns with Affecting Facilities under Section 22a-20a CGS*

Applicants for affecting facilities may be required to consult with the chief elected official or officials of the town or towns in which the affecting facility is proposed to be located or expanded to evaluate the need for a community environmental benefit agreement. However, if the municipality or town have five affecting facilities, a community benefit agreement is required. A community benefit

agreement means a written agreement entered into to provide financial resources for the purpose of mitigation of impacts related to the facility, including but not limited to, air quality and watercourses, quality of life, asthma rates, traffic, electric vehicle charging stations, walking multiuse trails, parking and noise.

Prior to negotiating terms of a community environmental benefit agreement, the chief elected official shall provide a public opportunity for residents of the potentially affected environmental justice community to be heard concerning the need for, and terms of, such an agreement. Such agreement negotiated pursuant to section 22a-20a CGS shall be approved by the legislative body of the municipality prior to implementation, administration and enforcement of such agreement.

7. The Department:

- A. shall offer the applicant an opportunity for a pre-application meeting as necessary;
- B. shall review the public participation plan and provide a written decision to the applicant;
- C. shall not take any action on the permit application/registration earlier than 60 days after the informal public meeting is held;
- D. shall deem the application insufficient if the applicant fails to undertake the public notice requirements, for any application filed on or after November 1, 2020; and
- E. Note: Applicants seeking a certificate from the Connecticut Siting Council, for a facility that is defined as an affecting facility and is proposed to be located or expanded upon in an environmental justice community, must also adhere to the requirements of section 22a-20a CGS.

8. Contact Information:

ENVIRONMENTAL JUSTICE PROGRAM
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
79 ELM STREET
HARTFORD, CT 06106-5127
860-424-3044 or edith.pestana@ct.gov

This fact sheet is designed to answer general questions and provide basic information. Applicants should refer to the appropriate statutes for the specific regulatory language. This document should not be relied upon to determine whether or not an Environmental Justice Public Participation Plan or permit is required. It is the applicant's responsibility to obtain and comply with all statutory requirements.