



Connecticut Environmental Policy Act (CEPA)

CONNECTICUT STATE AGENCY TRAINING

PREPARED BY THE OFFICE OF POLICY AND MANAGEMENT (OPM), IN CONSULTATION WITH THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION (DEEP) AND THE COUNCIL ON ENVIRONMENTAL QUALITY (CEQ),

NOVEMBER 18, 2019

Agenda

- ▶ History
- ▶ CEPA Basics – Who, What, Why, When
- ▶ Major Changes for 2019
- ▶ CEPA Process Overview
- ▶ Environmental Monitor Templates
- ▶ Guidance for Agency Actions currently undergoing CEPA
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- ▶ DOT CEPA Mini-Lean
- ▶ Environmental Review Checklist
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History

- ▶ The Connecticut Environmental Policy Act (CEPA) was established in 1973 by Public Act 73-562, and later revised in 2002 by Public Act 02-121. CEPA is codified in Connecticut General Statutes (CGS), Sections 22a-1 through 22a-1h.
- ▶ CEPA regulations were originally established in 1978, and revised in 2019 by the Department of Energy and Environmental Protection (DEEP) with an effective date of 09/11/2019. CEPA regulations are codified in Sections 22a-1a-1 through 22a-1a-12 of the Regulations of Connecticut State Agencies (RCSA).
- ▶ The Generic Environmental Classification Document (ECD) was revised in 2010, resulting in Public Scoping for more actions while creating an early off-ramp for actions not requiring an EIE.

CEPA Basics

- ▶ Who: State departments, institutions or agencies
- ▶ What: An individual activity or a sequence of planned activities funded in whole or in part by the state, which could have a major impact on the state's land, water, air, historic structures and landmarks as defined in section 10-410, existing housing, or other environmental resources, or could serve short term to the disadvantage of long term environmental goals. (CGS Sec. 22a-1c)

“Actions” include, but are not limited to, capital improvements, alterations, or additions to the real property of the state; acquisition of real property for the purpose of capital improvements; lease/purchase agreements; grants-in-aid or financial assistance for housing, business, industry, restoration or demonstration projects; or other proposed activity for which an agency exercises judgment or discretion as to the propriety of that action. (RCSA Sec 22a-1a-1(2))

DOES NOT APPLY TO (1) emergency measures; (2) ministerial actions in which the agency does not exercise discretion.

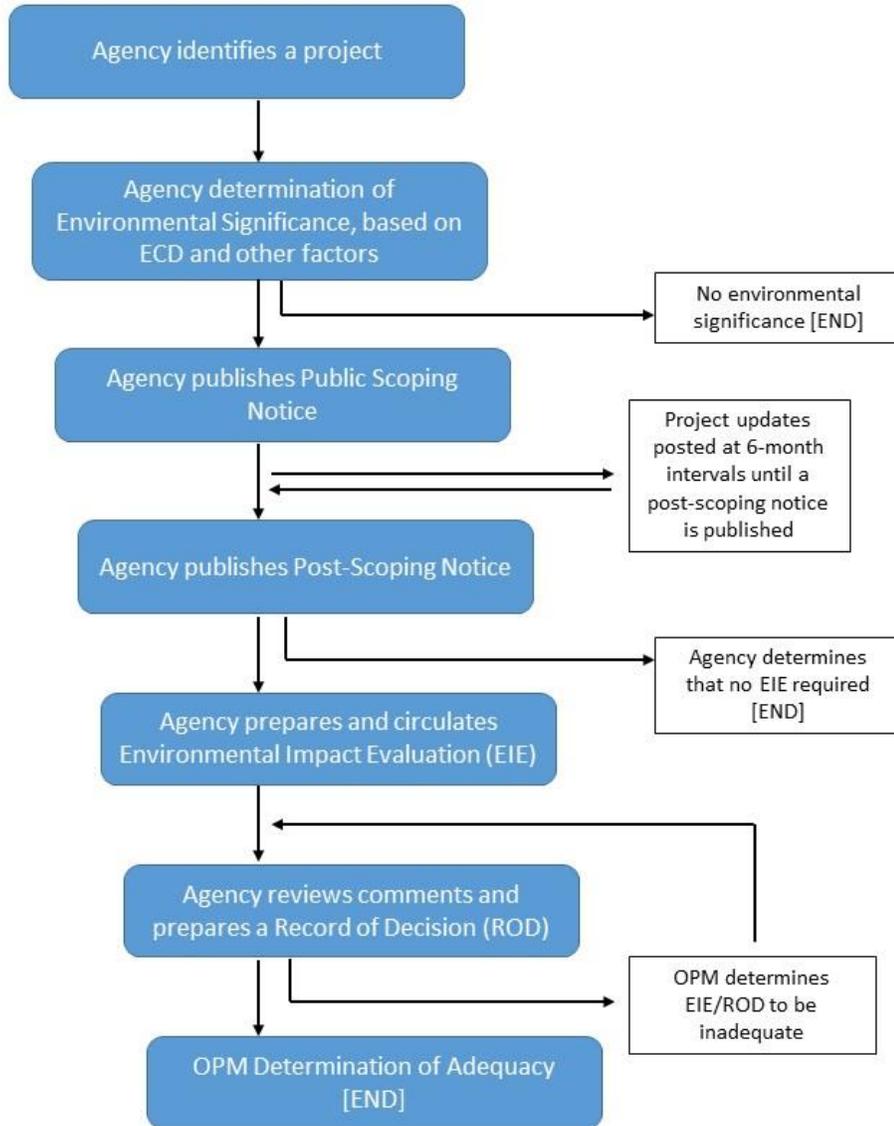
CEPA Basics

- ▶ Why: Provide opportunity for public review and comment.
Identify potential environmental impacts.
Assess potential alternatives.
Determine necessary level of environmental review.
Document the agency's review.
- ▶ When: As soon as a proposed action's purpose and need is identified.
Before an agency makes a final decision on the proposed action.
Before other actions/decisions that might reduce or eliminate alternatives.

Major changes for 2019

- ▶ Adds new factors for consideration in determining an action's environmental significance (RCSA Sec 22a-1a-3): inconsistency with local/regional plans, agricultural resources, adequacy of existing utilities/infrastructure, greenhouse gas emissions, climate change;
- ▶ Formalizes current Public Scoping and Post-Scoping processes, and eliminates the Finding of No Significant Impact (FONSI) option;
- ▶ Requires an agency, within six months of scoping deadline, to publish (1) a Post-Scoping Notice indicating whether or not an EIE will be prepared, or (2) a project status update including an estimate as to when a Post-Scoping Notice will be published;
- ▶ Requires publication of agency's Record of Decision (ROD), and OPM's Determination of Adequacy to the Environmental Monitor;
- ▶ Requires OPM to maintain a publicly accessible inventory of projects.

CEPA Process Map



Please note that an agency may cancel a project at anytime throughout this process. If this occurs, please contact OPM for details.
[END] indicates that an agency has concluded its CEPA responsibilities.

CEPA Process Overview

CEPA Process Overview – Project Identification

- ▶ CEPA evaluation of a proposed action should begin in the early stages of project development to assist in project planning.
- ▶ After establishing a clear purpose and need for why the state action is needed, CEPA is the vehicle for assessing how the action will be implemented.
- ▶ Assessing alternatives means considering *all* prudent and feasible options to satisfy the underlying purpose and need.

CEPA Process Overview - Determining Environmental Significance

- ▶ Consult with the Generic Environmental Classification Document (ECD), or an agency's specific ECD;
 - ▶ Consider environmental factors in RCSA Sec 22a-1 a-3;
 - ▶ Consider impacts from any planned or reasonably foreseeable actions stemming from the proposed subject action;
 - ▶ Consider any existing public concern/controversy (if known).
 - ▶ If potential impacts are unclear, proceed to Public Scoping.
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- ▶ Agencies are encouraged to document their review and determination in the Environmental Review Checklist (ERC).

CEPA Process Overview - Public Scoping

- ▶ Sponsoring agencies shall publish Public Scoping notices to the Environmental Monitor for a minimum 30 days, and may hold a public hearing.
- ▶ Notices shall use the templates and process developed by CEQ, and include the information identified in RCSA Sec. 22a-1a-6(e).
- ▶ Primary purpose is to solicit public comments, and determine if additional analysis is necessary (eg. EIE).

CEPA Process Overview – Post-Scoping

- ▶ Prior to Post-Scoping Notice, the agency shall consult with all state agencies and municipalities that submitted substantive comments.
- ▶ Sponsoring agencies shall publish a Post-Scoping Notice to the Environmental Monitor within six-months of the conclusion of the scoping comment period.
- ▶ Post-Scoping Notices shall indicate whether or not an agency will be conducting an EIE.
 - ▶ If no EIE, then the agency must also include a completed Environmental Review Checklist (ERC) with the notice.
 - ▶ If yes, then the agency shall begin preparation for an EIE.
- ▶ If unable to publish a Post-Scoping Notice within six months, the sponsoring agency shall publish a project update including project status and estimated Post-Scoping Notice publication.

CEPA Process Overview - Environmental Impact Evaluation

- ▶ A sponsoring agency shall prepare an EIE if (1) required by the ECD, or (2) as determined by scoping and review of potentially significant impacts.
- ▶ Part of the decision-making process and evaluation of alternatives.
- ▶ Clear, concise, and to the point.
- ▶ See RCSA Sec. 22a-1 a-8(f) for a full list of what must be included in an EIE.
- ▶ Sponsoring agencies shall publish the EIE to the Environmental Monitor for a minimum 45 days, using the templates and process developed by CEQ, and may hold a public hearing.
- ▶ Provides a second opportunity for public review and comment.

CEPA Process Overview – Record of Decision

- ▶ A sponsoring agency shall review comments received on the EIE, prepare responses, and if necessary, conduct further analysis or amend the EIE.
- ▶ The agency shall make its Record of Decision (ROD) regarding the proposed action and publish it to the Environmental Monitor and provide a copy to OPM.
- ▶ The primary purpose of the ROD is to indicate the agency's decision whether or not to proceed with the action.
- ▶ See RCSEA Sec. 22a-1a-10(b) for a full list of what must be included in the ROD.

CEPA Process Overview – OPM Determination of Adequacy

- ▶ OPM shall determine if the EIE and ROD are adequate, and publish its decision to the Environmental Monitor.
 - ▶ If adequate, the agency may proceed with proposed action;
 - ▶ If inadequate, OPM shall specify the areas of inadequacy and the corrective action required. The agency may revise and resubmit.

CEPA Process Overview – OPM Inventory of State Agency Actions [NEW]

- ▶ OPM, in consultation with DEEP and CEQ, is required to maintain a publicly accessible inventory of projects which have undertaken scoping.
- ▶ The inventory shall contain, at minimum:
 - ▶ the date that a sponsoring agency publishes any Post-Scoping Notice or action status update;
 - ▶ the date that OPM publishes its determination of adequacy;
 - ▶ other information as determined by OPM.

Environmental Monitor Templates

- ▶ See CEQ Presentation.

Guidance for Agency Actions currently undergoing CEPA

- ▶ **CEPA Regulations effective date – September 11, 2019**
- ▶ Projects with (1) an open public comment period, or (2) a closed public comment period but that have not yet issued a Post-Scoping Notice, are required to issue a Post-Scoping Notice in accordance with section 22a-1a-7, including:
 - ▶ Consideration of new factors in 22a-1a-3;
 - ▶ Issuing a Post-Scoping Notice or status update within six months of the comment period, indicating whether or not an EIE will be completed.
- ▶ Projects currently in the EIE development stage but prior to publication of the EIE must ensure the EIE complies with the requirements of 22a-1a-8 and 22a-1a-9, including consideration of the new factors in 22a-1a-3.
- ▶ In the interest of transparency and to avoid any issues being raised under the new regulations, DEEP and OPM recommend that any projects currently in the EIE development stage that did not issue a Post-Scoping Notice, now issue an abbreviated Post-Scoping Notice indicating that an EIE is being prepared.

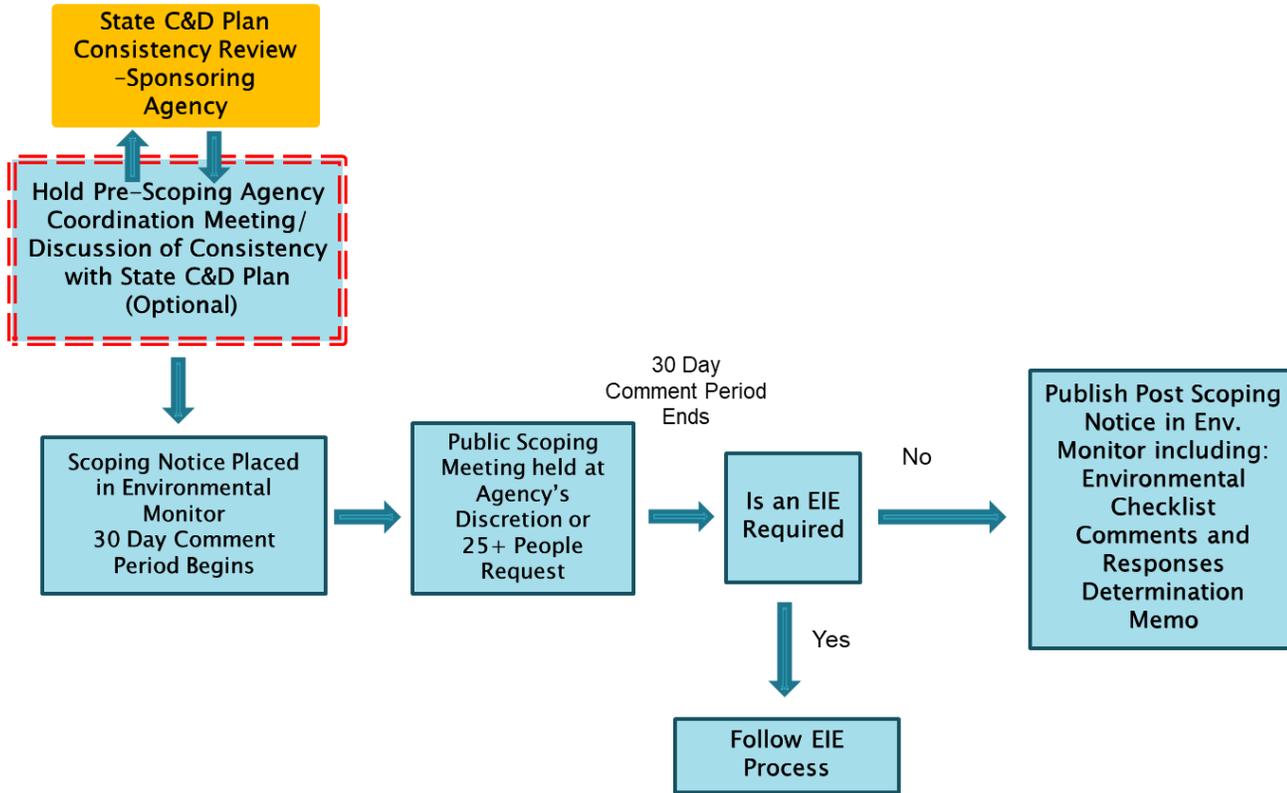


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CEPA Mini-Lean

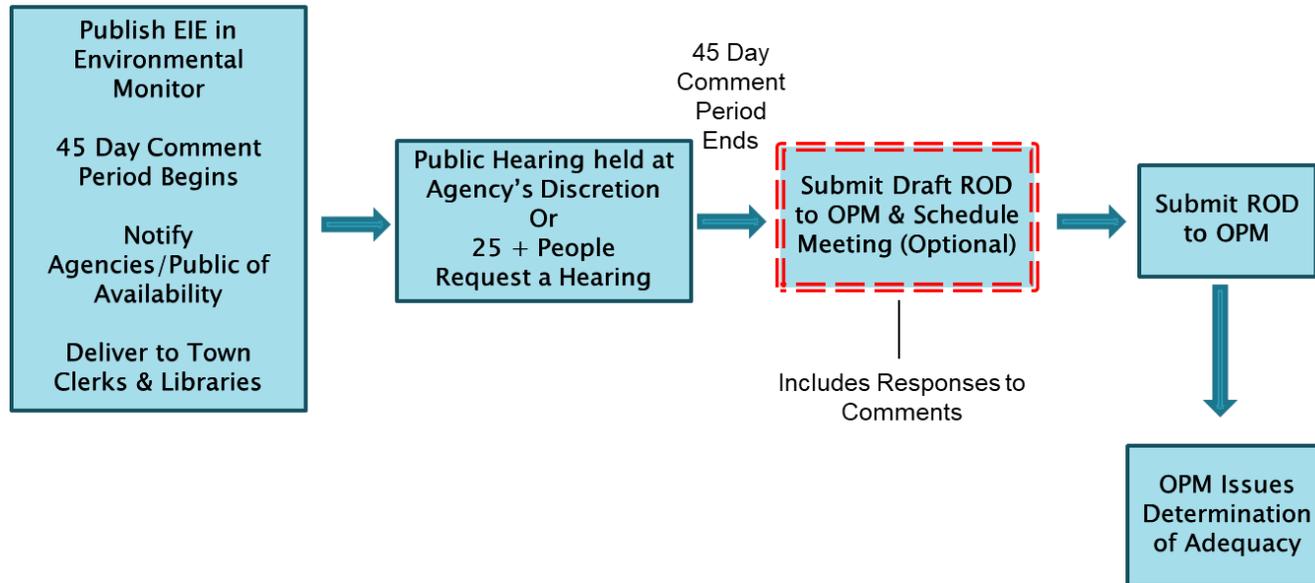
- ▶ In fall 2017, DOT organized a CEPA “Mini-Lean” intended to identify steps to improve the agency’s CEPA process. Discussions continued throughout 2018, and implementation of process improvements is ongoing.
- ▶ Key takeaways:
 - ▶ Clearly define the purpose and need of a proposed action and determine consistency with State Plan of Conservation and Development (State C&D Plan), prior to undertaking CEPA;
 - ▶ Communicate with other agencies early and often throughout the CEPA process;
 - ▶ Development of a CEPA Manual is needed to clarify agencies’ roles and responsibilities, and ensure consistency amongst agencies;
 - ▶ Develop more concise EIEs.

Leaned Navigation of CEPA Process



CEPA
Mini-
Lean

Leaned Navigation of CEPA Process



CEPA
Mini-
Lean

Environmental Review Checklist

- ▶ The form used to determine whether an action or category of actions requires Public Scoping or to record an agency's initial assessment of the direct, indirect, and cumulative environmental effects of an action at the completion of Public Scoping. (RCSA Sec. 22a-1a-1(9)).
- ▶ Post-Scoping Notices indicating that an EIE will not be prepared are required to publish a completed ERC.
- ▶ The ERC is a valuable tool for:
 - ▶ (1) identifying potential issues;
 - ▶ (2) identifying potential permits, certifications, approvals, etc; and
 - ▶ (3) documenting the agency's assessment of the proposed action.

Environmental Review Checklist

PART I – PRELIMINARY REVIEW AND DETERMINATION

- ▶ Basic Project Information
- ▶ Sponsoring Agency may use the ERC to document the agency's determination that the proposed action does not warrant Public Scoping.

Environmental Review Checklist

PART II – DETAILED PROJECT INFORMATION

- ▶ Purpose and Need of the Proposed Action
- ▶ Description of the Proposed Action
- ▶ Alternatives Considered
- ▶ Checklist of Site Characteristics

Environmental Review Checklist

PART III - DETERMINATION OF ENVIRONMENTAL SIGNIFICANCE – DIRECT, INDIRECT, AND CUMULATIVE EFFECTS

- ▶ Evaluation of factors identified in Section 22a-1 a-3 of the RCSA;
- ▶ Evaluation of additional factors – to be determined.

Environmental Review Checklist

PART IV: DETERMINATION OF POTENTIAL PERMITS, APPROVALS, CERTIFICATIONS

- ▶ Agency assistance needed in determining what should be included in this list

Environmental Review Checklist

Part V - Conclusion

- ▶ The sponsoring agency shall determine if the proposed action:
 - ▶ includes any significant, or indeterminate impacts which would require Public Scoping; or
- ▶ If the action has already undergone Public Scoping, the agency shall determine if the proposed action:
 - ▶ includes any significant, or indeterminate impacts which warrant preparation of an EIE.
- ▶ The sponsoring agency may also opt to cancel the proposed action.

Next Steps

- ▶ Collaborate with state agencies to complete a working draft of the Environmental Review Checklist;
- ▶ OPM, in consultation with DEEP and CEQ, to develop a revised Generic Environmental Classification Document by March 9, 2021 (RCSA Sec. 22a-1a-4);
- ▶ Agencies with an existing ECD (DOT) shall submit a revised ECD for review and approval or verify that the current ECD is acceptable and complies with the new regulations, by March 9, 2021. (RCSA 22a-1a-5(h))
- ▶ OPM to develop a publicly accessible inventory of projects (RCSA Sec 22a-1a-11);
- ▶ OPM to provide additional guidance for determining consistency with the State Plan of Conservation and Development (CGS 16a-31).