Connecticut Environmental Policy Act (CEPA)

...with a little about the State Conservation & Development Policies Plan (C&D Plan)

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Why is there a CEPA review process?

- Identify environmental impacts, *including impacts on the social and economic environment*;
- Consider alternatives;
- Provide opportunity for public review and comment at a time when the public can influence a state action;
- Document the agency's review and decision.

When there is a purpose and need for a state *action*, CEPA can guide an agency in determining how to implement that *action*.

What is an <u>action</u> subject to CEPA?

- individual activities or a sequence of planned activities proposed to be undertaken by state departments, institutions or agencies...
- ...or 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

Actions include, but are not limited to:

- Capital improvements, alterations, or additions;
- Property acquisition for capitol improvements;
- Lease or purchase agreements;
- Grants-in-aid or other financial assistance;
- Other activities for which an agency exercises judgment or discretion as to the propriety of that action.

Actions do not include:

- Emergency measures in response to an immediate threat to public health or safety; or
- Activities for which state agency participation is ministerial in nature (ie. involving no discretion on the part of the state agency, including no discretion in choosing to fund or not).

Environmental effects considered in CEPA

water quality • public water supply • flooding, in-stream flows, erosion or sedimentation • historic, archeological, cultural, or recreational locations and their surroundings • natural communities or species • toxic or hazardous materials • aesthetic or visual effects • inconsistency with plans • disruption of community • congestion • energy use • human health & safety • air quality • noise • landscapes • agriculture • infrastructure • greenhouse gas emissions • effect of a changing climate on the project • effects on natural, cultural, recreational, or scenic resources

Also consider indirect effects and *cumulative effects*: a sequence of state actions can have a significant environmental effect even if the individual actions do not.

The Environmental Classification Document

Effective Date: March 2, 2021

Generic Environmental Classification Document (ECD) For Connecticut State Agencies

Prepared Pursuant to Sections 22a-1a-4 and 22a-1a-5 of the Regulations of Connecticut State Agencies (RCSA)

State agencies shall use the Generic ECD for determining CEPA applicability of their proposed accounts, unless they have adopted an agency-specific ECD in accordance with RCSA Sections 22a-1a-4 and 22a-1a-5. Note that the criteria in an agency-specific ECD may differ from the comparable criteria in this Generic ECD and may also include criteria that are unique to that agency.

Definitions:

As used in this document, "action" is defined in RCSA Section 22a-1a-1.

As used in this document, "facility" means one or more existing and/or concurrently planned or envisioned structures on a site

As used in this document, "developed land" means the development footprint, including associated land alterations and fixed infrastructure, on land occupied by or previously occupied by a permanent structure or paving. This does not include portions of land altered only by current or historical agriculture or forestry activities.

- Properties of one acre or less that are occupied or were previously occupied by a
 permanent structure shall be considered developed land.
- Properties of more than one acre and that are at least 75% developed according to the criteria above shall be considered developed land.

As used in this document, having "access to existing sewer and water infrastructure" means that a facility will be served by lateral connection to an existing community water system and municipal wastewater system without the extension of existing mains, and that the sponsoring agency has documented that those systems have the capacity to serve the facility.

I. Typical Actions That Always Require Public Scoping And The Preparation Of An Environmental Impact Evaluation:

a. Construction of a new sewage treatment plant;

b. Construction of a new permanent regional waste management facility or site, including but not limited to solid, hazardous, biomedical and radioactive wastes; recycling centers; resource recovery facilities; waste conversion facilities; and transfer stations; as defined in Connecticut General Statutes (CGS) Sec. 22a-207.

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II. Typical Actions That Require Public Scoping To Determine Whether An Environmental Impact Evaluation Is Required:

- a. Construction of, or addition of, a facility
 - located on undeveloped land without access to existing sewer and water infrastructure, that exceeds 15,000 gross square feet (GSF) of floor space or 15 residential units; or
 - located on undeveloped land with access to existing sewer and water infrastructure, that exceeds 40,000 GSF of floor space or 40 residential units; or
 - located on developed land with access to existing sewer and water infrastructure, that exceeds 100,000 GSF of floor space or 100 residential units.
- Any major reconstruction, rehabilitation, or improvement that would significantly change the use of an existing facility exceeding either 100,000 GSF or 100 residential units;
- c. Construction or expansion of a new rail or bus rapid transit facility; construction of a new public road or a lare addition to an existing public road; construction of a new interchange with a limited access highway or reconstruction of an existing interchange resulting in increased capacity;
- d. Construction of a new parking lot, garage, or additions thereto, that provide for an increase in capacity of 200 vehicles or more:
- e. Construction of a new dam; removal or replacement of an existing dam; or any reconstruction or major alteration of an existing dam resulting in a permanent change in water level of more than four (4) inches, except for emergency repairs deemed necessary by the Commissioner of DEEP pursuant to CG\$ 22a-402;
- f. Expansion of the hydraulic capacity of an existing sewage treatment plant;
- g. Construction of new wastewater conveyance infrastructure or an increase in the hydraulic capacity of existing wastewater conveyance infrastructure that has the capacity to provide service beyond the existing sewer service area:
- Construction of new drinking water distribution infrastructure or increase in the capacity
 of existing drinking water distribution infrastructure that has the capacity to provide
 water service beyond the area currently being served;
- Demolítion or major alteration of any historic landmark or structure as defined in <u>CGS</u> 10-410, or archeological site as defined in <u>CGS</u> 10-381, that is listed or eligible to be listed on the National or State Registers of Historic Places as determined by the State Historic Preservation Office (SHPO)⁵.
- j. Any action, other than maintenance or repair of an existing facility, that would convert five (5) or more acres of land from an active agricultural use to a non-agricultural use, or that may significantly affect five (5) or more acres of Prime Farmland Soils, Statewide Important Farmland Soils, Statewide Important Farmland Soils, and of Locally Important Farmland Soils as defined in Title 7 Part 657 of the U.S. Code of Federal Regulations, not including developed and undertain

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Lists thresholds for various things requiring scoping based on numbers of housing units, parking spaces, infrastructure, etc.

Also lists actions not requiring scoping

https://portal.ct.gov/-/media/OPM/IGPP/ORG/CE PA/Revised-Generic-ECD 03022021.pdf

A very brief outline of the CEPA process

- An agency doing or funding a project considers the ECD and other factors to decide if it might significantly affect the environment. If the answer is "no", the CEPA review ends. (most reviews end here)
- If the answer is "yes" or "maybe", the agency publishes a *Scoping Notice* in the Environmental Monitor with a 30-day period for public comments. Scoping usually ends with a *Post-scoping Notice* responding to comments and describing any changes to the project.
- For a few projects per year, the full impact remains unclear after public scoping and the agency prepares an *Environmental Impact Evaluation* (EIE). The EIE is much more detailed, with possible project alternatives, and is published in the Environmental Monitor with 45 days for comments. After receiving comments, the agency decides how it will proceed and OPM can approve or reject the agency's *Record of Decision*.

Key points regarding the C&D Plan and CEPA

- An agency considering the purpose and need for an action (or for funding a project by others) will consider its consistency with the C&D Plan. CEPA helps determine how to implement that action/project.
- Implementation of the C&D Plan and the outcome of CEPA reviews rely on the judgement of agencies.
- The C&D Plan and its implementation process will likely be extensively re-written in the coming year. NRZs and others will have opportunities to provide comments/suggestions.