Small Business Impact Statement

Prior to adopting a new section or amendment, Section 4-168a of the Connecticut General Statutes (C.G.S.) requires that each state agency consider the effect of such action on small businesses as defined in C.G.S. Section 4-168a. When such regulatory action may have an adverse effect on small businesses, C.G.S. Section 4-168a directs the agency to consider regulatory requirements that will minimize the adverse impacts on small businesses if the addition of such requirements (1) will not interfere with the intended objectives of the regulatory action and (2) will allow the new section or amendment to remain consistent with public health, safety and welfare.

State Agency submitting proposed regulations: Connecticut Siting Council

Subject Matter of Regulations: regulations concerning the siting of wind turbines pursuant to Public Act 11-245.

X The regulatory action may have an adverse effect on small businesses, and no alternative considered would be both as effective in achieving the purpose of the action and less burdensome to potentially affected small business. Alternatives considered include the following:

(1) The establishment of less stringent compliance or reporting requirements for small businesses;
(2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
(3) The consolidation or simplification of compliance or reporting requirements for small businesses;
(4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and
(5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The Connecticut Siting Council notified the Department of Economic and Community Development on February 3, 2012 of its intent to take the proposed action and completed the Agency Fiscal Estimate of proposed regulations.

Connecticut Siting Council Adoption of Regulations

REGULATORY FLEXIBILITY ANALYSIS

Connecticut General Statutes (C.G.S.) §4-168a(b) requires each agency to prepare a regulatory flexibility analysis in which the agency shall, where consistent with public health, safety and welfare, consider utilizing regulatory methods that will accomplish the objectives of applicable statutes while minimizing adverse impact on small businesses. The agency is required to consider, without limitation, each of the following methods of reducing the impact of the proposed regulation on small businesses:

(1) The establishment of less stringent compliance or reporting requirements for small businesses;
(2) The establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses;
(3) The consolidation or simplification of compliance or reporting requirements for small businesses;
(4) The establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulation; and
(5) The exemption of small businesses from all or any part of the requirements contained in the proposed regulation.

The Connecticut Siting Council (Council) is required by Public Act 11-245 (Act) to adopt regulations concerning the siting of wind turbines on or before July 1, 2012. The Act requires the Council, in consultation with the former Department of Public Utility Control, now known as the Public Utilities Regulatory Authority, and the former Department of Environmental Protection, now known as the Department of Energy and Environmental Protection, to consider, at a minimum, setback considerations of tower height and distance from neighboring properties, shadow flicker, decommissioning of the facility at the end of its useful life, different requirements for projects of different sizes, ice throw, blade shear, noise, and impact on natural resources.

The Act also requires the Council to hold a public hearing on all applications and petitions for wind turbine projects. The Council is prohibited from acting on any application or petition for the siting of a wind turbine project until after the adoption of regulations in accordance with the Act.

Pursuant to C.G.S. §4-168a, the Council considered the impact of the proposed regulations on small businesses. Many of the entities that would come before the Council to propose a wind turbine project are small business entities. Under C.G.S. §16-50i(a)(3) of the Public Utility Environmental Standards Act, certain small business entities, defined as "private power producers" are exempt from Council jurisdiction. "Private power producers" are persons who own and operate "small power production facilities" that

utilize renewable energy sources primarily for the producer's own use that have a generating capacity of one megawatt of electricity or less. Small business entities that qualify as "private power producers" and plan to build small wind turbine projects that qualify as "small power production facilities" would be exempt from the proposed regulations.

Due to the specific requirements of the Act, the establishment of less stringent compliance or reporting requirements for small businesses is not feasible except for proposals from private power producers to build small wind turbine projects over which the Council does not have jurisdiction.

Due to the specific requirements of the Act, the establishment of less stringent schedules or deadlines for compliance or reporting requirements for small businesses is not feasible except for proposals from private power producers to build small wind turbine projects over which the Council does not have jurisdiction.

Due to the specific requirements of the Act, the consolidation or simplification of compliance or reporting requirements for small businesses is not feasible except for proposals from private power producers to build small wind turbine projects over which the Council does not have jurisdiction.

Due to the specific requirements of the Act, the establishment of performance standards for small businesses to replace design or operational standards required in the proposed regulations is not feasible except for proposals from private power producers to build small wind turbine projects over which the Council does not have jurisdiction.

Due to the specific requirements of the Act, the exemption of small businesses from all or any part of the requirements contained in the proposed regulations is not feasible except for proposals from private power producers to build small wind turbine projects over which the Council does not have jurisdiction.

The proposed regulations are promulgated to implement the minimum specific requirements prescribed in the Act. The compliance and reporting requirements under these proposed regulations are necessary to afford affected persons due process and to safeguard the public health, safety and welfare.