

Connecticut's Environmental Justice Law

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Issue

This report summarizes Connecticut's environmental justice statute ([CGS § 22a-20a](#)).

Summary

Enacted in 2008, the state's environmental justice law increased public participation in decisions to site or expand facilities, such as power plants, waste treatment facilities, disposal facilities, or large air emission producers, in certain municipalities and communities (see sidebox).

DEEP's Environmental Equity Policy

DEEP's Environmental Equity Policy works in conjunction with the state's environmental justice law to increase notice and participation in facility permitting processes. The policy preceded passage of the state law and requires that other facilities follow the public participation requirements.

Additional information about DEEP's policy is available on its [Environmental Justice Program website](#), including documents describing the public participation requirements and whether the law or the policy applies to a certain facility type.

The law requires applicants seeking a new or expanded Department of Energy and Environmental Protection (DEEP) or Connecticut Siting Council (Siting Council) certificate, permit, or siting approval for the facilities in an environmental justice community to (1) file and receive approval of a "meaningful public participation plan," which includes holding an informal public meeting, with DEEP or the Siting Council, and (2) consult with local officials to evaluate the need for a community environmental benefit agreement.

Under the law, an applicant must receive the regulatory authority's approval of its plan before filing an application for the certificate, permit, or siting approval. And the law prohibits the regulatory authority from taking action on an applicant's certificate, permit, or approval during the 60 days following the informal public meeting.

An "environmental justice community" is (1) a municipality on the Department of Economic and Community Development's list of distressed municipalities or (2) in a U.S. Census Bureau block group with at least 30% of the population living below 200% of the federal poverty level, excluding institutionalized residents.

Facilities Covered by the Law

The law applies to applicants seeking DEEP or Siting Council approval for the following facilities:

1. electric generation facilities with a capacity of more than 10 megawatts;
2. sludge or solid waste incinerators or combustors;
3. sewage treatment plants with a capacity of more than 50 million gallons per day;
4. intermediate processing centers, volume reduction facilities, or multitown recycling facilities with a combined monthly volume exceeding 25 tons;
5. new or expanded landfills, including those that have ash, construction and demolition debris, or solid waste;
6. medical waste incinerators; and
7. major sources of air pollution, as defined by the federal Clean Air Act (e.g., large factories).

It exempts certain facilities, such as those that received Siting Council approval by a certain date that preceded the law's passage and those under the control of the state's higher education system that receive a satisfactory environmental impact evaluation.

Required Actions for Applicants

The law requires an applicant seeking a certificate of environmental compatibility and public need under the Public Utility Environmental Standards Act, a permit, or siting approval from DEEP or the Siting Council for one of the above facilities to be located in an environmental justice community (or

for an expansion of an existing facility in these communities) to meet two requirements: approval of a meaningful public participation plan and consult with local officials about the need for a community benefit agreement.

Public Participation Plan

An applicant must file a meaningful public participation plan with DEEP or the Siting Council, as appropriate, and receive approval of it before filing an application for the certificate, permit, or approval.

The law specifies the contents of the public participation plan. The plan must state the efforts that will be taken to facilitate meaningful public participation, which under the law occurs when:

1. potentially affected residents have an appropriate opportunity to participate in decisions about the development of a proposed facility or expansion of an existing one when it may harm their environment or health,
2. public input may influence the regulatory agent's decision, and
3. the applicant seeks out and facilitates the participation of those potentially affected.

The plan must provide a time and a place convenient to the environmental justice community's residents where an informal public meeting will be held. It must provide any methods by which the applicant will publicize the meeting, beyond the required newspaper and online notice (see below), which may include such things as reasonably visible signs or providing written notice to neighborhood and environmental groups or elected officials.

The plan must also have a certification that the applicant will carry it out.

Required Notice. The law requires an applicant to publish the date, time, and scope of the informal public meeting at least 10 days, but not greater than 30 days, before the meeting in a general circulation newspaper in the affected area or other appropriate newspaper. This notice must be at least one-quarter page and in the Monday issue for a daily publication, or in any day's issue for a weekly or monthly publication.

A similar notice must be posted on the applicant's website, if it has one.

Public Meeting. Under the law, the applicant must make a “reasonable and good faith effort” at the informal public meeting to provide clear, accurate, and complete information about (1) the proposed facility or any expansion to an existing facility and (2) any related potential environmental and health impacts.

If the Siting Council approves a meaningful public participation plan and there was an informal public meeting as part of that process, DEEP may approve the plan and waive the need for an additional public meeting.

Community Benefit Agreement

The second requirement is for the applicant to consult with officials of the town or towns where the facility will be located or expanded to evaluate the need for a community environmental benefit agreement.

This agreement is a written agreement between the potentially affected town and the facility’s owner or developer whereby the owner or developer agrees to develop the property and provide financial resources to mitigate environmental and health impacts on the community that are reasonably related to the facility, including traffic, parking, and noise.

The law provides that mitigation may include both on-site and off-site improvements, activities, and programs and gives several examples of mitigation efforts. Efforts provided in the law’s nonexhaustive list include funding for activities such as environmental education, diesel pollution reduction, biking and walking trail construction, park staffing, urban forestry, community garden support, and any other negotiated environmental benefit in the community.

The law requires that, prior to agreement negotiations, the town must provide a reasonable and public opportunity for affected residents to be heard on the need for, and terms of, the agreement.

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