



General Assembly

Amendment

January Session, 2021

LCO No. 9385



Offered by:

REP. MICHEL, 146th Dist.
REP. REYES, 75th Dist.
REP. HENNESSY, 127th Dist.
REP. SIMMS, 140th Dist.
REP. VARGAS, 6th Dist.

To: Subst. House Bill No. 6551

File No. 529

Cal. No. 382

"AN ACT CONCERNING ENVIRONMENTAL AIR QUALITY."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 22a-20a of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective from passage*):

5 (a) As used in this section:

6 (1) "Environmental justice community" means (A) a United States
7 census block group, as determined in accordance with the most recent
8 United States census, for which thirty per cent or more of the population
9 consists of low income persons who are not institutionalized and have
10 an income below two hundred per cent of the federal poverty level; [or]
11 (B) a distressed municipality, as defined in subsection (b) of section 32-
12 9p; (C) at least thirty per cent of the residents identify as minority or as

13 members of a state recognized tribal community; or (D) at least five per
14 cent of the households have limited English proficiency;

15 (2) "Affecting facility" means any (A) electric generating facility with
16 a capacity of more than ten megawatts; (B) sludge or solid waste
17 incinerator or combustor; (C) sewage treatment plant with a capacity of
18 more than fifty million gallons per day; (D) intermediate processing
19 center, volume reduction facility, solid waste transfer station, resource
20 recovery facility, transfer stations, recycling, compost or multitown
21 recycling facility with a combined monthly volume in excess of twenty-
22 five tons; (E) new or expanded landfill, including, but not limited to, a
23 landfill that contains ash, construction and demolition debris or solid
24 waste; (F) medical waste incinerator; [or] (G) major source of air
25 pollution, as defined by the federal Clean Air Act; (H) qualified data
26 center, as defined in section 3 of this act, (I) demolition debris storage
27 area and contractor yards that store sand or silica, or (J) car or metal
28 scrap yards. "Affecting facility" shall not include (i) the portion of an
29 electric generating facility that uses nonemitting and nonpolluting
30 renewable resources such as wind, solar and hydro power or that uses
31 fuel cells, (ii) any facility for which a certificate of environmental
32 compatibility and public need was obtained from the Connecticut Siting
33 Council on or before January 1, 2000, or (iii) a facility of a constituent
34 unit of the state system of higher education that has been the subject of
35 an environmental impact evaluation in accordance with the provisions
36 of sections 22a-1b to 22a-1h, inclusive, and such evaluation has been
37 determined to be satisfactory in accordance with section 22a-1e;

38 (3) "Meaningful public participation" means (A) residents of an
39 environmental justice community have an appropriate opportunity to
40 participate in decisions about a proposed facility or the expansion of an
41 existing facility that may adversely affect such residents' environment
42 or health; (B) the public's participation [may] shall influence the
43 regulatory agency's decision; and (C) the applicant for a new, modified
44 or expanded permit, certificate or siting approval seeks out and
45 facilitates the participation of those potentially affected during the
46 regulatory process; [and]

47 (4) "Community environmental benefit agreement" means a written
48 agreement entered into by the chief elected official or town manager of
49 a municipality and an owner or developer of real property whereby the
50 owner or developer agrees to develop real property that is to be used
51 for any new or expanded affecting facility and to provide financial
52 resources for the purpose of the mitigation, in whole or in part, of
53 impacts reasonably related to the facility, including, but not limited to,
54 impacts on the environment, including, but not limited to, air quality,
55 water quality, public access to open space and watercourses, quality of
56 life, asthma and other respiratory illness rates, risk of toxic exposure
57 traffic, safety hazards, parking and noise; [.]

58 (5) "Limited English proficiency" means (A) individuals who do not
59 speak English as their primary language, (B) individuals who have a
60 limited ability to read, speak, write, or understand English, or (C) both;
61 and

62 (6) "Cumulative environmental or public health stressors" means
63 impacts to the natural environment and public health from past, present
64 and foreseeable future human activities and environmental conditions.

65 (b) (1) Applicants who, on or after January 1, 2009, seek to obtain any
66 certificate under chapter 277a, new or expanded permit or siting
67 approval from the Department of Energy and Environmental Protection
68 or the Connecticut Siting Council involving an affecting facility that is
69 proposed to be located in an environmental justice community or the
70 proposed expansion of an affecting facility located in such a community,
71 shall (A) file a meaningful public participation plan with such
72 department or council and shall obtain the department's or council's
73 approval of such plan prior to filing any application for such permit,
74 certificate or approval; and (B) consult with the chief elected official or
75 officials of the town or towns in which the affecting facility is to be
76 located or expanded to evaluate the need for a community
77 environmental benefit agreement in accordance with subsection (d) of
78 this section.

79 (2) Each such meaningful public participation plan shall contain
80 measures to facilitate meaningful public participation in the regulatory
81 process and a certification that the applicant will undertake the
82 measures contained in the plan. Such plan shall identify a time and place
83 where an informal public meeting will be held that is convenient for the
84 residents of the affected environmental justice community. In addition,
85 any such plan shall identify the methods, if any, by which the applicant
86 will publicize the date, time and nature of the informal public meeting
87 in addition to the publication required by subdivision (3) of this
88 subsection. Such methods shall include, but not be limited to, (A)
89 posting a reasonably visible sign on the proposed or existing facility
90 property, printed in English, in accordance with any local regulations
91 and ordinances, (B) posting a reasonably visible sign, printed in all
92 languages spoken by at least fifteen per cent of the population that
93 reside within a one-half of a mile radius of the proposed or existing
94 facility, in accordance with local regulations and ordinances, and (C)
95 notifying local and state elected officials, in writing. Such methods may
96 include notifying neighborhood and environmental groups, in writing,
97 in a language appropriate for the target audience. The determination of
98 the percentage of persons that speak a language, for purposes of
99 subparagraph (B) of this subdivision, shall be made in accordance with
100 the most recent United States census.

101 (3) Not less than ten days prior to the informal public meeting and
102 not more than thirty days prior to such meeting, the applicant shall
103 publish the date, time and nature of the informal public meeting with a
104 minimum one-quarter page advertisement in a newspaper having
105 general circulation in the area affected, and any other appropriate local
106 newspaper serving such area, in the Monday issue of a daily publication
107 or any day in a weekly or monthly publication. The applicant shall post
108 a similar notification of the informal public meeting on the applicant's
109 web site, if applicable.

110 (4) At the informal public meeting, the applicant shall make a
111 reasonable and good faith effort to provide clear, accurate and complete
112 information about the proposed facility or the proposed expansion of a

113 facility and the potential environmental and health impacts of such
114 facility or such expansion.

115 (5) The Department of Energy and Environmental Protection or the
116 Connecticut Siting Council shall not take any action on the applicant's
117 permit, certificate or approval earlier than sixty days after the informal
118 public meeting. For any such application filed on or after November 1,
119 2020, if the applicant fails to undertake the requirements of
120 subparagraphs (B) to (D), inclusive, of subdivision (2) of this subsection
121 or subdivision (3) or (4) of this subsection, any such application shall be
122 deemed insufficient.

123 (6) In the event that the Connecticut Siting Council has approved a
124 meaningful public participation plan concerning a new or expanded
125 facility and an informal public meeting has been held in accordance with
126 this subsection, the Department of Energy and Environmental
127 Protection may approve such plan and waive the requirement that an
128 additional informal public meeting be held in accordance with this
129 subsection.

130 (c) Any municipality, owner or developer may enter into a
131 community environmental benefit agreement in connection with an
132 affecting facility. For any application filed on or after November 1, 2020,
133 for such an affecting facility that: (1) Requires a certificate under chapter
134 277a, or (2) constitutes a new or expanded permit or siting approval
135 from the Department of Energy and Environmental Protection or the
136 Connecticut Siting Council, and that is located in an environmental
137 justice community or is proposed to be located in such a community, the
138 applicant shall enter into such an agreement with the municipality if
139 there are five or more affecting facilities in such municipality at the time
140 such application is filed. Mitigation may include both on-site and off-
141 site improvements, activities and programs, including, but not limited
142 to: Funding for activities such as environmental education, diesel
143 pollution reduction, electric vehicle charging infrastructure
144 construction, establishment of a wellness clinic, ongoing asthma
145 screening, provision of air monitoring performed by a credentialed

146 environmental professional, performance of an ongoing traffic study,
147 watercourse monitoring, construction of biking facilities and multi-use
148 trails, staffing for parks, urban forestry, support for community gardens
149 or any other negotiated benefit to the environment in the environmental
150 justice community. Prior to negotiating the terms of a community
151 environmental benefit agreement, the municipality shall provide a
152 reasonable and public opportunity for residents of the potentially
153 affected environmental justice community to be heard concerning the
154 requirements of or need for, and terms of, such agreement.

155 (d) The chief elected official or town manager of a municipality shall
156 participate in the negotiations for any such community environmental
157 benefit agreement and shall implement, administer and enforce such an
158 agreement on behalf of the municipality, provided any such agreement
159 negotiated pursuant to this section on and after November 1, 2020, shall
160 be approved by the legislative body of the municipality prior to
161 implementation, administration and enforcement of such agreement.

162 (e) The terms of any community environmental benefit agreement
163 negotiated, entered into and approved in accordance with this section
164 on and after November 1, 2020, shall not constitute a separate and
165 distinct basis for a pleading to intervene in any administrative, licensing
166 or other proceeding pursuant to section 22a-19.

167 (f) There is established within the Department of Energy and
168 Environmental Protection the Environmental Justice Advisory Council.
169 The purpose and mission of the Environmental Justice Advisory
170 Council shall be to advise the Commissioner of Energy and
171 Environmental Protection on current and historic environmental
172 injustice, pollution reduction, energy, climate change mitigation and
173 resiliency, environmental health, and racial inequity, including but not
174 limited to, the following: (1) Integrating environmental justice
175 considerations into the programs, policies, and activities of the
176 Department of Energy and Environmental Protection to improve the
177 health and environment of environmental justice communities, in key
178 areas including, but not limited to, (A) rulemaking, (B) permitting

179 standards and processes, (C) compliance and enforcement, (D) science
180 and data, and (E) equitable program delivery; (2) providing
181 mechanisms for environmental justice communities to have a
182 meaningful opportunity to participate in any decision to allow in such
183 communities certain types of facilities which, by the nature of their
184 activity, have the potential to increase environmental and public health
185 stressors and, where appropriate, to limit the further placement and
186 expansion of such facilities in these communities; (3) developing a
187 model plan for community engagement and stakeholder outreach
188 centered around meaningful participation; and (4) strengthening the
189 Department of Energy and Environmental Protection's partnerships
190 with other governmental agencies, other states, tribal, or local
191 governments, regarding environmental justice issues.

192 (g) The Environmental Justice Advisory Council shall consist of the
193 following members who shall be appointed by the Commissioner of
194 Energy and Environmental Protection:

195 (1) Eight members of environmental justice communities and
196 Connecticut-based environmental advocacy organizations that are not
197 state agency employees. Environmental justice community
198 representatives shall be members of communities of color, low-income
199 communities and may include representatives of community-based
200 organizations with knowledge about or experience in environmental
201 justice, climate change, racial inequity or any other area determined by
202 the commissioner to be of value to the Environmental Justice Advisory
203 Council.

204 (2) Two members from large and small business and industry;

205 (3) Two members from municipalities;

206 (4) A member from the Department of Public Health;

207 (5) A member from the Department of Economic and Community
208 Development;

209 (6) A member from the Department of Housing; and

210 (7) A member from the Department of Transportation.

211 The Commissioner of Energy and Environmental Protection shall
212 appoint an additional member to the Environmental Advisory Council
213 for the furtherance of the purposes of the Environmental Justice
214 Advisory Council.

215 (h) (1) The Commissioner of Energy and Environmental Protection
216 and a representative of an environmental justice community who is not
217 a state agency employee shall be co-chairpersons of the Environmental
218 Justice Advisory Council.

219 (2) Each member of the Environmental Advisory Council shall serve
220 a term of two years or until his or her successor is appointed. A member
221 appointed to fill a vacancy shall serve the remainder of the term of the
222 member he or she is appointed to succeed. The members of the
223 Environmental Justice Advisory Council shall receive no compensation
224 for their services but shall be reimbursed for their expenses actually and
225 necessarily incurred in the performance of their duties hereunder within
226 available funds.

227 (3) The co-chairpersons shall convene the first meeting of the
228 Environmental Justice Advisory Council not later than three months
229 after the effective date of this section, with subsequent meetings
230 occurring not later than every month thereafter.

231 (4) The commissioner may establish subcommittees or working
232 groups of the Environmental Justice Advisory Council to address
233 specific topics, and such subcommittees and working groups may
234 include participants who are not members of the Environmental Justice
235 Advisory Council.

236 (5) Staffing for the Environmental Justice Advisory Council shall be
237 performed, insofar as practicable, by personnel of the Department of
238 Environmental Protection. The Environmental Justice Advisory Council

239 may request and shall receive from any state agency such assistance and
240 data as will enable it to properly carry out its activities hereunder and
241 effectuate the purposes set forth herein.

242 (6) The Department of Energy and Environmental Protection shall
243 submit to the joint standing committee of the General Assembly having
244 cognizance of matters relating to the environment, not later than
245 November 15, 2021, an interim report, and not later than February 15,
246 2022, a final report, in accordance with section 11-4a, detailing any
247 proposed legislative or rulemaking changes in furtherance of the
248 recommendations and purposes of the Environmental Justice Advisory
249 Council.

250 Sec. 2. (NEW) (*Effective July 1, 2021*) (a) For purposes of this section,
251 "qualified data center" means a facility that is developed, acquired,
252 constructed, rehabilitated, renovated, repaired or operated to house a
253 group of networked computer servers in one physical location or
254 multiple contiguous locations to centralize the storage, management
255 and dissemination of data and information pertaining to a particular
256 business or classification or body of knowledge.

257 (b) The owner or operator of any qualified data center who enters into
258 an agreement with the Commissioner of Economic and Community
259 Development on or after July 1, 2021, shall provide that every fossil fuel
260 burning emergency use generator used in connection with the operation
261 of such qualified data center, including any such generator used for
262 testing and maintenance, be of at least EPA Tier 2 standards and that
263 every fossil fuel burning nonemergency use generator used in
264 connection with the operation of such qualified data center: (1) Emit not
265 more than 0.72 g/KW-hr of nitrogen oxides and 0.036 g/KW-hr of
266 ammonia at all times, (2) exhaust from a stack that is greater than thirty-
267 four feet tall at all times, and (3) comply with applicable emissions
268 standards as set forth in 40 CFR 60, 40 CFR 63 and section 22a-174-1 of
269 the regulations of Connecticut state agencies at all times. Any exception
270 to the requirements of this section shall be approved by the
271 Commissioner of Energy and Environmental Protection.

272 (c) Not later than one hundred eighty days after commencement of
 273 operations, the owner or operator of any qualified data center described
 274 in subsection (b) of this section shall attain certification under one or
 275 more of the following green building standards: (1) BREEAM for New
 276 Construction or BREEAM In-Use; (2) ENERGY STAR; (3) Envision; (4)
 277 ISO 50001-energy management; (5) LEED for Building Design and
 278 Construction or LEED for Operations and Maintenance; (6) Green
 279 Globes for New Construction or Green Globes for Existing Buildings; (7)
 280 UL 3223; or (8) a program that is equivalent to those listed in
 281 subdivisions (1) to (7), inclusive, of this subsection and that is approved
 282 by the Commissioner of Economic and Community Development."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-20a
Sec. 2	<i>July 1, 2021</i>	New section