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State of Connecticut
REGULATION
of

NAME OF AGENCY

CONNECTICUT SITING COUNCIL

Concerning

SUBJECT MATTER OF REGULATION

Revision of Rules of Practice - Sections 16-50j-1 to 16-50z-4, inclusive; and Sections 22a-116-B-1 to 22a-116-B-10, inclusive, of the Regulations of Connecticut State Agencies.

Section 1. Section 16-50j-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-1. [Procedure governed These rules govern practice and procedure before the Connecticut siting council of the state of Connecticut under the applicable laws of the state of Connecticut and except where by statute otherwise provided. Additional regulations pertaining to hazardous waste proceedings appear in Secs. 22a-116-B-1—22a-116-B-11 and section 22a-122-1 of the Connecticut Regulations of State Agencies. Additional regulations pertaining to low-level radioactive waste management proceedings appear in Secs. 22a-163f-1—22a-163t(3)-3 of the Connecticut Regulations.]

Description of Organization

(a) General Course of Operations.

The Connecticut Siting Council (Council), formerly known as the Power Facility Evaluation Council, was established in the executive branch of the state government by Public Act 575 of the 1971 General Assembly. The Public Utility Environmental Standards Act (PUESA), Title 16, Chapter 277a of the Connecticut General Statutes, governs the operation of the Council.

The Council is charged with:

- (1) balancing the need for adequate and reliable public utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state and to minimize damage to scenic, historic, and recreational values;
- (2) providing environmental quality standards and criteria for the location, design, construction and operation of facilities for the furnishing of public utility services at least as stringent as the federal environmental quality standards and criteria, and technically sufficient to assure the welfare and protection of the people of the state;
- (3) encouraging research to develop new and improved methods of generating, storing, and transmitting electricity and fuel and of transmitting and receiving television and telecommunications signals with minimal damage to the environment;
- (4) promoting energy security;
- (5) promoting the sharing of towers for fair consideration wherever technically, legally, environmentally and economically feasible to avoid the unnecessary proliferation of towers in the state;

- (6) requiring annual forecasts of the demand for electric power, together with identification and advance planning of the facilities needed to supply that demand; and
(7) facilitating local, regional, state-wide and interstate planning.

(b) Public Participation.

The public may participate in the Council process in one of two ways: through party or intervenor status, or through a limited appearance by submission of oral or written comments to the Council. Information describing the types of participation is discussed in depth on the Council website, available at www.ct.gov/csc. The Council’s website provides information regarding pending and past proceedings, forms and instructions, and statements of policy. The public is welcome to contact Council staff and make requests for information during normal business hours from 8:30 AM to 4:30 PM each weekday except Saturdays, Sundays and holidays, either in person at the Council office located at 10 Franklin Square, New Britain, CT 06051, by phone at (860) 827-2935, by fax at (860) 827-2950 or by e-mail at siting.council@ct.gov.

Sec. 2. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-1a** as follows:

(NEW) Sec. 16-50j-1a. Procedure governed

Sections 16-50j-1 to 16-50z-4, inclusive, of the Regulations of Connecticut State Agencies govern practice and procedure before the Connecticut Siting Council under the applicable laws of the state of Connecticut and except where by statute otherwise provided. Additional regulations pertaining to hazardous waste proceedings and pertaining to low-level radioactive waste management proceedings appear in Title 22a of the Regulations of Connecticut State Agencies.

Sec. 3. Section 16-50j-2a of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-2a. Definitions

As used in Sections 16-50j-1 to 16-50z-4, inclusive, of the Regulations of Connecticut State Agencies, except as otherwise required by the context:

- [(a)](1) “Associated equipment” [means] includes, but is not limited to:
(A) any building, structure, fuel tank, backup generator, antenna, satellite dish, or technological equipment, including equipment intended for sending or receiving radio frequency signals [to or from satellites,] that is [an integral part of] a necessary component for the operation of a community antenna television tower or telecommunications tower; or
(B) any building, structure, fuel tank, backup generator, transformer, circuit breaker, disconnect switch, control house, cooling tower, pole, line, cable, conductor or emissions equipment that is a necessary component for the operation of an electric transmission line facility, fuel transmission facility, electric generating or storage facility, or electric substation or switchyard.

[(b)] (2) “Attorney” means an attorney at law, duly admitted to practice before the [superior court] Superior Court of the state of Connecticut. Any other person who appears before the [council] Council in any contested case or petition for a declaratory ruling shall be deemed to appear as the agent or representative of a person, firm, corporation, or association upon filing with the [council]

Council a written notification of appearance and the written authorization of the person, firm, corporation, or association being represented.

[(c)] (3) “Certificate” means a certificate of environmental compatibility and public need as described by Section 16-50k of the Connecticut General Statutes or a certificate of public safety and necessity [as those terms are used in sections 16-50k, 22a-117 and 22a-163g of the General Statutes] as described by Section 22a-117 of the Connecticut General Statutes to be issued, denied, conditioned, limited, modified, or amended, in accordance with the disposition of applications authorized by law to be submitted to [council] the Council.

[(d)] (4) “Chairperson” means the public member of the [council] Council appointed pursuant to the provisions of [section] Section 16-50j[(d)] of the [General Statutes of Connecticut] Connecticut General Statutes.

(5) “Collocation” means the mounting or installation of antennas and associated equipment on an existing tower or other structure for the purpose of transmitting or receiving radio frequency signals for communications purposes that is unlikely to have a significant adverse environmental effect and does not increase the tower height.

(6) “Component” means a part of a mechanical or electrical system.

[(e)] (7) “Contested case” means a [proceeding in the council’s disposition of matters delegated to its jurisdiction by law in which the legal rights, duties, or privileges of a party are determined by the council after an opportunity for a hearing in accordance with] contested case as defined in Section 4-166(2) of the [General Statutes of Connecticut] Connecticut General Statutes.

[(f)] (8) “Council” means the members of the Connecticut [siting council] Siting Council appointed under [section] Section 16-50j(b) and [section] Section 16-50j(c) of the [General Statutes of] Connecticut General Statutes and referred to in Section 16-50j(d) and [section] Section 22a-115 [and sections 22a-163—22a-163w, inclusive] of the Connecticut General Statutes.

[g] (9) "Facility" means

(1) an electric transmission line of a design capacity of 69 kilovolts or more, including associated equipment;

(2) a fuel transmission facility except a gas transmission line having a design capacity of less than 200 pounds per square inch gauge pressure;

(3) any electric generating or storage facility using any fuel, including nuclear materials, including associated equipment for furnishing electricity but not including a facility;

(A) owned and operated by a private power producer, as defined in section 16-243b of the General Statutes,

(B) which is a qualifying small power production facility or a qualifying cogeneration facility under the Public Utility Regulatory Policies Act of 1978, as amended, or a facility determined by the council to be primarily for a producer's own use, and

(C) which has, in the case of a facility utilizing renewable energy sources, a generating capacity of one megawatt of electricity or less and, in the case of a facility utilizing cogeneration technology, a generating capacity of 25 megawatts of electricity or less;

(4) any electric substation or switchyard designed to change or regulate the voltage of electricity at 69 kilovolts or more or to connect two or more electric circuits at such voltage, which substation or switchyard may have a substantial adverse environmental effect, as determined by the council, and other facilities which may have a substantial adverse environmental effect;

(5) community antenna television towers and head-end structures, including satellite dishes and other associated equipment, which may have a substantial adverse environmental effect; and

(6) telecommunications towers owned or operated by the state or a public service company as defined in section 16-1 of the General Statutes, or used for public cellular radio communications service as defined in section 16-50i of the General Statutes, which may have a substantial adverse environmental effect]

a facility as defined in Section 16-50i(a) of the Connecticut General Statutes.

(10) “Fuel” means a fuel as defined in Section 16a-17 of the Connecticut General Statutes.

[(h)] (11) “Hazardous waste facility” means land and appurtenances thereon or structures used for the disposal, treatment, management, storage, or recovery of hazardous waste as these terms are defined in [section] Section 22a-115 of the Connecticut General Statutes.

[(i)] (12) “Hearing” means a proceeding whereby witnesses may be examined, and oral or documentary evidence may be received.

[(j)] (13) “Intervenor” means a person other than a party, granted status as an intervenor by the Council in accordance with [Section 16-50j-15a of the Regulations of State Agencies] Section 16-50n of the Connecticut General Statutes.

[(k)] (14) “Limited appearance” means the type of participation in a contested case, and the rights prescribed therefor in accordance with the provisions of [sections] Sections 22a-120(b) [,16-50n, and Section 22a-16j] and 16-50n(f) of the Connecticut General Statutes [of Connecticut].

[(l)] (15) “Modification” means a significant change or alteration in the general physical characteristics of a facility, including, but not limited to, design, capacity, process or operation that the Council deems significant, except where a modification involves a temporary facility as [approved] determined by the [council] Council.

[(1)] (A) As defined pertaining to a hazardous waste facility “modification” means:

[(A)] (i) any change or alteration in the design, capacity, process or operation of an existing hazardous waste facility requiring a new permit from the [commissioner of environmental protection] Commissioner of Energy and Environmental Protection pursuant to chapter 445, 446d, or 446k of the Connecticut General Statutes, that the [council] Council deems significant, or

[(B)] (ii) any change or alteration in the approved design, capacity, process or operation of a hazardous waste facility constructed or operating pursuant to chapter 445 of the Connecticut General Statutes that the [council] Council deems significant. Such change or alteration may include, but is not limited to, a change or alteration in the volume or composition of hazardous waste managed at such facility. The routine maintenance, repair, or replacement of the individual components at a hazardous waste facility that is necessary for normal operation or a change or alteration at a hazardous waste facility ordered by a state official in the exercise of his or her statutory authority shall not be deemed to be a modification.

[(2)] (B) As defined pertaining to a low-level radioactive waste management facility, “Modification” means any change or alteration in the approved design, capacity, process or operation of a low-level radioactive waste management facility constructed or operating pursuant to [Secs. 22a-163—22a-163w, inclusive, of the General Statutes, that the council deems significant] the provisions of the Northeast Interstate Low-Level Radioactive Waste Management Compact, Sections 22a-161, et seq. of the Connecticut General Statutes. [Such change or alteration may include but is not limited to a change or alteration in the volume or composition of low-level radioactive waste managed at such facility. The routine maintenance, repair or replacement of the individual components at a low-

level radioactive waste management facility that is necessary for normal operation or a change or alteration at a low-level radioactive waste management facility ordered by a federal or state official in the exercise of his statutory authority shall not be deemed to be a modification.]

[(m)] (16) “Municipality” means a city, town, or borough of the state, and “municipal” has a correlative meaning.

[(n)] (17) “Party” means each person entitled to be a party in a contested case pursuant to the provisions of [section] Section 16-50n(a) of the Connecticut General Statutes [of Connecticut], or, in the event of a hazardous waste facility proceeding, pursuant to the provisions of [section] Section 22a-120(a) of the [General Statutes of Connecticut,] Connecticut General Statutes. [or, in the event of a low-level radioactive waste management facility proceeding, pursuant to the provisions of section 22a-163j of the General Statutes.]

[(o)] (18) “Person” means any [individual corporation, joint venture, public benefit corporation, political subdivision, governmental agency or authority, municipality, partnership, association, trust or estate, and any other entity, public or private, however organized. As defined in the event of a hazardous waste or low-level radioactive waste management facility proceeding, “person” means any individual, corporation, joint venture, public benefit corporation, the state and its agencies and political subdivisions, the federal government and its agencies, municipality, partnership, association, trust or estate, and any other entity, public or private, however organized.] person as defined in Section 16-50i of the Connecticut General Statutes except for proceedings under Chapter 445. For proceedings under Chapter 445, “person” means any person as defined in Section 22a-115 of the Connecticut General Statutes.

(19) “Presiding Officer” means the Chairperson of the Connecticut Siting Council, or the Chairperson’s designee.

[(p)] (20) “Regional Low-Level Radioactive Waste Management Facility” or “Low-Level Radioactive Waste Management Facility” means a facility to be located in Connecticut, including the land, buildings, equipment, and improvements authorized by the Northeast Interstate Low-level Radioactive Waste Commission to be used or developed for the receipt, treatment, storage, management, or disposal of the low-level radioactive wastes generated within the party states to the Northeast Interstate Low-level Radioactive Waste Management Compact as these terms are defined in [section] Section [22a-163a] 22a-161 of the Connecticut General Statutes.

(21) “Renewable Energy Sources” include, but are not limited to, solar photovoltaic, solar thermal, wind, ocean thermal, wave or tidal, geothermal, landfill gas, hydropower or biomass.

[(t)] (22) “[Tower] Site” means a contiguous parcel of property with specified boundaries, including, but not limited to, the leased area, right-of-way, access and easements on which [one or more CATV or telecommunications towers as defined in section 16-50j-2a of these regulations and associated equipment, if any, are or will be located] a facility and associated equipment are located, shall be located, or are proposed to be located.

[(q)] (23) “Tower” means a structure, whether free standing or attached to a building or another structure, that has a height greater than its diameter and that is high relative to its surroundings, or that is used to support antennas for sending or receiving radio frequency signals, or for sending or receiving signals to or from satellites, or any of these, which is or is to be:

[(1)] (A) used principally to support one or more antennas for receiving or sending radio frequency signals, or for sending or receiving signals to or from satellites, or any of these, and

[(2)] (B) owned or operated by the state [or], a public service company as defined in Section 16-1 of the Connecticut General Statutes, [or used for public cellular radio communications service as defined in section 16-50i of the General Statutes of Connecticut;] or a certified telecommunications provider, or used in a cellular system, as defined in Section 16-50i(a) of the Connecticut General Statutes.

[(r)] (24) "Tower Base" means the top of the foundation or equivalent surface [which will] that shall bear the vertical load of a tower[;].

[(s)] (25) "Tower Height" means the measurement from [the base of the tower] ground level to the highest point on the tower[;].

(26) "Tower Share" means collocation on a facility in accordance with Section 16-50aa of the Connecticut General Statutes.

Sec. 4. Section 16-50j-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-5. Computation of time

Computation of any period of time referred to in these rules begins with the first day following that on which the act which initiates such period of time occurs. The last day of the period so computed is to be included unless it is a day on which the office of the [council] Council is closed, in which event the period shall run until the end of the next following business day. When such period of time, with intervening Saturdays, Sundays and legal holidays counted, is five days or less, said Saturdays, Sundays and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation. The Council shall follow the state holiday calendar for such computations of time.

Sec. 5. Section 16-50j-8 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-8. Office

The principal office of the [council] Council is [136 Main Street, Suite 401] located at 10 Franklin Square, New Britain, Connecticut 06051. The office of the [council] Council is open from 8:30 a.m. to 4:30 p.m. each weekday except Saturdays, Sundays, and legal holidays.

Sec. 6. Section 16-50j-10 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-10. Identification of Communications

Communications should embrace only one matter, and should contain the name and address of the communicator and the appropriate [certificate] proceeding reference, if any there be, pertaining to the subject of the communication. When the subject matter pertains to a pending proceeding, the title of the proceeding and the docket or petition number should be given.

Sec. 7. Section 16-50j-12 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-12. Filing requirements

(a) Copies.

Except as may be otherwise required by these rules or by any other rules or regulations of the [council] Council or ordered or expressly requested by the [council] Council, at the time motions, petitions, applications, documents, or other papers are filed with the [council] Council, there shall be furnished to the [council] Council an original of such papers. In addition to the original, there shall also be filed 20 copies for the use of the [council] Council and its staff, unless a greater or lesser number of such copies is expressly requested by the [council] Council. An electronic version of the document may also be filed by e-mail if the parties and intervenors are reasonably able to do so. Electronic filing at siting.council@ct.gov is strongly encouraged.

(b) Forms.

Except for such forms as may from time to time be provided by the [council] Council and used where appropriate, motions, petitions, applications, documents, or other papers filed for the purpose of any proceeding before the [council] Council shall be printed or typewritten on paper cut or folded to letter size, 8 to 8½ inches wide. Width of margins shall be not less than one inch. [The impression shall be on only one side of the papers, unless printed, and shall be double spaced, except that quotations in excess of five typewritten lines shall be single spaced and indented. Mimeographed, multigraphed, photo-duplicated, or the like copies will be accepted as typewritten, provided all copies are clear and permanently legible.] The printed materials may be submitted double-sided and 1.5-line spaced. Maps, charts and other pictorial exhibits shall be submitted on only one side of the paper. All copies shall be clear and permanently legible. All such filings shall be sequentially paginated.

(c) Filing.

All motions, petitions, applications, documents, or other papers relating to matters requiring action by the [council] Council shall be filed at the office of the [council] Council, [136 Main Street, Suite 401,] 10 Franklin Square, New Britain, Connecticut 06051.

(d) State Agency Notification.

Pursuant to Section 8 of Public Act 07-242, each application shall be accompanied by proof of service of a copy of the application on the Department of Emergency Management and Homeland Security, or its successor agency, and any other state or municipal body as the Council may require, in addition to proof of service of a copy of the application on the enumerated departments under Section 16-50j(b)(6) of the Connecticut General Statutes. The Council shall consult with and solicit comments from the Department of Emergency Management and Homeland Security, or its successor agency, and any other state agency as the Council may require, in the same manner as the Council consults with and solicits comments from the enumerated departments under Section 16-50j(h) of the Connecticut General Statutes. The Council shall request state agency comments at the time a hearing notice is published and at the conclusion of a public hearing.

(e) Service List.

The Council shall prepare and make available a service list for each proceeding. Persons on the service list may elect to receive documents by e-mail or by U.S. Mail. Each service list shall:

(1) contain the name of each party, intervenor and participant in the proceeding and the date upon which status was granted;

(2) contain the names and addresses of the representatives of each party, intervenor and participant in the proceeding, if applicable;

(3) indicate whether each party, intervenor and participant has elected to be served by e-mail; and

(4) provide the e-mail address of every person in the proceeding who has elected to be served by e-mail.

(f) Service requirements.

(1) Every person shall serve a copy of a filed document to every person on the service list of the proceeding in which the document is to be filed. This subsection shall not apply to the filing of proprietary or critical energy infrastructure information for which a protective order may be sought.

(2) Each document presented for filing shall contain the following certification:

“I hereby certify that a copy of the foregoing document(s) was/were (method of service) to the following service list on (date).” Signature and printed name.

Sec. 8. Section 16-50j-13 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-13. Designation of parties

In issuing the notice of hearing, the [council] Council [will] shall name as parties those persons enumerated in and qualifying under [section] Section 16-50n(a), [subsections (1) – (3)] subdivisions (1) to (3), inclusive, of the Connecticut General Statutes [of Connecticut]. In the event of a hazardous waste facility proceeding, the [council will] Council shall name as parties those persons enumerated in and qualifying under [section] Section 22a-120(a) of the [General Statutes of] Connecticut General Statutes. [In the event of low-level radioactive waste management facility proceedings, the council will name as parties those persons enumerated in and qualifying under section 22a-163j of the General Statutes.] Any person named as a party may decline or withdraw such status upon notifying the [council] Council in writing of their intent not to participate as a party.

Sec. 9. Section 16-50j-14 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-14. Application to be designated a party.

(a) Filing of petition.

Any [other] person who proposes to be named or admitted as a party to any proceeding pursuant to Section 4-177a of the Connecticut General Statutes may file a written petition to be so designated [before the date of the hearing of the proceeding as a contested case, at the hearing, or before a ruling is made on a petition for a declaratory ruling] at least five days before the hearing. The five day filing requirement may be waived upon a showing of good cause.

(b) Contents of petition.

The petition shall state the name and address of the petitioner. It shall [describe the manner in which the petitioner claims to be substantially and specifically affected by] state facts that demonstrate that the petitioner’s legal rights, duties or privileges shall be specifically affected by the Council’s decision in the proceeding pursuant to Section 4-177a of the Connecticut General Statutes. It shall state the contention of the petitioner concerning the issue of the proceeding, the relief sought by the petitioner, and the statutory or other authority therefor,

and the nature of the evidence, if any, that the petitioner intends to present in the event that the petition is granted.

(c) Designation as party.

The [council] Council shall consider all such petitions and [will] shall name or admit as a party any person who is required by law to be a party and any other person whose legal rights, duties, or privileges [will] shall be [determined] specifically affected by the [council's] Council's [proceeding, if the council finds such person is entitled as of right to be a party to said proceeding, or that the participation of such person as a party is necessary to the proper disposition of said proceeding] decision in the proceeding. Any person named or admitted as a party may decline or withdraw such status at any time upon notifying the Council in writing of his or her intent not to participate as a party.

Sec. 10. Section 16-50j-15 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-15. [Limited appearance. At any time during a proceeding, at the Council's discretion, any person may make a limited appearance which shall entitle said person to file a statement in writing or make an oral statement, under oath or affirmation, at the hearing.] **Application to be designated an intervenor.**

(a) Filing of petition.

Any person who proposes to be named or admitted as an intervenor in any proceeding pursuant to Section 4-177a of the Connecticut General Statutes may file a written petition to be so designated at least five days before the date of the hearing. The five day filing requirement may be waived upon a showing of good cause.

(b) Contents of petition.

The petition shall state the name and address of the petitioner. It shall state facts that demonstrate the petitioner's participation shall furnish assistance to the Council in resolving the issues in the proceeding, is in the interests of justice and will not impair the orderly conduct of the proceedings pursuant to Section 4-177a of the Connecticut General Statutes. The petition shall provide a summary of the petitioner's contentions concerning the issues in the proceeding; the relief sought by the petitioner in the proceeding and the legal authority therefor; and the nature of the evidence, if any, that the petitioner intends to present in the event that the petition is granted.

(d) Designation as intervenor.

The Council shall determine the proposed intervenor's participation in the proceeding, taking into account whether such participation will furnish assistance to the Council in resolving the issues of the case, is in the interests of justice, and will not impair the orderly conduct of the proceedings. Any person named or admitted as an intervenor may decline or withdraw such status at any time upon notifying the Council in writing of his or her intent not to participate as an intervenor.

Sec. 11. Section 16-50j-15a of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-15a. [Application to be an intervenor (a) Request to participate. At any time prior to the commencement of oral testimony in a proceeding, any person may ask the council for permission to participate as an intervenor.

(b) **Contents of request.** In so requesting, the proposed intervenor shall state the person's name and address and shall describe the manner in which said person is affected by the proceeding. The proposed intervenor shall further state in what way and to what extent that person proposes to participate in the proceeding.

(c) **Designation as intervenor.** The council will determine the proposed intervenor's participation in the proceeding, taking into account whether such participation will furnish assistance to the council in resolving the issues of the case, is in the interests of justice, and will not impair the orderly conduct of the proceedings.]

Participation by intervenor.

The Council may limit the intervenor's participation pursuant to Section 4-177a of the Connecticut General Statutes, to designated issues in which the intervenor has a particular interest; to defined categories of records, physical evidence, papers and documents; to introduce evidence; and to cross examine on designated issues. The presiding officer may further limit the participation of an intervenor in the proceedings so as to promote the orderly conduct of the proceedings.

Sec. 12. Section 16-50j-15b of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-15b. [Participation by Intervenor. The intervenor's participation shall be limited to those particular issues, that state of the proceeding, and that degree of involvement in the presentation of evidence and argument that the Council shall expressly permit at the time such intervention is allowed.]

Limited Appearance.

(a) **Status of Limited Appearance.**

Pursuant to Section 4-177 and Section 16-50n of the Connecticut General Statutes, prior to, during or not later than 30 days after the close of a hearing, any person may make a limited appearance. All oral and written limited appearance statements shall become part of the record. No person making a limited appearance shall be a party or intervenor, or shall have the right to cross-examine witnesses, parties or intervenors. No party or intervenor shall have a right to cross-examine a person making a limited appearance. The Council may require a limited appearance statement to be given under oath.

(b) **Form of Limited Appearance.**

A limited appearance may be made in the following forms:

(1) a written statement submitted to the Council prior to, during or after the close of a hearing;

or

(2) an oral statement made during the public comment session of a hearing held after 6:30 PM pursuant to Section 16-50m of the Connecticut General Statutes.

Sec. 13. Section 16-50j-16 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-16. Procedure concerning added parties and intervenors

(a) **During proceeding.**

In addition to the designation of parties and intervenors in the initial notice and in response to petition, the [council] Council may add parties and intervenors at any time during the pendency of any proceeding [upon its finding that the legal rights, duties, or privileges of any person will be determined by the decision of the council after the proceeding or that the participation of such person as a party is necessary to the proper disposition of the case].

(b) Notice of designation.

In the event that the [council] Council shall name or admit any party or intervenor after service of the initial notice of hearing in a proceeding, the [council] Council shall give written notice thereof to all parties [or groups of parties] or intervenors theretofore named or admitted. The form of the notice shall be a copy of the order of the [council] Council naming or admitting such added party or intervenor and a copy of any petition filed by such added party or intervenor requesting designation as a party or intervenor. Service of such notice shall be in the manner provided in these rules.

(c) Participation by added parties and intervenors.

Any person granted party or intervenor status is responsible for obtaining and reviewing all materials for the proceeding, including, but not limited to, any notices, orders, filings, or other documents filed or issued in the proceeding prior to the Council's designation of the person as a party or intervenor.

Sec. 14. The Regulations of Connecticut State Agencies are amended by adding Section **16-50j-16a** as follows:

(NEW) Sec. 16-50j-16a. Grouping of parties and intervenors Pursuant to Section 16-50n of the Connecticut General Statutes, the Council may, in its discretion, provide for the grouping of parties and intervenors with the same interests. Any party or intervenor who has been included in a group may elect not to be a member of the group by submission of written notice to the Council.

Sec. 15. Section **16-50j-18** of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-18. Grant of hearing

A hearing [will] shall be held, where required by law, on all applications submitted pursuant to [Secs. 16-50l – 16-50q,] Sections 16-50l to 16-50q, inclusive, of the Connecticut General Statutes, [and] upon appeal as provided for in [section] Section 16-50x(d) of the Connecticut General Statutes [of Connecticut] and on any petition for a declaratory ruling that the Council orders to be set for specified proceedings pursuant to Section 4-176 of the Connecticut General Statutes. In the event of a hazardous waste facility proceeding, a hearing [will] shall be held on all applications submitted pursuant to [Secs. 22a-119 – 22a-122, inclusive] Sections 22a-117 to 22a-122, inclusive, of the Connecticut General Statutes. [In the event of a low-level radioactive waste management facility, a hearing will be held on all applications submitted pursuant to Secs. 22a-163i—22a-163m, inclusive, of the General Statutes.]

Sec. 16. Section **16-50j-20** of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-20. Place of hearings

Hearings shall be held at times and locations specified by the [council] Council pursuant to Sections 16-50m[,] and 22a-119 [,and 22a-163i] of the Connecticut General Statutes.

Sec. 17. Section **16-50j-21** of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-21. Notice of Hearings**(a) Persons notified.**

(1) [The council shall, within] Not later than one week [of] after the fixing of the date, or not less than 30 days prior to a hearing date, whichever is later, the Council shall, mail written notice of a hearing in any pending matter to all parties and intervenors, to all persons or groups of parties otherwise required by statute to be notified, to such other persons as have filed with the [council] Council their written request for notice of hearing in a particular matter, and to such additional persons as the [council] Council directs. The [council] Council shall give notice by newspaper publication and by such other means as it deems appropriate and advisable.

(2) The newspaper publication shall be published as specified in [subsection] Section 16-50m(c) of the [General Statutes of] Connecticut General Statutes.

(3) The applicant or petitioner shall post a sign that is visible to the public at least 10 days prior to the public hearing not less than six feet by four feet at or in the vicinity of where the proposed facility would be located informing the public of the name of the applicant or petitioner, the type of facility, the hearing date and location, and contact information for the Council.

(4) The applicant or petitioner shall provide notice of the date on or about which the application or petition will be filed with the Council to each person appearing of record as an owner of property that abuts the primary or alternative sites on which the proposed facility would be located. Pursuant to Section 16-50l of the Connecticut General Statutes, applicants shall publish notice of the date on or about which the application will be filed with the Council in such newspapers that will serve to substantially inform the public. The applicant or petitioner shall provide a copy of such proof of notice and publication, as applicable, in the application or petition that is submitted to the Council.

Sec. 18. Subsection (b) of Section 16-50j-21 of the Regulations of Connecticut State Agencies is amended to read as follows:

(b) **Contents of notice.** Notice of a hearing shall include, but shall not be limited to, the following:

- (1) a statement of the time, place, and nature of the hearing;
- (2) a statement of the legal authority and jurisdiction under which the hearing is to be held;
- (3) a reference to the particular sections of the statutes and regulations involved;
- (4) a short and plain statement of fact describing the nature of the hearing and the principal facts to be asserted therein; and
- (5) [in the event that the matter upon which a hearing is to be scheduled concerns the certification of or amendment to a certificate for a facility, such notice shall also state] the date, place and time for any scheduled [visits to the] field reviews [to] of the proposed site by the [council] Council.

Sec. 19. Section 16-50j-22 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-22. Representation of Parties

Each person making an appearance before the [council] Council as an attorney, agent, or representative of any person, firm, corporation, or association subject to the [council's] Council's regulatory jurisdiction in connection with any contested case or petition for a declaratory ruling shall promptly notify the [council] Council in writing in order that the same may be made a part of the record of the contested case or petition for a declaratory ruling.

Sec. 20. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-22a** as follows:

(NEW) Sec. 16-50j-22a. Conduct of Proceedings.

(a) Procedural Conferences.

The Council may schedule a procedural conference either on its own initiative or upon written request by a party or intervenor. At such conference, the Council shall consider matters including, but not limited to:

- (1) The schedule for the proceeding;
- (2) The exchange of pre-hearing interrogatories and pre-filed testimony, exhibits, witness lists and items to be administratively noticed in the proceeding;
- (3) The location(s) of the sign(s) to be erected pursuant to Section 16-50j-21(a)(3) of the Regulations of Connecticut State Agencies; and
- (4) Any other matters that may facilitate the proceeding.

(b) Motions.

Any party or intervenor may request that the Council take any action by filing a motion which clearly states the action sought and the grounds therefor. Any motions concerning jurisdictional matters shall be made in writing and shall be considered during a regular Council meeting either prior to or after a hearing, if a hearing is held, for the convenience of the public. Motions may be filed in writing not less than 10 days before a hearing or made during a hearing, if a hearing is held. A party or intervenor may file a written response not less than 7 days before a hearing or respond orally during a hearing, if a hearing is held. If a hearing is not held, written motions shall be filed and responded to in accordance with a schedule specified by Council staff. A copy of all written motions shall be served upon the service list.

(c) Discovery.

The purpose of discovery is to provide the Council, parties and intervenors access to all relevant information in an efficient and timely manner to ensure that a complete and accurate record is compiled. Parties and intervenors may serve written information requests only during the time specified by the Council. The Council may serve written information requests on any party or intervenor to the proceeding at any time. The presiding officer may subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in a contested case pursuant to Section 4-177b of the Connecticut General Statutes. Responses to information requests shall be separately and fully answered under the penalties of perjury by the witness who shall testify during the hearing as to the content of the response. Objections to information requests may be submitted in lieu of a response.

(d) Protective Orders.

Pursuant to Section 16-50o and Section 16-50r of the Connecticut General Statutes, any party or intervenor may file a motion for a protective order in accordance with the filing procedures of the Council for the following types of information:

- (1) Trade secrets and commercial or financial information as described under Section 1-210(b) of the Connecticut General Statutes; or
- (2) Critical energy infrastructure information defined as specific engineering, vulnerability or detailed design information about proposed or existing critical infrastructure that:

- (A) relates to details about the production, generation, transportation, transmission or distribution of energy;
- (B) could be useful to a person in planning an attack on critical infrastructure;
- (C) is exempt from mandatory disclosure under Section 1-210(b) of the Connecticut General Statutes; and
- (D) does not simply give the general location of critical infrastructure.

Sec. 21. Section 16-50j-25 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-25. General provisions

(a) **Purpose of hearing.**

The purpose of the hearing in a contested case or a petition for a declaratory ruling shall be to provide all parties an opportunity to present evidence and cross-examine all issues to be considered by the [council] Council and to provide all intervenors an opportunity to present evidence and cross-examine such issues as the [council] Council permits.

(b) **Uncontested disposition of case.**

Unless precluded by law, any contested case may be resolved by stipulation, agreed settlement, consent order, or default upon order of the [council] Council. Upon such disposition, a copy of the order of the [council] Council shall be served on each party and intervenor.

(c) **Pre-Filed Evidence and Testimony.**

At the discretion of the [council] Council, any evidence or testimony may be required to be pre-filed by a date specified by the [council] Council. All pre-filed evidence and testimony shall be received in evidence with the same force and effect as though it were stated orally by the witnesses, provided that each such witness shall be present at the hearing at which such prepared written testimony is offered, shall adopt such written testimony under oath, and shall be made available for cross-examination as directed by the [council] Council.

Sec. 22. Section 16-50j-26 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-26. Record

(a) The record in each contested case and petition for declaratory ruling shall be maintained by the [council] Council in the custody of the [council's] Council's designee and shall include the following:

(1) any notices, petitions, applications, orders, decisions, motions, briefs, exhibits, and any other documents that have been filed with the [council] Council or issued by the [council] Council in written form;

(2) all written evidence of any kind received and considered by the [council] Council;

(3) any questions and offers of proof, together with any objections and rulings thereon during the course of the hearing;

(4) the official transcript of the hearing. The [council] Council [will] shall not be required to include in the transcript duplications of other portions of the record; and

(5) any proposed final decision and exceptions thereto, and the final decision.

(b) A copy of the record shall [also] be available at all reasonable times for examination by the public without cost at the principal office of the [council] Council.

(c) A copy of the transcript of testimony at the hearing shall be filed at an appropriate public office, as determined by the [council] Council, in each county [in which] where the facility or any part thereof is proposed to be located.

Sec. 23. Section 16-50j-28 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-28. Rules of evidence [The following rules of evidence shall be followed in contested cases] In accordance with Section 4-178 of the Connecticut General Statutes, the following rules of evidence shall be followed in contested cases:

(a) **Rules of privilege.**

The [council] Council shall give effect to the rules of privilege recognized by law in Connecticut. Subject to these requirements and subject to the right of any party or intervenor to cross examine, any testimony may be received in written form.

(b) [**Documentary evidence.** Documentary evidence may be received at the discretion of the council in the form of copies or excerpts, if the original is found not readily available. Upon request by any party or intervenor, an opportunity shall be granted to compare the copy with the original, which shall be subject to production by the person offering such copies. Any documentary evidence that is admitted in the form of a copy or excerpt may be stricken at the discretion of the council upon the failure to produce the original thereof upon finding that the interest of any party or intervenor will be prejudiced substantially thereby.]

Relevance.

The Council may exclude evidence that is not probative or material and that tends not to prove or disprove a matter in issue.

(c) [**Cross examination.** Cross examination may be conducted by any party or intervenor if it is required by the council for full and true disclosure of the facts and is not repetitious or unnecessarily cumulative. If the council proposes to consider a limited appearance statement as evidence, the council may give all parties and intervenors an opportunity to challenge or rebut the statement and to cross-examine the person who makes the statement.]

Testimony.

Pursuant to Section 16-50j-25 of the Regulations of Connecticut State Agencies, in its discretion, the Council may accept any oral or written testimony.

(d) [**Facts noticed, council records.** The council may take notice of judicially cognizable facts, including prior decisions and orders of the council. Any exhibit admitted as evidence by the council in a prior hearing of a contested case may be offered as evidence in a subsequent contested case and admitted as an exhibit therein; but the council shall not deem such exhibit to be judicially cognizable in whole or in part and shall not consider any facts set forth therein unless such exhibit is duly admitted as evidence in the contested case then being heard.]

Documentary Evidence.

Pre-filed testimony and other documentary evidence shall be produced under oath. Such evidence shall be received by the Council in written form to expedite the public hearing.

(e) [**Facts noticed, procedure.** The council may take notice of generally recognized technical or scientific facts within the council's specialized knowledge. Parties and intervenors shall be afforded an opportunity to contest the material so noticed by being notified before or during the hearing by an appropriate reference in preliminary reports or otherwise of the material noticed. This provision shall also apply to material noticed in any staff

memoranda or data that may be submitted to the council for its consideration in the determination of a contested case. The council shall nevertheless employ its experience, technical competence, and specialized knowledge in evaluating evidence presented at the hearing for the purpose of making its finding of facts and arriving at a decision in any contested case.]

Cross examination.

Cross examination may be conducted by any party or intervenor if it is required by the Council for full and true disclosure of the facts. Witnesses may be cross-examined on any pre-filed testimony and documents submitted as evidence. If the Council proposes to consider a limited appearance statement as evidence, the Council shall give all parties and intervenors an opportunity to challenge or rebut the statement and to cross-examine the person who makes the statement.

(f) **Administrative Notice.**

The Council may take administrative notice of facts in accordance with Section 4-178 of the Connecticut General Statutes, including prior decisions and orders of the Council and any exhibit admitted as evidence by the Council in a prior hearing of a contested case.

Sec. 24. Subsection (b) of Section 16-50j-32 of the Regulations of Connecticut State Agencies is amended to read as follows:

(b) **Service.**

Parties and intervenors shall be served in the manner herein provided with a copy of the findings of fact, opinion, and decision and order of the [council] Council. A notice of the issuance of the opinion and decision and order shall be published once in each newspaper in which was printed the notice of [application under section 16-50j-13 of these rules] public hearing.

Sec. 25. Subsection (a) of Section 16-50j-37 of the Regulations of Connecticut State Agencies is amended to read as follows:

(a) **Decision on petition.**

[Upon receipt of the petition the council shall within 60 days] Not later than 30 days after receipt of a petition for regulation pursuant to Section 4-174 of the Connecticut General Statutes, the Council shall [determine whether to] deny the petition in writing or [to] initiate regulation-making proceedings in accordance with [law] Section 4-168 of the Connecticut General Statutes.

Sec. 26. Section 16-50j-39 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-39 [Form of petition for declaratory ruling] Filing Requirements.

(a) **General.**

Any interested person may at any time request a declaratory ruling of the [council] Council with respect to the applicability to such person of any statute, or the validity or applicability of any regulation, final decision, or order enforced, administered, or promulgated by the [council] Council. Such request shall be addressed to the [council] Council and sent to the principal office of the [council] Council by mail or delivered in person during normal

business hours. [The request shall be signed by the person in whose behalf the inquiry is made. It shall give the address of the person inquiring and the name and address of such person's attorney, if applicable.] The request shall state clearly and concisely the substance and nature of the request; it shall identify the statute, regulation, final decision, or order concerning which the inquiry is made and shall identify the particular aspect to which the inquiry is directed. The request for a declaratory ruling shall be accompanied by a statement of any [supporting] data, facts, and arguments that support the position of the person making the inquiry. Where applicable, [Secs. 16-50j-13 – 16-50j-17] Sections 16-50j-13 to 16-50j-17, inclusive, of the Regulations of Connecticut State Agencies govern requests for participation in the proceeding.

(b) Form and content.

The form to be followed in the filing of petitions may vary to the extent necessary to provide for the nature of the legal rights, duties, or privileges involved therein, and to the extent necessary to comply with statutory requirements. Nevertheless, all petitions shall include the following components:

- (1) the purpose for which the petition is being made;
- (2) the statutory authority for such petition;
- (3) the exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person. If any petitioner is a corporation, trust association, or other organized group, it shall also give the state under the laws of which it was created or organized;
- (4) the name, title, address, and telephone number of the attorney or other person to whom correspondence or communications in regard to the petition are to be addressed. Notice, orders, and other papers may be served upon the person so named, and such service shall be deemed to be service upon the petitioner;
- (5) such information as may be required under the applicable provisions of the Uniform Administrative Procedure Act, chapter 54 of the Connecticut General Statutes and the Public Utilities Environmental Standards Act, chapter 277a of the Connecticut General Statutes;
- (6) such information as any department or agency of the state exercising environmental controls may, by regulation require;
- (7) such information as the petitioner may consider relevant; and
- (8) such additional information as the Council may request.

Sec. 27. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-39a** as follows:

(NEW) Sec. 16-50j-39a. Completeness Review

(a) Submission of Petition for Declaratory Ruling to the Council.

No declaratory ruling shall be issued to any person until a complete petition containing all information deemed relevant by the Council has been filed. Relevant information shall at a minimum include that listed in Section 16-50j-39 of the Regulations of Connecticut State Agencies unless an explanation of irrelevancy is provided for any item omitted from a petition. The Council will reserve final judgment of an item's relevancy.

(b) Notification of Completeness.

No later than 30 days after receipt of a petition for declaratory ruling, the Council shall notify the petitioner in writing as to the lack of completeness of the petition. If a petitioner fails or refuses to correct any deficiencies in the manner directed and within the time prescribed by the Council, the petition may be refused for lack of proper submission.

Sec. 28. Section 16-50j-40 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-40. Procedure after petition filed

(a) Notice to other persons.

Prior to submitting a petition for a declaratory ruling to the Council, the petitioner shall, where applicable, provide notice to each person other than the petitioner appearing of record as an owner of property which abuts the proposed primary or alternative sites of the proposed facility, each person appearing of record as an owner of the property or properties on which the primary or alternative proposed facility is to be located, and the appropriate municipal officials and government agencies. Proof of such notice shall be submitted with the petition for declaratory ruling. These notice requirements are applicable to proposed facilities that, by statute, are required to be approved by a declaratory ruling in lieu of a certificate under Section 16-50k of the Connecticut General Statutes, and to petitions for a declaratory ruling that the subject of the petition does not constitute a facility. The term “appropriate municipal officials and government agencies” means, in the case of a facility required to be approved by declaratory ruling, the same officials and agencies to be noticed in the application for a certificate under Section 16-50l of the Connecticut General Statutes. Petitioners seeking a declaratory ruling where the subject of the petition is not a facility, shall serve notice to the chief elected official of the municipality where the proposed project is located in whole or in part. Within 30 days after receipt of a petition for a declaratory ruling, the [council] Council shall give notice of the petition to all persons to whom notice is required by any provision of law and to all persons who have requested notice of declaratory ruling petitions on the subject matter of the petition. The notice provided by the Council shall provide contact information for the Council, a timeline for public involvement and the date, place and time for any scheduled field review of the proposed project. The [council] Council may receive and consider data, facts, arguments, and opinions from persons other than the persons requesting the ruling.

(b) Provision for hearing.

If the [council] Council deems a hearing necessary or helpful in determining any issue concerning the request for a declaratory ruling, the [council] Council shall schedule such hearing and give such notice thereof as shall be appropriate. The contested case provisions of [article 2 of] Sections 16-50j-13 to 16-50j-34, inclusive, of the Regulations of Connecticut State Agencies shall govern the practice and procedure of the [council] Council in any hearing concerning a declaratory ruling.

(c) Decision on petition.

Within 60 days after receipt of a petition for a declaratory ruling, the [council] Council in writing shall: (1) issue a ruling declaring the validity of a regulation or the applicability of the provision of the Connecticut General Statutes, the regulation, or the final decision in question to the specified proceedings; (2) order the matter set for specified proceedings; (3) agree to issue a declaratory ruling by a specified date; (4) decide not to issue a declaratory ruling and initiate regulation-making proceedings, under [section] Section 4-168 of the Connecticut General Statutes, on the subject; or (5) decide not to issue a declaratory ruling, stating the reasons for its action.

(d) Decision.

A copy of all rulings issued and any actions taken under subsection (c) of this section shall be promptly delivered to the petitioner and other parties and intervenors personally or by United States mail, certified or registered, postage prepaid, return receipt requested. A declaratory

ruling shall contain the names of all parties and intervenors to the proceeding, the particular facts on which it is based, and the reasons for its conclusion.

Sec. 29. Section 16-50j-41 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-41. Council investigations

The [council] Council may at any time [institute] initiate investigations and enforcement actions pursuant to Section 16-50u of the Connecticut General Statutes. Orders [instituting] initiating the investigation shall indicate the nature of the matters to be investigated and [will] shall be served upon any person being investigated. Upon direction by the [council] Council said person shall file with the [council] Council such data, facts, arguments and statement of position as shall be necessary to respond to the inquiry of the [council] Council. The presiding officer may subpoena witnesses and require the production of records, physical evidence, papers and documents to any hearing held in a contested case pursuant to Section 4-177b of the Connecticut General Statutes. A motion for a protective order may be filed with the Council if the Council requests information that may qualify as trade secrets or commercial or financial information as described under Section 1-210(b) of the Connecticut General Statutes, or critical energy infrastructure information.

Sec. 30. Section 16-50j-42 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-42. Procedure

The rules of practice and procedure set forth in [article 2] Sections 16-50j-13 to 16-50j-34, inclusive, of the Regulations of Connecticut State Agencies for a contested case proceeding shall govern any hearing held for the purpose of such an investigation.

Sec. 31. Section 16-50j-43 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-43. Intervention under the Environmental Protection Act of 1971

Any person or other legal entity authorized by or qualifying under the provisions of [Secs. 22a-14 -- 22a-20 of the general statutes of Connecticut] Sections 22a-14 to 22a-20, inclusive, of the Connecticut General Statutes to intervene as a party in any proceeding before the [council] Council shall do so in accordance with the provisions of these rules and regulations as they may be applicable.

Sec. 32. Sections 16-50j-44 to 16-50j-59, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

[Secs. 16-50j-44 -- 16-50j-59. Reserved] Secs. 16-50j-45 to 16-50j-55. Reserved

Sec. 33. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-44** as follows:

(NEW) Sec. 16-50j-44. Transferability of Certificates

(a) No certificate may be transferred without approval of the Council pursuant to Section 16-50k of the Connecticut General Statutes.

(b) Any person desiring to transfer a certificate shall jointly submit with the proposed transferee an application to the Council. Such application shall, at a minimum, include the date on which such transfer was agreed upon by the parties to the transfer, an explanation of the reasons for the proposed transfer, and the same information about the transferee which is required of an applicant for a certificate.

(c) The proposed transferee shall agree, in writing, to comply with the terms, limitations, and conditions contained in the certificate.

(d) The Council shall not approve any transfer if it finds:

(1) That such transfer was contemplated at or prior to the time the certificate was issued and that such fact was not adequately disclosed during the certification proceeding; or

(2) That the transferor or transferee, or both, are not current with payments to the Council for their respective annual assessments and invoices under Section 16-50v of the Connecticut General Statutes.

Sec. 34. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-56** as follows:

(NEW)

ARTICLE 4
ENERGY FACILITIES
Part 1
Rules of Practice

Sec. 16-50j-56. Finding

Pursuant to Section 16-50i (a) (1) to (4), inclusive, of the Connecticut General Statutes, the Council finds that each energy site and its associated equipment except as specified in Section 16-50j-57 of the Regulations of Connecticut State Agencies may have a substantial adverse environmental effect and therefore is a facility, and any modification, as defined in section 16-50j-2a(m) of the Regulations of Connecticut State Agencies, to an existing energy site, except as specified in Section 16-50j-57 of the Regulations of Connecticut State Agencies may have a substantial adverse environmental effect.

Sec. 35. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-57** as follows:

(NEW) **Sec. 16-50j-57. Exemptions**

(a) **Exemptions.**

A facility or any modification to a facility that the Council, or its designee, has determined satisfies the criteria of this section shall be deemed not to have a substantial adverse environmental effect and shall not require a certificate pursuant to Section 16-50k of the Connecticut General Statutes. Facilities or modifications to facilities, including, but not limited to, installation or change-out of circuit breakers, disconnects, transformers, buses and appurtenant equipment, upon Council acknowledgment or acknowledgment of its designee, may qualify for such exemption.

(1) An energy component and associated equipment installed adjacent to a damaged or inoperable existing energy component and associated equipment in order to maintain continuity of service shall not constitute a facility provided that:

(A) such energy component and associated equipment shall be removed at the earliest practicable time but in no event later than one year after installation, unless otherwise approved by the Council or unless exempt under subsection (b) of this section, in which event the existing damaged or inoperable energy component and associated equipment shall be removed no later than one year after installation of the new energy component and associated equipment;

(B) the owner or operator of such energy component and associated equipment shall give the property owner of record, if the property owner of record is different from the owner or operator of such component and associated equipment, and the chief elected official of the municipality in which the energy component and associated equipment is located, written notice of the installation or proposed installation of such energy component and associated equipment. The owner or operator of such energy component and associated equipment shall provide the Council with written proof of service of the written notice to the property owner of record, if the property owner of record is different from the owner or operator of such component and associated equipment, and the municipality in which the energy component and associated equipment is located. Notice to all parties shall include the following:

(i) the location of such energy component and associated equipment,

(ii) the reason for the installation, and

(iii) the estimated time such energy component and associated equipment will remain in place;

(C) the notice shall be given at the earliest practicable time but not later than 48 hours after the installation of such energy component and associated equipment; and

(D) the owner or operator of such energy component and associated equipment shall restore the site to its original condition as nearly as practical, subject to such other conditions as ordered by the Council, or its designee.

(b) None of the following shall constitute a modification to an existing energy facility that may have a substantial adverse environmental effect:

(1) Routine general maintenance and one-for-one replacement of facility components that are necessary for reliable operation;

(2) Changes on an existing site that do not:

(A) extend the boundaries of the site beyond the existing fenced compound;

(B) increase the height of existing associated equipment;

(C) increase noise levels at the site boundary by 6 decibels or more, or to levels that exceed state and local criteria;

(D) manage electric and magnetic field levels at the site boundary in a manner that is inconsistent with the Council's Best Management Practices for Electric and Magnetic Fields at the site boundary;

(E) cause a significant adverse change or alteration in the physical or environmental characteristics of the site; or

(F) impair the structural integrity of the facility, as determined in a certification provided by a professional engineer licensed in Connecticut, where applicable.

(c) Placement of energy components and associated equipment, owned or operated by the state or a public service company, as defined in Section 16-1 of the Connecticut General Statutes, on any existing non-facility energy site, shall not constitute a substantial adverse environmental effect when the changes on the existing non-facility energy site:

(1) Have received an acknowledgment by the Council that such placement of energy components and associated equipment would not cause a significant change or alteration to the physical and environmental characteristics of the site;

(2) Do not extend the boundaries of the site by any dimension;
 (3) Do not increase the height of existing associated equipment;
 (4) Do not increase noise levels at the site boundary by 6 decibels or more, or to levels that exceed state and local criteria;

(5) manage electric and magnetic field levels at the site boundary in a manner that is consistent with the Council's Best Management Practices for Electric and Magnetic Fields at the site boundary; and

(6) Have received all municipal zoning approvals and building permits, where applicable.

(d) The temporary use of energy components and associated equipment shall not constitute a facility provided that:

(1) The temporary use is necessary to provide emergency or essential energy service to areas of local disaster or events of statewide significance.

(2) Any provider of temporary energy service for an event of statewide significance shall provide the Council for its approval 30-day advance written notice of the development of such temporary service. The provider shall also provide the property owner of record, if the property owner of record is different from the provider, and the chief elected official of the affected municipality in which the temporary energy components and associated equipment are to be located 30-day advance written notice prior to the installation. Such notice shall state:

(A) the location of the temporary energy components and associated equipment;

(B) a letter from the property owner of record, if the property owner of record is different from the provider, authorizing use of the property for the temporary service;

(C) the height of the temporary energy components and associated equipment;

(D) the electric and magnetic field levels at the site boundary of the temporary energy components and associated equipment will be managed in a manner that is consistent with the Council's Best Management Practices for Electric and Magnetic Fields;

(E) the noise levels of the temporary energy components and associated equipment measured at the site boundary;

(F) the estimated time the temporary energy components and associated equipment shall be on site and the hours of operation for the temporary energy components and associated equipment; and

(G) the specific reasons for the installation, including, but not limited to, the nature of the event.

(3) Any provider of temporary energy service at an area of a local disaster shall provide to the chief elected official of the affected municipality and the Council written notice not later than 48 hours of the deployment stating:

(A) The location of the temporary energy components and associated equipment;

(B) a letter from the property owner of record, if the property owner of record is different from the provider, authorizing use of the property for the temporary service;

(C) the height of the temporary energy components and associated equipment;

(D) the electric and magnetic field levels at the site boundary of the temporary energy components and associated equipment will be managed in a manner that is consistent with the Council's Best Management Practices for Electric and Magnetic Fields;

(E) the noise levels of the temporary energy components and associated equipment measured at the site boundary;

(F) the estimated time the temporary energy components and associated equipment shall be on site, the hours of operation of the temporary energy components and associated equipment, and conditions that would render the use of the temporary energy components and associated equipment no longer necessary; and

(G) the nature of the emergency.

(4) In no event shall temporary use of energy components and associated equipment exceed 30 days unless the property owner of record, if the property owner of record is different from the provider, and the Council grant approval for an extension.

Sec. 36. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-58** as follows:

(NEW) Sec. 16-50j-58. Notice of intent to install an exempt energy component and associated equipment

Except as provided under Sections 16-50j-57(a) and 16-50j-57(d) of the Regulations of Connecticut State Agencies, the owner or operator of any energy component and associated equipment claiming such component and associated equipment are exempt pursuant to Section 16-50j-57 of the Regulations of Connecticut State Agencies shall give the Council, the property owner of record, if the property owner of record is different from the owner or operator of the energy component and associated equipment, and the chief elected official of the municipality in which the energy component and associated equipment is to be located, notice in writing prior to construction of the owner or operator's intent to install such energy component and associated equipment, detailing its reasons for claiming exemption under Section 16-50j-57 of the Regulations of Connecticut State Agencies.

Sec. 37. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-59** as follows:

(NEW) Sec. 16-50j-59. Information Required

In addition to conforming to Section 16-50l of the Connecticut General Statutes and Section 16-50l-2 of the Regulations of Connecticut State Agencies, an application for a certificate of environmental compatibility and public need for the construction of a new energy facility, or a modification of an existing energy facility, as defined in Section 16-50i(a)(1) to (4), inclusive, of the Connecticut General Statutes shall include, but not be limited to:

(1) A description of the proposed facility and associated equipment, or modification of an existing facility and associated equipment, including, but not limited to, heights of facility components, special design features, and access roads;

(2) A statement of the need for the proposed facility and associated equipment, or modification of an existing facility and associated equipment with as much specific information as is practicable to demonstrate the need;

(3) A statement of the benefits expected from the proposed facility and associated equipment, or modification of an existing facility and associated equipment with as much specific information as is practicable;

(4) (A) The most recent U.S.G.S. topographic quadrangle map (scale 1 inch = 2000 feet) marked to show the approximate site of the facility and associated equipment, or modification of an existing facility and associated equipment and any significant changes within a one mile radius of the site; and

(B) a map (scale 1 inch = 200 feet or less) of the lot or tract on which the facility and associated equipment, or modification of an existing facility and associated equipment is proposed to be located showing the acreage and dimensions of such site, the name and location of adjoining public roads or the nearest public road, and the names of abutting owners and the portions of their lands abutting the site;

(5)(A) Plan and elevation drawings showing the proposed facility and associated equipment, or modification of an existing facility and associated equipment, the components and all structures on the site; and

(B) where relevant, a terrain profile showing the proposed facility and associated equipment, or modification of an existing facility and associated equipment;

(6) A description of the site, including the zoning classification of the site and surrounding areas;

(7) A description of the land uses of the site and surrounding areas;

(8) A description of the scenic, natural, historic, and recreational characteristics of the proposed site and surrounding area;

(9) A statement in narrative form of the environmental effects of the proposed facility and associated equipment, or modification of an existing facility and associated equipment;

(10) A statement containing justification for the site selected including a description of siting criteria and the narrowing process by which other possible sites were considered and eliminated;

(11) A statement of the estimated cost for site acquisition and construction of the facility and associated equipment, or modification of an existing facility and associated equipment;

(12) A schedule showing the proposed program of site acquisition, construction, completion, and operation;

(13) The names and mail addresses of the owner of the site and all abutting owners;

(14) A listing of any federal, state, regional, district, and municipal agencies with which reviews were conducted concerning the facility or modification of an existing facility, including a copy of any state and municipal agency position or decision with respect to the facility or modification of an existing facility;

(15) Where relevant, a list of all energy facilities and associated equipment within a 5-mile radius of the proposed facility or modification of an existing facility which are owned or operated by a public service company or the state;

(16) A description of technological alternatives and a statement containing justification for the proposed facility;

(17) A description of alternate sites, if applicable, for the proposed facility and associated equipment, or modification of an existing facility and associated equipment with the following information:

(A) a U.S.G.S. topographic quadrangle map (scale 1 inch = 2000 feet) marked to show the location of alternate sites;

(B) a map (scale 1 inch = 200 feet or less) of the lots or tracts of the alternate sites for the proposed facility and associated equipment, or modification of an existing facility and associated equipment showing the acreage and dimensions of such site, the name and location of adjoining public roads or the nearest public road, and the names of abutting owners and the portions of their land abutting the alternate site; and

(C) such additional information as would be necessary or useful to compare the costs and environmental impacts of the alternate sites with those of the proposed site;

(18) A statement describing hazards to human health, if any, with such supporting data or references to authoritative sources of information as will be helpful to the understanding of all aspects of the issue, including electric and magnetic field levels at the property boundaries of the proposed site and compliance with the Council's Best Management Practices for Electric and Magnetic Fields; and

(19) Additional information as may be requested by the Council.

Sec. 38. Section 16-50j-60 of the Regulations of Connecticut State Agencies is amended to read as follows:

Part 2
[Right of Way] Development and Management Plan

Sec. 16-50j-60. Requirements for a [right of way development and management plan (d&m plan)] Development and Management Plan (D&M Plan)

(a) **Purpose.**

The [council] Council may require the preparation of [right-of-way d&m plans] full or partial Development and Management Plans (D&M Plans) for proposed [electric transmission and fuel transmission] energy facilities, modifications to existing facilities, or where the preparation of such a plan would help significantly in balancing the need for adequate and reliable utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state.

(b) **When required.**

A partial or full [d&m] D&M plan shall be prepared in accordance with this regulation and shall include the information described in Sections 16-50j-61 to 16-50j-62, inclusive, of the Regulations of Connecticut State Agencies, for any proposed [electric transmission or fuel transmission] energy facility for which the [council] Council issues a certificate of environmental compatibility and public need, except where the [council] Council provides otherwise at the time it issues the certificate. Relevant information in the Council's record may be referenced.

(c) **Procedure for preparation.**

The [d&m] D&M plan shall be prepared by the [company proposing the facility, in consultation with the staff of the council] certificate holder or the owner or operator of the proposed facility or modification to an existing facility. The preparer may consult with the staff of the Council to prepare the D&M plan.

(d) **Timing of plan.**

The [d&m] D&M plan shall be submitted to the [council] Council in one or more sections, and the [council] Council shall approve, modify, or disapprove each section [within 45 days] of the plan not later than 60 days after receipt of it. If the Council does not act to approve, modify or disapprove the plan or a section thereof within 60 days after receipt of it, the plan shall be deemed approved. Except as otherwise authorized by the [council] Council, no clearing [for] or construction [of the facility] shall begin prior to approval of applicable sections of the [d&m] D&M plan by the [council] Council.

Sec. 39. Section 16-50j-61 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-61. Elements of a [d&m] D&M plan.

(a) **Key map.**

The [d&m] D&M plan shall include a key map for [the entire line] the site, including the entire electric transmission line or fuel transmission line, as applicable, that is a reproduction at scale of 1["] inch = 2,000["] feet of the most recent USGS topographic maps for its location and route.

(b) **Plan drawings.**

The [d&m] D&M plan shall consist of maps at a scale of 1["] inch = [200'] 100 feet or larger (called "plan drawings") and supporting documents, which shall contain the following information:

(1) The edges of the proposed [right-of-way] site and of any existing [right-of-way] site contiguous to or crossing it, [and] the portions of those [rights-of-way] sites owned by the company in fee and the identity of the property owners of record of the portions of those sites not owned by the company in fee;

(2) Public roads and public lands crossing or adjoining the [right-of-way] site;

(3) The approximate location along the [right-of-way] site of each 50-foot contour line shown on the key map;

(4) The probable location, type, and height of the proposed facility, energy components and associated equipment supporting the facility operation, including, but not limited to, each new transmission structure, position of guys, generalized description of foundations, trench grading plans, depth and width of trenches, trench back-filling plans, and the location of any utility or other structures to remain on the [right-of-way] site or to be removed;

(5) The probable points of access to the [right-of-way] site, and the route and likely nature of the access ways [along the right-of-way], including alternatives or options to the probable points of access and access ways [along the right-of-way];

(6) The edges of existing and proposed clearing areas, the type of proposed clearing along each part of the [right-of-way] site, and the location and species identification of [any significant amounts of the following trees or shrubs or combination of the following trees or shrubs:

Flowering dogwood	Juniper spp.
Honeysuckle	Silky dogwood
Eastern red cedar	Rose
Blueberry	Crabapple
Greenbrier	Shadbush
Sumac	Barberry
Hawthorne	Gray dogwood
Grape	Alder, speckled, smooth
Hazelnut	Mountain laurel
Azalea	Viburnum]

vegetation that would remain for aesthetic and wildlife value;

(7) Sensitive areas and conditions within and adjoining the [right-of-way] site, including, but not [necessarily] limited to:

(A) [Watercourses, any areas regulated under the inland or tidal wetland acts] Wetland and watercourse areas regulated under Chapter 440 of the Connecticut General Statutes, and any locations where construction may create drainage problems;

(B) Areas of high erosion potential;

(C) Any known critical habitats or [sites] areas identified as having rare [or], endangered, threatened or special concern plant or animal species listed by federal and state governmental agencies;

(D) The location of any known underground [facilities] utilities or resources including, but not limited to, electric lines, fuel lines, drainage systems and natural or artificial, public or private water resources, to be crossed;

(E) Residences or businesses within or adjoining the site that may be disrupted during the construction process; and

(F) Significant environmental, historic and ecological features, including, but not limited to, significantly large or old trees, buildings, monuments, stone walls or features of local interest.

(c) [Subsequent] **Supplemental information.**

(1) Plans, if any, to salvage marketable timber, restore habitat and to maintain snag trees [along the route] within or adjoining the site;

(2) All construction and rehabilitation procedures with [special steps] reasonable mitigation measures that [will] shall be taken to protect the areas and conditions identified in [subsection]

section 16-50j-61(b)(7) of the Regulations of Connecticut State Agencies, including, but not [necessarily] limited to:

(A) Construction techniques at [watercourses to be crossed by construction vehicles] wetland and watercourse crossings;

(B) Sedimentation and erosion control and rehabilitation procedures, consistent with the Connecticut Guidelines for Soil Erosion and Sediment Control, as updated and amended, for areas of high erosion potential;

(C) Precautions [at sites identified as having endangered species] and all reasonable mitigation measures to be taken in areas within or adjoining the site to minimize any adverse impacts of such actions or modifications on endangered, threatened or special concern plant or animal species listed by federal and state governmental agencies and critical habitats that are in compliance with federal and state recommended standards and guidelines, as amended;

(D) Plans for [changes] modification and rehabilitation of surface, drainage, and other hydrologic features;

(E) Plans for [stream bank restoration] watercourse bank restoration in accordance with the provisions of Chapter 440 of the Connecticut General Statutes; and

(F) Plans for the protection of historical and [archaeologic] archaeological resources with review and comment from [the Connecticut Historical Commission] a state historic preservation officer of the Department of Economic and Community Development, or its successor agency.

(3) Plans for the method [of application] and type of [herbicide] vegetative clearing and maintenance to be used [,if any, at the time of initial clearing for the proposed line] within or adjacent to the site;

(4) The location of public recreation areas or activities known to exist or being proposed in or adjacent to the [right-of-way] site, together with copies of any agreements between the company and public agencies authorizing public recreation use of the [right-of-way] site to the extent of the company's property rights thereto;

(5) Plans for the ultimate disposal of excess excavated material, stump removal, and periodic maintenance of the [right-of-way] site;

(6) Locations of areas where blasting is anticipated; [and]

(7) Rehabilitation plans, including, but not limited to, reseeded and topsoil restoration;

(8) Contact information for the personnel of the contractor assigned to the project; and

(9) Such site-specific information as the Council may require.

(d) Notice.

A copy, or notice of the filing, of the D&M plan, or a copy, or notice of the filing of any changes to the D&M plan, or any section thereof, shall be provided to the service list and the property owner of record, if applicable, at the same time the plan, or any section thereof, or at the same time any changes to the D&M plan, or any section thereof, is submitted to the Council.

(e) Changes to plan.

The Council may order changes to a D&M plan, including, but not limited to, vegetative screening, paint color, or fence design at any time during or after preparation of the plan.

Sec. 40. Section 16-50j-62 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-62. [Supplemental] Reporting Requirements

(a) **Site Testing and Staging areas.**

[The company shall inform] The certificate holder, or facility owner or operator, shall provide the [council] Council with written notice of the location and size of [the] all areas to be

accessed or used for site testing or staging areas. If [the applicant desires to utilize a staging area] such an area is to be used prior to approval of the [d&m] D&M plan, the [council] Council may approve such use on [such] terms as it deems appropriate.

(b) [Notices of beginning, changes and completion] Notice

(1) The [company] certificate holder, or facility owner or operator, shall provide the [council] Council, in writing, with a minimum of two weeks advance notice of the beginning of:

- (A) clearing and access work in each successive portion of the [route] site and [then]
- (B) facility construction in that same portion.

(2) The [company] certificate holder, or facility owner or operator, shall provide the [council] Council with advance written notice whenever a significant change of the approved [d&m] D&M plan is necessary [such as]. If advance written notice is impractical, verbal notice shall be provided to the Council immediately and shall be followed by written notice not later than 48 hours after the verbal notice. Significant changes to the approved D&M plan shall include, but are not limited to, the following:

- (A) the location of a [stream] wetland or watercourse crossing;
- (B) the location of an access way or a structure in a regulated wetland or watercourse area;
- (C) the construction or placement of [a section of access road which would run between structure locations and thereby "close a gap" longitudinally along the right-of-way] any temporary structures or equipment; [and]
- (D) a change in structure type[.] or location including, but not limited to, towers, guy wires, associated equipment or other facility structures; and
- (E) utilization of additional mitigation measures, or elimination of mitigation measures.

The [council] Council, or its designee, shall promptly review the changes and shall approve, modify, or disapprove the changes in accordance with subsection (d) of section 16-50j-60 of the Regulations of Connecticut State Agencies.

(3) The [company] certificate holder, or facility owner or operator, shall provide the [council] Council with a monthly construction progress report, or a construction progress report at time intervals determined by the Council or its designee, indicating changes and deviations from the approved [d&m] D&M plan. The Council may approve changes and deviations, request corrections or require mitigation measures.

(4) The [company] certificate holder, or facility owner or operator, shall provide the [council] Council with written notice of completion of construction and [right-of-way] site rehabilitation [in each new portion of the route].

(c) Final report.

The [company] certificate holder, or facility owner or operator, shall provide the [council] Council with a final report for the [entire line] facility not later than 180 days after completion of all site construction[.] and site rehabilitation [and right-of-way acquisition proceedings.]

This final report [will] shall identify:

- (1) all agreements with abutters or other property owners regarding special maintenance precautions;
- (2) significant changes of the [d&m] D&M plan that were required because of the property rights of underlying and adjoining owners or for other reasons;
- (3) the location of [nontransmission] construction materials which have been left in place [in the form of] including, but not limited to, culverts, erosion control structures along watercourses and steep slopes, and corduroy roads in regulated wetlands;
- (4) the location of areas where special planting and reseeded have been done; and
- (5) the actual construction cost of the facility, including, but not limited to, the following

costs:

- (A) clearing and access;
- (B) construction of the facility and associated equipment; [and]

(C) rehabilitation; and
 (D) property acquisition for the site or access to the site.

(d) Protective Order.

The certificate holder, or facility owner or operator, may file a motion for a protective order pertaining to commercial or financial information related to the site or access to the site.

Sec. 41. Section 16-50j-71 of the Regulations of Connecticut State Agencies is amended to read as follows:

ARTICLE 5
Community Antenna Television and Telecommunications Towers
Part 1
Rules of Practice

Sec. 16-50j-71. Finding

Pursuant to [section] Section 16-50i (a) (5) and (6) of the Connecticut General Statutes, the [council] Council finds that each community antenna television tower or telecommunications tower and its associated equipment except as specified in Sections 16-50j-72 [(a)] and 16-50j-88 of the Regulations of Connecticut State Agencies may have a substantial adverse environmental effect and therefore is a facility; and any modification, as defined in [subsection (1) of section 16- 50j-2] Section 16-50j-2a of the Regulations of Connecticut State Agencies, to an existing tower site, except as specified in Sections 16-50j-72 [(b)] and 16-50j-88 of the Regulations of Connecticut State Agencies, may have a substantial adverse environmental effect.

Sec. 42. Section 16-50j-72 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-72. [Exceptions] Exemptions

(a) A community antenna television tower or telecommunications tower and associated equipment installed adjacent to a damaged existing tower and associated equipment in order to maintain continuity of community antenna television service or telecommunications shall not constitute a facility provided that:

(1) such tower and associated equipment shall be removed at the earliest practicable time but in no event later than nine months after installation, unless otherwise approved by the council or unless exempt under subsection (b) of this section in which event the existing damaged tower shall be removed no later than nine months after installation of the new tower;

(2) the owner or operator of such tower and associated equipment shall give the council written notice of the installation or proposed installation of such tower and associated equipment, which notice shall set forth:

(A) the location of such tower and associated equipment;

(B) the reason for its installation; and

(C) the estimated time such tower and associated equipment will remain in place.

(3) the notice shall be given at the earliest practicable time but not later than 48 hours after the installation of such tower and associated equipment; and

(4) the owner or operator of such tower or associated equipment shall restore the site to its original condition as nearly as practical, subject to such other conditions as ordered by the council.]

(1) Exemptions.

A facility or any modification to a facility that the Council, or its designee, has determined satisfies the criteria of this section shall be deemed not to have a substantial adverse environmental effect and shall not require a certificate pursuant to Section 16-50k of the Connecticut General Statutes. Facilities or modifications to facilities, including, but not limited to, change-outs and installations of antennas on existing telecommunications towers, existing radio towers, functioning smokestacks, functioning water tanks and on or in existing buildings, upon Council acknowledgment or acknowledgment of its designee, may qualify for such exemption.

(2) A community antenna television tower or telecommunications tower and associated equipment installed adjacent to a damaged or inoperable existing tower and associated equipment in order to maintain continuity of community antenna television service or telecommunications shall not constitute a facility provided that:

(A) such tower and associated equipment shall be removed at the earliest practicable time but in no event later than one year after installation, unless otherwise approved by the Council or unless exempt under subsection (b) of this section in which event the existing damaged or inoperable tower and associated equipment shall be removed no later than one year after installation of the new tower and associated equipment;

(B) the owner or operator of such tower and associated equipment shall give the Council, the property owner of record, if the property owner of record is different from the owner or operator of such tower and associated equipment, and the chief elected official of the municipality in which the tower and associated equipment is located, written notice of the installation or proposed installation of such tower and associated equipment. The owner or operator of such tower and associated equipment shall provide the Council with proof of service of the written notice to the property owner of record, if the property owner of record is different from the owner or operator of such tower and associated equipment, and the municipality in which the tower or associated equipment is located. Notice to all parties shall include the following:

(i) the location of such tower and associated equipment;

(ii) the reason for its installation; and

(iii) the estimated time such tower and associated equipment shall remain in place.

(C) the notice shall be given at the earliest practicable time but not later than 48 hours after the installation of such tower and associated equipment; and

(D) the owner or operator of such tower or associated equipment shall restore the site to its original condition as nearly as practical, subject to such other conditions as ordered by the Council, or its designee.

(b) None of the following shall constitute a modification to an existing community antenna television or telecommunications tower that may have a substantial adverse environmental effect:

(1) Routine general maintenance and one-for-one replacement of facility components that is necessary for reliable operation;

(2) Changes on an existing [tower] site that do not [increase the tower height, extend the boundaries of the tower site, increase noise levels at the tower site boundary by 6 decibels, and add radio frequency sending or receiving capability which increases the total radiofrequency electromagnetic radiation power density measure at the tower site boundary to or above the standard adopted by the State Department of Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes; or]:

(A) increase the tower height;

(B) extend the boundaries of the site by any dimension;

(C) increase noise levels at the site boundary by 6 decibels or more, or to levels that exceed state and local criteria;

(D) add radio frequency sending or receiving capability which increases the total radio frequency electromagnetic radiation power density measured at the site boundary to or above the

standards adopted by the Federal Communications Commission pursuant to Section 704 of the Telecommunications Act of 1996, as amended, and the State Department of Energy and Environmental Protection, pursuant to Section 22a-162 of the Connecticut General Statutes;

(E) cause a significant adverse change or alteration in the physical or environmental characteristics of the site; and

(F) impair the structural integrity of the facility, as determined in a certification provided by a professional engineer licensed in Connecticut, or

(3) Replacement of an existing CATV tower or telecommunications tower and associated equipment with a tower that is no taller than the tower to be replaced and that [will] does not support public service company or state antennas, or antennas to be used for public cellular radio communications emitting total radio frequency electromagnetic radiation power density measured at the [tower] site boundary to or above the standard adopted by the Federal Communications Commission pursuant to Section 704 of the Telecommunications Act of 1996, as amended, and the State Department of Energy and Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes.

(c) Placement of community antenna television towers and head-end structures, telecommunications towers, and associated telecommunications equipment, owned or operated by the state or a public service company, as defined in [section] Section 16-1 of the Connecticut General Statutes, or used in a cellular system, as defined in the code of Federal Regulations Title 47, Part 22, as amended, on any existing non-facility tower, shall not constitute a substantial adverse environmental effect when the changes on the existing non-facility tower:

(1) Have received [a ruling] an acknowledgment [by] from the [council] Council that such a facility would not cause a significant change or alteration in the physical and environmental characteristics of the site;

(2) Do not extend the boundaries of the site by any dimension;

(3) Do not increase noise levels at the site boundary by 6 decibels or more, or to levels that exceed state and local criteria;

(4) Do not increase the total radio frequency electromagnetic radiation power density measured at the site boundary to or above the standard adopted by the Federal Communications Commission pursuant to Section 704 of the Telecommunications Act of 1996, as amended, and the State Department of Energy and Environmental Protection pursuant to Section 22a-162 of the Connecticut General Statutes; and

(5) Have received all municipal zoning approvals and building permits, where applicable.

(d) The temporary use of [cellular] telecommunications equipment shall not constitute a facility provided that:

(1) The temporary use is necessary to provide emergency or essential [telephone] telecommunications service to areas of local disaster or events of statewide significance.

(2) Any provider of temporary [cellular telephone] telecommunications service for an event of statewide significance shall provide to the [council] Council for its approval 30 day advance written notice of the development of such temporary [cellular service stating] service. The provider shall also provide the property owner of record, if the property owner of record is different from the provider, and the chief elected official of the municipality in which the temporary facility is to be located, advance written notice not less than 30 days prior to the installation. Such notice shall include:

(A) The location of the [portable] temporary telecommunications [site] equipment [and a letter from the property owner authorizing such use of the property for the temporary service];

[B) the height and power density of the portable system]

(B) A letter from the property owner of record, if the property owner of record is different from the provider, authorizing use of the property for the temporary telecommunications service;

[(C) the estimated time the portable site will be in use; and]

(C) The height and power density of the temporary telecommunications equipment;

[(D) the reasons for the installation]

(D) The noise levels of the temporary telecommunications equipment measured at the property lines;

(E) The estimated time the temporary telecommunications equipment shall be in use, including the approximate start and end dates; and

(F) The specific reasons for the installation, including, but not limited to, the nature of the event.

(3) Any provider of temporary [cellular telephone] telecommunications service at an area of a local disaster shall provide to the [council] Council written notice [within] not later than 48 hours [of] after the deployment [stating] including:

(A) The location of the [portable] temporary telecommunications [site] equipment [and a letter from the property owner authorizing use of the property for the temporary service];

[(B) The height and power density of the portable system]

(B) A letter from the property owner of record, if the property owner of record is different from the provider, authorizing use of the property for the temporary telecommunications service;

[(C) The estimated time the portable site will be in use; and]

(C) The height and power density of the temporary telecommunications equipment;

[(D) the nature of the emergency]

(D) The noise levels of the temporary telecommunications equipment measured at the property lines;

(E) The estimated time the temporary telecommunications equipment shall be in use, including, but not limited to, the hours of operation of the temporary telecommunications equipment and conditions that would render the use of the temporary telecommunications equipment no longer necessary; and

(F) The nature of the emergency.

(4) In no event shall temporary use of [cellular equipment] telecommunications equipment exceed 30 days unless the [council] Council and the property owner of record, if the property owner of record is different from the provider, [grants] grant approval for an extension.

Sec. 43. Section 16-50j-73 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-73. Notice of intent to erect an exempt tower and associated equipment

[The] Except as otherwise provided under sections 16-50j-72(a) and sections 16-50j-72(d), the owner or operator of any tower and associated equipment claiming such tower and associated equipment is exempt pursuant to section 16-50j-72 of the Regulations of Connecticut State Agencies shall give the [council] Council, the property owner of record, if the property owner of record is different from the owner or operator of the tower and associated equipment, and the chief elected official of the municipality [of the site] in which the facility is to be located, notice in writing prior to construction of its intent to construct such tower and associated equipment, detailing its reasons for claiming exemption under these regulations.

Sec. 44. Section 16-50j-74 of the Regulations of Connecticut State Agencies is amended to read as follows:

Section 16-50j-74. Information required

In addition to conforming to [section 16-50l] Section 16-50l of the [General Statutes of] Connecticut General Statutes and to Section 16-50l-2 of the Regulations of Connecticut State Agencies, an

application for a certificate of environmental compatibility and public need for the construction of a new community antenna television tower and head-end structure or telecommunications tower and associated equipment, or modification to an existing community antenna television tower and head-end structure or telecommunications tower and associated equipment, as defined in [sections] Sections 16-50i (a) (5) and (6) of the Connecticut General Statutes, shall include [or be accompanied by], but not be limited to, the following:

[(a)] (1) A description of the proposed tower and associated equipment, or modification [or] and associated equipment including height and special design features, [and of] access roads and power lines, if any;

[(b)] (2) A statement of the need for the proposed tower and associated equipment, or modification [or] and associated equipment with as much specific information as is practicable to demonstrate the need;

[(c)] (3) A statement of the benefits expected from the proposed tower and associated equipment, or modification [,or] and associated equipment with as much specific information as is practicable;

[(d)] (4) [(1)] (A) The most recent U.S.G.S. topographic quadrangle map (scale 1['] inch = 2000['] feet) marked to show the approximate site of the tower and associated equipment, or modification [, or] and associated equipment and any significant changes within a one mile radius of the site; and

[(2)] (B) a map (scale 1['] inch = 200['] feet or less) of the lot or tract on which the tower and associated equipment, or modification [, or] and associated equipment is proposed to be located showing the acreage and dimensions of such site, the name and location of adjoining public roads or the nearest public road, and the names of abutting owners and the portions of their lands abutting the site;

[(e)] (5) [(1)] (A) Plan and elevation drawings showing the proposed tower and associated equipment, or modification [or] and associated equipment, the antennas and other [facilities] components to be supported, and all [associated equipment and] structures on the site; and

[(2)] (B) where relevant, a terrain profile showing the proposed tower and associated equipment, or modification [or] and associated equipment [and its related transmitting, receiving or relaying tower];

[(f)] (6) A description of the site, including the zoning classification of the site and surrounding areas;

[(g)] (7) A description of the land uses of the site and surrounding areas;

[(h)] (8) A description of the scenic, natural, historic, and recreational characteristics of the proposed site and surrounding area;

[(i)] (9) A statement in narrative form of the environmental effects of the proposed tower and associated equipment, or modification [or] and associated equipment;

[(j)] (10) A statement containing justification for the site selected including a description of siting criteria and the narrowing process by which other possible sites were considered and eliminated;

[(k)] (11) A statement of the estimated cost for site acquisition and construction of the tower and associated equipment, or modification [, or] and associated equipment;

[(l)] (12) A schedule showing the proposed program of site acquisition, construction, completion, and operation;

[(m)] (13) The names and mail addresses of the owner of the site and all abutting owners;

[(n)] (14) A listing of any federal, state, regional, district, and municipal agencies with which reviews were conducted concerning the tower and associated equipment or modification [or associated equipment] and associated equipment, including a copy of any state and municipal agency position or decision with respect to the tower or modification [, or associated equipment] and associated equipment;

[(o)] (15) Where relevant, a list of all towers and associated equipment within a [10-mile] 5-mile radius of the proposed tower and associated equipment or modification [, or] and associated equipment [which are owned or operated by a public service company or the state];

[(p)] (16) A description of technological alternatives and a statement containing justification for the proposed facility;

[(q)] (17) A description of alternate sites for the proposed tower, if applicable, and associated equipment, or modification [, or] and associated equipment with the following information:

[(1)] (A) a U.S.G.S. topographic quadrangle map (scale 1[" inch = 2000[" feet) marked to show the location of alternate sites;

[(2)] (B) a map (scale 1[" inch = 200[" feet or less) of the lots or tracts of the alternate sites for the proposed tower and associated equipment, or modification [, or] and associated equipment showing the acreage and dimensions of such site, the name and location of adjoining public roads or the nearest public road, and the names of abutting owners and the portions of their land abutting the alternate site; and

[(3)] (C) such additional information as would be necessary or useful to compare the costs and environmental impacts of the alternate sites with those of the proposed site; [and]

[(r)] (18) A statement describing hazards to human health, if any, with such supporting data or references to authoritative sources of information as will be helpful to the understanding of all aspects of the issue, including signal frequency and power density at the proposed site to be transmitted or received by the proposed facility; and

(19) Additional information as may be requested by the Council.

Sec. 45. Section 16-50j-75 of the Regulations of Connecticut State Agencies is amended to read as follows:

**[Cable Antenna Television Tower and
Telecommunications Tower and Associated Equipment Development and Management Plan]
Part 2
Development and Management Plan**

Sec. 16-50j-75. Requirement for a Development and Management Plan (D&M plan)

(a) **Purpose.**

The [council] Council may require the preparation of full or partial [d&m] D&M plans for proposed [cable] community antenna television [or] towers or head-end structures and associated equipment or telecommunications towers and associated equipment or a modification to an existing [tower] site, where the preparation of such a plan would help significantly in balancing the need for adequate and reliable utility services at the lowest reasonable cost to consumers with the need to protect the environment and ecology of the state.

(b) **When required.**

A partial or full [d&m] D&M plan shall be prepared in accordance with this Section and shall include the information described in [Secs. 16-50j-76 --16-50j-77] Sections 16-50j-76 to 16-50j-77, inclusive, of the Regulations of Connecticut State Agencies [or an explanation of the irrelevance of the information to the d&m plan] for any proposed facility for which the Council issues a certificate or for a modification to an existing site, except where the Council provides otherwise at the time it issues the certificate. Relevant information in the [council's] Council's record may be referenced.

(c) **Procedure for preparation.**

The [d&m] D&M plan shall be prepared by the certificate holder [proposing] of the tower and associated equipment, [in consultation with the staff of the council] or modification to an existing facility. The preparer may consult with the staff of the Council to prepare the D&M plan.

(d) **Timing of plan.**

The [d&m] D&M plan shall be submitted to the [council] Council in one or more sections, and the [council] Council shall approve, modify or disapprove each section of the plan [within 30] not later than 60 days after receipt of it. If the Council does not act to approve, modify or disapprove the plan or any section thereof within 60 days after receipt of it, the plan shall be deemed approved. Except as otherwise authorized by the [council] Council, no clearing [for] or construction [of the tower and associated equipment] shall begin prior to approval of applicable sections of the [d&m] D&M plan by the [council] Council.

(e) **Notice.**

A copy, or notice of the filing, of the D&M plan, or any section thereof, or a copy, or notice of the filing of any changes to the D&M plan, or any section thereof, shall be provided to the service list and the property owner of record, if applicable, at the same time the plan, or any section thereof, or at the same time any changes to the D&M plan, or any section thereof, is submitted to the Council.

(f) **Changes to plan.**

The Council may order changes to the D&M Plan including, but not limited to, vegetative screening, paint color, or fence design at any time during or after preparation of the plan.

Sec. 46. Section 16-50j-76 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-76. Elements of a [d&m] D&M plan

[(a) **Plan drawings.** The [d&m] D&M plan shall consist of a map or blueprint at a scale of 1” = 100 feet or less (called “plan drawings”) and supporting documents, which shall contain the following information:

- (1) The edges of the proposed site and of any existing tower and associated equipment sites contiguous or crossing it;
- (2) Public roads and public lands crossing or adjoining the site;
- (3) The approximate location on the site of each 10-foot contour line;
- (4) The approximate location, type, and height of the proposed tower and associated equipment, position of guys, generalized description of foundations, and the location of any utility or other structures to remain on the site or to be removed;
- (5) The probable points of access to the site including alternatives or options to the probable points of access;
- (6) The edges of existing and proposed clearing areas;
- (7) Sensitive areas and conditions within and adjoining the tower site, including, but not limited to:
 - (A) Watercourses, any areas regulated under the inland or tidal wetland acts and any locations where construction may create drainage problems;
 - (B) Areas of high erosion potential;
 - (C) Any known critical habitats or identified as having rare, or endangered, plant or animal species listed by federal and state governmental agencies;
 - (D) Special or unusual features, such as significantly large or old trees, buildings, monuments, or areas of local interest.]

(a) **Key map.**

The D&M Plan shall include a key map for the site that is a reproduction at a scale of 1 inch = 2,000 feet of the most recent USGS topographic maps marked to show the site locations of the tower and associated equipment.

[(b) Supplemental information.

- (1) Special environmental considerations arising from peculiar or unusual characteristics of the site;
- (2) Special design features required by peculiar or unusual characteristics of the site; and
- (3) Procedures that will be taken to protect the areas and conditions identified in subsection 16-50j-76(a)(7) of these regulations, including, but not necessarily limited to:
- (A) Construction techniques at watercourses to be crossed by construction vehicles;
- (B) Sedimentation and erosion control and rehabilitation procedures for areas of high erosion potential; and
- (C) Precautions that will be taken to protect endangered, species;
- (4) Plans for the method of application and type of herbicide to be used, if any, at the time of initial clearing for the proposed site and for maintenance;
- (5) The location of public recreation areas or activities known to exist or being proposed in or adjacent to the proposed site;
- (6) Plans for the ultimate disposal of excess excavated material; and
- (7) Such site-specific information as the council may require.]

(b) Plan drawings.

The D&M plan shall consist of a map or blueprint at a scale of 1 inch = 100 feet or less (called “plan drawings”) and supporting documents, which shall contain the following information:

- (1) The edges of the proposed site and of any existing tower and associated equipment sites contiguous to or crossing it, and the identity of the property owner(s) of record of such site(s);
- (2) Public roads and public lands crossing or adjoining the site;
- (3) The approximate location on the site of each 10-foot contour line;
- (4) The approximate location, type, and height of the proposed tower and associated equipment, position of guys, generalized description of foundations, and the location of any utility or other structures to remain on the site or to be removed;
- (5) The probable points of access to the site including alternatives or options to the probable points of access;
- (6) The edges of existing and proposed clearing areas, the type of proposed clearing at the site, and the location and species identification of vegetation to be cleared;
- (7) Sensitive areas and conditions within and adjoining the tower site, including, but not limited to:
- (A) Wetland and watercourse areas regulated under Chapter 440 of the Connecticut General Statutes, and any locations where construction may create drainage problems;
- (B) Areas of high erosion potential;
- (C) Any known critical habitats or areas identified as having rare, threatened, endangered, or special concern plant or animal species listed by federal and state governmental agencies;
- (D) The location of any known underground utilities or resources including, but not limited to, electric lines, fuel lines, drainage systems, and natural or artificial, public or private water resources;
- (E) Residences or businesses within or adjoining the site that may be disrupted during the construction process; and
- (F) Significant environmental, historic and ecological features, including, but not limited to, significantly large or old trees, buildings, monuments, stone walls or areas of local interest.

(c) Supplemental information.

- (1) Special environmental considerations arising from peculiar or unusual characteristics of the site;
- (2) Special design features required by peculiar or unusual characteristics of the site; and
- (3) All construction and rehabilitation procedures with reasonable mitigation measures that shall be taken to protect the areas and conditions identified in Subsection (b)(7) of this Section of the Regulations of Connecticut State Agencies, including, but not limited to:
- (A) Construction techniques at wetland and watercourse crossings;
- (B) Sedimentation and erosion control and rehabilitation procedures, consistent with the Connecticut Guidelines for Soil Erosion and Sediment Control, as updated and amended, for areas of high erosion potential;
- (C) Precautions and all reasonable mitigation measures that shall be taken in areas within or adjoining the site to minimize any adverse impacts of such actions or modifications on endangered, threatened or special concern plant or animal species listed by federal and state governmental agencies and critical habitats that are in compliance with federal and state recommended standards and guidelines, as amended;
- (D) Plans for modification and rehabilitation of surface, drainage and other hydrologic features;
- (E) Plans for watercourse bank restoration in accordance with the provisions of Chapter 440 of the Connecticut General Statutes; and
- (F) Plans for the protection of historical and archaeological resources with review and comment from a state historic preservation officer of the Department of Economic and Community Development, or its successor agency.
- (4) The location of public recreation areas or activities known to exist or being proposed in or adjacent to the proposed site;
- (5) Plans for the method and type of vegetative clearing and maintenance to be used for the proposed site;
- (6) Plans for the ultimate disposal of excess excavated material, stump removal and for the periodic maintenance of the site;
- (7) Locations of areas where blasting is anticipated;
- (8) Rehabilitation plans, including, but not limited to, reseeding and topsoil restoration; and
- (9) Such site-specific information as the Council may require.

Sec. 47. Section 16-50j-77 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50j-77. Reporting requirements

(a) Supervisory Personnel.

The certificate holder, or facility owner or operator, shall submit to the [council] Council [the names of supervisory personnel] contact information for the personnel of the contractor assigned to the project.

(b) [Notices of beginning, changes, and completion] Notice.

(1) The certificate holder, or facility owner or operator, shall provide the [council] Council, in writing, with a minimum of two weeks advance notice of the beginning of:

(A) clearing and access work, and [then]

(B) construction of the tower and associated equipment.

(2) The certificate holder, or facility owner or operator, shall provide the [council] Council with advance written notice whenever a significant modification of the approved [d&m] D&M plan is necessary [such as] including, but not limited to, a change in the location of the tower, associated equipment, guy wires, or access road. The [council's staff] Council, or its designee shall promptly

review the changes, and the [council] Council shall approve, modify, or disapprove the changes in accordance with subsection (d) of Section 16-50j-75 of the Regulations of Connecticut State Agencies.

(3) The certificate holder, or facility owner or operator, shall provide the [council] Council with a monthly construction progress report, or a construction progress report at time intervals determined by the Council, indicating changes and deviations from the approved [d&m] D&M plan. The [council] Council [shall] may approve the changes and deviations or request corrections or mitigating measures.

(4) The certificate holder, or facility owner or operator, shall provide the [council] Council with written notice of completion of construction and site rehabilitation.

(c) Final report.

The certificate holder, or facility owner or operator, shall provide the [council] Council with a final report not later than 180 days after completion of all site construction and site rehabilitation [, and site acquisition proceedings]. This final report [will] shall identify:

(1) all agreements with abutters or other property owners regarding special maintenance precautions;

(2) significant modifications of the [d&m] D&M plan that were required because of the property rights of underlying and adjoining owners or for other reasons;

(3) the location of construction materials which have been left in place in the form of culverts, erosion control structures along watercourses and steep slopes, and corduroy roads in regulated wetlands;

(4) the location of special areas where special planting and reseeding have been done; and

(5) agreements between the certificate holder and public agencies authorizing public recreational use of the site to the extent of the certificate holder's property rights thereto.

(d) The final report shall include the actual construction cost of the tower and associated equipment, including, but not limited to, the following costs:

(1) construction of the tower and associated equipment;

(2) site rehabilitation; and

(3) property acquisition for site or access to site.

(e) Protective Order.

The certificate holder, or facility owner or operator, may file a motion for a protective order pertaining to commercial or financial information related to the site or access to the site.

Sec. 48. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-88** as follows:

(NEW)

PART 3
TOWER SHARING

Sec. 16-50j-88 Procedure governed

A facility or any modification to a facility that the Council has determined satisfies the criteria of this section shall be deemed not to have a substantial adverse environmental effect and shall not require a certificate pursuant to Section 16-50k of the Connecticut General Statutes. Applications for proposed collocations or shared use of facilities, upon Council order approving the collocation or shared use, shall qualify for such exemption. The person requesting the collocation or shared use of a facility shall provide the Council with information in accordance with Section 16-50aa of the Connecticut General Statutes.

Sec. 49. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-89** as follows:

(NEW) Sec. 16-50j-89. Requirements for tower sharing

(a) Application for tower sharing.

A person requesting collocation or shared use of a facility under Section 16-50aa of the Connecticut General Statutes shall file with the Council an application for tower sharing, which shall include, but not be limited to, the following information:

- (1) A description of the facility with a site plan detailing existing and proposed antenna installations and associated equipment;
- (2) A description of the proposed antenna installation and associated equipment, including, but not limited to, types, number, height and configuration of antennas, location of associated equipment and utility connections;
- (3) A structural analysis of the tower performed by an engineer licensed in the State of Connecticut with a certification that the proposed shared use is technically feasible;
- (4) A letter from the owner of the facility that the owner agrees to the proposed shared use of the facility;
- (5) A description of any potential environmental impact associated with the proposed shared use, including, but not limited to, on visibility, wetlands and water resources, air quality and noise;
- (6) A calculation based on an approved methodology prescribed by the Federal Communications Commission of the power density of the radio frequency emissions to be generated by the existing antennas and the antennas to be installed;
- (7) Such information as the applicant may consider relevant; and
- (8) Such additional information as the Council may request.

(b) Feasibility Proceeding.

Upon request of the person seeking shared use of a facility, the Council shall initiate a feasibility proceeding under Section 16-50aa of the Connecticut General Statutes to determine whether the proposed shared use of a facility is technically, legally, environmentally and economically feasible and meets public safety concerns. The contested case provisions of Sections 16-50j-13 to 16-50j-34, inclusive, of the Regulations of Connecticut State Agencies shall govern the practice and procedure of the Council in any feasibility proceeding concerning the proposed shared use of a facility.

Sec. 50. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50j-90** as follows:

(NEW). Sec. 16-50j-90. Completeness Review

(a) Submission of Tower Share application to the Council.

No tower share application shall be approved until a complete application containing all information deemed relevant by the Council has been filed. Relevant information shall at a minimum include that listed in Section 16-50j-89 of the Regulations of Connecticut State Agencies unless an explanation of irrelevancy is provided for any item omitted from an application. The Council will reserve final judgment of an item's relevancy.

(b) Notification of completeness.

No later than 30 days after receipt of a tower share application, the Council shall notify the applicant in writing as to the lack of completeness of the application. If an applicant fails or refuses to correct any deficiencies in the manner directed and within the time prescribed by the Council, the application may be refused for lack of proper submission.

Sec. 51. The Regulations of Connecticut State Agencies is amended by adding **Section 16-50j-91** as follows:

(NEW)

ARTICLE 6
HAZARDOUS WASTE FACILITIES

Sec. 16-50j-91. Procedure governed

The rules contained in Sections 22a-116-1 to 22a-116-B-11, inclusive, of the Regulations of Connecticut State Agencies govern the practice and procedure for hazardous waste facilities siting before the Connecticut Siting Council under the applicable laws of the state of Connecticut and except where by statute otherwise provided.

Sec. 52. **Section 16-50/-1** of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50/-1. Service

(a) **General rule.**

Service of all documents and other papers filed in all proceedings, including, but not limited to, complaints, motions, petitions, applications, notices, briefs, and exhibits, [but not limited to those categories,] shall be by personal delivery [or] by first class mail, [except as hereinafter provided] or by electronic means if recipients have elected to be served by e-mail.

(b) **On whom served.**

All such documents and other papers shall be served by the person filing the same on every person including the applicant who has theretofore been designated a party or intervenor in the proceeding in accordance with the Service List prepared by the Council in accordance with Section 16-50j-12 of the Regulations of Connecticut State Agencies.

(c) **Service by the Council.**

A copy of any document or other paper served by the [council] Council, showing the addresses to whom the document or other paper was mailed, shall be placed in the [council's] Council's files and shall be prima facie evidence of such service and the date thereof.

(d) **Service of written notice.**

Written notice of all orders, decisions or certificates issued by the [council] Council shall be given to the person affected and each party or his authorized representative by personal service upon such person or by United States mail, certified or registered, postage prepaid, return receipt requested.

(e) **Newspaper publication.**

Notice of any application for a certificate or of any application to amend a certificate shall be published by the applicant prior to the filing of such application at least twice in a newspaper or newspapers having general circulation in each municipality wherein any portion of any proposed facility or alternate thereto is to be located. Said notice shall state the name of the applicant, the approximate date of the filing of the application, a summary of such application and the reasons therefore. Such notice shall be published as specified in [subsection] Section 16-50m(c) of the [General Statutes of] Connecticut General Statutes.

Sec. 53. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50I-1a** as follows:

(NEW) Section 16-50I-1a. Completeness Review

(a) Submission of application to the Council.

No certificate of environmental compatibility and public need shall be granted to any person until a complete application containing all information deemed relevant by the Council has been filed. Relevant information shall at a minimum include that listed in Section 16-50I-2 of the Regulations of Connecticut State Agencies unless an explanation of irrelevancy is provided for any item omitted from an application. The Council will reserve final judgment of an item's relevancy.

(b) Notification of completeness.

No later than 30 days after receipt of an application, the Council shall notify the applicant in writing as to the completeness of the application. If an applicant fails or refuses to correct any deficiencies in the manner directed and within the time prescribed by the Council, the application may be refused for lack of proper submission.

(c) Additional information.

A determination by the Council that an application is complete at the initiation of the certification process shall not preclude the Council from requiring the applicant to submit additional information subsequently determined to be necessary for a proper and complete evaluation of the proposed facility.

Sec. 54. **Section 16-50I-2** of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50I-2. Form

The form to be followed in the filing of applications [will] may vary to the extent necessary to provide for the nature of the legal rights, duties, or privileges involved therein, and to the extent necessary to comply with statutory requirements. Nevertheless, all applications shall include the following components:

- (a) The purpose for which the application is being made;
- (b) The statutory authority for such application;
- (c) The exact legal name of each person seeking the authorization or relief and the address or principal place of business of each such person. If any applicant is a corporation, trust association, or other organized group, it shall also give the state under the laws of which it was created or organized;

(d) The name, title, address, and telephone number of the attorney or other person to whom correspondence or communications in regard to the application are to be addressed. Notice, orders, and other papers may be served upon the person so named, and such service shall be deemed to be service upon the applicant;

(e) Such information as may be required under the applicable provisions of Section[s] 16-50I of the Connecticut General Statutes and Section 22a-118 [and 22a-163h] of the [general statutes of] Connecticut General Statutes;

(f) Such information as any department or agency of the state exercising environmental controls may, by regulation, require; [and]

(g) Such information as the applicant may consider relevant[.]; and

(h) Such additional information as the Council may request.

Sec. 55. Section 16-50l-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50l-4. Rejection of an application

Where these rules require that specific exhibits or data be prepared and submitted as part of any application, the [council] Council may [within] not later than 30 days [of] after the filing thereof reject and return to the sender any application that the [council] Council finds to have failed to comply with such criteria for the submission of exhibits and data as set forth in [these rules] Sections 16-50l-1 to 16-50l-5, inclusive, of the Regulations of Connecticut State Agencies and the Council's requests for additional information.

Sec. 56. Section 16-50v-1a of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50v-1a. Regulation of fees

(a) All application filing fees required by this section shall be paid to the [council] Council at the time an application, amendment to an application, petition, statement of intent, modification of an existing facility, exempt modification, tower share, notice of exemption, or appeal is filed with the [council] Council. Assessments shall be made on the applicant, petitioner, or appellant during any proceeding, or thereafter for all administrative, consulting, hearing, field inspections, and [development and management] Development and Management Plan oversight expenses incurred by the [council] Council and staff in excess of any filing fees paid pursuant to this section. The amount of any fees or assessments paid pursuant to this section in excess of actual costs incurred by the [council] Council and staff, including consultant expenses, in connection with any proceeding shall be refunded to the applicant, petitioner, or appellant [within] not later than 180 days [of] after the [council's] Council's decision in the matter.

(b) The fee for each application for a certificate for a facility described in subdivisions (1) to (6), inclusive, of subsection (a) of [section] Section 16-50i of the Connecticut General Statutes shall be as follows:

Estimated construction cost

Up to \$5,000,000

Fee

.05% or [\$1,000.00] \$1,250.00,
whichever is greater

Above \$5,000,000

.1% or [\$25,000.00] \$25,250.00,
whichever is less.

If an application for a certificate for a facility is incorporated in an application for a certificate for any other facility, the fee shall be calculated from the total cost of all such facilities.

(c) The filing fee for an application for an amendment to a certificate, for modification of any existing facility defined in [section] Section 16-50i of the Connecticut General Statutes, for an appeal pursuant to Section 16-50x(d) of the Connecticut General Statutes, for an exempt modification pursuant to Sections 16-50j-57 and 16-50j-72 of the Regulations of Connecticut State Agencies, for a tower share pursuant to Section 16-50aa of the Connecticut General Statutes or for a petition for declaratory ruling or advisory ruling pursuant to [section] Section 16-50j-38 of [these regulations] the Regulations of Connecticut State Agencies shall be [\$500.00] \$625.00. If a hearing is scheduled for any of the foregoing actions, the Council may assess an applicant or petitioner during the proceeding and thereafter for all expenses of the Council and staff in connection with the review, hearing and decision of a matter.

(d) The filing fee for a statement of intent to acquire real property pursuant to [section] Section 16-50z(a) of the Connecticut General Statutes shall be [~~\$50.00~~] \$100.00.

(e) The expenses incurred for a [council] Council or staff field inspection of a certified construction project, of a project for which a petition for declaratory ruling [or advisory ruling] was filed, or for a statement of intent to acquire real property shall be billed quarterly to the applicant, petitioner or filer, and shall in no event exceed \$500.00 per review.

Sec. 57. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50v-3** as follows:

(NEW). Sec. 16-50v-3. Non-payment

The Council shall refrain from considering any pending and future matters filed by any person who fails to pay invoice and assessment amounts that are past due to the Council by 30 days or more under Section 16-50v of the Connecticut General Statutes.

Sec. 58. The Regulations of Connecticut State Agencies are amended by adding **Section 16-50v-4** as follows:

(NEW). Sec. 16-50v-4. Municipal Participation Fees

In accordance with the provisions of Section 16-50bb of the Connecticut General Statutes, a municipal participation fee shall be paid at the time an application is filed with the Council. Such municipal participation fees shall not be paid for an application for a facility defined under Subdivisions (5) or (6) of Subsection (a) of Section 16-50i of the Connecticut General Statutes.

Sec. 59. **Section 16-50z-1** of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50z-1. Statement of intent to acquire

Any person engaged in the transmission of electric power or fuel, as defined in Section 16-50i of the Connecticut General Statutes, intending to acquire real property in contemplation of a possible future transmission facility under the provisions of Section 16-50z of the Connecticut General Statutes, shall, prior to entering any binding commitment therefor, file with the [council] Council a statement of intent to acquire such property. This section applies to an application that incorporates an electric transmission line and an electric substation, but does not apply to an application for an electric substation only. The statement of intent to acquire real property shall include:

- (a) the reasons for the proposed acquisition;
- (b) a description of the property;
- (c) the names and addresses of any persons having an interest in said property;
- (d) the relationship of said property to any existing or future transmission facility;
- (e) the type of property interest to be acquired in said property;
- (f) the manner in which the advance acquisition of said property satisfies the requirements of said [section] Section 16-50z(a) of the Connecticut General Statutes; and

[(g) (1) a U.S.G.S topographic quadrangle map (scale 1" = 2000') marked to show the approximate location of such property; and (2) a map (scale 1" = 200' or less) of the property itself indicating the acreage and dimensions of such property and the names and mail addresses of the abutting owners.]

- (g) The following maps:

(1) a U.S.G.S topographic quadrangle map (scale 1 inch = 2000 feet) marked to show the approximate location of such property; and

(2) a map (scale 1 inch = 200 feet or less) of the property itself indicating the acreage and dimensions of such property and the names and mail addresses of the abutting owners.

Sec. 60. Section 16-50z-2 of the Regulations of State Agencies is amended to read as follows:

Sec. 16-50z-2. Notice of Review

[If the council decides not to hold a hearing, the acquisition] The acquisition [will] shall be deemed approved [as of the date of such decision, or such acquisition] or may proceed unless the [council] Council gives notice [within] not later than 30 days after such filing that a hearing [will] shall be held to review the conformity of such acquisition with the purposes and intent of [section] Section 16-50z(a) of the Connecticut General Statutes or unless the Council receives a written request from the owner of the real property sought to be acquired to initiate a proceeding under Section 16-50z(c) of the Connecticut General Statutes. Notice of a hearing shall be given in accordance with [section] Section 16-50j-21 of the [council's administrative regulations] Regulations of Connecticut State Agencies and [section] Section 16-50l [(b)] of the Connecticut General Statutes. Additional notice shall be:

(a) Mailed, certified mail, to the parties of the proposed acquisition, to the chief executive officer and the planning commission of the town in which the property is located; and

(b) Published as specified in [subsection] Section 16-50m (c) of the Connecticut General Statutes [of Connecticut] and no less than 10 days prior to the date of the hearing in a newspaper having general circulation in the town in which the property is located.

Sec. 61. Section 16-50z-3 of the Regulations of Connecticut State Agencies is amended to read as follows:

Section 16-50z-3. Hearing

The hearing shall be conducted in accordance with Section 16-50m of the Connecticut General Statutes and the [State] Uniform Administrative Procedures Act, chapter 54 of the Connecticut General Statutes.

Sec. 62. Section 16-50z-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 16-50z-4. Decision

(a) The [council] Council shall render a decision upon the record either granting or denying the acquisition, giving consideration to:

(1) [Probable] The hardship for [the] existing [owner] owners of the property [or owners of] and owners of adjacent properties;

(2) [Development and potential development on and nearby the property proposed to be acquired; and] The public need or public benefit for the acquisition;

(3) The environmental [impact] impacts [, public need, convenience of the owner, and the location of the property proposed to be acquired for the purpose of transmission of electric power or fuel within the state] of electric or fuel transmission line development on the property and adjacent properties; and;

(4) The location of the property proposed to be acquired.

(b) Approval of such acquisition requires the affirmative vote of the [council] Council. The [council's] Council's decision shall be rendered [within] not later than 6 months [of] after the filing with the [council] Council of a statement of intent to acquire property, or not later than 90 days following the Council's receipt of a written request to initiate a proceeding pursuant to Section 16-50z(c) of the Connecticut General Statutes, provided such time period may be extended by the [council] Council by not more than 6 months with the consent of the person intending to acquire the property, or the parties may agree to a longer period.

(c) Notice of the decision of the [council] Council shall be published in a newspaper having general circulation in the town in which the property is located not less than 10 days after the date of said decision. The general notice shall be published in accordance with Subsection (c) of Section 16-50m of the Connecticut General Statutes.

Sec. 63. Section 22a-116-B-1 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-1. Purpose, scope, and applicability

These regulations set forth the requirements, standards and application procedures applicable to the grant or denial, amendment, transfer, suspension, revocation, and enforcement of certificates of public safety and necessity by the Connecticut [siting council] Siting Council required for the siting of hazardous waste facilities. These regulations are promulgated pursuant to Title 22a, chapter 445, of the Connecticut General Statutes [as amended]; and Title 4, chapter 54, of the Connecticut General Statutes. Additional regulations governing procedures to be followed by the Connecticut [siting council] Siting Council for hazardous waste proceedings are promulgated pursuant to Title 16, chapter 277a, of the Connecticut General Statutes, [as amended,] and appear in [part] Sections 16-50j and 16-50l of the Regulations of Connecticut [regulations] State Agencies. Additionally, requirements relating to minimum distances between active portions of hazardous waste facilities and other land uses appear in [Part] Section [22a-122] 22a-122-1 of [these regulations] the Regulations of Connecticut State Agencies.

Sec. 64. Section 22a-116-B-2 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-2. Definitions.

As used in Sections 22a-116-B-1 [through] to 22a-116-B-11, inclusive, of the Regulations of Connecticut State Agencies and Section 22a-122-1 of the Regulations of Connecticut State Agencies:

[(a)] (1) “Active Part” for the purposes of minimum distance requirements set forth in Section 22a-122-1 of the Regulations of Connecticut State Agencies means that portion of a hazardous waste facility where handling, storage, treatment, recovery, or disposal of hazardous waste will be, is being, or has in the past been conducted;

[(b)] (2) “Aquifer” means a geologic formation, group of formations, or part of a formation capable of yielding a usable amount of ground water to wells or springs;

[(c)] (3) “Certificate” means the certificate of public safety and necessity required by Section 22a-117 of the Connecticut General Statutes to commence construction or modification of a hazardous waste facility;

[(d)] (4) “Closure Period” means the first 180 days after the hazardous waste facility receives its final volume of hazardous waste or any other period fixed by the Council;

[(e)] (5) “Construction” means the fabrication, erection, installation, or excavation of a hazardous waste facility which does not constitute a modification;

[(f)] (6) “Container” means any portable device in which a material is stored, transported, treated, disposed of, or otherwise handled;

[(g)] (7) “Groundwater” means water present in the zone of saturation or an aquifer;

[(h)] (8) “Incinerator” means an enclosed device using controlled flame combustion, the primary purpose of which is to thermally break down hazardous waste. Examples of incinerators are rotary kiln, fluidized bed, and liquid injection incinerators;

[(i)] (9) “Landfill” means a disposal facility or part of a facility where hazardous waste is placed in or on land and which is not a land treatment facility, a surface impoundment, or an injection well;

[(j)] (10) “Land treatment facility” means a facility or part of a facility at which hazardous waste is applied onto or incorporated into the soil surface; such facilities are disposal facilities if the waste will remain after closure;

[(k)] (11) “Local project review committee” means the committee which may be established pursuant to Section 22a-127 of the Connecticut General Statutes;

[(l)] (12) “Management” means the treatment, disposal, or long term storage of hazardous waste;

[(m)] (13) “Neighboring municipality” means any municipality which: [(a)] (A) shares a common border with the municipality within which the largest portion of the proposed facility is located; [(b)] (B) occupies any area within a ten-mile radius of the proposed facility site; or [(c)] (C) petitions the [council] Council pursuant to Section 22a-116-B-5 of the Regulations of Connecticut State Agencies for consideration as the neighboring municipality likely to be most affected by the proposed facility;

[(n)] (14) “Operator” means the person responsible for the overall operation of a facility;

[(o)] (15) “Owner” means the person who owns a facility or part of a facility;

[(p)] (16) “Surface impoundment” or “impoundment” means a facility or part of facility which is a natural topographic depression, man-made excavation, or diked area formed primarily of earthen materials, although it may be lined with man-made materials, which is designated to hold an accumulation of liquid wastes or wastes containing free liquids, and which is not an injection well. Examples of surface impoundments are holding, storage, settling, and aeration pits, ponds, and lagoons;

[(q)] (17) “Surface water” means the tidal waters, harbors, estuaries, rivers, brooks, watercourses, waterways, lakes, ponds, springs, marshes, drainage systems, and all other surfaces, bodies, or accumulations of water, natural or artificial, public or private, which are contained within, flow through, or border upon this state or any portion thereof;

[(r)] (18) “Tank” means a stationary device designed to contain an accumulation of hazardous waste which is constructed primarily of non-earthen materials which provide structural support;

[(s)] (19) “Thermal treatment” means the treatment of hazardous waste in a device which uses elevated temperatures as the primary means to change the chemical, physical, or biological character or composition of the hazardous waste. Examples of thermal treatment processes are incineration, molten salt, pyrolysis, calcination, wet air oxidation, and microwave discharge;

[(t)] (20) “Transferee” means a person who becomes an owner or operator after a certificate has been issued for the facility;

[(u)] (21) “Waste pile” or “pile” means any noncontainerized accumulation of solid, nonflowing hazardous waste that is used for treatment or storage.

Sec. 65. Section 22a-116-B-3 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-3. Application procedure.

(a) **Who shall apply.**

(1) The owner or operator of a proposed facility subject to the requirement of certification under Section 22a-117 of the Connecticut General Statutes [must] shall apply to the [council] Council for a certificate pursuant to the application provisions of Section 22a-118 of the Connecticut General Statutes. When a proposed facility is to be owned by one person, but operated by another person, both owner and operator, if known at the time of filing, must sign the application.

(b) Public notice.

In addition to the public notice requirements of subsection (e) of Section 22a-118 of the Connecticut General Statutes [as amended], such notice shall contain the following sentence:

“The chief elected official of any municipality which wishes to be represented on the [council] Council as the most affected neighboring municipality may apply within 20 days for such status to the [council] Council in accordance with [Connecticut Regulations] Section 22a-116-B-4 of the Regulations of Connecticut State Agencies.”

(c) Completeness review.

(1) No certificate of public safety and necessity shall be granted to any person until a complete application containing all information deemed relevant by the [council] Council has been filed. Relevant information shall at a minimum include that listed in Section 22a-118 of the Connecticut General Statutes [as amended] and Section 22a-122-1 of the Regulations of Connecticut State Agencies, unless an explanation of irrelevancy is provided for any item omitted from an application, along with a description of siting criteria and the narrowing process by which other possible sites were considered and eliminated. The [council] Council will reserve final judgment of an item’s relevancy.

(2) As soon as practicable after receipt of an application, the [council] Council shall notify the applicant in writing as to the completeness of the application. If an applicant fails or refuses to correct any deficiencies in the manner directed and within the time prescribed by the [council] Council, the application may be denied and rejected for lack of proper submission.

(3) A determination by the [council] Council that an application is complete at the initiation of the certification process shall not preclude the [council] Council from requiring the applicant to submit additional information subsequently determined to be necessary for a proper and complete evaluation of the proposed hazardous waste facility.

Sec. 66. Subsection (b) of Section 22a-116-B-4 of the Regulations of Connecticut State Agencies is amended to read as follows:

(b) Considerations.

No sooner than 20 days and no later than 30 days after receiving an application for a certificate, the permanent members of the [council] Council shall determine the neighboring municipality likely to be most affected by the proposed facility. In making its determination, the [council] Council may consider any relevant information contained in the application for the certificate or in petitions filed by municipalities pursuant to this section. The [council] Council shall, at a minimum, give reasonable consideration to the following information:

- (1) description and location of the proposed facility and proximity to neighboring municipalities;
- (2) maps from the [department of environmental protection] Department of Energy and Environmental Protection review regarding air quality and movement, and surface and groundwater conditions and movement, including proximity to water company facilities and property;
- (3) human population density for the areas of the proposed facility, including neighboring municipalities; and
- (4) traffic data, including road and transportation access.

Sec. 67. Section 22a-116-B-5 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-5. Fees and assessments.

(a) **Payment.**

All application fees required by the [council] Council for a certificate of public safety and necessity for a hazardous waste facility or modification shall be paid to the [council] Council at the time such application is filed.

(b) **Fee schedule.**

The fee schedule for a certificate for new hazardous waste facilities defined in Section 22a-115 of the Connecticut General Statutes or the modification of existing facilities shall be 1% of estimated construction cost, including land, but not less than [~~\$5,000~~] \$5,250 and not more than [~~\$100,000~~] \$100,250. The fee for each application for a certificate described in Section [~~22a-115~~] 22a-117 of the Connecticut General Statutes shall be used for the administrative expenses of the [council] Council and its staff incurred in processing the application. In the event a hearing shall be held for such application, assessments of the applicant during the proceeding, or thereafter, shall be made for the expenses of the proceeding, and shall be in addition to any fee paid pursuant to this section. The amount of any fees and assessments paid pursuant to this section which are in excess of the actual expenses of the [council] Council in reviewing and acting upon the application shall be refunded within 180 days after all [council] Council obligations regarding the application are resolved.

(c) **Amendment assessment.**

The costs incurred by the [council] Council in considering and application for an amendment of a certificate of public safety and necessity issued pursuant to Section 22a-117 of the Connecticut General Statutes shall be assessed to the applicant within 180 days after all [council] Council obligations regarding the application are resolved and shall not exceed the actual costs incurred in processing, reviewing, and deciding such application.

(d) **Declaratory ruling fee.**

The fee for each petition for a declaratory ruling pursuant to Section 16-50j-39 of the Regulations of State Agencies shall be [~~\$500~~] \$625. In the event that a hearing shall be held for a petition for declaratory ruling, assessments on applicants shall be made for expenses incurred and during the proceeding and shall be in addition to any fee paid pursuant to this section.

(e) **Declaratory ruling field inspections.**

For a petition for a declaratory ruling regarding a hazardous waste facility, the person submitting such request or petition shall make payment of a fee of [~~\$500~~] \$625 to the [council] Council for a field inspection. This fee shall be paid within 30 days after the [council's] Council's inspection and shall be in addition to any fee paid pursuant to this section.

(f) **D&M field inspections.**

Expenses incurred for field inspections in reviewing the D&M plan of a hazardous waste facility shall be billed quarterly to the applicant.

Sec. 68. Section 22a-116-B-6 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-6. Local project review grant.

(a) **Deposit.**

Upon the filing of an application with the [council] Council, or thereafter if project costs are revised, the applicant shall deposit with the [council] Council for the local project review grant an amount calculated as 1% of the total project costs, but not less than [~~\$1,000~~] \$1,250 and not more

than that authorized by Section 22a-127 of the Connecticut General Statutes[, as amended from time to time].

(b) Disbursement.

Upon the filing by the local project review committee established pursuant to Section 22a-127 of the Connecticut General Statutes of receipts for expenses for technical assistance including professional, environmental, scientific, financial and legal assistance incurred by such committee for its review of the proposed hazardous waste facility, the [council] Council shall reimburse the local project review committee a sum not exceeding that deposited by the applicant pursuant to subsection (a) of this section.

Sec. 69. Section 22a-116-B-7 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-7. Rendering a decision.

(a) Requirements for written decision.

(1) Within twelve months of receipt of a complete application, the [council] Council shall render its decision upon the record by an affirmative vote of not less than seven [council] Council members either granting or denying the application as filed, or granting it upon such terms, limitations, or conditions as the [council] Council may deem appropriate. The twelve month time limit may be extended by 180 days by agreement of the [council] Council and the applicant.

(2) The [council] Council shall file, with its decision, an opinion stating in full the reasons for its decision. The decision shall include a statement describing the items of negotiation between the applicant and local project review committee which the [council] Council has accepted and incorporated into any approval and those negotiated items it has rejected and the reasons therefor.

(3) The [council] Council shall file, with its decision, copies of the reports on negotiations filed by the applicant and the local project review committee, and the record of any [council] Council meeting held with the applicant and committee.

(b) Considerations for decision.

(1) In making its decision to grant or deny a certificate, the [council] Council shall, consistent with applicable requirements of Sections 4-166 to [185] 4-185, inclusive, of the Connecticut General Statutes, [as amended,] consider among other relevant facts and circumstances, the following factors:

(A) The impact of the proposed facility on the municipality and affected geographic area in which it is to be located in terms of public health, safety, and welfare including, but not limited to:

(i) The protection of the public and the environment from risk and impact of accident during transportation of hazardous waste;

(ii) The protection of the public and the environment from risk and impact of fires and explosions from improper storage or disposal methods;

(iii) The protection of the public and the environment from risk and impact of exposure of persons to hazardous wastes and their degradation products during facility operation and after its operational life;

(iv) The degree of consistency of the proposed facility with local and regional land use plans and regulations and the state conservation and development plan in effect at the time the applicant applies to the commissioner for the environmental licenses, permits or approvals necessary to construct and operate the facility, and with existing and proposed development in the area;

(v) The protection of the public and the environment from adverse impacts including but not limited to, adverse economic and environmental impacts of the facility during construction and operation, and after its operational life;

(vi) The protection of the public and the environment from risk and impact by the proposed facility on public and private drinking water supplies; and

(vii) The protection of the public and the environment from risk and impact by the proposed facility on scenic, historic and recreational areas; wetlands; flood plains; wildlife areas; habitat for endangered species; and other environmentally sensitive areas.

(B) The population density in the area of the proposed facility and its proximity to residential areas.

(C) The public benefits of the proposed hazardous waste facility including, but not limited to:

(i) The need for the additional disposal capacity provided by the facility;

(ii) The energy and resource recovery benefits, if any, which will be derived from the facility;

(iii) The economic benefit of the facility to the state and its citizens;

(iv) The capability of the proposed facility to accommodate hazardous wastes which would otherwise be disposed of in a less environmentally suitable site or manner;

(v) Economic incentives and benefits which will accrue to the municipality in which the proposed facility is to be located; and

(vi) Any aspects of the proposed facility which would enhance environmental quality.

(D) The extent to which the location of the facility minimizes the need to transport hazardous wastes long distances.

(E) [Whether] The extent to which any [other] reasonably available alternative disposal method or site [is less detrimental] minimizes detriment to the public health or safety, or the quality of the environment.

(F) The applicant's qualifications and previous experience with hazardous waste disposal, as well as the applicant's financial capabilities.

(G) Whether the applicant has prepared, and agreed to implement, an environmentally sound development and management plan which includes all elements required by Section 22a-116-B-9 of the Regulations of Connecticut State Agencies.

(H) Whether the applicant complies with the minimum distances between active parts of the facility and other land uses established pursuant to Section 22a-122-1 of the [General Statutes] Regulations of Connecticut State Agencies.

(2) The [council] Council may give such consideration to other state laws, municipal ordinances, and regulations as it shall deem appropriate.

(3) In making its decision as to whether or not to issue a certificate, the [council] Council shall in no way be limited by the fact that the applicant may have already acquired land or an interest therein or any necessary permits, certificates, or orders for the purpose of constructing the facility which is the subject of its application.

(c) Findings required for the issuance of a certificate.

The [council] Council shall not grant a certificate unless it finds and determines:

(1) That there is a public need for the facility and explains the basis of such need.

(2) The nature of the probable environmental impact of the facility, including but not limited to impacts due to the construction, operation, transportation of wastes to, and closure and post-closure provisions for the facility.

(3) In the case of a proposed land disposal facility, that there is no other feasible alternative disposal method [is more appropriate] available.

(4) Every significant single and cumulative adverse effect on and conflict with state policies on the subjects listed below and reasons why such adverse effects or conflicts are not sufficient for denial of the certificate:

(A) The natural environment;

(B) The public health and safety;

(C) Ecological balance;

(D) Scenic, historic, and recreational values;

(E) Forests and parks;

(F) Air and water purity including impact on present and future sources of water supply.

(5) That the applicant meets the financial responsibility requirements set forth in Section 22a-122(d) of the Connecticut General Statutes and in [these regulations] Sections 22a-116-B-1 to 22a-116-B-11 of the Regulations of Connecticut State Agencies.

Sec. 70. Section 22a-116-B-8 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-8. Transferability of certificates.

(a) No certificate may be transferred without the approval of the permanent [council] Council.

(b) Any person desiring to transfer a certificate shall jointly submit with the proposed transferee an application to the [council] Council on such forms as may be prescribed from time to time by the permanent [council] Council members. Such application shall, at a minimum, include the date on which such transfer was agreed upon by the parties to the transfer, an explanation of the reasons for the proposed transfer, and the same information about the transferee which is required of an applicant for a certificate by Section 22a-118 of the Connecticut General Statutes.

(c) The proposed transferee shall agree, in writing, to comply with the terms, limitations, and conditions contained in the certificate.

(d) The permanent [council] Council shall not approve any such transfer if it finds:

(1) That such transfer was contemplated at or prior to the time the certificate was issued and that such fact was not adequately disclosed during the certification proceeding; or

(2) That the transferee lacks the financial, technical, or management capabilities to comply fully with the terms, limitations, or conditions of the certificate.

Sec. 71. Section 22a-116-B-9 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-9. Development and management plan

(a) **Purpose.**

The [council] Council may require the preparation of a full or partial D&M plan for any certificated hazardous waste facility or any modification to a hazardous waste facility, where the preparation of such a plan would help to protect the health and safety of Connecticut's citizens and the environmental and economic interests of the state.

(b) **Procedure for preparation.**

The D&M plan shall be prepared by the applicant in [conjunction] consultation with [council] Council staff.

(c) **Timing of the plan.**

The D&M plan shall be submitted to the [council] Council and all parties in one complete filing. The D&M plan shall be approved, modified or denied by the [council] Council [within 45] not later than 60 days of [its] receipt of it and prior to the commencement of construction.

(d) **Elements of a D&M plan.**

A D&M plan shall be a precise and complete description of the site and facility to be built and shall include, but not be limited to, the following information:

(1) The original application as revised by the applicant during the proceeding showing all additions, deletions, and changes, with page references, to the original proposal;

(2) A separate statement of the proposed methods, equipment, and schedule for construction or for each section of construction if construction is to continue through the life of the facility, with descriptions of possible adverse construction impacts and methods of minimizing or mitigating such impact;

(3) A description of the effects of construction on site characteristics, such as the effects of grading on surface drainage, and of soil removal or compaction on erosion, permeability and surface drainage;

(4) A statement of the management and administrative program for the operation of the proposed facility;

(5) The names and qualifications of supervisors assigned to the construction project;

(6) The identity of the person to be responsible for operation and a resume of that person's qualifications and experience; and

(7) A statement of the number, duties, qualifications, and experience of all personnel job classifications to be involved in the processing, treatment, transfer, storage, recovery, or disposal of hazardous waste.

(e) Supplemental requirements.

(1) Notices and reports of construction.

(A) The applicant shall provide the [council] Council, in writing, with a minimum of two weeks advance notice of the beginning of:

(i) clearing, road construction, and site preparation; and

(ii) facility construction or each section of facility construction.

(B) The applicant shall provide the [council] Council, in writing, with a monthly construction progress report indicating:

(i) changes and deviations from the approved D&M plan;

(ii) any notices required by and provided to other state agencies; and

(iii) the status of construction schedule.

(2) Significant D&M plan changes.

(A) The certificate holder shall notify the [council] Council whenever a significant change of the approved D&M plan is anticipated. The certificate holder shall not implement such change without prior approval of the [council] Council.

(B) A significant change in the D&M plan shall be any change in:

(i) [in] the location of the facility or its components on the site;

(ii) [of] the proposed grade and drainage characteristics of the site;

(iii) [in] the design of the facility or its component structure;

(iv) [which would result in a change of] a permit required to be considered by the Council in its decision that is issued by the Department of Energy and Environmental Protection for discharge to ground water, surface water, or air;

(v) proposed operation or management of the facility that may adversely affect the environment or the health and safety of employees or the general public; or

(vi) [which alters the effect of] a condition required by the decision and order. Routine maintenance or replacement of parts with equivalent parts shall not be considered a significant change requiring approval.

(C) The [council] Council shall review proposed changes and shall approve, modify, or disapprove the changes [within] not later than 60 days.

(3) Final report and approval.

(A) The applicant shall file with the [council] Council a final report [within] not later than 60 days after completion of construction or of each section of construction, landscaping and rehabilitation, and operational testing, which final report shall include the following information:

(i) identification of all significant changes in the D&M plan identified pursuant to these regulations;

(ii) certification by the facility owner and a professional engineer, whose selection is subject to [council] Council approval, that the facility has been constructed in conformity with the specifications and requirements contained in the development and management plan as specified pursuant to this section;

- (iii) dates waste shipments to the site will commence;
- (iv) results of operational tests;
- (v) the date full-time continuous operation will begin;
- (vi) the actual construction cost of the facility, including but not necessarily limited to the costs of site acquisition; site preparation, including erosion control and other measures to mitigate construction impacts; facility construction; and landscaping and rehabilitation.

(B) [Within] Not later than 90 days of receipt of the final report or notice of full time operation of the facility or of each section if construction is to continue throughout the life of the facility, whichever is later, the [council] Council shall review the facility and issue a final approval of completion of the D&M plan, or section thereof, or the [council] Council shall make recommendations to the certificate holder indicating what actions or procedures are necessary to conform to the certificate and receive final approval of completion of the D&M plan or section thereof. A letter of completion of the D&M plan shall be issued when the [council] Council determines that the facility was constructed and is being operated in accordance [to] with the certificate.

Sec. 72. Section 22a-116-B-10 of the Regulations of Connecticut State Agencies is amended to read as follows:

Sec. 22a-116-B-10. Enforcement by the Council.

Whenever the [council] Council becomes aware of any unauthorized construction or modification of a hazardous waste facility subject to the requirements of Chapter 445 of the Connecticut General Statutes or determines that there has been noncompliance with any terms, limitations, or conditions of a certificate, the [council] Council, pursuant to Section 22a-123 of the Connecticut General Statutes, will take appropriate enforcement action. Such action may include issuing a cease and desist order, suspending or revoking a certificate, or requesting the Attorney General to bring an enforcement proceeding in superior court.

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

Statement of Purpose: The new proposed regulations are intended to provide an organizational description that represents a concise statement of the Council's general course of operations, how the public may acquire information regarding the Council's jurisdictional authority, how the public may participate in the Council process, notice requirements to municipalities, abutting property owners and other state agencies, include reference to petitions for declaratory rulings that may be ordered to proceed with a public hearing by the Council pursuant to Section 4-176 of the Connecticut General Statutes, and direct applicants for the siting of a hazardous waste facility to the Regulations for Hazardous Waste Facilities Siting in Sections 22a-116-1 to 22a-116-B-11, inclusive, of the Regulations of Connecticut State Agencies and Section 22a-122-1 of the Regulations of Connecticut State Agencies. Those regulations describe the process for applying for a certificate from the Council and refer to the Council's regulations for the application for a certificate procedure. The new proposed regulations adopt a process for tower sharing pursuant to Conn. Gen. Stat. §16-50aa entitled, "Tower Sharing," which contains the General Assembly's finding that tower sharing, when technically, legally, environmentally and economically feasible, and when such sharing meets public safety concerns, will avoid the unnecessary proliferation of towers and is in the public interest. The current regulations make no reference to "tower sharing" or "collocation," nor do they provide for any guidelines for applying or filing for a tower share or collocation. The new proposed regulations also adopt a framework for the Council to review modifications to energy facility sites and associated equipment to determine whether proposals will have a substantial adverse environmental effect or will qualify as exempt modifications. The current regulations provide for such review for modifications of telecommunications and community antenna television facilities and associated equipment.

The proposed amended regulations provide clear and concise definitions of terms that are consistent with relevant sections of the Connecticut General Statutes, establish procedures for filing proprietary and critical infrastructure information under protective order, adopt rules for transfer of certificates pursuant to Conn. Gen. Stat. §16-50k(b), remove references to sections 22a-163, et seq. of the Connecticut General Statutes, which were repealed October 1, 2006, and incorporate the provisions of Conn. Gen. Stat. §4-189j entitled, "Increases in fees set in regulations," which required fee increases for each fee in effect pursuant to regulations on and after October 1, 2009 according to a specific fee schedule based on amount.

The main provisions of the new and amended regulations describe the Council's general course of operations, how the public may acquire information about the process and participate in the process, make technical changes, provide concise definitions of terms consistent with the Connecticut General Statutes, establish procedures for submitting information related to applications, petitions and modifications, adopt rules for transfer of certificates, for energy facility exempt modification, and for tower sharing.

The proposed new and revised regulations would not impact existing regulations or other law. **Statutory authority:** Conn. Gen. Stat. § 16-50j(g); Conn. Gen. Stat. §4-167; Conn. Gen. Stat. §4-176; Public Act 11-245; Conn. Gen. Stat. §16-50t(a).

R-39 Rev. 02/2012
 (Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

- 1) I hereby certify that the above (check one) Regulations Emergency Regulations
- 2) are (check all that apply) adopted amended repealed **by this agency pursuant to the following authority(ies):** (complete all that apply)
- a. Connecticut General Statutes section(s) 4-167; 4-176; 16-50j(g); and 16-50t(a).
- b. Public Act Number(s) 11-245.
 (Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)
- 3) **And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the Connecticut Law Journal on 10/25/2011;**
 (Insert date of notice publication if publication was required by CGS Section 4-168.)
- 4) **And that a public hearing regarding the proposed regulations was held on 12/13/2011;**
 (Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)
- 5) **And that said regulations are EFFECTIVE** (check one, and complete as applicable)
- When filed with the Secretary of the State
- OR on (insert date) _____

DATE 03/01/2012	SIGNED (Head of Board, Agency or Commission)	OFFICIAL TITLE, DULY AUTHORIZED Chairman
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APPROVED by the Attorney General as to legal sufficiency in accordance with CGS Section 4-169, as amended

DATE	SIGNED (Attorney General or AG's designated representative)	OFFICIAL TITLE, DULY AUTHORIZED
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*Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.*

(For Regulation Review Committee Use ONLY)

- Approved Rejected without prejudice
- Approved with technical corrections Disapproved in part, (Indicate Section Numbers disapproved only)
- Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED (Administrator, Legislative Regulation Review Committee)
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Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED (Secretary of the State)	BY
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(For Secretary of the State Use ONLY)

GENERAL INSTRUCTIONS

1. All regulations proposed for adoption, amendment or repeal, *except* emergency regulations, must be presented to the Attorney General for his/her determination of legal sufficiency. (See CGS Section 4-169.)
2. After approval by the Attorney General, the original and one electronic copy (in Word format) of all regulations proposed for adoption, amendment or repeal must be presented to the Legislative Regulation Review Committee for its action. (See CGS Sections 4-168 and 4-170 as amended by Public Act 11-150, Sections 18 and 19.)
3. Each proposed regulation section must include the appropriate regulation section number and a section heading. (See CGS Section 4-172.)
4. New language added to an existing regulation must be in underlining or CAPITAL LETTERS, as determined by the Regulation Review Committee. (See CGS 4-170(b).)
5. Existing language to be deleted must be enclosed in brackets []. (See CGS 4-170(b).)
6. A completely new regulation or a new section of an existing regulation must be preceded by the word "(NEW)" in capital letters. (See CGS Section 4-170(b).)
7. The proposed regulation must have a statement of its purpose following the final section of the regulation. (See CGS Section 4-170(b).)
8. The Certification Statement portion of the form must be completed, including all applicable information regarding *Connecticut Law Journal* notice publication date(s) and public hearing(s). (See more specific instructions below.)
9. Additional information regarding rules and procedures of the Legislative Regulation Review Committee can be found on the Committee's web site: <http://www.cga.ct.gov/rr/>.
10. A copy of the Legislative Commissioners' Regulations Drafting Manual is located on the LCO website at http://www.cga.ct.gov/lco/pdfs/Regulations_Drafting_Manual.pdf.

CERTIFICATION STATEMENT INSTRUCTIONS

(Numbers below correspond to the numbered sections of the statement)

1. Indicate whether the regulation is a regular or an emergency regulation adopted under the provisions of CGS Section 4-168(f).
2.
 - a) Indicate whether the regulations contains newly adopted sections, amendments to existing sections, and/or repeals existing sections. Check all cases that apply.
 - b) Indicate the specific legal authority that authorizes or requires adoption, amendment or repeal of the regulation. If the relevant public act has been codified in the most current biennial edition of the *Connecticut General Statutes*, indicate the relevant statute number(s) instead of the public act number. If the public act has not yet been codified, indicate the relevant public act number.
3. Except for emergency regulations adopted under CGS 4-168(f), and technical amendments to an existing regulation adopted under CGS 4-168(g), an agency must publish notice of its intent to adopt a regulation in the *Connecticut Law Journal*. Enter the date of notice publication.
4. CGS Section 4-168(a)(7) prescribes requirements for the holding of an agency public hearing regarding proposed regulations. Enter the date(s) of the hearing(s) held under that section, if any; also enter the date(s) of any hearing(s) the agency was required to hold under the provisions of any other law.
5. As applicable, enter the effective date of the regulation here, or indicate that it is effective upon filing with the Secretary of the State. Please note the information below.

Regulations are effective upon filing with the Secretary of the State or at a later specified date. See CGS Section 4-172(b) which provides that each regulation is effective upon filing, or, if a later date is required by statute or specified in the regulation, the later date is the effective date. An effective date may not precede the effective date of the public act requiring or permitting the regulation. Emergency regulations are effective immediately upon filing with the Secretary of the State, or at a stated date less than twenty days thereafter.