



Connecticut Department of
Energy & Environmental Protection
Office of the Commissioner
Environmental Justice Program

Environmental Justice Public Participation Fact Sheet

Section 22a-20a of the Connecticut General Statutes (CGS) (formerly Public Act No. 08-94), with an effective date of January 1, 2009, along with the Department of Energy and Environmental Protection's ("Department") existing Environmental Justice Policy, ensures that *Environmental Justice Communities* are provided enhanced notice leading to *meaningful public participation* in certain permitting processes. This summary is an overview for implementation of section 22a-20a CGS and the Environmental Justice Policy. Refer to the *Environmental Justice Public Participation Guidelines* (DEEP-EJ-GUID-001) for more information and guidance to comply with section 22a-20a CGS and the Environmental Justice Policy. (www.ct.gov/deep/environmentaljustice)

1. *Environmental Justice Communities* are defined as follows:

- A. a United States census block group, as determined in accordance with the most recent United States census, for which thirty percent or more of the population consists of low income persons who are not institutionalized and have an income below two hundred percent of the federal poverty level, or
- B. a distressed municipality.

The *applicable* facilities must be located directly in the defined census block or the distressed municipality to be considered under the Act and the Policy.

2. *Applicable facilities* include the following:

- A. *Section 22a-20a CGS applies to affecting facilities, located in an environmental justice community. Affecting facilities are defined as follows:*
 1. an electric generating *facility* with a capacity greater than 10 megawatts,
 2. sludge or solid waste incinerators or combustors,
 3. sewage treatment plants with a capacity greater than 50 million gallons per day,
 4. certain waste facilities: intermediate processing center, volume reduction facility or multitown recycling facility with a combined monthly volume in excess of 25 tons;
 5. new or expanded landfill, including but not limited to, a landfill that contains ash, construction and demolition debris or solid waste;
 6. medical waste incinerators, and
 7. a major source of air pollution, as defined by the Clean Air Act.

B. The following facilities, which were previously considered under the Department's Environmental Justice Policy, ***when subject to an individual permit and located in an environmental justice community*** shall continue to submit an Environmental Justice Public Participation Plan and adhere to the notice requirements of sections 22a-20a (b)(2),(3) and(4) CGS:

1. transfer stations;
2. biomedical waste treatment facilities (decontamination, autoclaving or other non-incinerator techniques approved by the commissioner);
- * 3. Resource Conservation and Recovery Act (RCRA) hazardous waste storage or treatment facilities seeking an operating permit (not applicable to Stewardship Permits);
- * 4. RCRA hazardous waste incinerators or landfills;
5. non-RCRA hazardous waste storage or treatment facilities;
6. non-RCRA hazardous waste incinerators or landfills; and
7. hazardous waste transfer facilities (22a-454 Permits).

** The facilities identified in 3 and 4 in this subsection, are subject to notice requirements under the federal law, "RCRA Expanded Participation Rule". Adhering to the Environmental Justice Plan requirements of section 22a-20a CGS will satisfy the federal notice requirements.*

3. Meaningful public participation is defined as follows:

- A. residents of an environmental justice community have an appropriate opportunity to participate in the process regarding a proposed facility or the expansion of an existing facility that may adversely affect such residents' environment or health;
- B. public's participation may influence the regulatory agency's decision; and
- C. the applicant for a new or expanded permit, certificate or siting approval seeks out and facilitates the participation of those potentially affected during the regulatory process.

4. Applicants filing an application with the Department, involving a new applicable facility or an expansion of an applicable facility, located in an environmental justice community, will need to:

- A. file a meaningful public participation plan, on a form prescribed by the Commissioner (DEEP-EJ-PLAN-001),
- B. receive written Department approval of the plan prior to filing an application, and
- C. consult with the chief elected official of the town to evaluate the need to enter into a community environmental benefit agreement with a municipality.

5. Expansion of an applicable facility is defined as follows:

- A. Expansion of an existing applicable facility is defined, in most cases, as an activity which would require either a new permit or a permit modification. The Department strongly recommends contacting the Permit Assistance/Ombudsman's Office to determine whether or not your proposed activity is considered an expansion under section 22a-20a CGS. A pre-application meeting may be the most efficient process to make this determination.

B. Prior to registering for one of the general permits listed below when such activity will occur at an ***existing applicable facility***, the applicant/registrant shall submit an Environmental Justice Public Participation Plan and adhere to the notice requirements of sections 22a-20a (b)(2), (3) and (4) CGS:

- Contaminated Soil and/or Sediment Management (Staging and Transfer);
- Disassembling Used Electronics;
- Municipal Transfer Stations;
- Construct and Operate Certain Recycling Facilities;
- Storage and Distribution of Two (2) Inch Nominal Tire Chip Aggregate;
- Storage and Processing of Asphalt Roofing Shingle Waste and/or Storage and Distribution of Ground Asphalt Aggregate; and
- Storage and Processing of Scrap Tires for Beneficial Use.

When registering for one of the above general permits, and such registration represents either a ***new*** facility or ***new*** activity that is located in an environmental justice community, an informal public meeting will be required to be held. Refer to the specific general permit registration instructions for more information.

6. A meaningful public participation plan shall, at a minimum, contain:

- A. measures to facilitate meaningful public participation in the permitting process,
- B. certification that the applicant will undertake such measures,
- C. identification of a time and place for an informal public meeting that is convenient for the residents of the affected environmental justice community, and
- D. identification of methods to publicize the informal public meeting, in addition to the publication of the notice of the informal public meeting.

○ **Notice of the informal public meeting shall be:**

1. published with the date, time and nature of the informal public meeting with a minimum one-quarter page advertisement,
2. published not less than *10 days* prior to and no more than *30 days* prior to the informal public meeting,
3. published in a newspaper of general circulation of the affected area, *and* any other appropriate local newspaper(s) serving the affected area,
4. published *in the Monday issue for daily issues*, or any day in a weekly or monthly publication, and
5. posted on the applicant's website, if applicable.

○ **Other methods to publicize the informal public meeting may include but not be limited to:**

1. posting a sign on the subject property in English and in all languages spoken by at least twenty percent of the population that reside within a one-half mile radius of the subject facility, subject to any local regulations and ordinances;

2. notifying local and state elected officials, in writing;
3. notifying neighborhood and environmental groups, in writing, in English and a language appropriate for the target audience; and
4. posting a similar notification of the informal public meeting on the applicant's web site, if applicable.

7. The Department:

- A. shall offer the applicant an opportunity for a pre-application meeting as necessary,
- B. shall review the public participation plan and provide a written decision to the applicant,
- C. may approve the public participation plan and waive the requirement for an additional informal public meeting, if the *Siting Council approved a plan and held an informal public meeting, and
- D. shall not take *any action* on the permit application/registration earlier than 60 days after the informal public meeting is held.

*Note: Applicants seeking a certificate from the Connecticut Siting Council, for a facility that is defined as an *affecting facility and is proposed to be located or expanded in an environmental justice community*, must also adhere to the requirements of section 22a-20a CGS.

8. *Community Environmental Benefit Agreement for Affecting Facilities under Section 22a-20a CGS*

According to sections 22a-20a (b)(1)(B) and (c) CGS, applicants for affecting facilities **must** consult with the chief elected official or officials of the town or towns in which the affecting facility is proposed to be located or expanded to evaluate the need for a community environmental benefit agreement. Prior to negotiating terms of a community environmental benefit agreement, the municipality **must** provide a public opportunity for residents of the potentially affected environmental justice community to be heard concerning the need for, and terms of, such an agreement. Contact the Environmental Justice Program at 860-424-3044 for further information. Prior to negotiating terms of a community environmental benefit agreement, the chief elected official shall provide a public opportunity for residents of the potentially affected environmental justice community to be heard concerning the need for, and terms of, such an agreement.

9. Contact Information:

ENVIRONMENTAL JUSTICE PROGRAM
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
79 ELM STREET
HARTFORD, CT 06106-5127
860-424-3044 or edith.pestana@ct.gov

This fact sheet is designed to answer general questions and provide basic information. Applicants should refer to the appropriate statutes for the specific regulatory language. This document should not be relied upon to determine whether or not an Environmental Justice Public Participation Plan or permit is required. It is the applicant's responsibility to obtain and comply with all statutory requirements.