



General Assembly

**Substitute Bill No. 1147**

January Session, 2023



**AN ACT CONCERNING THE ENVIRONMENTAL JUSTICE PROGRAM  
OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL  
PROTECTION.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-20a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2023*):

3 (a) As used in this section:

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

11 (2) "Affecting facility" means any (A) electric generating facility with  
12 a capacity of more than ten megawatts; (B) sludge or solid waste  
13 incinerator or combustor; (C) [sewage treatment plant with a capacity  
14 of more than fifty million gallons per day] publicly owned treatment  
15 works in a community with combined sewers that transport both  
16 storm water and sanitary sewage, or an expanded design flow rate for  
17 any publicly owned treatment works; (D) intermediate processing

18 center, volume reduction facility, solid waste transfer station, resource  
19 recovery facility, chemical recycling facility or multitown recycling  
20 facility with a combined monthly volume in excess of twenty-five tons;  
21 (E) [new or expanded] landfill, including, but not limited to, a landfill  
22 that contains ash, construction and demolition debris or solid waste;  
23 (F) medical waste incinerator; [or] (G) major source of air pollution, as  
24 defined by the federal Clean Air Act; (H) pipeline, terminal or bulk  
25 commercial storage facility not providing direct-to-consumer retail or  
26 delivery for fossil fuels, including coal, oil, petroleum and natural gas;  
27 or (I) facility with a diversion of more than two million gallons of  
28 water per day. "Affecting facility" shall not include (i) the portion of an  
29 electric generating facility that uses nonemitting and nonpolluting  
30 renewable resources such as wind, solar and hydro power or that uses  
31 fuel cells, (ii) any facility for which a certificate of environmental  
32 compatibility and public need was obtained from the Connecticut  
33 Siting Council on or before January 1, 2000, [or] (iii) a facility of a  
34 constituent unit of the state system of higher education that has been  
35 the subject of an environmental impact evaluation in accordance with  
36 the provisions of sections 22a-1b to 22a-1h, inclusive, and such  
37 evaluation has been determined to be satisfactory in accordance with  
38 section 22a-1e; or (iv) a facility with a diversion of water greater than  
39 two million gallons in any twenty-four-hour period that diverts water  
40 for public water supply purposes within a service area, as defined in  
41 regulations adopted pursuant to subsection (b) of section 22a-377, that  
42 includes the origin of such diversion;

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

52 (4) "Community environmental benefit agreement" means a written  
53 agreement entered into by the chief elected official or town manager of  
54 a municipality and an owner or developer of real property whereby  
55 the owner or developer agrees to develop real property that is to be  
56 used for any new or expanded affecting facility and to provide  
57 financial resources for the purpose of the mitigation, in whole or in  
58 part, of impacts reasonably related to the facility, including, but not  
59 limited to, impacts on the environment, including, but not limited to,  
60 air quality and watercourses, quality of life, asthma rates, traffic,  
61 parking and noise;

62 (5) "Council" means the Connecticut Siting Council;

63 (6) "Department" means the Department of Energy and  
64 Environmental Protection;

65 (7) "Environmental or public health stressors" means: (A) Sources of  
66 environmental pollution, including, but not limited to, concentrated  
67 areas of air pollution, mobile sources of air pollution, contaminated  
68 sites, transfer stations or other solid waste facilities, recycling facilities,  
69 scrap yards and point-sources of water pollution, including, but not  
70 limited to, water pollution from facilities or combined sewer  
71 overflows, or (B) conditions that may cause potential public health  
72 impacts, including, but not limited to, asthma, cancer, elevated blood  
73 lead levels, cardiovascular disease and developmental problems in any  
74 environmental justice community;

75 (8) "Major source" means (A) a major source of air pollution, as  
76 defined by the federal Clean Air Act or rules or regulations adopted by  
77 the department, or (B) an affecting facility that directly emits, or has  
78 the potential to emit, one hundred tons per year or more of any air  
79 pollutant or other applicable criteria set forth in the federal Clean Air  
80 Act; and

81 (9) "Permit" means any individual facility permit, license, certificate  
82 or siting approval issued by the department or council to a facility that

83 establishes the regulatory and management requirements for a  
84 regulated activity pursuant to section 16-50k, 22a-174, 22a-208a or 22a-  
85 430. "Permit" does not include (A) any authorization or approval  
86 necessary to perform a remediation conducted in accordance with the  
87 regulations established pursuant to section 22a-133k; (B) applications  
88 for or registrations under general permits issued by the department,  
89 provided the Commissioner of Energy and Environmental Protection  
90 shall evaluate the potential for environmental and health stressors  
91 when issuing or renewing any general permit; (C) any permit for a  
92 facility with a diversion of more than two million gallons per day  
93 where such diverted water is used for public water supply purposes  
94 within the exclusive service area from where such water is diverted;  
95 (D) any authorization or approval required for a minor modification of  
96 a facility's major source permit for activities or improvements that do  
97 not increase emissions; or (E) any authorization or approval required  
98 for an extension of time to complete construction of a facility.

99 (b) (1) Applicants who, on or after January 1, 2009, seek to obtain  
100 any certificate under chapter 277a, new or expanded permit or siting  
101 approval from the Department of Energy and Environmental  
102 Protection or the Connecticut Siting Council involving an affecting  
103 facility that is proposed to be located in an environmental justice  
104 community or the proposed expansion of an affecting facility located  
105 in such a community, shall (A) file an assessment of environmental or  
106 public health stressors and a meaningful public participation plan with  
107 such department or council and shall obtain the department's or  
108 council's approval of such public participation plan prior to filing any  
109 application for such permit, certificate or approval; [and] (B) consult  
110 with the chief elected official or officials of the town or towns in which  
111 the affecting facility is to be located or expanded to evaluate the need  
112 for a community environmental benefit agreement in accordance with  
113 subsection (d) of this section; and (C) submit and receive approval of a  
114 public participation report that shall include, but not be limited to, (i)  
115 an affidavit that the applicant satisfied the requirements of  
116 subdivisions (2) to (5), inclusive, of this subsection; (ii) all written

117 comments received; and (iii) responses to concerns and questions  
118 presented in such written and verbal comments, including any  
119 changes to the activity or affecting facility proposed. Each assessment  
120 of environmental or public health stressors prepared pursuant to this  
121 subsection shall contain an assessment of the potential environmental  
122 and public health stressors associated with the proposed new or  
123 expanded affecting facility, as applicable, and shall identify any  
124 adverse environmental or public health stressors that cannot be  
125 avoided if the permit is granted, and the environmental or public  
126 health stressors already borne by the applicable environmental justice  
127 community.

128 (2) Each such meaningful public participation plan shall contain  
129 measures to facilitate meaningful public participation in the regulatory  
130 process and a certification that the applicant will undertake the  
131 measures contained in the plan. Such plan shall identify a time and  
132 place where an informal public meeting will be held that is convenient  
133 for the residents of the affected environmental justice community. In  
134 addition, any such plan shall identify the methods, if any, by which the  
135 applicant will publicize the date, time and nature of the informal  
136 public meeting in addition to the notice by mail required by  
137 subdivision (3) of this subsection and the publication required by  
138 subdivision [(3)] (4) of this subsection. Such methods shall include, but  
139 not be limited to, (A) posting a reasonably visible sign on the proposed  
140 or existing affecting facility property, printed in English, in accordance  
141 with any local regulations and ordinances, (B) posting a reasonably  
142 visible sign, printed in all languages spoken by at least fifteen per cent  
143 of the population that reside within a one-half of a mile radius of the  
144 proposed or existing affecting facility, in accordance with local  
145 regulations and ordinances, [and] (C) notifying local and state elected  
146 officials, in writing, and (D) a posting on electronic media, including,  
147 but not limited to, relevant Internet web sites and social media  
148 platforms, provided such notice is readily found by searching for the  
149 name of the affecting facility on the Internet. Such methods may  
150 include notifying neighborhood and environmental groups, in writing,

151 in a language appropriate for the target audience. The determination  
152 of the percentage of persons that speak a language, for purposes of  
153 subparagraph (B) of this subdivision, shall be made in accordance with  
154 the most recent United States census.

155 (3) Not less than thirty days prior to the informal public meeting,  
156 the applicant shall send a notice of such informal public meeting by  
157 mail to all residential households located within a one-half-mile radius  
158 of the proposed or existing affecting facility. Such notice shall provide  
159 the date, time and location of such meeting, a description of the  
160 proposed or expanded affecting facility, a map indicating the location  
161 of the affecting facility, information on how an interested person may  
162 review project documents, including any complete needs assessment,  
163 alternatives assessment, environmental impact analysis or assessment  
164 of environmental or public health stressors, addresses for mailed and  
165 Internet-based submission of written public comments and any other  
166 information deemed appropriate by the department or council. The  
167 applicant shall provide such notice in writing in all languages spoken  
168 by not less than fifteen per cent of the population that resides within  
169 such one-half-mile radius of the proposed or existing affecting facility.  
170 Such applicant shall subsequently send notice by mail to all such  
171 residential households of any subsequent public participation  
172 opportunities that occur as part of the permit approval process before  
173 the department or council, and to notify such residential households of  
174 any notice of tentative or final determination by the department or  
175 council.

176 ~~[(3)]~~ (4) Not less than ten days prior to the informal public meeting  
177 and not more than thirty days prior to such meeting, the applicant  
178 shall publish the date, time and nature of the informal public meeting  
179 with a minimum one-quarter page advertisement in a newspaper  
180 having general circulation in the area affected, and any other  
181 appropriate local newspaper serving such area, in the Monday issue of  
182 a daily publication or any day in a weekly or monthly publication.  
183 Such advertisement shall include information on how an interested

184 person may review project documents, including any complete needs  
185 assessment, alternatives assessment, environmental impact analysis  
186 and assessment of environmental and public health stressors. The  
187 applicant shall post a similar notification of the informal public  
188 meeting on the applicant's web site, if applicable.

189 [(4)] (5) At the informal public meeting, the applicant shall make a  
190 reasonable and good faith effort to provide clear, accurate and  
191 complete information about the proposed affecting facility or the  
192 proposed expansion of [a] such facility and the potential  
193 environmental and health impacts of such affecting facility or such  
194 expansion. The applicant shall accept written comments, submitted via  
195 mail or electronic mail, and oral comments from any interested party,  
196 and provide an opportunity for meaningful public participation at the  
197 informal public meeting. Not later than thirty days after such informal  
198 public meeting, the applicant shall submit to the department or council  
199 a public participation report, as described in subdivision (1) of this  
200 subsection. The applicant shall video record the informal public  
201 meeting and submit the recording to the department or council with  
202 the public participation report.

203 [(5)] (6) The Department of Energy and Environmental Protection or  
204 the Connecticut Siting Council shall not take any action on the  
205 applicant's application for a permit, license, certificate or approval  
206 earlier than [sixty days after the informal public meeting] the date the  
207 department or council approves the public participation report. For  
208 any such application filed on or after November 1, [2020] 2023, if the  
209 applicant fails to undertake the requirements of [subparagraphs (B) to  
210 (D), inclusive, of subdivision (2) of this subsection or subdivision (3) or  
211 (4) of] this subsection, any such application shall be deemed  
212 insufficient. The application of an applicant who fails to receive  
213 approval of such public participation report by the department or  
214 council, as applicable, shall be deemed insufficient.

215 [(6)] (7) In the event that the Connecticut Siting Council has  
216 approved a [meaningful public participation plan] public participation

217 report concerning a new or expanded affecting facility and an informal  
218 public meeting has been held in accordance with this subsection, the  
219 Department of Energy and Environmental Protection may [approve  
220 such plan and] waive the requirement that an additional informal  
221 public meeting be held in accordance with this subsection.

222 (8) In addition to any other fee authorized by law, rule or  
223 regulation, the department or council, as applicable, may assess each  
224 permit, license or certificate applicant a reasonable fee in order to cover  
225 the costs associated with the implementation of this section, including  
226 all costs to provide technical assistance to permit applicants and  
227 environmental justice communities to comply with the provisions of  
228 this section.

229 (c) Any municipality, owner or developer may enter into a  
230 community environmental benefit agreement in connection with an  
231 expanded or new affecting facility. For any application filed on or after  
232 November 1, 2020, for such an affecting facility that: (1) Requires a  
233 certificate under chapter 277a, or (2) constitutes a new or expanded  
234 permit or siting approval from the Department of Energy and  
235 Environmental Protection or the Connecticut Siting Council, and that  
236 is located in an environmental justice community or is proposed to be  
237 located in such a community, the applicant shall enter into such an  
238 agreement with the municipality if there are five or more affecting  
239 facilities in such municipality at the time such application is filed.  
240 Mitigation may include both on-site and off-site improvements,  
241 activities and programs, including, but not limited to: Funding for  
242 activities such as environmental education, diesel pollution reduction,  
243 electric vehicle charging infrastructure construction, establishment of a  
244 wellness clinic, ongoing asthma screening, provision of air monitoring  
245 performed by a credentialed environmental professional, performance  
246 of an ongoing traffic study, watercourse monitoring, construction of  
247 biking facilities and multi-use trails, staffing for parks, urban forestry,  
248 support for community gardens or any other negotiated benefit to the  
249 environment in the environmental justice community. Prior to



250 negotiating the terms of a community environmental benefit  
251 agreement, the municipality shall provide a reasonable and public  
252 opportunity for residents of the potentially affected environmental  
253 justice community to be heard concerning the requirements of or need  
254 for, and terms of, such agreement.

255 (d) The chief elected official or town manager of a municipality shall  
256 participate in the negotiations for any such community environmental  
257 benefit agreement and shall implement, administer and enforce such  
258 an agreement on behalf of the municipality, provided any such  
259 agreement negotiated pursuant to this section on and after November  
260 1, 2020, shall be approved by the legislative body of the municipality  
261 prior to implementation, administration and enforcement of such  
262 agreement. Such chief elected official or town manager shall select a  
263 resident of the potentially affected environmental justice community to  
264 participate in such negotiations.

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

270 (f) (1) The Commissioner of Energy and Environmental Protection  
271 shall adopt regulations, in accordance with the provisions of chapter  
272 54, as are necessary and proper to carry out the purposes of this  
273 section. The provisions of subsection (g) of this section shall not take  
274 effect until the adoption of the regulations pursuant to this subsection.  
275 Such regulations shall include, but not be limited to, provisions  
276 regarding: (A) Procedures and requirements for creating the  
277 meaningful public participation plan and the public participation  
278 report required by this section; (B) the identification and measurement  
279 of the relative impact of environmental and public health stressors  
280 across communities; (C) tools for stakeholder industries and sectors to  
281 use that take account of any such environmental or public health  
282 stressors, including tools to help inform decisions about potential

283 locations for new or expanded affecting facilities that comply with the  
284 provisions of this section; and (D) standards for denying or placing  
285 conditions on permits. The commissioner shall consult with  
286 stakeholder industries and sectors when developing the regulations  
287 pursuant to this section.

288 (2) Notwithstanding any provision of the general statutes, the  
289 commissioner may subject the renewal of any permit issued for an  
290 affecting facility to some or all of the provisions of this section and any  
291 regulation adopted pursuant to this subsection by adopting  
292 regulations, in accordance with the provisions of chapter 54, that  
293 include, but are not limited to, the identification of: (A) Each type of  
294 renewal permit subject to the provisions of this subdivision; (B) the  
295 types of affecting facilities subject to the provisions of this subdivision;  
296 and (C) the specific requirements of this section and any regulation  
297 adopted pursuant to this subsection that apply to each such renewal  
298 permit and affecting facility. No renewal permit shall be subject to the  
299 requirements of this section prior to the effective date of regulations  
300 adopted pursuant to this subdivision.

301 (g) (1) On and after the adoption of regulations pursuant to  
302 subdivision (1) or (2) of subsection (f) of this section, the department's  
303 review of any such application or renewal permit shall be conducted in  
304 accordance with any such regulations, as applicable, and the council's  
305 review of any such application may be conducted in accordance with  
306 any such regulations.

307 (2) The department or the council, as applicable, may deny any  
308 application for a permit for a new affecting facility upon a finding that  
309 approval of the permit, as proposed, would, together with other  
310 environmental or public health stressors affecting the applicable  
311 environmental justice community, result in adverse cumulative  
312 environmental or public health stressors in such environmental justice  
313 community that are higher than those borne by other communities  
314 within the state, county or other geographic unit of analysis, as  
315 determined by the department or council. Any such determination by

316 the department shall be made in accordance with the applicable  
317 regulations adopted pursuant to subsection (f) of this section and any  
318 such determination by the council may be made in accordance with  
319 such regulations.

320 (3) If such permit is granted, the department or council, as  
321 applicable, may impose conditions on the construction and operation  
322 of the new affecting facility that are intended to mitigate  
323 environmental and public health impacts.

324 (4) The department or the council, as applicable, shall provide  
325 notice, in writing, to any applicant for any such new affecting facility  
326 of any tentative determination regarding compliance with the  
327 applicable regulations adopted pursuant to subsection (f) of this  
328 section.

329 (5) If any hearing is held on any application or renewal permit  
330 subject to the requirements of this section, compliance with the  
331 applicable regulations adopted pursuant to subsection (f) of this  
332 section shall be considered at such hearing.

333 (6) The department or council, as applicable, shall publish any  
334 determination made pursuant to this subsection to the department's or  
335 council's Internet web site.

336 (h) Notwithstanding any provision of the general statutes, the  
337 department or council, as applicable, may, after review of the public  
338 participation report and any other relevant information, including  
339 testimony and written comments received in connection with the  
340 meaningful public participation plan, apply conditions to a permit for  
341 the expansion of an existing affecting facility concerning the  
342 construction and operation of the facility to protect the environment  
343 and public health, upon a finding by the department or council, as  
344 applicable, that approval of such permit, as proposed, would, together  
345 with other environmental or public health stressors affecting the  
346 applicable environmental justice community, result in adverse

347 cumulative environmental or public health stressors in such  
348 environmental justice community that are higher than those borne by  
349 other communities in the state, county or other geographic unit of  
350 analysis, as determined by the department or council. Any such  
351 determination by the department shall be made in accordance with the  
352 applicable regulations adopted pursuant to subsection (f) of this  
353 section and any such determination by the council may be made in  
354 accordance with such regulations.

355 (i) If a permit applicant applies for more than one permit for a  
356 proposed new or expanded affecting facility, the permit applicant shall  
357 only be required to comply with the provisions of this section once,  
358 unless the department or council, as applicable, determines that more  
359 than one informal public meeting is necessary due to the complexity of  
360 the permit applications necessary for the proposed new or expanded  
361 affecting facility. Nothing in this subsection shall be construed to limit  
362 the authority of the department or council to hold or require any  
363 public hearing, as may be required by any other provision of the  
364 general statutes, federal law or rule or regulation.

365 (j) Nothing in this section shall be construed to limit the right of an  
366 applicant to continue facility operations during the process of permit  
367 approval to the extent such right is conveyed by an applicable law,  
368 rule or regulation.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	22a-20a

LCO Statement: In Subsec. (b)(3) "not more than" was changed to "within" for consistency.

**ENV**      *Joint Favorable Subst.*