****Connecticut Environmental Policy Act (CEPA) Manual for State Agencies**

Prepared by the Office of Policy and Management (OPM), in consultation with the Department of Energy and Environmental Protection (DEEP) and the Council on Environmental Quality (CEQ)

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**LIST OF COMMON ACRONYMS** (in alphabetical order)

CEPA Connecticut Environmental Policy Act

CEQ Council on Environmental Quality

CGS Connecticut General Statutes

DEEP Department of Energy and Environmental Protection

ECD Environmental Classification Document

EIE Environmental Impact Evaluation

ERC Environmental Review Checklist

OPM Office of Policy and Management

PFA Priority Funding Area

RCSA Regulations of Connecticut State Agencies

SHPO State Historic Preservation Office

**INTRODUCTION:**

This manual is intended to be guide for state agencies and other interested parties in understanding and navigating the Connecticut Environmental Policy Act (CEPA) process.

**HISTORY:**

CEPA was established in 1973 by Public Act 73-562, and later revised in 2002 by Public Act 02-121. CEPA is codified in [Connecticut General Statutes (CGS), Sections 22a-1 through 22a-1h](https://www.cga.ct.gov/current/pub/chap_439.htm#sec_22a-1).

CEPA regulations were originally promulgated in 1978, and the 2019 revisions were initiated by the Department of Energy and Environmental Protection (DEEP) to better align with current practices and requirements. CEPA regulations are codified in [Sections 22a-la-1 through 22a-la-11 of the Regulations of Connecticut State Agencies (RCSA)](https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_22aSubtitle_22a-1a_HTML/).

**PURPOSE OF CEPA:**

The purpose of CEPA is to provide a public process for state agencies to identify and assess the extent to which their proposed actions may potentially affect the environment, and to evaluate alternatives which may avoid or minimize such impacts.

CEPA requires state agencies to undertake an early public scoping process for any “action which may significantly impact the environment,” in order to help inform their decision on whether or not to prepare an Environmental Impact Evaluation (EIE) and, if one is prepared, to assist in identifying topics and concerns to be evaluated. CEPA statute defines such an action as follows:

***Sec. 22a-1c. Actions which may significantly affect the environment. Definition.*** *As used in sections 22a-1 to 22a-1i[[1]](#footnote-1), inclusive, “actions which may significantly affect the environment” means individual activities or a sequence of planned activities proposed to be undertaken by state departments, institutions or agencies, or funded in whole or in part by the state, which could have a major impact on the state's land, water, air, historic structures and landmarks as defined in section 10-410, existing housing, or other environmental resources, or could serve short term to the disadvantage of long term environmental goals. Such actions shall include but not be limited to new projects and programs of state agencies and new projects supported by state contracts and grants, but shall not include (1) emergency measures undertaken in response to an immediate threat to public health or safety; or (2) activities in which state agency participation is ministerial in nature, involving no exercise of discretion on the part of the state department, institution or agency.*

The CEPA Regulations further define “actions” to include, but are not limited to:

*capital improvements, alterations, or additions to the real property of the state; acquisition of real property for the purpose of capital improvements; lease/purchase agreements; grants-in-aid or financial assistance for housing, business, industry, restoration or demonstration projects; or other proposed activity for which an agency exercises judgment or discretion as to the propriety of that action.*

As noted in the statutory definition above, CEPA consideration is not required for (1) emergency measures undertaken in response to an immediate threat to public health or safety and (2) activities in which state agency participation is ministerial in nature (i.e. administrative acts that do not include the exercise of discretion).

Because the CEPA process is intended to assist agencies in planning for and making decisions regarding proposed state agency actions, it is imperative that the process begin in the early stages of project development, preferably before a recommended alternative has been established, to allow sufficient opportunity for relevant concerns and potential alternatives to be considered.

***NOTE:*** *Prior to considering its CEPA responsibilities, the sponsoring agency is required to determine if the proposed action is subject to a review for* *consistency with the policies of the State Plan of Conservation and Development (State C&D Plan), as per CGS 16a-31. In reviewing a proposed action for consistency with the State C&D Plan, the agency should establish a clear purpose and need for the proposed action (the “why”), leaving the CEPA process to evaluate the details of its implementation (the “how”).*

**WHAT’S NEW IN THE 2019 CEPA REGULATIONS:**

**Sec 22a-1a-1 Definitions:**

* Added “soils” to the definition of Environment.
* Establishes the Environmental Review Checklist (ERC) to be created by DEEP, in consultation with OPM, used to assist an agency in determining whether a proposed action requires public scoping, or to record an agency’s initial assessment of an action at the completion of public scoping.
* Officially eliminates the Finding of No Significant Impact (FONSI) option from the regulations (previously Sec. 22a-1a-10), and formally institutes the current practice of public scoping notices and post-scoping notices.

**Sec. 22a-1a-2. Determination of sponsoring agency**

* No significant changes.

**Sec. 22a-1a-3. Determination of environmental significance**

* Removes the reference to “mapped” policies State Plan of Conservation and Development (State C&D Plan) since they no longer exist.
* Adds the following to be considered in determining direct and indirect environmental impacts:
  + Inconsistency with applicable regional or municipal land use plans;
  + Effect on agricultural resources;
  + Adequacy of existing or proposed utilities and infrastructure;
  + Effect on greenhouse gas emissions as a direct or indirect result of the action; and
  + Effect of a changing climate on the action, including any resiliency measures incorporated into the action.

**Sec. 22a-1a-4. Agency-specific and generic environmental classification documents**

* Formalizes the existence of a generic statewide environmental classification document (ECD), to be maintained by OPM
* Adds the option for agency-specific ECDs to include a list of agency actions or categories of actions that do not warrant additional CEPA review.

**Sec. 22a-1a-5. Adoption and amendment of agency-specific environmental classification documents**

* Minor technical revisions and clarifications.
* Within 18 months of the effective date of these regulations, any agency with an existing, approved ECD (i.e. OPM & DOT) is required to either (A) review, revise, and resubmit a new ECD in accordance with the process identified in this section, or (B) confirm to OPM that the current ECD is still relevant under these revised CEPA Regulations.

[NEW] **Sec. 22a-1a-6. Public scoping procedure**

* Formalizes the public scoping process already in-use by state agencies.

[NEW] **Sec. 22a-1a-7. Post-scoping notice**

* Formalizes the post-scoping process already in-use by state agencies, with new requirements added.
* Establishes subsection (a), requiring agencies to publish a post-scoping notice in the Environmental Monitor which identifies either (A) the agency’s intent to proceed with an EIE, or (B) the agency’s decision that an EIE is not necessary. The agency shall publish the post-scoping notice within six months after the close of the public scoping comment period, or if unable to do so, shall publish a project status update at six-month intervals until the post-scoping notice is published.
* Establishes subsection (b) requiring agencies to consult with all state agencies and municipalities that submitted substantive comments during the public scoping process, prior to finalizing a post-scoping notice.

**Sec. 22a-1a-8. Environmental Impact Evaluations**

* Primarily adds detail or clarification to existing subsections.
* Clarifies expectations for the inclusion and availability of public comments received.

**Sec. 22a-1a-9. Notice, distribution, and review of environmental impact evaluations; public hearing**

* Combines previous sections, and adds details or clarifications to the existing process.

**Sec. 22a-1a-10. Record of decision and determination of adequacy of an environmental impact evaluation**

* In addition to providing OPM with comments, responses to comments, and all supplemental materials, subsection (a) requires a sponsoring agency to make the same documentation available for public inspection.
* The sponsoring agency is now required to provide adequate public notice, including publishing its Record of Decision (ROD) in the Environmental Monitor.
* OPM shall publish its determination of adequacy or inadequacy in the Environmental Monitor.

[NEW] **Sec. 22a-1a-11. Time period for project status updates; review for changed conditions**

* OPM shall publish and maintain a publicly accessible inventory of project-specific information for each action that undergoes public scoping.

**THE CEPA PROCESS IN BRIEF:**

The state agency responsible for the recommendation or initiation of an action is considered to be the sponsoring agency for the purposes of CEPA, and is responsible for determining if the potential for environmental impacts exists and the magnitude of such impacts as a result of the proposed action. As a first step in determining an action’s environmental significance, the sponsoring agency must consult with its applicable Environmental Classification Document (ECD) to determine whether or not public scoping is required.

The ECD is a list of typical agency actions that may have significant environmental impacts, and is used by state agencies in determining if a proposed action warrants further evaluation and to what extent. An agency that does not have its own ECD, as approved by OPM in accordance with RCSA Sec. 22a-1a-4, shall use the Generic ECD prepared and maintained by OPM.

In determining the need for public scoping, the sponsoring agency must first consider the thresholds identified in the ECD, as well as other relevant factors, such as any direct, indirect, and cumulative impacts that may have significant environmental impacts if the proposed action were implemented. A sponsoring agency should proceed with public scoping in situations where the agency has determined that (A) the relevant generic or agency-specific ECD specifically requires public scoping for the proposed action, (B) the proposed action includes other factors with the potential for significant environmental impacts, or (C) the agency’s review is indeterminate.

***NOTE:*** *Although not required under CEPA regulations, sponsoring agencies are encouraged to internally document their initial review of a proposed action and their decision whether or not to undertake public scoping as a matter of public record.*

The scoping process offers the sponsoring agency an opportunity to conduct additional analysis and to address public concerns regarding the potential impacts of a proposed project. It is important that the sponsoring agency be consistent in when and how it applies CEPA across various projects, particularly in how potential impacts are evaluated. Scoping notices shall be published in the Environmental Monitor and have a minimum 30-day public comment period. The agency may opt to hold a public hearing, or may be required to hold one if requested in accordance with statutes and regulations.

***NOTE:*** *Although projects involving repairs and renovations of state facilities, replacements of a structure's architectural features, interior construction and/or renovations, additions and/or renovations to lighting, fire alarm, heating/cooling and mechanical systems, roof repairs, chimney repairs, etc. do not generally require a CEPA review, CEPA should be considered for these types of projects that represent a substantial change from an existing use, or would introduce new elements that could have broader indirect and/or cumulative impacts.*

*Agencies are reminded that a review by the* State Historic Preservation Office *(SHPO) may be required for a proposed action involving any rehabilitation, demolition, or alterations to existing buildings older than 50 years and/or groundbreaking in areas not previously disturbed.*

Not more than six-months after the conclusion of the scoping comment period, a sponsoring agency must publish a post-scoping notice indicating whether or not it will be conducting an EIE in accordance with RCSA Sec. 22a-1a-8. A sponsoring agency shall prepare an EIE whenever (A) the proposed action is identified in the agency’s ECD as a typical action for which an EIE shall always be prepared; (B) the agency has identified significant impacts requiring further assessment, or (C) the agency’s evaluation of potential impacts is indeterminate*.*

If an agency determines that it will not be preparing an EIE, it shall publish a post-scoping notice in accordance with the requirements in RCSA Sec. 22a-1a-7(d), thereby concluding the agency’s CEPA responsibilities. An agency exercising this option must include a completed Environmental Review Checklist (ERC), as defined in RCSA Sec. 22a-1a-1(9), in its post-scoping notice.

***NOTE****: If a sponsoring agency has determined that it will be preparing an EIE for a proposed action, it does not need to complete the environmental review checklist as part of its post-scoping notice.*

If an agency is unable to submit a post-scoping notice within the six-month time frame, it shall publish updates in the Environmental Monitor at six-month intervals until the post-scoping notice is published. The updates shall include the status of the project and an estimated time frame for a post-scoping notice.

If an agency decides to prepare an EIE, CEPA regulations require that the document be clear and concise, and written in a way so as to be understandable by the general public, and that the impacts shall be discussed in proportion to their significance and magnitude. In keeping with the spirit of CEPA, an EIE shall be conducted early enough in a project’s development to inform the decision-making process and shall not be used to rationalize or justify decisions already made.

Upon its completion, the sponsoring agency shall publish notice of the EIE in the Environmental Monitor, and any other media necessary to ensure adequate public notice, and include a minimum 45-day comment period. The agency may opt to hold a public hearing, or may be required to hold one if requested in accordance with statutes and regulations.

At the close of the EIE comment period, the sponsoring agency shall review all comments received and shall prepare responses to any substantive issues raised and, if necessary, modify its evaluation accordingly.  The agency shall then prepare its Record of Decision (ROD) and submit it to OPM for a review and determination of adequacy. The revised CEPA Regulations now require that, in addition to providing the ROD and all EIE-related documentation to OPM, agencies must also publish the ROD in the Environmental Monitor, and to make all EIE-related documentation available for public inspection, including comments, responses, and any supplemental materials.

OPM shall review the sponsoring agency's submittal of the EIE and the ROD, including all comments, responses, and supporting documentation, and may consult with other pertinent agencies in determining the adequacy of the EIE and ROD. Once a determination is made, OPM then notifies the sponsoring agency of its decision and OPM publishes its written determination in the Environmental Monitor.

***NOTE:*** *Whenever a state agency utilizes a consultant to prepare an EIE under CEPA, the decision whether or not to proceed with the proposed action must ultimately be made by the sponsoring agency.*

If the EIE and ROD are determined to be adequate, the sponsoring agency has fulfilled its obligations under CEPA and may proceed with the project. If the document is determined to be inadequate, OPM shall specify the areas of inadequacy and any corrective action to be undertaken by the sponsoring agency. Agencies may choose to amend their EIE and ROD and resubmit, or cancel the project.

Although not part of the sponsoring agency’s responsibilities under CEPA, the revised CEPA Regulations now require OPM, in consultation with DEEP and CEQ, to publish and maintain a publicly accessible inventory of state agency actions that have undergone public scoping. The inventory shall include, at a minimum: the date of any post-scoping notice or action status update; the date that OPM publishes its determination of adequacy; any other information OPM deems appropriate.

***NOTE:*** *Please note that when a state agency proposes to sell or transfer land, in most cases it must publish a notice in the Environmental Monitor. While all of the other notices in the Environmental Monitor are required by the Connecticut Environmental Policy Act (CEPA), the law that requires notice of proposed land transfers is entirely separate. Please visit* <https://www.ct.gov/ceq/cwp/view.asp?a=987&Q=483998&ceqNav=|> *for more info.*



**USEFUL LINKS:**

OPM CEPA webpage:

<https://portal.ct.gov/OPM/IGPP-MAIN/Responsible-Growth/CEPA/Overview-of-Connecticut-Environmental-Policy-Act>

Council on Environmental Quality (CEQ) Environmental Monitor: <https://www.ct.gov/ceq/cwp/view.asp?a=987&q=249438>

Connecticut General Statutes, Sections 22a-1 through 22a-1h: <https://www.cga.ct.gov/current/pub/chap_439.htm#sec_22a-1>

Regulations of Connecticut State Agencies, Sec. 22a-la-1 through 22a-la-12: <https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_22aSubtitle_22a-1a/>

Office of Legislative Research (OLR) July 30, 2004 Research Report - Connecticut Environmental Policy Act:

<https://www.cga.ct.gov/2004/rpt/2004-R-0610.htm>

Office of Legislative Research (OLR) January 30, 2008 Research Report – Legislative history of the Connecticut Environmental Policy Act:

<https://www.cga.ct.gov/2008/rpt/2008-R-0079.htm>

National Environmental Policy Act (NEPA):

<https://ceq.doe.gov/>

State Historic Preservation Office:

<https://portal.ct.gov/DECD/Content/Historic-Preservation/01_Programs_Services/Environmental-Review/Environmental-Review-Procedures>

**APPENDIX A:** Environmental Review Checklist

**State of Connecticut

Environmental Review Checklist

*Last Updated 02/25/2020*

**Instructions for Use:**

The Environmental Review Checklist (ERC), as defined in Sec. 22a-1a-1(9) of the Regulations of Connecticut State Agencies (RCSA), is intended to assist state agencies in (1) determining whether a proposed action or category of actions requires public scoping, or (2) in recording an agency’s initial assessment of the direct, indirect, and cumulative environmental effects of a proposed action at the completion of public scoping.

For the purposes of CEPA, an Action is defined in Sec 22a-1a-1(2) of the RCSA as an individual activity or a sequence of planned activities initiated or proposed to be undertaken by an agency or agencies, or funded in whole or in part by the state.

Completion of the ERC is only *required* as part of a sponsoring agency’s post-scoping notice in which the agency has determined that it will not be preparing an EIE (Sec. 22a-1a-7(d) of the RCSA).

In all other instances, the sponsoring agency has the option to use this form or portions of it, in conjunction with the applicable Environmental Classification Document (ECD), as a tool to assist it in determining whether or not scoping is required and to document the agency’s review. This can be especially useful for an agency administering a proposed action that is not specifically represented in the ECD or which may have additional factors and/or indirect or cumulative impacts requiring further consideration.

Even if an agency ultimately determines that public scoping is not necessary, as a matter of public record OPM highly recommends that the agency internally document its decision, and its justification.

In completing this form, include descriptions that are clear, concise, and understandable to the general public.

Note that prior to reviewing a proposed action under the Connecticut Environmental Policy Act (CEPA), Connecticut General Statutes (CGS), Section 16a-31 requires agencies to review any proposed actions for the acquisition, development or improvement of real properties, or the acquisition of public transportation equipment or facilities, and in excess of $200,000, for consistency with the policies of the State Plan of Conservation and Development (State C&D Plan).

**State of Connecticut

Environmental Review Checklist

*Last Updated 02/25/2020*

**PART I – Initial Review and Determination**

|  |  |  |
| --- | --- | --- |
| Date: | Enter text. | |
| Name of Project/Action: | Enter text. | |
| Project Address(es): | Enter text. | |
| Affected Municipalities: | Enter text. | |
|  |  |  |
| Sponsoring Agency(ies): | Enter text. | |
| Agency Project Number, if applicable: | Enter text. | |
| Project Funding Source(s)/Program(s), if known: | Enter text. | |
|  |  | |
| Identify the Environmental Classification Document (ECD) being used in this review:  Generic, or  Agency-Specific | | |
|  | |  |
| An environmental assessment or environmental impact statement is being prepared pursuant to NEPA, and shall be circulated in accordance with CEPA requirements. | | |
|  |  |  |
| The proposed action requires a written review by the State Historic Preservation Office (SHPO) and/or Nation Tribal Historic Preservation Office (NATHPO). Include SHPO/NATHPO reviews as an attachment, or indicate the status of those reviews: Indicate status of SHPO and/or NATHPO review. | | |
|  | | |

Based on the analysis documented in this Environmental Review Checklist (ERC), and in consideration of public comments, this agency has determined that the preparation of an Environmental Impact Evaluation (EIE) for the proposed action is not warranted. Publication of this document to the Environmental Monitor shall satisfy the agency’s responsibilities under [*Section 22a-1a-7 of the Regulations of Connecticut State Agencies*](https://eregulations.ct.gov/eRegsPortal/Browse/RCSA/Title_22aSubtitle_22a-1a/) (RCSA).

Completed by: Name and Title.

*Note**that prior to commencing a CEPA review, Connecticut General Statutes (CGS) Section 16a-31 requires state agencies to review certain actions for their consistency with the policies of the State Plan of Conservation and Development (State C&D Plan). Completion of this ERC assumes the agency has determined this proposed action to be consistent with the State C&D Plan.*

**PART II – Detailed Project Information**

**Description of the Purpose & Need of the Proposed Action:**

Briefly explain why the proposed action is needed and specifically what problem this is intended to solve. This is different from the project description. Provide attachments as necessary, but only to supplement the description provided here.

**Description of the Proposed Action:**

Briefly describe the activities and actions being proposed. Identify project phasing, if applicable, and any other reasonably anticipated actions related to, or resulting from, the subject action. Provide attachments as necessary, but only to supplement the description.

**Alternatives Considered:**

Briefly describe any reasonable alternatives considered.

**Public concerns or controversy associated with the proposed action:**

Briefly describe any public concerns or controversy related to the proposed action that the agency is aware of at the time of this review.

**PART III – Site Characteristics (Check all that apply)**

|  |  |
| --- | --- |
| The proposed action is non-site specific, or encompasses multiple sites; |  |
|  | |
| Current site ownership: | N/A,  State; Municipal,  Private,  Other: Please Explain. |
| Anticipated ownership upon project completion: | N/A,  State; Municipal,  Private,  Other: Please Explain. |

**Locational Guide Map Criteria:**

<http://ctmaps.maps.arcgis.com/apps/webappviewer/index.html?id=ba47efccdb304e02893b7b8e8cff556a>

Priority Funding Area factors:

Designated as a Priority Funding Area, including  Balanced, or  Village PFA;

Urban Area or Urban Cluster, as designated by the most recent US Census Data;

Public Transit, defined as being within a ½ mile buffer surrounding existing or planned mass transit;

Existing or planned sewer service from an adopted Wastewater Facility Plan;

Existing or planned water service from an adopted Public Drinking Water Supply Plan;

Existing local bus service provided 7 days a week.

Conservation Area factors:

Core Forest Area(s), defined as greater than 250 acres based on the 2006 Land Cover Dataset;

Existing or potential drinking water supply watershed(s);

Aquifer Protection Area(s);

Wetland Soils greater than 25 acres;

Undeveloped Prime, Statewide Important and/or locally important agricultural soils greater than 25 acres;

Category 1, 2, or 3 Hurricane Inundation Zone(s);

100 year Flood Zone(s);

Critical Habitat;

Locally Important Conservation Area(s),

Protected Land (list type): Enter text.

Local, State, or National Historic District(s).

**PART IV - Assessment of Environmental Significance – Direct, Indirect, And Cumulative Effects**

|  |  |
| --- | --- |
| **Required Factors for Consideration (Section 22a-1a-3 of the RCSA)** | **Agency’s Assessment and Explanation** |
| Effect on water quality, including surface water and groundwater; | Enter text. |
| Effect on a public water supply system; | Enter text. |
| Effect on flooding, in-stream flows, erosion or sedimentation; | Enter text. |
| Disruption or alteration of an historic, archeological, cultural, or recreational building, object, district, site or its surroundings; A. Alteration of an historic building, district, structure, object, or its setting; OR B. Disruption of an archeological or sacred site; | Enter text. |
| Effect on natural communities and upon critical plant and animal species and their habitat; interference with the movement of any resident or migratory fish or wildlife species; | Enter text. |
| Use of pesticides, toxic or hazardous materials or any other substance in such quantities as to cause unreasonable adverse effects on the environment; | Enter text. |
| Substantial aesthetic or visual effects; | Enter text. |
| Inconsistency with: (A) the policies of the State C&D Plan, developed in accordance with section 16a-30 of the CGS; (B) other relevant state agency plans; and (C) applicable regional or municipal land use plans; | Enter text. |
| Disruption or division of an established community or inconsistency with adopted municipal and regional plans, including impacts on existing housing where sections 22a- 1b(c) and 8-37t of the CGS require additional analysis; | Enter text. |
| Displacement or addition of substantial numbers of people; | Enter text. |
| Substantial increase in congestion (traffic, recreational, other); | Enter text. |
| A substantial increase in the type or rate of energy use as a direct or indirect result of the action; | Enter text. |
| The creation of a hazard to human health or safety; | Enter text. |
| Effect on air quality; | Enter text. |
| Effect on ambient noise levels; | Enter text. |
| Effect on existing land resources and landscapes, including coastal and inland wetlands; | Enter text. |
| Effect on agricultural resources; | Enter text. |
| Adequacy of existing or proposed utilities and infrastructure; | Enter text. |
| Effect on greenhouse gas emissions as a direct or indirect result of the action; | Enter text. |
| Effect of a changing climate on the action, including any resiliency measures incorporated into the action; | Enter text. |
| Any other substantial effects on natural, cultural, recreational, or scenic resources. | Enter text. |
| Cumulative effects. | Enter text. |

**PART V - List of Required Permits, Approvals and/or Certifications Identified at the Time of this Review**

Enter text.

**PART VI – Sponsoring Agency Comments and Recommendations**

Enter text.

**PART VII - Public Comments and Sponsoring Agency Responses:**

Enter text.

1. *The definition included as part of CGS Sec. 22a-1c incorrectly references CGS Sec. 22a-1i as part of the CEPA statutes. CEPA statutes include CGS Sec. 22a-a through 22a-1h.* [↑](#footnote-ref-1)