

Regulations of Connecticut State Agencies

TITLE 16. Public Service companies

Agency

Connecticut Siting Council

Subject

Community Antenna Television and Telecommunications Towers

Inclusive Sections

§§ 16-50j-1—16-50j-91

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Article 1

General Provisions

Part 1

Scope and Construction of Rules

Sec. 16-50j-1. 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

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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.

(Effective March 7, 1989; Amended September 7, 2012)

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.

(Effective September 7, 2012)

Sec. 16-50j-2. Repealed

Repealed March 7, 1989.

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:

(1) “Associated equipment” 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 that is 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.

(2) “Attorney” means an attorney at law, duly admitted to practice before the Superior Court of the state of Connecticut. Any other person who appears before the 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 a written notification of appearance and the written authorization of the person, firm, corporation, or association being represented.

(3) “Blade length” means the distance between the blade tip and the center of the hub of a wind turbine.

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(4) “Certificate” means a Certificate of Environmental Compatibility and Public Need as defined under Section 16-50k of the Connecticut General Statutes or a Certificate of Public Safety and Necessity as defined under 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 the Council.

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

(6) “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.

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

(8) “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 hearing in accordance with Section 4-166(2) of the Connecticut General Statutes.

(9) “Council” means the members of the Connecticut Siting Council appointed under section 16-50j(b) and section 16-50j(c) of the Connecticut General Statutes and referred to in Section 16-50j(d) and section 22a-115 of the Connecticut General Statutes.

(10) “Customer-side distributed resources project” means a project designed to utilize “customer-side distributed resources,” as defined in Section 16-1 of the Connecticut General Statutes.

(11) “Facility” means A facility as defined in Section 16-50i(a) of the Connecticut General Statutes.

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

(13) “Grid-side distributed resources project” means a project designed to utilize “grid-side distributed resources,” as defined in Section 16-1 of the Connecticut General Statutes.

(14) “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 22a-115 of the Connecticut General Statutes.

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

(16) “Hub” means the central part of a wind turbine that supports the turbine blades on the outside and connects to the rotor shaft inside the nacelle.

(17) “Intervenor” means a person other than a party, granted status as an intervenor by the Council in accordance with Section 16-50n of the Connecticut General Statutes.

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

(19) “Modification” means a significant change or alteration in the general physical

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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 determined by the Council.

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

(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 the Department of Energy and Environmental Protection pursuant to chapter 445, 446d, or 446k of the Connecticut General Statutes, that the Council deems significant, or

(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 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.

(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 management facility constructed or operating pursuant to the provisions of the Northeast Interstate Low-Level Radioactive Waste Management Compact, Sections 22a-161, et seq. of the Connecticut General Statutes.

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

(21) “Nacelle” means the structure at the top of a wind turbine tower behind or in front of the wind turbine blades that houses the key operational components of the wind turbine including, but not limited to, the rotor shaft, gearbox, controller, brake and generator.

(22) “Party” means each person entitled to be a party in a contested case pursuant to the provisions of Section 16-50n(a) of the Connecticut General Statutes, or in the event of a hazardous waste facility proceeding, pursuant to the provisions of Section 22a-120(a) of the Connecticut General Statutes.

(23) “Person” means any 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.

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

(25) “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

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within the party states to the Northeast Interstate Low-level Radioactive Waste Management Compact as these terms are defined in Section 22a-161 of the Connecticut General Statutes.

(26) “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.

(27) “Rotor” means the part of a wind turbine that consists of the blades and the hub.

(28) “Shadow flicker” means the intermittent shadows created by the wind turbine blades passing through the light of the sun.

(29) “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 a facility and associated equipment is located, shall be located, or is proposed to be located.

(30) “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:

(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

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

(31) “Tower Base” means the top of the foundation or equivalent surface that shall bear the vertical load of a tower.

(32) “Tower Height” means the measurement from ground level to the highest point on the tower;

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

(34) “Wind turbine” means a device that converts wind energy to electricity.

(35) “Wind turbine height” means the measurement from ground level to the tip of the blade of a wind turbine in the vertical position.

(36) “Wind turbine tower” means the base structure that supports a wind turbine rotor and nacelle.

(37) “Wind turbine tower base” means the top of the foundation or equivalent surface that shall bear the load of a wind turbine tower.

(38) “Wind turbine tower height” means the measurement from ground level to the top of the hub.

(Effective March 7, 1989; Amended September 7, 2012; Amended May 9, 2014)

Sec. 16-50j-3. Waiver of rules

Where good cause appears, the council may permit deviation from these rules, except

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where precluded by statute.

(Effective July 3, 1972)

Sec. 16-50j-4. Construction and amendment

These rules shall be so construed by the council as to secure just, speedy, and inexpensive determination of the issues presented hereunder. Amendments and additions to these rules may be adopted by the council in accordance with the authority delegated to the council by law.

(Effective March 7, 1989)

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 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-6. Extensions of time

In the discretion of the council, for good cause shown, any time limit prescribed or allowed by these rules may be extended insofar as such extension is not precluded by statute. All requests for extensions of time shall be made before the expiration of the period originally prescribed or as previously extended. All parties shall be notified of the council's action upon such motion.

(Effective August 16, 1979)

Sec. 16-50j-7. Consolidation

Proceedings involving related questions of law or fact may be consolidated at the direction of the council.

(Effective July 3, 1972)

Part 2

Filing Requirements

Sec. 16-50j-8. Office

The principal office of the Council is located at 10 Franklin Square, New Britain, Connecticut 06051. The office of the Council is open from 8:30 a.m. to 4:30 p.m. each

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weekday except Saturdays, Sundays, and legal holidays.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-9. Date of filing

All orders, decisions, findings of fact, correspondence, motions, petitions, applications, and any other documents governed by these rules shall be deemed to have been filed or received on the date on which they are issued or received by the council at its principal office.

(Effective August 16, 1979)

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 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-11. Signatures

Every application, notice, motion, petition, complaint, brief, and memorandum shall be signed by the filing person or by one or more attorneys in their individual names on behalf of the filing person.

(Effective August 16, 1979)

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 or ordered or expressly requested by the Council, at the time motions, petitions, applications, documents, or other papers are filed with the Council, there shall be furnished to the Council an original of such papers. In addition to the original, there shall also be filed 20 copies for the use of the Council and its staff, unless a greater or lesser number of such copies is expressly requested by the 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 and used where appropriate, motions, petitions, applications, documents, or other papers filed for the purpose of any proceeding before the 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 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

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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 shall be filed at the office of the Council, 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 16-50l(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.

(Effective March 7, 1989; Amended September 7, 2012)

ARTICLE 2

CONTESTED CASES

Part 1

Parties, Limited Appearances, and Intervenors

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

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

(Effective March 7, 1989; Amended September 7, 2012)

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

(a) Filing of petition.

Any 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 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 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 shall consider all such petitions and 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 shall be specifically affected by the Council's 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-15. Application to be designated an intervenor

(a) Filing of petition.

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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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-15a. 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-15b. 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.

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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.

(Effective May 28, 1985; Amended September 7, 2012)

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 may add parties and intervenors at any time during the pendency of any proceeding.

(b) Notice of designation.

In the event that the Council shall name or admit any party or intervenor after service of the initial notice of hearing in a proceeding, the Council shall give written notice thereof to all parties or intervenors theretofore named or admitted. The form of the notice shall be a copy of the order of the 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.

(Effective March 7, 1989; Amended September 7, 2012)

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.

(Effective September 7, 2012)

Sec. 16-50j-17. Status of party and of intervenor

(a) Party as party in interest. By its decision in a proceeding, the council shall dispose of the legal rights, duties, and privileges of each party named or admitted to the proceeding. Each such party is deemed to be a party in interest who may be aggrieved by any final decision, order, or ruling of the council.

(b) Status of intervenor. No grant of leave to participate as an intervenor shall be deemed to be an expression by the council that the person permitted to intervene is a party in interest who may be aggrieved by any final decision, order, or ruling of the council unless

such grant of leave explicitly so states.

(Effective March 7, 1989)

Part 2

Hearing, General Provisions

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

A hearing shall be held, where required by law, on all applications submitted pursuant to sections 16-50l to 16-50q, inclusive, of the Connecticut General Statutes, upon appeal as provided for in Section 16-50x(d) of the Connecticut General Statutes, 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, and on any petition for a declaratory ruling for a wind turbine facility submitted pursuant to Section 16-50k of the Connecticut General Statutes. In the event of a hazardous waste facility proceeding, a hearing shall be held on all applications submitted pursuant to Sections 22a-117 to 22a-122, inclusive, of the Connecticut General Statutes.

(Effective March 7, 1989; Amended September 7, 2012; Amended May 9, 2014)

Sec. 16-50j-19. Calendar of hearings

A docket of all proceedings of the council shall be maintained. In addition a hearing calendar of all proceedings that are to receive a hearing shall be maintained. Proceedings shall be placed on the hearing calendar in the order in which the proceedings are listed on the docket of the council, unless otherwise directed by the council.

(Effective August 16, 1979)

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

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

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-21. Notice of hearings

(a) Persons notified.

(1) Not later than one week 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 their written request for notice of hearing in a particular matter, and to such additional persons as the Council directs. The 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 Section 16-50m(c) of

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the 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.

(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) the date, place and time for any scheduled field reviews of the proposed site by the Council.

(Effective March 7, 1989; Amended September 7, 2012)

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

Each person making an appearance before the Council as an attorney, agent, or representative of any person, firm, corporation, or association subject to the Council's regulatory jurisdiction in connection with any contested case or petition for a declaratory ruling shall promptly notify the 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.

(Effective August 16, 1979; Amended September 7, 2012)

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

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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.

(Effective September 7, 2012)

Sec. 16-50j-23. Repealed

Repealed March 7, 1989.

Sec. 16-50j-24. Rules of conduct

Where applicable, the canons of professional ethics and the canons of judicial ethics adopted and approved by the judges of the superior court govern the conduct of the council, state employees serving the council, and all attorneys, agents, representatives, and any other persons who shall appear in any proceedings or in any contested case before the council in behalf on any public or private person, firm, corporation, or association.

(Effective August 16, 1979)

Part 3

Hearings, Procedure

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 and to provide all intervenors an opportunity to present evidence and cross-examine such issues as the 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. Upon such disposition, a copy of the order of the Council shall be served on each party and intervenor.

(c) Pre-Filed Evidence and Testimony.

At the discretion of the Council, any evidence or testimony may be required to be pre-filed by a date specified by the 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-26. Record

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

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

(2) all written evidence of any kind received and considered by the 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 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 be available at all reasonable times for examination by the public without cost at the principal office of the 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, in each county where the facility or any part thereof is proposed to be located.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-27. Filing of added exhibits

(a) Upon order of the council before, during, or after the hearing of a case, any party or intervenor shall prepare and file added exhibits and testimony. A copy of any such additional materials shall be given to all parties and intervenors by the party or intervenor submitting the said material.

(b) Upon a determination by the council that any filing of such additional material by a party or intervenor would be burdensome due to its form or excessive volume, the council may allow for the filing of the material at the office of the council. All parties and intervenors shall be afforded the opportunity to copy and/or inspect such material.

(Effective March 7, 1989)

Sec. 16-50j-28. Rules of evidence

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 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) **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) **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) **Documentary Evidence.**

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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) 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-29. Order of procedure at hearings

In hearings on applications, the party that shall open and close the presentation of any part of the matter shall be the applicant. In a case where the opening portion has already been submitted in written form as provided by these rules, the hearing may open with the cross examination of persons who have given written testimony. In the event any person has given written testimony and is not available for such cross examination at the time and place directed by the council, all of such written testimony may be discarded and removed from the record at the direction of the council.

(Effective July 3, 1972)

Sec. 16-50j-30. Limited number of witnesses

To avoid unnecessary cumulative evidence, the council may limit the number of witnesses or the time for testimony upon a particular issue in the course of any hearing.

(Effective August 16, 1979)

Part 4

Hearings, Decision

Sec. 16-50j-31. Filing of proposed findings of facts and briefs

At the conclusion of the presentation of evidence in any hearing, the council shall fix a time within which any party and intervenor may file proposed findings of facts and briefs.

(Effective May 28, 1985)

Sec. 16-50j-32. Final decision

(a) Procedure and contents. All decisions and orders of the council concluding a

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contested case shall be in writing. The decision may include all findings of fact and conclusions of law relied upon by the council in arriving at the decision, the findings of fact and conclusions of law to be separately stated.

(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. 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 public hearing.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-33. Repealed

Repealed March 7, 1989.

Sec. 16-50j-34. Original records

The applicant shall, upon direction of the council, furnish and make available for the use of the council the original books, papers, and documents from which any part of the application is derived. If so directed, or permitted, certified or verified copies shall be furnished in lieu of such original records. Failure to furnish original records may be ground for rejecting any component and, if appropriate, for refusing the application.

(Effective August 16, 1979)

ARTICLE 3

MISCELLANEOUS PROCEEDINGS

Part 1

Petitions Concerning Adoption of Regulations

Sec. 16-50j-35. General rule

These rules set forth the procedure to be followed by the council in the disposition of petitions concerning the promulgation, amendment, or repeal of a regulation.

(Effective July 3, 1972)

Sec. 16-50j-36. Form of petitions

Any interested person may at any time petition the council to promulgate, amend, or repeal any regulation. The petition shall set forth clearly and concisely the text of the proposed regulation, amendment, or repeal. Such petition shall also state the facts and arguments that favor the action it proposes by including such data, facts, and arguments either in the petition or in a brief annexed thereto. The petition shall be addressed to the council and sent to the principal office of the council by mail or delivered in person during normal business hours. The petition shall be signed by the petitioner and shall furnish the

address of the petitioner and the name and address of petitioner's attorney, if applicable.

(Effective August 16, 1979)

Sec. 16-50j-37. Procedure after petition filed

(a) Decision on petition.

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 deny the petition in writing or initiate regulation-making proceedings in accordance with Section 4-168 of the Connecticut General Statutes.

(b) Procedure on denial. If the council denies the petition, the council shall give the petitioner notice in writing, stating the reasons for the denial based upon the data, facts, and arguments submitted with the petition by the petitioner and upon such additional data, facts, and arguments as the council shall deem appropriate.

(Effective March 7, 1989; Amended September 7, 2012)

Part 2

Petitions for Declaratory Rulings

Sec. 16-50j-38. General rule

These rules set forth the procedure to be followed by the council in initiating a proceeding or disposing of a petition for declaratory rulings as to the applicability of any statutory provision or validity or applicability of any regulation, final decision, or order of the council. Such a ruling of the council disposing of a petition for a declaratory ruling shall have the same status as any decision or order of the council in a contested case.

(Effective March 7, 1989)

Sec. 16-50j-39. Filing requirements

(a) General.

Any interested person may at any time request a declaratory ruling of the 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. Such request shall be addressed to the Council and sent to the principal office of the Council by mail or delivered in person during normal business hours. 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 data, facts, and arguments that support the position of the person making the inquiry. Where applicable, 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.

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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.

(Effective March 7, 1989; Amended September 7, 2012)

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.

(Effective September 7, 2012)

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

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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 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 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 deems a hearing necessary or helpful in determining any issue concerning the request for a declaratory ruling, the Council shall schedule such hearing and give such notice thereof as shall be appropriate. 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 hearing concerning a declaratory ruling.

(c) Decision on petition.

Within 60 days after receipt of a petition for a declaratory ruling, the 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 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.

(Effective March 7, 1989; Amended September 7, 2012)

Part 3

Miscellaneous Provisions

Sec. 16-50j-41. Council investigations

The Council may at any time initiate investigations and enforcement actions pursuant to Section 16-50u of the Connecticut General Statutes. Orders initiating the investigation shall indicate the nature of the matters to be investigated and shall be served upon any person being investigated. Upon direction by the Council said person shall file with the Council such data, facts, arguments and statement of position as shall be necessary to respond to the inquiry of the 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.

(Effective July 3, 1972; Amended September 7, 2012)

Sec. 16-50j-42. Procedure

The rules of practice and procedure set forth in 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.

(Effective July 3, 1972; Amended September 7, 2012)

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 Sections 22a-14 to 22a-20, inclusive, of the Connecticut General Statutes to intervene as a party in any proceeding before the Council shall do so in accordance with the provisions of these rules and regulations as they may be applicable.

(Effective March 7, 1989; Amended September 7, 2012)

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

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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.

(Effective September 7, 2012)

Sec. 16-50j-45—16-50j-55. Reserved

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.

(Effective September 7, 2012)

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

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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

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(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

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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.

(Effective September 7, 2012)

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.

(Effective September 7, 2012)

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

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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;

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(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.

(Effective September 7, 2012)

Part 2

Development and Management Plan

Sec. 16-50j-60. Requirements for a Development and Management Plan (D&M Plan)

(a) Purpose.

The Council may require the preparation of full or partial Development and Management Plans (D&M Plans) for proposed 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.

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A partial or full 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 energy facility for which the Council issues a certificate of environmental compatibility and public need, except where the 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 plan shall be prepared by the 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 plan shall be submitted to the Council in one or more sections, and the Council shall approve, modify, or disapprove each section 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, no clearing or construction shall begin prior to approval of applicable sections of the D&M plan by the Council.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-61. Elements of a D&M plan

(a) Key map.

The D&M plan shall include a key map for 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 plan shall consist of maps at a scale of 1 inch = 100 feet or larger (called "plan drawings") and supporting documents, which shall contain the following information:

(1) The edges of the proposed site and of any existing site contiguous to or crossing it, the portions of those 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 site;

(3) The approximate location along the 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 site or to be removed;

(5) The probable points of access to the site, and the route and likely nature of the access ways, including alternatives or options to the probable points of access and access ways;

(6) The edges of existing and proposed clearing areas, the type of proposed clearing

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along each part of the site, and the location and species identification of vegetation that would remain for aesthetic and wildlife value;

(7) Sensitive areas and conditions within and adjoining the 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, endangered, threatened 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, 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) **Supplemental information.**

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

(2) All construction and rehabilitation procedures with reasonable mitigation measures that shall be taken to protect the areas and conditions identified in section 16-50j-61(b)(7) 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 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 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.

(3) Plans for the method and type of vegetative clearing and maintenance to be used within or adjacent to the site;

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(4) The location of public recreation areas or activities known to exist or being proposed in or adjacent to the site, together with copies of any agreements between the company and public agencies authorizing public recreation use of the 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 site;

(6) Locations of areas where blasting is anticipated;

(7) Rehabilitation plans, including, but not limited to, reseeding 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-62. Reporting requirements

(a) Site Testing and Staging areas.

The certificate holder, or facility owner or operator, shall provide the Council with written notice of the location and size of all areas to be accessed or used for site testing or staging areas. If such an area is to be used prior to approval of the D&M plan, the Council may approve such use on terms as it deems appropriate.

(b) Notice

(1) The certificate holder, or facility owner or operator, shall provide the 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 site and

(B) facility construction in that same portion.

(2) The certificate holder, or facility owner or operator, shall provide the Council with advance written notice whenever a significant change of the approved D&M plan is necessary. 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 wetland or watercourse crossing;

(B) the location of an access way or a structure in a regulated wetland or watercourse area;

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(C) the construction or placement of any temporary structures or equipment;

(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, 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 certificate holder, or facility owner or operator, shall provide the 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 plan. The Council may approve changes and deviations, request corrections or require mitigation measures.

(4) The certificate holder, or facility owner or operator, shall provide the 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 with a final report for the facility not later than 180 days after completion of all site construction and site rehabilitation. This final report shall identify:

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

(2) significant changes of the 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 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 reseeding 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;

(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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-63—16-50j-69. Reserved

ARTICLE 5

Community Antenna Television and Telecommunications Towers

Part 1

Rules of Practice

Sec. 16-50j-70. Repealed

Repealed March 7, 1989.

Sec. 16-50j-71. Finding

Pursuant to Section 16-50i (a) (5) and (6) of the Connecticut General Statutes, the Council finds that each community antenna television tower or telecommunications tower and its associated equipment except as specified in Sections 16-50j-72 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 Section 16-50j-2a of the Regulations of Connecticut State Agencies, to an existing tower site, except as specified in Sections 16-50j-72 and 16-50j-88 of the Regulations of Connecticut State Agencies, may have a substantial adverse environmental effect.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-72. Exceptions

(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

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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 site that do not:

(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 does not

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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 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 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 an acknowledgment from the 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 telecommunications equipment shall not constitute a facility provided that:

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

(2) Any provider of temporary telecommunications service for an event of statewide significance shall provide to 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 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 temporary telecommunications 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 telecommunications service;

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

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

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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 telecommunications service at an area of a local disaster shall provide to the Council written notice not later than 48 hours after the deployment including:

(A) The location of the temporary telecommunications 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 telecommunications service;

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

(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 telecommunications equipment exceed 30 days unless the Council and the property owner of record, if the property owner of record is different from the provider, grant approval for an extension.

(Effective March 7, 1989; Amended September 7, 2012)

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

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, 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 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-74. Information required

In addition to conforming to Section 16-50l of the 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

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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 16-50i (a) (5) and (6) of the Connecticut General Statutes, shall include, but not be limited to, the following:

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

(2) A statement of the need for the proposed tower and associated equipment, or modification 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 tower and associated equipment, or modification 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 tower and associated equipment, or modification 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 tower and associated equipment, or modification 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 tower and associated equipment, or modification and associated equipment, the antennas and other components to be supported, and all structures on the site; and

(B) where relevant, a terrain profile showing the proposed tower and associated equipment, or modification 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 tower and associated equipment, or modification 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 tower and associated equipment, or modification and associated equipment;

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

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- (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 tower and associated equipment or modification and associated equipment, including a copy of any state and municipal agency position or decision with respect to the tower or modification and associated equipment;
- (15) Where relevant, a list of all towers and associated equipment within a 5-mile radius of the proposed tower and associated equipment or modification and associated equipment;
- (16) A description of technological alternatives and a statement containing justification for the proposed facility;
- (17) A description of alternate sites for the proposed tower, if applicable, and associated equipment, or modification 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 tower and associated equipment, or modification 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 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.

(Effective March 7, 1989; Amended September 7, 2012)

Part 2

Development and Management Plan

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

(a) Purpose.

The Council may require the preparation of full or partial D&M plans for proposed community antenna television towers or head-end structures and associated equipment or telecommunications towers and associated equipment or a modification to an existing 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 plan shall be prepared in accordance with this Section and shall include the information described in Sections 16-50j-76 to 16-50j-77, inclusive, of the

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Regulations of Connecticut State Agencies 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 record may be referenced.

(c) Procedure for preparation.

The D&M plan shall be prepared by the certificate holder of the tower and associated equipment, 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 plan shall be submitted to the Council in one or more sections, and the Council shall approve, modify or disapprove each section 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 any section thereof within 60 days after receipt of it, the plan shall be deemed approved. Except as otherwise authorized by the Council, no clearing or construction shall begin prior to approval of applicable sections of the D&M plan by the 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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-76. Elements of a D&M plan

(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) 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

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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 hydro-logic features;

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(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.

(Effective March 7, 1989; Amended September 7, 2012)

Sec. 16-50j-77. Reporting requirements

(a) Supervisory Personnel.

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

(b) Notice.

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

(A) clearing and access work, and

(B) construction of the tower and associated equipment.

(2) The certificate holder, or facility owner or operator, shall provide the Council with advance written notice whenever a significant modification of the approved D&M plan is necessary including, but not limited to, a change in the location of the tower, associated equipment, guy wires, or access road. The Council, or its designee shall promptly review the changes, and the 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 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 plan. The Council 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 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 with a final

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report not later than 180 days after completion of all site construction and site rehabilitation. This final report shall identify:

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

(2) significant modifications of the 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.

(Effective May 28, 1985; Amended September 7, 2012)

Sec. 16-50j-78—16-50j-79. Reserved

Rules of Practice

Telecommunication Tower

Sec. 16-50j-80—16-50j-84. Repealed

Repealed May 28, 1985.

Telecommunication Tower Development and Management Plan

Sec. 16-50j-85—16-50j-87. Repealed

Repealed May 28, 1985.

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.

(Effective September 7, 2012)

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

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Connecticut State Agencies shall govern the practice and procedure of the Council in any feasibility proceeding concerning the proposed shared use of a facility.

(Effective September 7, 2012)

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.

(Effective September 7, 2012)

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.

(Effective September 7, 2012)

Sec. 16-50j-92. Application for a certificate of environmental compatibility and public need

Pursuant to Section 16-50k of the Connecticut General Statutes, any person seeking to construct, operate and maintain a wind turbine facility with a generating capacity of more than 65 megawatts shall file an application for a certificate. The application shall be filed with the Council in accordance with the filing requirements of Section 16-50j-59 of the Regulations of Connecticut State Agencies and Sections 16-50l-1 to 16-50l-5, inclusive, of the Regulations of Connecticut State Agencies. The application filed with the Council shall also include additional information required to be submitted to the Council as part of the application under Section 16-50j-94 of the Regulations of Connecticut State Agencies. A motion for protective order may be filed with the Council for any information that may qualify as proprietary or critical energy infrastructure information pursuant to Subsection

(d) of Section 16-50j-22a of the Regulations of Connecticut State Agencies.

(Effective May 9, 2014)

Sec. 16-50j-93. Petition for a declaratory ruling

Pursuant to Subsection (a) of Section 16-50k of the Connecticut General Statutes, any person seeking to construct, operate and maintain a customer-side distributed resources project or a grid-side distributed resources project with a capacity of not more than 65 megawatts or a wind turbine facility with a capacity of less than one megawatt provided the facility fails to meet the criteria for exemption under Section 16-50i (a)(3) of the Connecticut General Statutes, shall file a petition for a declaratory ruling. The petition for a declaratory ruling shall be filed with the Council in accordance with the filing requirements of Sections 16-50j-38 to 16-50j-40, inclusive, of the Regulations of Connecticut State Agencies. The petition for a declaratory ruling filed with the Council shall also include additional information required to be submitted to the Council as part of the petition under Section 16-50j-94 of the Regulations of Connecticut State Agencies. A motion for protective order may be filed with the Council for any information that may qualify as proprietary or critical energy infrastructure information pursuant to Subsection (d) of Section 16-50j-22a of the Regulations of Connecticut State Agencies.

(Effective May 9, 2014)

Sec. 16-50j-94. Additional information required

(a) Notification.

In addition to the notification requirements under Subsection (d) of Section 16-50j-12 of the Regulations of Connecticut State Agencies, as applicable, each application for a certificate or petition for a declaratory ruling for a wind turbine facility shall be accompanied by proof of service of a copy of the application or petition for a declaratory ruling on the following entities:

(1) Department of Defense. The applicant or petitioner shall notify and consult with the Executive Director of the Department of Defense Siting Clearinghouse and the Department of Defense Regional Environmental Coordinator at Commander, Navy Region Mid-Atlantic. Any comments and recommendations received from the Department of Defense shall be submitted to the Council.

(2) Federal Aviation Administration. The applicant or petitioner shall notify and consult with the Federal Aviation Administration. Any comments and recommendations received from the Federal Aviation Administration shall be submitted to the Council.

(3) State Historic Preservation Office. The applicant or petitioner shall notify and consult with the State Historic Preservation Office, or its successor agency. Any comments and recommendations received from the State Historic Preservation Office, or its successor agency, shall be submitted to the Council.

(4) Telecommunications Infrastructure Owners and Operators. The applicant or petitioner shall notify and consult with public and private owners and operators of telecommunications

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infrastructure within a two-mile radius of the proposed site and any alternative sites for wind turbine facilities. Any comments or recommendations received from the owners and operators of telecommunications infrastructure shall be submitted to the Council.

(b) Abutting properties map.

The applicant or petitioner shall submit a map that depicts the dimensions of the proposed site and any alternative sites, the names and addresses of abutting property owners and the dimensions of the abutting properties that clearly delineates the setback distance in feet from each of the proposed wind turbine locations and any alternative wind turbine locations for the proposed site and any alternative sites to each abutting property line.

(c) Visual Impact Evaluation Report.

The applicant or petitioner shall submit a visual impact evaluation report that analyzes the potential visibility of each of the proposed wind turbine locations and any alternative wind turbine locations for the proposed site and any alternative sites that includes:

(1) A detailed description of the potential visibility of each of the proposed wind turbine locations and any alternative wind turbine locations for the proposed site and any alternative sites, including a description of the potential visibility of the wind turbine heights, wind turbine tower heights and blade lengths, the sites, surrounding land uses, average tree canopy height and methodology used to evaluate visibility.

(2) A study area map for the proposed site and any alternative sites depicting the view-shed analyses study area radius used in accordance with Subdivision (3) of this section that delineates the view-shed radius, site boundaries of the proposed and any alternative sites, and locations of the photographic simulations submitted in accordance with Subdivision (4) of this section.

(3) View-shed analyses for the proposed site and any alternative sites depicting areas of potential year-round and seasonal visibility of each wind turbine, specifying the wind turbine heights, wind turbine tower heights and blade lengths, using a study area radius that is based on the wind turbine height of each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites as follows:

- (A) less than 200 feet - 2 mile radius
- (B) between 200 feet and 400 feet – 4 mile radius
- (C) between 400 feet and 600 feet – 6 mile radius
- (D) greater than 600 feet – 8 mile radius

If the study area radius truncates any area of potential year-round and seasonal visibility, the applicant or petitioner shall expand the study area radius to include the entire area of potential visibility. The view-shed analyses shall depict the site boundaries of the proposed site and any alternative sites, the proposed wind turbine locations and any alternative wind turbine locations, town boundaries, and, as applicable, historic sites, historic districts, state and locally designated scenic roads, recreational areas, open space and conservation areas, schools, trails, forests, parks, and water resources.

(4) Photographic simulations from locations that may have potential seasonal and year-round visibility of each of the proposed wind turbines and any alternative wind turbines at

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the proposed site and any alternative sites, specifying the visibility of the wind turbine heights, wind turbine tower heights and blade lengths.

(5) Identification of any potential mitigation measures to minimize visual impact, including paint color of the facility, vegetative screening and landscaping.

(6) For wind turbine facilities with a capacity of more than 65 megawatts, the applicant shall submit, as part of the Visual Impact Evaluation Report, a separate view-shed analysis for the proposed site and any alternative sites using a study area radius of 10 miles that depicts the site boundaries, the proposed wind turbine locations and any alternative wind turbine locations, town boundaries, and, as applicable, historic sites, historic districts, state and locally designated scenic roads, recreational areas, open space and conservation areas, schools, trails, forests, parks, water resources, military bases, airports and weather stations. Each such application for a certificate shall be accompanied by proof of service of a copy of the application on all of the municipalities within the 10 mile study area radius.

(d) Noise Evaluation Report.

The applicant or petitioner shall submit a noise evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites in accordance with the noise control regulations established by the Department of Energy and Environmental Protection under Sections 22a-69-1 to 22a-69-7, inclusive, of the Regulations of Connecticut State Agencies. The report shall include the following:

(1) A detailed description of the potential noise levels that would be generated by the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites including existing sound levels at the proposed site and any alternative sites, projected sound levels to be generated by the operation of the proposed wind turbines and any alternative wind turbines, the methodology used to monitor and evaluate sound levels, the wind turbine manufacturer's technical documentation of the noise emission characteristics of the proposed wind turbines and any alternative wind turbines, and an analysis of compliance with the noise control regulations established by the Department of Energy and Environmental Protection.

(2) Calculations in accordance with the noise control regulations established by the Department of Energy and Environmental Protection, of projected maximum cumulative sound levels generated when the proposed wind turbines and any alternative wind turbines are in operation at the proposed site and any alternative sites measured at the property lines, projected maximum day-time and night-time sound levels generated when the proposed wind turbines and any alternative wind turbines are in operation measured at the nearest receptors, and projected maximum levels of infrasonic sound, ultrasonic sound, impulsive noise and prominent discrete tones generated when the proposed wind turbines and any alternative wind turbines are in operation at the proposed site and any alternative sites measured at the nearest receptors.

(3) A study area map for the proposed site and any alternative sites depicting the noise analysis study area radius, site boundaries, sound level monitoring locations and nearest

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receptor locations.

(4) Identification of any potential mitigation measures to minimize sound levels at the nearest receptor locations, including utilization of best practical noise control measures in accordance with Section 22a-69-1 to 22a-69-7, inclusive, of the Regulations of Connecticut State Agencies.

(e) Ice Drop and Ice Throw Evaluation Report.

The applicant or petitioner shall submit an ice drop and ice throw evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites that shall include:

(1) A detailed description of the conditions at the proposed site and any alternative sites that may cause ice to be dropped or ice to be thrown, or both, from the wind turbine blades of the proposed wind turbines and any alternative wind turbines, the methodology used to evaluate and assess the risk of ice drop or ice throw, or both, and the wind turbine manufacturer's technical documentation relating to recommended ice drop and ice throw setback distances and installed ice monitoring devices and sensors.

(2) Calculations in feet of the maximum distance that ice could be dropped from the wind turbine blades of each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are stationary and calculations in feet of the maximum distance that ice could be thrown from the wind turbine blades for each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are in operation.

(3) A study area map for the proposed site and any alternative sites depicting the ice throw study area radius, site boundaries and locations where ice could be dropped or locations where ice could be thrown from the wind turbine blades, or both, of each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are stationary and in operation.

(4) Identification of any potential mitigation measures to minimize the risk, occurrence and impact of ice drop or ice throw, or both, from the wind turbine blades of each of the proposed wind turbines and any alternative wind turbines, including automatic and remote manual shutdown of the wind turbines.

(f) Blade Shear Evaluation Report.

The applicant or petitioner shall submit a blade shear evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites that shall include:

(1) A detailed description of the conditions at the proposed site and any alternative sites that may cause blade shear from each of the proposed wind turbines and any alternative wind turbines, the methodology used to evaluate and assess the risk of blade shear, and the manufacturer's technical documentation relating to recommended blade shear setback distances and installed blade monitoring devices and sensors.

(2) Calculations in feet of the maximum distance that a blade could be sheared from each of the proposed wind turbines and any alternative wind turbines at the proposed site

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and any alternative sites when the wind turbines are stationary and calculations in feet of the maximum distance that a blade could be sheared from each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are in operation.

(3) A study area map for the proposed site and any alternative sites depicting the blade shear study area radius, site boundaries and locations where a blade could be sheared from each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites when the wind turbines are stationary and when the wind turbines are in operation.

(4) Identification of any potential mitigation measures to minimize the risk, occurrence and impact of blade shear from each of the proposed wind turbines and any alternative wind turbines, including automatic and remote manual shutdown of the wind turbines.

(g) Shadow Flicker Evaluation Report.

The applicant or petitioner shall submit a shadow flicker evaluation report for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites that shall include:

(1) A detailed description of the potential shadow-flicker producing features of each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites, including, an analysis of conditions that may cause shadow flicker, the methodology used to evaluate shadow flicker and the manufacturer's technical documentation relating to shadow flicker.

(2) Calculations from each proposed wind turbine and any alternative wind turbines at the proposed site and any alternative sites to each off-site occupied structure location within a one-and-a-quarter mile radius, including, the following:

- (A) distance in feet;
- (B) shadow length and intensity;
- (C) shadow flicker frequency;
- (D) specific times shadow flicker is predicted to occur; and
- (E) duration of shadow flicker measured in total annual hours.

(3) A study area map of the proposed site and any alternative sites depicting the shadow flicker analysis study area radius, site boundaries, locations of the proposed wind turbines and locations of any alternative wind turbines, locations of off-site occupied structures, and areas of shadow flicker occurrence identified according to total annual hours.

(4) Identification of potential mitigation measures to minimize the impact of shadow flicker, including, vegetation, screening and fence construction.

(h) Natural Resource Impact Evaluation Report.

The applicant or petitioner shall submit a natural resource impact evaluation report for the proposed site and any alternative sites that includes bird studies, bat studies, wetland studies, and terrestrial and marine wildlife habitat studies, as applicable. The report shall also include:

(1) A detailed description of the potential natural resource impacts as a result of the

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construction, operation and maintenance of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites including an analysis of:

(A) the topography, geology, vegetation, soil types, water resources, and avian, terrestrial and marine wildlife habitat areas, as applicable; and

(B) compliance with air and water quality standards of the Department of Energy and Environmental Protection;

(C) compliance with the United States Fish and Wildlife Service Land-Based Wind Energy Guidelines, as applicable; and

(D) compliance with site-specific recommendations provided by the Department of Energy and Environmental Protection Natural Resources Division.

(2) Calculations based on the studies submitted in accordance with this subsection for the proposed site and any alternative sites that include, but are not limited to:

(A) estimated number of bird fatalities;

(B) estimated number of bat fatalities;

(C) total square feet of permanent wetland impacts;

(D) total square feet of temporary wetland impacts;

(E) total square feet of permanent terrestrial and marine wildlife habitat impacts, as applicable;

(F) total square feet of temporary terrestrial and marine wildlife habitat impacts, as applicable;

(G) total acreage of site disturbance;

(H) total acreage of site restoration;

(I) total volume in cubic yards of cut required; and

(J) total volume in cubic yards of fill required.

(3) A study area map for the proposed site and any alternative sites depicting the natural resource impact analysis study area radius, site boundaries and locations of, as applicable, important bird areas, bat hibernacula, terrestrial and marine wildlife habitat, as applicable, flood zones, wetlands and watercourses, forests, recreational areas, open space and conservation areas.

(4) Identification of potential mitigation measures to minimize natural resource impacts including, recommended protocols for protection of wetlands and wildlife, proposed open space or conservation areas, minimization of tree clearing, erosion and sedimentation controls, soil stabilization, re-vegetation and post-construction monitoring plans for avian, terrestrial and marine wildlife, as applicable.

(5) For wind turbine facilities with a capacity of more than 65 megawatts, the applicant shall submit, as part of the Natural Resource Impact Evaluation Report, a Terrestrial Habitat Conservation plan for land-based wind turbine facilities or a Marine Habitat Conservation Plan for off-shore wind turbine facilities, for the proposed site and any alternative sites. The applicant shall consult with the United States Fish and Wildlife Service and the Department of Energy and Environmental Protection in the development of the Terrestrial or Marine Habitat Conservation Plan.

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(i) Decommissioning Plan.

Any application for a certificate for a wind turbine facility or petition for a declaratory ruling for a wind turbine facility shall contain a decommissioning plan for the proposed site and any alternative sites that shall include:

- (1) the projected useful life of the wind turbines;
- (2) identification of any circumstances that would trigger decommissioning of the facility in advance of the projected useful life of the wind turbines;
- (3) a description of the method by which foundations, wind turbines, associated equipment and components will be dismantled and removed;
- (4) a description of the method by which the site will be restored as near as possible to its original condition, including, stabilization, re-grading and re-vegetation;
- (5) an estimate of the total cost of implementing the decommissioning plan calculated by a certified professional engineer based on the projected useful life and the projected salvage value of the facility; and
- (6) financial assurance to ensure that sufficient funds are available for decommissioning the facility.

For purposes of this section, financial assurance may include a performance bond, surety bond, letter of credit, corporate guarantee, escrow, deposit, insurance, certificate of deposit, domestic security, trust, any combination of such financial devices, or any other form of financial device that is acceptable to the Council to ensure sufficient funds are available for decommissioning the facility.

(j) Waivers.

(1) **Agreements.** Pursuant to Section 16-50o of the Connecticut General Statutes, the applicant or petitioner shall submit any agreements entered into with any abutting property owner of record to waive the requirements under subsections (a) and (c) of section 16-50j-95 of the Regulations of Connecticut State Agencies.

(2) **Requests.** The applicant or petitioner shall submit to the Council any request for a waiver of the requirements under subsections (a) and (c) of section 16-50j-95 of the Regulations of Connecticut State Agencies at the time an application or petition is filed with the Council. If the Council finds good cause for a waiver of the requirements under subsections (a) and (c) of section 16-50j-95 of the Regulations of Connecticut State Agencies during a public hearing, the applicant or petitioner shall provide notice by certified mail to the abutting property owner of record that includes, the following:

- (A) notice of the requirements under subsections (a) and (c) of section 16-50j-95 of the Regulations of Connecticut State Agencies;
- (B) notice of the criteria considered for a good cause determination to waive the requirements under subsections (a) and (c) of section 16-50j-95 of the Regulations of Connecticut State Agencies;
- (C) notice of the wind turbine manufacturer's recommended setback distances; and
- (D) notice that the abutting property owner of record is granted a 30-day period of time from the date notice by certified mail is sent to an abutting property owner of record to

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provide written comments on the proposed waiver of the requirements under subsections (a) and (c) of section 16-50j-95 of the Regulations of Connecticut State Agencies to the Council or to file a request for party or intervenor status with the Council pursuant to Sections 16-50j-13 to 16-50j-17, inclusive, of the Regulations of Connecticut State Agencies.

(Effective May 9, 2014)

Sec. 16-50j-95. Considerations for decision

In making its decision to grant or deny an application for a certificate or to issue or not to issue a petition for a declaratory ruling, the Council shall, consistent with the Uniform Administrative Procedure Act, Chapter 54 of the Connecticut General Statutes, and the Public Utility Environmental Standards Act, Chapter 277a of the Connecticut General Statutes, consider, among other relevant facts and circumstances, the following factors:

(a) **Setback Distances.**

(1) **Requirements.**

(A) Any application for a certificate for a proposed wind turbine facility with a capacity of more than 65 megawatts shall include setback distances from each of the proposed wind turbine locations and any alternative wind turbine locations of not less than 2.5 times the wind turbine height from all property lines at the proposed site and any alternative sites or shall comply with the wind turbine manufacturer's recommended setback distances, whichever is greater. A copy of the wind turbine manufacturer's recommended setback distances shall be included in the application or petition. In its discretion, the Council may require greater setback distances based on the results of any evaluation report submitted under Section 16-50j-94 of the Regulations of Connecticut State Agencies.

(B) Any petition for a declaratory ruling for a proposed wind turbine facility with a capacity of less than 65 megawatts shall include setback distances from each of the proposed wind turbine locations and any alternative wind turbine locations of not less than 1.5 times the wind turbine height from all property lines at the proposed site and any alternative sites or shall comply with the wind turbine manufacturer's recommended setback distances, whichever is greater. A copy of the wind turbine manufacturer's recommended setback distances shall be included in the application or petition. In its discretion, the Council may require greater setback distances based on the results of any evaluation report submitted under Section 16-50j-94 of the Regulations of Connecticut State Agencies.

(2) **Waiver of requirements.** The minimum required setback distances for each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites may be waived, but in no case shall the setback distance from the proposed wind turbines and any alternative wind turbines be less than the manufacturer's recommended setback distances from any occupied residential structure or less than 1.5 times the wind turbine height from any occupied residential structure, whichever is greater:

(A) by submission to the Council of a written agreement between the applicant or petitioner and abutting property owners of record stating that consent is granted to allow

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reduced setback distances; or

(B) by a vote of two-thirds of the Council members present and voting to waive the minimum required setback distances upon a showing of good cause, which includes consideration of:

- (i) land uses and land use restrictions on abutting parcels;
 - (ii) public health and safety;
 - (iii) public benefit and reliability;
 - (iv) environmental impacts;
 - (v) policies of the state; and
 - (vi) wind turbine design and technology.
- (b) **Noise.**

Noise levels generated by the operation of each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites shall comply with the Department of Energy and Environmental Protection Noise Control Regulations under Sections 22a-69-1 to 22a-69-7, inclusive, of the Regulations of Connecticut State Agencies.

(c) **Shadow Flicker.**

(1) **Requirements.** Shadow flicker shall not occur more than 30 total annual hours cumulative at any off-site occupied structure location from each of the proposed wind turbine locations and any alternative wind turbine locations at the proposed site and any alternative sites.

(2) **Waiver of Requirements.** The maximum total annual hours of shadow flicker generated by the operation of each of the proposed wind turbines and any alternative wind turbines at the proposed site and any alternative sites may be waived:

(A) by submission to the Council of a written agreement between the applicant or petitioner and property owners of record stating that consent is granted to allow excess total annual hours of shadow flicker; or

(B) by a vote of two-thirds of the Council members present and voting to waive the total annual hours of shadow flicker requirements upon a showing of good cause, which includes consideration of:

- (i) land uses and land use restrictions on abutting parcels;
- (ii) public health and safety;
- (iii) public benefit and reliability;
- (iv) environmental impacts;
- (v) policies of the state; and
- (vi) wind turbine design and technology.

(Effective May 9, 2014)

Sec. 16-50j-96. Requirement for a Development and Management (D&M) Plan

The Council shall require the preparation of a full or partial D&M Plan for a proposed wind turbine facility or modification of an existing wind turbine facility. The full or partial D&M Plan shall be prepared in accordance with the final decision rendered by the Council

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and in accordance with Sections 16-50j-60 to 16-50j-62, inclusive, of the Regulations of Connecticut State Agencies.

(Effective May 9, 2014)