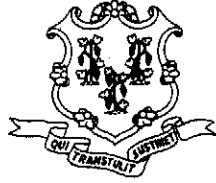


# The Connecticut General Assembly

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## Memorandum

**To:** Legislative Regulation Review Committee  
**From:** Legislative Commissioners' Office  
**Committee Meeting Date:** June 9, 2009

<b>Regulation No:</b>	2009-20
<b>Agency:</b>	Office of Policy and Management
<b>Subject Matter:</b>	Building Construction Standards for State-Funded Buildings
<b>Statutory Authority:</b>	16a-38k (copy attached)

	Yes or No
<b>Mandatory</b>	Y
<b>Federal Requirement</b>	N
<b>Permissive</b>	N

### For the Committee's Information:

### Substantive Concerns:

1. On page 3, in section 16a-38k-1, it is unclear if a "state facility" includes a building that the state of Connecticut will or could ever own or if it must be a building for which the state is in current negotiations to own or a building being built for the state.

2. On page 4, in the last sentence of section 16a-38k-3(a), the term "strongly recommended" makes it unclear whether including water-using and building envelope systems in the commissioning process is required.
3. On page 4, in section 16a-38k-3(e), the use of the passive tense make it unclear who is responsible for certain requirements. For example, who is responsible for developing the required indoor air quality management plan?
4. On page 5, section 16a-38k-3(j) requires an Integrated Pest Management Plan as required pursuant to section 22a-66l of the general statutes for general pest and rodent control, however said section 22a-66l covers pest control but does not mention rodents.
5. On page 5, in section 16a-38k-3(k), it is unclear what constitutes a "major renovation" as this term is undefined.
6. In several instances throughout sections 16a-38k-4, on pages 5 to 10, inclusive, and 16a-38k-6, on pages 11 to 15, inclusive, it is unclear whether meeting one option may satisfy more than one option, which may be significant as building projects work to implement twenty-six or twenty-eight, as applicable, of the listed options. In sections 16a-38k-4(a) (1) to (6) and 16a-38k-6(a) (1) to (6), it is unclear whether a project with a percentage increase of twenty-one percent satisfies one of the first six options or all six of the first six options. In addition, in sections 16a-38k-4(a) (8) and (9) and 16a-38k-6(a) (8) and (9), it is unclear whether a project that meets at least ten percent of its energy needs through on-site renewable energy meets only option (9) or options (8) and (9). Further, in sections 16a-38k-4(d) (1) and (2) and 16a-38k-6(d) (1) and (2), it is unclear if retaining ninety-five percent of the building structure meets option (2) or options (1) and (2). In sections 16a-38k-4(d) (4) and (5) and 16a-38k-6(d) (4) and (5), it is unclear whether recycling or salvaging at least seventy-five percent of such debris meets only option (5) or options (4) and (5). In sections 16a-38k-4(d) (6) and (7) and 16a-38k-6(d) (6) and (7), it is unclear whether using ten percent of such materials meets only option (7) or options (6) and (7). In sections 16a-38k-4(d) (8) and (9) and 16a-38k-6(d) (8) and (9), it is unclear whether a weighted average of twenty percent meets option (9) or options (8) and (9). In sections 16a-38k-4(d) (10) and (11) and 16a-38k-6(d) (10) and (11), it is unclear whether using a minimum of twenty percent of such materials meets option (11) or options (10) and (11).
7. On page 6, in sections 16a-38k-4(a)(7) and (10) and 16a-38k-6(a)(7) and (10) it is unclear as to which version of the U.S. Department of Energy Commercial Buildings Energy Consumption Survey the regulation is referring.
8. On pages 7 and 8, the requirements in section 16a-38k-4(c) (2) and (4) and in section 16a-38k-4(d) (1) to (3) only apply to projects that are renovations pursuant to section 16a-38k-2(b) and not to new construction projects pursuant to section 16a-38k-2(a) as the introductory language for said section 16a-38k-4 implies. Likewise, the requirements in section 16a-38k-6(c) (2) and (4) and in section 16a-38k-6(d) (1) to (3) only apply to projects that are renovations pursuant to section 16a-38k-2(d) and not to new construction projects pursuant to section 16a-38k-2(c) as the introductory language for said section 16a-38k-6 implies.

9. On page 11, in section 16a-38k-5(e), it is unclear by whom contamination would have to be suspected to trigger a Phase II site assessment.

10. On page 16, in the second paragraph of section 16a-38k-8(a), the reference to either of the alternative options outlined in section 16a-38k-7 is incorrect, as only the first of the options in said section 16a-38k-7 is available for projects defined in section 16a-38k-2(a) and (b).

11. On page 17, in the second paragraph of section 16a-38k-8(b), the reference to either of the alternative options outlined in section 16a-38k-7 is incorrect, as only the second of the options in said section 16a-38k-7 is available for projects defined in section 16a-38k-2(c) and (d).

12. On page 18, in Section 16a-38k-9(a)(2), the reference to section 16a-38k-5 is incorrect, as that section refers to projects defined in section 16a-382(c) and (d). The correct reference appears to be section 16a-38k-7.

### **Technical Corrections:**

1. On page 1, in section 16a-38k-1, the definitions should be identified with numbers or letters for clarity.

2. On page 1, in section 16a-38k-1, in the definition for Chlorofluorocarbons, an opening quote should be inserted before "CFCs" for proper punctuation.

3. On page 3, in section 16a-38k-2, "These regulations" should be replaced with the actual section number references for the applicable regulations for clarity and for proper form.

4. On page 5, in section 16a-38k-3(h), "a plan for erosion and sedimentation control" should be changed to "a plan for erosion and sediment control" for accuracy and consistency with the referenced statute.

5. On page 5, in section 16a-38k-3(i), the reference to section 19-342 of the Connecticut General Statutes should be changed to section 19a-342 of the Connecticut General Statutes for accuracy.

6. On page 5, in section 16a-38k-3(j), "An Integrated Test Management Plan, as defined in section 22a-47 of the Connecticut General Statutes" should be changed to "A plan for integrated test management as defined in section 22a-47 of the Connecticut General Statutes" to accurately reflect the defined term, "integrated pest management", as it is used in said section.

7. On page 5, in section 16a-38k-3(j), the reference to section 10-231 of the Connecticut General Statutes should be changed to section 10-231d of the Connecticut General Statutes for accuracy.

8. In sections 16a-38k-4 on page 5 and 16a-38k-6 on page 11, concerning building standard options for state facilities and schools, respectively, the terms "strategies" and "options" are used interchangeably. One or the other or both terms should be used in all instances for clarity and consistency.

9. On page 7, in section 16a-38k-4(b)(14), the conversion figures appear to be incorrect. They should be corrected for accuracy.

10. On page 9, in two instances in section 16a-38k-4(e)(9) and on page 14 in two instances in section 16a-38k-6(e)(8), "design storm" should be changed to "storm design" for accuracy.

11. On page 16, in section 16a-38k-7, the paragraphs should be labeled with letters for clarity. In the third line of the second paragraph of said section, "may meet the requirements under sections 16a-38k-6 of the Regulations of Connecticut State Agencies" should be inserted after "Agencies" for clarity.

12. On page 16, in section 16a-38k-8, the subdivision paragraphs should be labeled with numbers for clarity.

**Sec. 16a-38k. Building construction standards for new construction of certain state facilities.** (a) Notwithstanding any provision of the general statutes, any (1) new construction of a state facility that is projected to cost five million dollars, or more, and for which all budgeted project bond funds are allocated by the State Bond Commission on or after January 1, 2008, (2) renovation of a state facility that is projected to cost two million dollars or more, of which two million dollars or more is state funding, approved and funded on or after January 1, 2008, (3) new construction of a facility that is projected to cost five million dollars, or more, of which two million dollars or more is state funding, and is authorized by the General Assembly pursuant to chapter 173 on or after January 1, 2009, and (4) renovation of a public school facility as defined in subdivision (18) of section 10-282 that is projected to cost two million dollars or more, of which two million dollars or more is state funding, and is authorized by the General Assembly pursuant to chapter 173 on or after January 1, 2009, shall comply with or exceed compliance with the silver building rating of the Leadership in Energy and Environmental Design's rating system for new commercial construction and major renovation projects, as established by the United States Green Building Council, or an equivalent standard, including, but not limited to, a two-globe rating in the Green Globes USA design program until the regulations described in subsection (b) of this section are adopted. The Secretary of the Office of Policy and Management, in consultation with the Commissioner of Public Works and the Institute for Sustainable Energy, shall exempt any facility from complying with said regulations if said secretary finds, in a written analysis, that the cost of such compliance significantly outweighs the benefits. Nothing in this section shall be construed to require the redesign of any new construction of a state facility that is designed in accordance with the silver building rating of the Leadership in Energy and Environmental Design's rating system for new commercial construction and major renovation projects, as established by the United States Green Building Council, or an equivalent standard, including, but not limited to, a two-globe rating in the Green Globes USA design program, provided the design for such facility was initiated or completed prior to the adoption of the regulations described in subsection (b) of this section.

(b) Not later than January 1, 2007, the Secretary of the Office of Policy and Management, in consultation with the Commissioner of Public Works, the Commissioner of Environmental Protection and the Commissioner of Public Safety, shall adopt regulations, in accordance with the provisions of chapter 54, to adopt state building construction standards that are consistent with or exceed the silver building rating of the Leadership in Energy and Environmental Design's rating system for new commercial construction and major renovation projects, as established by the United States Green Building Council, including energy standards that exceed those set forth in the 2004 edition of the American Society of Heating, Ventilating and Air Conditioning Engineers (ASHRAE) Standard 90.1 by no less than twenty per cent, or an equivalent standard,

including, but not limited to, a two-globe rating in the Green Globes USA design program, and thereafter update such regulations as the secretary deems necessary.