



Connecticut Business & Industry Association

**TESTIMONY OF
ERIC J. BROWN
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION
BEFORE THE
ENVIRONMENT COMMITTEE
MARCH 16, 2009**

Good morning. My name is Eric Brown and I serve as assistant counsel for the Connecticut Business & Industry Association (CBIA) and direct the association's Environmental Policies Council. CBIA represents thousands of large and small businesses through Connecticut with the goal of making Connecticut a more attractive place to invest, grow and create jobs. Thank you for this opportunity this morning to provide comment on:

SB-1106 AAC the Process of Remediation of Releases of Hazardous Waste and Hazardous Substances.

CBIA opposes this bill and suggests alternative language to achieve its goal

Some within the DEP are passionate about implementing a Massachusetts-style program for cleaning-up contaminated properties in Connecticut.

Why? Because Massachusetts, through its Massachusetts Contingency Plan (the "MCP"), has an integrated, comprehensive and seamless approach for addressing contamination from time of discovery and or release, to the end of cleanup.

Connecticut, on the other hand, has a patchwork of separate programs, each developed at separate times to deal with separate issues that also often play a role in the course of identifying and remediating contaminated properties.

For example, we have cleanups that may be impacted by the Transfer Act, the Immanent Environmental Hazard Program, the Remediation Standards Regulations, the spill-reporting and emergency response programs, the Licensed Environmental Professional program, the voluntary cleanup program, as well as DEP's broad authority to order cleanups or to conduct those cleanups itself and later recover costs from responsible parties.

The Bottom Line: Taking DEP's patchwork of remediation programs and dropping a legislative deadline on all of them, as proposed in SB-1106, will not change Connecticut's program into a comprehensive well thought out MCP-like plan. Rather, together with other regulatory initiatives currently being pursued by the DEP, would have monumentally negative impacts on Connecticut.

As state above, some within DEP would like to fundamentally change how Connecticut addresses contaminated properties. Among other ways, we know this because:

1. Four year's ago, Commissioner McCarthy asked us: "What do your CBIA members think about the Massachusetts program?" We canvassed our Environmental Policies Council members and relayed back to the commissioner that for the most part, our members felt the comprehensive MCP approach was a good one and we would be delighted to work with the DEP to examine what changes would have to be made in Connecticut to move in that direction.
2. A little over two years ago, the commissioner in remarks to the state Brownfields task force, stated that DEP wanted to finish up some long- standing issues on its plate and then convene a group of stakeholders to discuss how the state could transform its remediation programs into a more comprehensive MCP-like program.
3. A two-year process involving a wide variety of stakeholders to help DEP establish regulations defining what spills need to be reported to the DEP is just now coming to a close. While some within DEP pushed hard for those regulations to include new cleanup requirements for both historic and future spills, the overwhelming consensus of the working group (and some within DEP) was that the regulations should be narrowly tailored to address decades-old confusion about what spills need to be reported to the agency (where further action could then be taken) and which need not be reported.

Now, all of a sudden, out of nowhere, with no stakeholder input, the Department brings forth a bill that would fundamentally changes the rubric of identifying and cleaning up contaminated sites.

If the DEP wants to move legislatively to adopt a more comprehensive, effective, MCP-like plan in Connecticut, we offer the following recommendations that we are confident will, unlike SB-1106, lead to a positive outcome.

CBIA legislative suggestions as a substitute to the current approach in SB-1106:

All Effective upon passage:

1. Amend section 22a-450 (spill reporting) to include:

Not later than Oct. 1, 2009, the commissioner shall promulgate regulations, narrowly focused on distinguishing between spills that must be reported to the agency and those that do not. Such regulations shall include reportable quantities that reflect federal reporting standards except that DEP, for any given reportable material may propose a reportable quantity different than the federal reportable quantity, consistent with the provisions of section 22a-6(h).

2. Amend section 22a-133k (remediation standards) to include:

The commissioner shall not promulgate revisions to regulations adopted under this section until after the final report and recommendations required under ("New section" below) is completed. Any such revisions shall not be inconsistent with the findings of said report.

3. New section (under 22a-??) Establishing a working group to develop recommendations for fundamental changes to DEP's remediation programs.

(a) No later than Oct. 1, 2009, the commissioners of the Department of Environmental Protection, the Department of Economic and Community Development and the Department of Public Health shall, within existing resources, convene a working group of stakeholders, as provided in subsection (b) of this section, for the purpose of making comprehensive recommendations for improving how contamination of land, surface waters and ground waters are identified and remediated. Such recommendations should include measures that: distinguish historic contamination from future events; promote redevelopment of brownfields; and insure short-term mitigation of contamination that could pose an imminent threat to human health or the environment.

(b) The working group required under subsection (a) of this section shall be comprised of:

- (1) Commissioner of DEP or their designee
Commissioner of DECD or their designee
Commissioner of DPH or their designee
Non-government member of the Licensed Environmental Professional Board
Non-government member of the executive committee of the CT Chapter of the National Brownfields Association
- (2) One representative of each of the following: Representative of the following:
Statewide organization representing technical environmental practitioners
Statewide organization representing environmental advocacy groups
Statewide organization representing conservation of natural resources
Statewide organization representing the business and industry
Statewide organization representing the environmental legal practitioners

Thank you for this opportunity to comment. Please oppose SB-1106 in its current form.

