



# STATE OF CONNECTICUT

## DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 2, 2010  
Commerce Committee

Testimony Submitted by Commissioner Amey W. Marrella  
Department of Environmental Protection

### **Raised House Bill No. 5359 - AN ACT REQUIRING PERMITS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION BE ADOPTED IN ACCORDANCE WITH THE UNIFORM ADMINISTRATIVE PROCEDURES ACT.**

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Thank you for the opportunity to present testimony regarding Raised House Bill No. 5359 - AN ACT REQUIRING PERMITS ISSUED BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION BE ADOPTED IN ACCORDANCE WITH THE UNIFORM ADMINISTRATIVE PROCEDURES ACT.

The Department of Environmental Protection (Department) does not support this bill. We have concerns that the changes proposed in this bill would significantly impact our ability to continue to provide streamlined opportunities for Connecticut's business and industry in meeting the regulatory requirements of our air, water and waste programs. Furthermore, the Department believes that the existing authority and the current process for adopting new general permits already provide ample due process, and therefore meet the intent of the bill.

The establishment of general permit authority was the backbone of the Department's permit streamlining efforts initiated with the water discharge program in the late 1980's and was so successful that it was expanded to all of our environmental quality programs over the next decade. The Department has made a huge investment in the use of general permits to regulate the many minor activities that would otherwise require an individual permit. General permits currently authorize fifty-six categories of activities, covering nearly 6000 registrants. We continue to rely on this effective regulatory mechanism and it remains an important tool in our process improvement efforts.

Attached to this testimony is a background document that more fully describes the Department's general permit program and provides examples of the benefits of the program. Simply put, a general permit is a single permit that covers a category of activities across a geographic area, typically the entire state, which can easily be regulated through common terms and conditions. Anyone conducting this activity can then register for coverage under the general permit. The alternative to this expedited and often self-certifying process is to apply for an individual permit covering the specific applicant. As one might imagine, the individual permitting process is typically more time consuming and costly for both the Department and the applicant.

The process for issuing a general permit currently provides significant opportunity for input from all stakeholders. As the Department initiates the development of a new general permit it typically works with potentially affected stakeholders to determine appropriate terms and conditions. These workgroups help establish the range of activities to be covered, who may apply and what management practices are necessary to provide adequate environmental protection. Once a draft general permit is developed the Department provides public notice in accordance with the underlying statutory authority. Following the Department's Rules of Practice (22a-3a-2 through 6 Regulations of Connecticut State Agencies), adopted under the Uniform Administrative Procedures Act, the Department provides an opportunity for additional public comment as well as the ability to request a formal adjudicatory hearing. This process also provides the opportunity for subsequent appeals. This process is similar and consistent with our individual permitting process. Once issued, a general permit remains in effect for a defined period of time (typically 5 – 10 years) and may be reissued through a similar process.

We believe that this current system works, and has successfully worked for two decades. Adequate due process is provided to all stakeholders and terms and conditions are established consistent with our underlying individual permitting authority. Therefore, we are unable to understand the benefit that would be provided by the changes proposed in Raised House Bill No. 5359. To require the Department to establish program-by-program regulations and revisit all our general permits would set us back twenty years. Further, putting in question the legality of all existing general permits could place all existing registrants at risk of conducting activities that are no longer covered by a suitable permit, exposing them to substantial risk of litigation and citizen suits under the federal Clean Water Act and other laws. The delegated authority for the State of Connecticut to operate some federal environmental programs may also be put into question.

The Department would appreciate an opportunity to meet with the committee and proponents of this bill to better understand what the proponents hope to gain by changing the existing process. As proposed this bill can only negatively impact the ability of the Department to meet the needs of Connecticut's business and industry sector. The bill would hamper our efforts to make the Department more efficient in these tough economic times and provide streamlined, efficient regulatory mechanisms to Connecticut businesses facing similar resource constraints.

Thank you for the opportunity to present the DEP's views on this proposal. If you should require any additional information, please contact the Department's legislative liaison, Robert LaFrance, at (860) 424-3401 or [Robert.LaFrance@CT.gov](mailto:Robert.LaFrance@CT.gov).



## Facts about the General Permit Programs Of the Connecticut Department of Environmental Protection

### General Permits

The Connecticut Department of Environmental Protection has the authority to issue general permits in the major program areas, including the air, water, and waste programs. This authority allows the Commissioner to develop and issue a single permit to cover similar minor activities throughout a prescribed geographic area (e.g., the installation of swim floats in tidal, coastal or navigable waters, or the construction and operation of a municipal transfer station and recycling center). A general permit sets terms and conditions for conducting an activity in a manner that protects the environment. To date, fifty six different general permits cover a wide range of activities.

There are three basic types of general permits or ways of authorizing activities using a general permit. Each general permit describes the necessary level of approval needed to initiate an activity, which can include one or more of the following:

- a person conducting an activity described in a general permit may initiate the activity without prior registration (some of these permits may require later registration);
- registration is required prior to initiation of the activity (this registration frequently requires certification of a professional engineer); or
- CT DEP approval is required prior to initiation of the activity. In some cases, this approval will contain site-specific conditions in addition to those already contained in the general permit.

In almost every case where minor activities are proposed, general permits are quicker and more cost effective for both the Department and the applicant. Additional information on general permits is provided in the *User's Guide to Environmental Permits*, available on-line at [www.ct.gov/dep/permitguide](http://www.ct.gov/dep/permitguide). Questions regarding the eligibility of an activity should be directed to the appropriate program staff, or the CT DEP Permit Assistance Office. Online contact information is available through the *User's Guide to Environmental Permits*.

### Benefits

In the late 1980's, faced with significant budget constraints and a growing unmanageable backlog DEP sought authorization to issue general permits for categories of minor activities that were taking a great deal of time to permit while limiting business and industry's ability to expand and grow in a timely manner. Today, more than half the environmental activities that we regulate through the permitting process are covered by general permits resulting in significant savings in DEP staff time, applicant fees and consulting costs.

- Fifty-six different categories of general permit;
- Nearly 6,000 active registrants covered by a general permit;
- Generated more than \$1 million in fees in 2008.

With general permits processing times are dramatically reduced. In many cases the applicant is self certifying and in full control of the time it takes to get their permit. Where DEP approval is required processing time is measured in days and weeks versus the many months that some individual permit application may require.

## Examples

The *General Permit to Limit Potential to Emit (GPL)* provides many companies a legally enforceable mechanism to validate that actual air emissions from a facility will stay below the threshold for a Title V air emission permit. More than 230 companies are covered under this general permit (application fee is currently \$5,000 for a five years of coverage) keeps sources out of the Title V emission fee program where the application process is more extensive and permittees avoid emission fees that would be a minimum of \$5,000 *annually*, a total savings of \$4.6 million for these companies over the life of the permit.

*Stormwater* general permits cover approximately 1750 industrial and commercial facilities with a consistent approach to managing stormwater runoff. These permits cover the collection and conveyance of stormwater related to manufacturing, processing or material storage areas associated with industrial activity and contiguous impervious surfaces of five acres or related to retail, commercial, and/or office services. A key component of this general permit is the development of a Stormwater Pollution Prevention Plan.

Forty-five municipalities have already registered for the solid waste *Municipal Transfer Station* general permit at a substantial savings in cost and time. This general permit authorizes the handling of up to 120 tons per day of municipal waste and covers the permit needs for all but the largest cities in the state. In anticipation of the new electronic waste collection needs of municipalities, DEP will be able to easily modify the general permit to allow for collection electronic waste at all covered facilities through a single administrative action.

General permits are one of the tools that the water discharge permitting program has relied upon to manage their work load in a timely and efficient manner. For discharges to surface waters covered under the *National Pollution Discharge Elimination System* individual NPDES Permits timeframes:

- Pre-Lean: 925 days to NTD
- Post-Lean: Goal is 284 days to NTD

However for those discharges that can be covered by a general permit timeframes are dramatically shorter:

- Non-Stormwater General Permits - Complete registrations: Four weeks or less to complete processing and establish coverage under the general permit.
- Stormwater General Permits - Complete registrations: Four to six weeks to complete processing and establish coverage under the general permit.