



Environmental Professionals' Organization of Connecticut

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Environment Committee

Senator Meyer, Representative Roy and Members of Environment Committee

Testimony submitted by Seth Molofsky, Executive Director

Environmental Professionals' Organization of Connecticut (EPOC)

Raised Senate Bill No. 119 AN ACT CONCERNING REMEDIATION PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

I am submitting this testimony on behalf of the Environmental Professionals' Organization of Connecticut (EPOC). EPOC was formed in 1996 to represent the interests of Connecticut's Licensed Environmental Professionals (LEPs) by providing information, training and updates regarding the LEP program in Connecticut. The organization has approximately 500 members representing numerous technical disciplines all working in the area of investigation and cleanup of environmentally-impacted sites in Connecticut.

EPOC is supportive of the inclusion of Activity and Use Limitations (AULs) into the existing Environmental Land Use Restriction (ELUR) statutes, as it potentially provides increased flexibility and represents another type of administrative control available to site owners and responsible parties to enhance and facilitate site remediations. However, we are concerned that inclusion of the AULs will not result in the intended benefit, because LEPs will not be able to rely on AULs in order to issue a Verification for a site. In order to issue a Verification, an LEP must find, among other things, that the site has been remediated in accordance with the remediation standard regulations (RSRs), R.C.S.A. 22a-133k-1 through -3 inclusive. Under the RSRs, use of the industrial/commercial standards, prevention of disturbance of polluted soils or an engineered control, and prevention of demolition of buildings cannot be relied on to meet the requirements of the RSRs unless an ELUR is in place as well. Since an AUL is not the same as an ELUR, because it is less rigorous in that it does not require subordination of existing interests in the land, an LEP cannot issue a Verification based on use of an AUL as opposed to an ELUR. One potential solution is to revise the RSRs to add AULs alongside ELURs as acceptable in meeting the applicable requirements. However, revision of the RSRs has proved to be an inordinately complicated and difficult matter, as the recent lengthy and ultimately failed attempt to do so has proven. Therefore, we believe that, although this addition to the statute is well-intentioned and has EPOC's support, as a practical matter we do not see it being usable unless DEP is willing to also put forth a narrow and specific revision to the RSRs to implement the necessary changes.

Thank you for the opportunity to present EPOC's views on Raised Senate Bill No. 119. If you have any questions, please contact me at (860) 537-0337, or Ted Sailer, Chair of EPOC Legislative Committee at (203) 245-7744.