



STATE OF CONNECTICUT  
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 7, 2011  
Environment Committee

Testimony Submitted by Acting Commissioner Susan Frechette  
Department of Environmental Protection

**Raised House Bill No. 6507 - AN ACT CONCERNING WATER QUALITY  
CERTIFICATION APPLICATIONS**

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Thank you for the opportunity to present testimony regarding Raised House Bill No. 6507 – AN ACT CONCERNING WATER QUALITY CERTIFICATION APPLICATIONS. The Department of Environmental Protection (Department) offers the following testimony.

The Department appreciates the underlying public policy objective of Raised House Bill No. 6507, but is concerned that the bill will result in delays and costs for both the Department and the regulated community. The bill would allow applicants for a Water Quality Certificate under section 401 of the federal Clean Water Act to obtain a full contested case hearing upon request, with a further opportunity to appeal the Commissioner's decision to Superior Court. Section 401 requires applicants for certain federal permits to obtain a certificate from the appropriate state agency, which then certifies that the state's Water Quality Standards will not be violated by the proposed activity.

We appreciate the committee's interest in providing applicants with the opportunity for a hearing and simply wish to make aware that such a change would have implications for permitting efficiency. Hearings are often lengthy and time-consuming for both Department staff and the applicant, and enactment of this bill may lengthen processing times and reduce permitting efficiency. It is worth noting that this change in permit processing time affects not only those applications that go to hearing, but all coastal and inland water resource permit applications, because staff resources must be shifted from the permitting process to the hearing process.

Currently, applicants who disagree with the Department's determination on a 401 Water Quality Certificate are not without recourse—they can request a declaratory ruling from the Commissioner, which can then be appealed to Superior Court.

If fairness is the issue, the committee should also consider fairness to neighbors, municipalities, and other stakeholders that may have an interest in Water Quality Certificate applications. If the legislature provides applicants a full contested case hearing upon request, other interested parties should also have the opportunity to petition for hearings.

In summary, the Department supports the public policy underpinnings of Raised House Bill No. 6507, but is concerned that if enacted, it could add substantial and lengthy delays to existing

permitting processes at the same time that many other raised bills are encouraging expedited permitting.

Thank you for the opportunity to present the Department'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).