



STATE OF CONNECTICUT DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – March 14, 2011
Environment Committee

Testimony Submitted by Acting Commissioner Daniel C. Esty
Department of Environment Protection

Raised Senate Bill No. 1115 - AN ACT CONCERNING THE REGULATION OF CERTAIN LOW EMISSION VEHICLES, IONIZING RADIATION AND STREAM CHANNEL ENCROACHMENT LINES BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 1115 AN ACT CONCERNING THE REGULATION OF CERTAIN LOW EMISSION VEHICLES, IONIZING RADIATION AND STREAM CHANNEL ENCROACHMENT LINES BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.

We appreciate the Committee's willingness to raise this bill at the request of the Department of Environmental Protection (Department). This proposal that we strongly support would make technical revisions to the Department's statutes to repeal unnecessary permit programs and LEAN other state processes. These technical revisions will benefit stakeholders and regulated communities by alleviating burdens, and will aid the State by reducing required resources through changes in the efficiency of several of the Department's programs. Below is a section-by-section summary of the provisions of the bill.

Sections 1 – 11, 17-25, and 28: Stream Channel Encroachment Line Program

Sections 1 – 11, 17 – 25, and 28 effectuate the Department's recommendation to repeal the Stream Channel Encroachment Line (SCEL) program set forth in Conn. Gen. Stat. Sections 22a-342 through 22a-350. The SCEL program regulates the placement of encroachments and obstructions riverward of stream channel encroachment lines to lessen the hazards to life and property due to flooding, but is duplicative of new federal flood control programs.

The SCEL program covers 270 of approximately 5,830 river miles total in Connecticut, approximately 5% of Connecticut's riverine floodplain. When this program was adopted, it was one of the first programs in the nation to identify flood prone areas and establish encroachment lines. Since that time, FEMA has developed the National Flood Insurance Program (NFIP) and studied and mapped flood ways and floodplains in all Connecticut counties. All Connecticut towns participate in the NFIP program. Several state laws that define additional municipal floodplain oversight also offer floodplain protection such as Conn. Gen. Stat. Sections 25-68i and 8-21. Given the small extent of SCEL coverage in the state, the amount of time and effort expended by both applicants and the Department in the preparation and review of SCEL applications, and the existing regulation of floodplain activities by municipalities in accordance

with FEMA requirements, the Department recommends that the SCEL program set forth in Conn. Gen. Stat. Sections 22a-342 through 22a-350 be repealed.

Sections 4 – 5, 12 – 15 and 26 - 27: Regulation of Sources of Ionizing Radiation

Sections 4 – 5, 12-15 and 26-27 of SB 1115 streamlines and updates the statutory framework for the regulation of sources of ionizing radiation in the State of Connecticut by aligning the process for registration and regulation of these sources with other similar programs within the Department. Through a LEAN process improvement study, the Department identified several areas where the manner in which the Department goes about regulating sources of ionizing radiation, such as x-rays machines and radioactive material, could be improved to make it a more efficient and effective program without any reduction in protection of public health, public safety, or protection to the environment.

The Department respectfully requests that the Committee consider reinstating the Department's January 2011 proposal to impose joint and several liability for the violation of provisions relating to sources of ionizing radiation. Even though the radiation program is registration based, the Department has faced instances where the responsible party for a radiological remediation was not a registrant or the contamination occurred prior to the requirement to register. Therefore, the Department requests enforcement authority over any person who in the past or presently produces, transports, stores, possesses, uses, or disposes of radioactive material. For your convenience, this is the passage omitted from SB 1115:

"If two or more persons are responsible for a violation of any provision of chapter 446a, including, but not limited to, any regulation adopted or order issued pursuant to this chapter, such persons shall be jointly and severally liable under this section."

Section 16: Low Emission Vehicles

Section 16 of SB 1115 streamlines the Department's process for adopting new revisions to the California Low Emission Vehicle (LEV) Program. The Department is required to adopt and maintain the LEV standards under Conn. Gen. Stat. Section 22a-174g; this requires the Department to update its regulations on an annual or more frequent basis. Furthermore, section 177 of the federal Clean Air Act requires adopting states to maintain "identity" with the California standards and strictly prohibits any activity that would have the effect of creating a "third vehicle." Therefore, the Department has no substantive independent regulatory decision making capacity with regards to the LEV program because of this requirement. Authorizing the adoption of Low Emission Vehicle program changes through prospective incorporation by reference will LEAN the Department's rulemaking process, resulting in savings of approximately \$75,000 per rulemaking, and will also benefit the regulated community (e.g., auto manufacturers) by removing their need to independently monitor Connecticut's rule making processes to insure "identity" with California's program as required by the federal Clean Air Act.

In summary, the Department strongly supports Raised Senate Bill No. 1115 -- AN ACT CONCERNING THE REGULATION OF CERTAIN LOW EMISSION VEHICLES, IONIZING RADIATION AND STREAM CHANNEL ENCROACHMENT LINES BY THE DEPARTMENT OF ENVIRONMENTAL PROTECTION, the reconsideration of the Department's proposal to repeal Sections 22a-67 – 22a-76 of the general statutes, and the reconsideration of the Department's proposal to impose joint and several liability for the violations of provisions relating to sources of ionizing radiation.

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.

