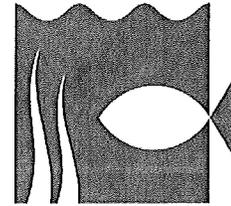


**Connecticut Fund
for the Environment**



Save the Sound[®]
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Connecticut Fund for the Environment

**Testimony of Connecticut Fund for the Environment
Before the Committee on Commerce**

In opposition to part of SB 1008, AN ACT CONCERNING THE STREAMLINING OF CERTAIN PROGRAMS OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION.

In opposition of SB 759, AN ACT CONCERNING THE WAIVER OF FINES AND PENALTIES FOR CERTAIN BUSINESS REGULATION VIOLATIONS.

Submitted by Lauren Savidge
Legal Fellow
March 7, 2013

Connecticut Fund for the Environment works to protect and improve the land, air and water of Connecticut. We use legal and scientific expertise and bring people together to achieve results that benefit our environment for current and future generations.

Dear Senator LeBeau, Representative Perone, and members of the Committee on Commerce,

SB 1008: Connecticut Fund for the Environment submits this testimony in opposition to part of Proposed SB 1008, An Act Concerning the Streamlining of Certain Programs of the Department of Energy and Environmental Protection. If Sections 3 and 4 of this legislation are passed, they would eliminate the public's ability to access listings of general permit holders under Sections 22a-361(d) and 22a-378a of the Connecticut General Statutes. It would also eliminate the requirement that general permits under the above referenced Sections apply only to "minor" activities.

Recognizing the deteriorated state of wetlands throughout the state and the economic and aesthetic value of these areas, the General Statutes declare it public policy to preserve the state wetlands and prevent their despoliation and destruction. Conn. Gen. Stat. § 22a-28. Additionally, recognizing that water is a finite and invaluable resource that must be protected for the health, safety and welfare of the citizens of our state, the General Statutes limit water diversion permits to those that are necessary and compatible with long-term water supply management. Conn. Gen. Stat. § 22a-366.

Both of these permitting programs have historically required DEEP to maintain a list of permit holders and to make that list available to the public.

The public listing of general permit holders is essential to inform the public of activities affecting tidal wetlands and any water diversions throughout the state. It also serves as an important tool to allow regulatory agencies and citizens to track and verify compliance with the permit. Not only should DEEP be required to maintain a list of general permit holder to monitor permit holders compliance, but the list should also be available to the public to increase agency transparency.

Moreover, while general permits can be a good streamlining device, they were not designed for, and should not be applied to, major activities. If a tidal wetlands or stream diversion project will have a significant or major impact, it should go through the full permit process that requires an applicant to submit additional information, including the need for and impact of the project. By way of example, there is a controversial diversion that may be proposed from reservoirs in the Farmington River Watershed to the University of Connecticut, Storrs campus. Diversions such as this one, and tidal wetland projects that are also not considered minor, need to go through the full process of review to ensure they are in compliance with state law and policy and provide for full public participation.

SB 759: Connecticut Fund for the Environment also submits this testimony in opposition of Proposed SB 759, An Act Concerning the Waiver of Fines and Penalties for Certain Business Regulation Violations. If passed, this legislation would allow DEEP to waive a penalty for first time environmental regulation violations if the violator remedies the violation within thirty days.

Environmental regulatory regimes need a clear and consistent penalty program for any violator, including first time violators, to ensure the regulations effectively carry out their purpose. If a first time violator could cause environmental harm without fear of a penalty, the entire regulatory program would be undermined and pollution would increase across the state. This legislation creates an incentive to not pay serious attention to the laws until an entity has violated at least once.

Even though the legislation waives the penalty only if the violator takes remedial measures, some environmental degradation cannot be immediately appreciated or detected, making it challenging to determine if the violator fully remediated the pollution within thirty days of the violation. Additionally, some entities may be more inclined to pollute in hopes of getting a pass from the agency, leading to increased environmental degradation.

Thank you for your time and consideration on this matter.

Sincerely,

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