



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

**STATE OF CONNECTICUT
DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION**

Public Hearing – March 15, 2013
Environment Committee

Testimony Submitted by Commissioner Daniel C. Esty
Presented By Deputy Commissioner Macky McCleary

Raised Senate Bill No. 1019 – AAC ADMINISTRATIVE STREAMLINING AT THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Thank you for the opportunity to present testimony regarding Raised Senate Bill No. 1019 – An Act Concerning Administrative Streamlining At The Department Of Energy And Environmental Protection. The Department of Energy and Environmental Protection (DEEP) offers the following testimony.

We appreciate the Committee's willingness to raise this bill at the request of the DEEP. This proposal, which we strongly support, would: 1) Make stream channel encroachment lines optional, effectively sunseting this duplicative and antiquated program; 2) shorten newspaper public notices for environmental quality programs and provide web-based extended information for additional details; 3) update the radiation program to make its enforcement authority consistent with other environmental quality programs; 4) repeal major portions of the noise program and continue to provide municipalities with the option to adopt a noise program in lieu of the existing state program that is nearly impossible to implement due to a lack of resources; and 5) repeal outmoded programs and statutorily required annual reports.

Eliminate Redundant Stream Channel Encroachment Lines

Section 1 of the proposed bill would allow DEEP to sunset a redundant permitting program, by making such program optional. The Stream Channel Encroachment Line (SCEL) program is a prime example of unnecessary and outdated duplication in our regulatory system. The SCEL program was originally adopted following the floods of 1955 to regulate the placement of encroachments and obstructions riverward of stream channel encroachment lines, thereby lessening the hazards to life and property due to flooding. Stream channel encroachment lines have been established for certain riverine floodplains throughout the State, and are shown on stream channel encroachment line maps, which are on file in the Town Clerk's office in the affected towns. Overall, the SCEL program applies to only a small number of stream miles in Connecticut; in fact, out of the approximately 5,830 river miles in the state, only 270 such miles are regulated under SCEL. Nonetheless, a significant amount of regulatory time is spent by both applicants in preparing SCEL permit applications, and by the DEEP in reviewing such applications,

for only approximately 5% of stream miles in the state. This, coupled with the fact that the SCEL program has been effectively supplanted by other state and federal regulations, warrants sunseting of the current SCEL and therefore also of the program.

Currently projects that occur within such lines are regulated by multiple layers of government and other land use regulatory programs. For example, a private development project that occurs within these lines is also regulated on the municipal level through the requirements of the National Flood Insurance Program (NFIP). Since the creation of the SCEL program, the Federal Emergency Management Agency (FEMA) has developed the NFIP, under which Connecticut's floodways and floodplains have been studied and mapped. The maps, which identify flood-prone areas, have been adopted by 168 towns that participate in the NFIP. Accordingly, Connecticut's municipalities have adopted floodplain ordinances to regulate activities within FEMA flood zones in accordance with FEMA requirements. Municipalities also implement local planning and zoning regulations, as well as inland wetlands regulations, which often affect development adjacent to rivers and streams. On the state and federal levels, a private development project that occurs within SCEL is regulated by the DEEP through various land use regulatory programs such as the Water Diversion program, and by the U.S. Army Corps of Engineers through the Clean Water Act. Sunseting the current SCEL program would eliminate a duplicate layer of regulation.

The language of the raised bill did not include language that would revoke the SCEL that have already been established for 270 river miles. To address this concern, DEEP requests that the committee review a drafting change that we suggest for this section to be inserted after line 24 that adds the following language: Revocation of Encroachment Lines. Encroachment lines previously established pursuant to section 22a-344 are revoked. This would make the application of the change more thorough and consistent.

Shorten Newspaper Notices & Extend Web-Based Notices

Section 2 of the proposed bill would set the stage for improvements to our public notice process, including notices of public hearings, by enhancing the availability of greater amounts of detailed information on the DEEP public notice web page and consistently providing adequate notice in newspapers in order to reach the broadest possible audience and allowing those who require more in-depth information about a particular process to access it with ease. Understandably, public notices have historically consisted of long columns of information that were difficult to read in the newspaper because of their length and often technical content. This proposal recognizes the gains made in technology and harnesses them in a manner that enhances governmental transparency by providing detailed technical information, notice of hearing and public participation in the electronic format; while continuing to provide adequate notice of hearing and public participation in the newspaper.

Improve Radiation Program Enforcement

Sections 3 through 7, and Section 17, of the proposed bill would streamline DEEP radiation regulations by aligning the process for enforcement with respect to registration and regulation of ionizing radiation sources in Connecticut with other similar established programs within DEEP. The LEAN process identified several areas where improvements in the enforcement of registration and regulation of sources of ionizing radiation such as x-ray machines and radioactive material could be improved to make it a more efficient program thereby improving protection of health, public safety, and protection of the environment.

Repeal Some Aspects of Noise Program

Sections 8 through 12, and Section 17, of the proposed bill would make amendments to the noise program to make it smarter and more flexible by providing municipalities the option to adopt a noise program in lieu of the existing state program. Noise events are highly localized, limited in duration and often occur outside of normal working hours. Thus, noise pollution standards are difficult to implement and enforce on a state level. Making the state's noise control program smarter and more flexible by providing municipalities the opportunity to adopt a program that better serves their needs is a reasonable and responsible approach to this issue since local governments are the authorities best situated for effective implementation.

Repeal Outmoded Programs and Annual Reports

Inspection and Maintenance Quarterly Reporting. Section 13 of the proposed bill would streamline reporting requirements for the state Inspection and Maintenance Program. Currently DEEP is required to report to the legislature on emissions reductions from the program quarterly, but cannot due to a lack of resources necessary to refine the raw program data. The annual report that DEEP submits to EPA requires several months to prepare, using an independent contractor to refine the raw data generated by the Department of Motor Vehicles. These limitations make reporting to the legislature on a quarterly basis untenable.

Mid-Atlantic States Air Pollution Control Compact. Section 17 of the proposed bill would repeal an obsolete 1967 statute that proposed a Mid-Atlantic States Air Pollution Control Compact. DEEP recommends repeal of this section because the Mid-Atlantic State Air Pollution Control Compact was never implemented as envisioned. Action by the United States Environmental Protection Agency made implementation of the compact unnecessary by the states.

List of Holders of General Permits. Section 14 of the proposed bill would eliminate the requirement under section 22a-45a(a) of the Connecticut General Statutes (CGS) that the Commissioner annually publish a list showing all current General Permit holders. This is a vague requirement at best, since it contains no information regarding the status of the regulated activity. There is no plausible reason for anyone to need a list of General Permit holders when there are many other types of permits issued on a regular basis. The information such a list would contain would be of limited value to anyone, and such lists have rarely been requested. This section also removes the term minor on line 358 of the proposal because the term minor activity is not defined and it serves no legally defined purpose.

Inventory of Contaminated Wells and Leaking Underground Storage Tanks. Section 15 of the proposed bill would repeal the mandate under section 22a-134q of the CGS to annually submit an inventory of contaminated wells and leaking underground storage tanks to the Environment Committee. DEEP recommends repeal of this section because lists covering this universe and more are available and publically accessible on the DEEP website: List of Contaminated or Potentially Contaminated Sites in Connecticut at: http://www.ct.gov/dep/cwp/view.asp?a=2715&q=325018&depNav_GID=1626, and the List of Significant Environmental Hazards Reported to DEEP at: http://www.ct.gov/dep/cwp/view.asp?a=2715&q=324972&depNav_GID=1626 .

In closing, taking these steps to LEAN and streamline DEEP statutes will lead to more efficient and effective government that will provide better outcomes for numerous constituents, including businesses, industries and our municipal customers.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact DEEP's legislative liaison Robert LaFrance at (860) 424-3401 or Robert.LaFrance@ct.gov.