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**TESTIMONY OF ENE (ENVIRONMENT NORTHEAST)  
SUBMITTED BY WILLIAM E. DORNBOS, CONNECTICUT DIRECTOR  
TO THE ENERGY AND TECHNOLOGY COMMITTEE  
FOR THE PUBLIC HEARING ON MARCH 7, 2013**

**REGARDING:**

- H.B. 5587 – AAC Submetering at Apartment Buildings and Condominiums**
- S.B. 839 – AAC Statutory Changes to Advance Connecticut’s Energy Policies**
- S.B. 1037 (Raised) – AAC the Procurement Plan, Integrated Resources Plan and Comprehensive Energy Strategy and Minor and Technical Revisions to the Utility Statutes**
- H.B. 6360 – AAC Implementation of Connecticut’s Comprehensive Energy Strategy**
- H.B. 6530 (Raised) – AAC Development of Connecticut-Based Renewable Energy Sources**
- H.B. 6531 (Raised) – An Act Preserving and Retaining the Environmental Benefits of In-State Resources Recovery Facilities**
- H.B. 6532 (Raised) – AAC Certification of Class I and Class II Renewable Energy Sources and Class III Sources, Renewable Energy Credits and Alternative Compliance Payments**
- H.B. 6533 (Raised) – AAC Hydraulic Fracturing**
- H.B. 6535 (Raised) – AA Redefining Class I Renewable Energy Sources**

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Thank you for the opportunity to submit testimony on the bills referenced above. ENE (Environment Northeast) is a non-profit organization that researches and advocates innovative policies that tackle our environmental challenges while promoting sustainable economies. ENE is at the forefront of state and regional efforts to combat global warming with solutions that promote clean energy, clean air, and healthy forests. ENE has been working to advance Connecticut’s energy and climate policies since the organization’s founding in 1999.

Before discussing ENE’s positions on particular aspects of the bills at issue today, I would like to emphasize four major points:

First, the Committee and the General Assembly have a real opportunity before them to help grow Connecticut’s economy while also improving our environment. By passing House Bill 6360’s refinements to the state’s process for procuring energy efficiency, Connecticut’s residents and businesses will reap significant economic benefits – as much as \$40 billion over the course of the next 15 years for electric efficiency alone, according to ENE’s own economic analysis.<sup>1</sup>

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<sup>1</sup> Howland, J. *Energy Efficiency: Engine of Economic Growth* (2009). Available to the public at <http://www.env-ne.org/resources/open/p/id/964>.

This is an opportunity that the Committee should seize. We urge passage of H.B. 6360's efficiency provisions.

Second, establishing an effective oil heat efficiency program would, by itself, be a tremendous economic win – providing perhaps the best payback of any energy efficiency investment in Connecticut right now, as much as \$7 for every \$1 invested. Such a program would also allow the state's award-winning efficiency efforts to extend weatherization measures to homes and businesses heated by oil. We recommend that the Committee amend H.B. 6360, or otherwise take appropriate legislative action, to pass legislation that would establish a permanent oil heat efficiency program. Attached to my testimony is proposed bill language for that purpose.

Third, the natural gas expansion proposed in the Comprehensive Energy Strategy needs to be reworked into an "efficient fuel choice" program for space heating needs. The single fuel focus on natural gas, while beneficial for some consumers, misses out on other highly valuable conversion opportunities – such as conversions to high efficiency air source heat pumps. If the goal of the expansion is to modernize Connecticut's space heating, then we should craft a policy approach that addresses that challenge in a comprehensive manner – one that will encourage and help customers to adopt optimal and efficient heating options within their choice of fuel.

Fourth, the renewable portfolio standard changes proposed in House Bill 6535 would, as drafted, confuse important goals related to promoting cleaner technologies. While ENE supports the promotion of efficient thermal energy technologies – such as ductless air source heat pumps – we do not support placing those technologies in competition with renewable power generation technologies for RPS incentives. This bill needs further refinement to be effective, as explained in more detail in our testimony below.

The following comments are ENE's specific input on particular bills before the Committee.

#### **Proposed H.B. 5587 – AAC SUBMETERING AT APARTMENT BUILDINGS AND CONDOMINIUMS.**

**ENE's position: Support.** Expanding submetering beyond currently allowed applications – marinas and campgrounds only – to multi-unit residential applications will help accelerate the growth of small-scale, low-carbon distributed generation in Connecticut, such as solar PV and combined heat and power.

Distributed generation ("DG") benefits Connecticut in important ways. It reduces the state's greenhouse gas emissions. It increases the electric grid's reliability and resiliency during extreme weather events or peak demand. And DG also generates power more efficiently than distant power plants; this will lower energy bills for residents and help keep money in-state, improving Connecticut's economic competitiveness.

#### **S.B. 839 – AAC STATUTORY CHANGES TO ADVANCE CONNECTICUT'S ENERGY POLICIES.**

**ENE's position: Support.** S.B. 839 is important because it clarifies the roles of the Department of Energy and Environmental Protection ("DEEP") and the Public Utilities Regulatory Authority ("PURA") as energy policymaker and utility regulator, respectively, and because it further clarifies that the state's most important energy planning decisions – the

Comprehensive Energy Strategy, the Integrated Resources Plan, and the Conservation and Load Management plan – all guide PURA’s decisionmaking as it regulates the state’s electric and gas utilities.

Progress on energy efficiency procurement over the last two years has been delayed, in part, due to the lack of clarity around the roles of DEEP and PURA. ENE believes S.B. 839 is necessary to ensure the state fully invests in all cost-effective energy efficiency and reaps the many energy, environmental, economic, and consumer benefits that will flow from such an investment.<sup>2</sup>

**S.B. 1037 (Raised) – AAC THE PROCUREMENT PLAN, INTEGRATED RESOURCES PLAN AND COMPREHENSIVE ENERGY STRATEGY AND MINOR AND TECHNICAL REVISIONS TO THE UTILITY STATUTES.**

**ENE’s position: Support particular provisions, as specified below, but have serious concerns regarding Section 9(h) and recommend its removal or revision.**

ENE supports **Section 1** because role clarification between DEEP and PURA is needed, as discussed above in our S.B. 839 comments. ENE is not sure how this bill will interact with S.B. 839, as they overlap in part and cover some similar provisions, but to the extent that they overlap on addressing DEEP and PURA roles, we prefer S.B. 839’s clearer language on that issue.

ENE supports **Section 2** because it enhances the ability of DEEP and PURA to participate in FERC proceedings through new statutory authority to hire consultants. To address Connecticut’s skyrocketing transmission rates, both agencies need to engage more actively in the FERC and ISO New England proceedings that govern that issue. The Committee should consider adding ISO New England to the list of entities in Section 2.

ENE supports the clarifications of **Section 3**, which will make DEEP an automatic party to all PURA proceedings and also grant it the ability to appeal from any contested proceeding.

ENE strongly supports **Section 17** because it will help broaden access to the state’s award-winning efficiency programs for those customers that heat with oil. Section 17 removes the \$500,000 annual funding cap on HES audit participation for oil heat customers. It also gives oil heat customers access to HES audits and gives the efficiency program administrators valuable flexibility for determining HES audit co-pay amounts for different kinds of customers – oil, natural gas, and electric. ENE recommends slightly amending the language of Section 17 to also include customers that heat with propane.

ENE has serious concerns about **Section 9(h)**. The proposed statutory revisions provide PURA with new authority to review any provision of the final Integrated Resources Plan (“IRP”) that may require new rate funding to ensure rates remain “just and reasonable”. This significant change could cause additional process confusion, provides an unclear and vague standard for evaluating the IRP’s policy decisions, and could infringe on DEEP’s role as the state agency charged with energy policymaking. ENE recommends that the Committee either remove these

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<sup>2</sup> For more detail on the economic benefits that will flow from fully investing in all cost-effective energy efficiency, please see Howland, J. *Energy Efficiency: Engine of Economic Growth* (2009). Available to the public at <http://www.env-nc.org/resources/open/p/id/964>.

revisions to Section 9(h) or clarify that the “just and reasonable” analysis must focus on the IRP’s impact on energy costs overall (not just rates) and also take into consideration the numerous and substantial energy, economic, and environmental benefits that result from efficiency investments funded by miniscule rate increases.

## **H.B. 6360 – AAC IMPLEMENTATION OF CONNECTICUT’S COMPREHENSIVE ENERGY STRATEGY.**

**ENE’s position: Support strongly overall, especially the energy efficiency procurement reforms and the oil heat efficiency changes, with the important exception of Section 19, which ENE opposes unless certain modifications are made.**

ENE strongly supports **Section 1** and its changes to the existing decoupling statute. Full decoupling – here correctly defined as adjusting actual distribution revenue to allowed distribution revenue – is necessary to remove the utility incentive to increase profits through increased kilowatt sales. Section 1 therefore helps to align utility incentives with the important public policy goals of the state’s energy efficiency programs.

ENE strongly supports **Section 2**. The changes it proposes will bring Connecticut’s energy efficiency procurement process into line with national best practices – by adopting a long-term (three year) efficiency planning timeframe, by combining electricity and natural gas efficiency programs into a single plan and approval process, and by allowing “all energy savings” to be considered in cost-effectiveness testing.

Please note, though, that **Section 2** incorrectly uses language that confuses the “authority” with the Energy Efficiency Board or the DEEP Commissioner. This needs to be corrected.

ENE supports **Section 3(c)** and its changes to the Energy Efficiency Board structure and chairperson selection process.

ENE strongly supports **Section 3(d)(1)** because it will require Connecticut to fully invest in all cost-effective energy efficiency and thus will help enable the pending ramp up. It is important to clarify, as this section does, that DEEP and PURA have the statutory authority to invest in energy efficiency above the existing 3 mil rate charge for efficiency programs. This revised language is critical to Connecticut remaining a national leader in efficiency procurement.

**Section 3(d)(1)** should be modified, though, to either remove the new “just and reasonable” language inserted at the end of the provision, or modify it to provide more clarity about its meaning. ENE has the same serious concerns about this language as already detailed above in our comment on Section 9(h) of S.B. 1037.

ENE also recommends that new language be inserted in **Section 3(d)(2)** or **Section 3(f)**. To the extent that the state’s conservation and load management planning process now requires collaboration between Connecticut’s Energy Efficiency Fund (“CEEF”) and the Clean Energy Finance and Investment Authority (“CEFIA”) on the state’s efficiency programs – with CEFIA providing supplementary financing – the evaluation, measurement, and verification requirements (“EM&V”) currently applicable to CEEF’s programs (see Section 3(d)(4)) should also extend to CEFIA’s energy efficiency financing efforts. It is crucial to effective and transparent energy policymaking that all public or ratepayer funds receive scrutiny through a rigorous, independent

EM&V process. Language accomplishing this could be inserted in Section 3(d)(2) and also in Section 3(f).

ENE supports **Section 4**, which grants authority to DEEP to set performance standards for carbon dioxide emissions that comply with Connecticut’s Regional Greenhouse Gas Initiative obligations.

ENE supports **Section 5**, which broadens access to virtual net metering to now include municipal, state, and agricultural customer hosts. This reform will help encourage the growth of low-carbon distributed generation, which can provide many energy, economic, environmental, and consumer benefits, as noted above in our comments on Proposed H.B. 5587.

ENE supports **Section 6**, which greatly expands access to submetering. This reform will also facilitate the growth of low-carbon distributed generation. ENE also supports the related **Sections 7, 8, and 9**, which will also help expand access, as well as promote microgrids.

ENE also supports the building rating, labeling, benchmarking and disclosure provisions found in **Sections 10-16**. These provisions have the potential to position Connecticut as a real leader on this issue nationally, and they will also transform the energy efficiency market here. The Committee may want to consider raising the commercial building size thresholds at least initially to avoid overwhelming the program.

ENE supports **Section 17** because, as written, it should require the incorporation of electric vehicle charging station needs into the state’s building codes. This will help speed the adoption of electric vehicles – a technology increasingly attractive to consumers that ENE believes has the potential to dramatically reduce greenhouse gas emissions in Connecticut’s transportation sector.

ENE supports **Section 18** because it accelerates the state’s existing deadlines for lowering the sulfur content in heating oil and also removes the condition that had barred those standards from going into effect until several neighboring states had adopted substantially similar requirements. This provision should have a positive impact on Connecticut’s air quality.

ENE opposes **Section 19**, which requires the natural gas utilities to employ a 25-year hurdle rate when determining the extent to which connections of new natural gas customers can be rate-based. We recommend that this provision instead place certain statutory requirements on the natural gas expansion planning process to maximize its environmental and consumer benefits, including, but not limited to:

1. The plan’s focus should be reworked and broadened to focus on the development of an “efficient fuel choice” program for weatherization and space heating needs – of which natural gas would be one of several fuels around which aggressive incentives and financing could be provided;
2. Incentives or financing provided through public or ratepayer support as part of this program should be conditioned on: (1) completion of an HES audit for residential customers of the new program; (2) some level of weatherization for those same residential customers to ensure the building envelope is energy efficient; and (3) the installation of high efficiency equipment only – whether natural gas furnaces or boilers, ductless heat pumps, or other space heating technologies; and

3. This new program must be harmonized with the state's goal of weatherizing 80% of its building stock by 2030. If not, a huge opportunity will be missed, and the natural gas expansion could work at cross-purposes with the state's weatherization efforts.

**H.B. 6530 (Raised) – AAC DEVELOPMENT OF CONNECTICUT-BASED RENEWABLE ENERGY SOURCES.**

**ENE's position: Support, with additional recommendations.** If enacted, H.B. 6530 would provide an important opportunity to interested stakeholders to convene together in a PURA proceeding to consider and map out how best to continue the development of in-state renewable energy sources.

ENE recommends adding language that would require PURA to examine, among other issues, how best to develop in-state distributed generation, which is likely to serve as Connecticut's most productive in-state renewable resource. PURA should also be permitted to investigate and address in this docket whether public or ratepayer funds currently designated for the support of in-state renewables development are being utilized in the best, most cost-effective manner possible.

**H.B. 6531 (Raised) – AN ACT PRESERVING AND RETAINING THE ENVIRONMENTAL BENEFITS OF IN-STATE RESOURCES RECOVERY FACILITIES.**

**ENE's position: Oppose.** ENE does not support H.B. 6531 because ratepayer support for waste-to-energy facilities does not comport with the fundamental purpose of Connecticut's Renewable Portfolio Standard ("RPS") – to help commercialize emerging renewable generation technologies. This bill will, in fact, undermine that purpose by diverting ratepayer support away from cleaner and truly sustainable Class I generation. Connecticut's waste management needs should be addressed in a more holistic and systematic manner outside the context of the RPS.

**H.B. 6532 (Raised) – AAC CERTIFICATION OF CLASS I AND CLASS II RENEWABLE ENERGY SOURCES AND CLASS III SOURCES, RENEWABLE ENERGY CREDITS AND ALTERNATIVE COMPLIANCE PAYMENTS.**

**ENE's position: Oppose, primarily because of two proposed changes to the RPS.**

ENE objects to **Sections 4-6 and 9**. These sections propose to lower the Alternative Compliance Payment ("ACP") from 5.5 cents per kilowatt hour to 3.1 cents per kilowatt hour. This will weaken Connecticut's RPS as an incentive framework for Class I renewables and also move Connecticut away from standard practice in the region, which is to chain the ACP to inflation.

ENE recommends that, rather than set the ACP at a statutory number, instead H.B. 6532 should add language that adjusts the ACP to meet the avoided cost figure (including avoided generation and distribution costs) utilized by the Energy Efficiency Board in the application of the C&LM program. An ACP that is lower than avoided costs will just act as a transfer tax.

ENE also objects to **Section 10**, which broadens the geographic eligibility of Class I and II to include generating units located in New York, Pennsylvania, New Jersey, Maryland, or Delaware (as long as the state has a comparable RPS). This proposed change will also weaken the RPS. ENE recommends removing this language. The RPS should not generally expand Connecticut's renewables incentives outside Connecticut's power pool (ISO New England), which is where power dispatch occurs that affect's Connecticut's energy system and consumers and rates.

**H.B. 6533 (Raised) – AAC HYDRAULIC FRACTURING.**

**ENE's position: Support.** Connecticut should do what it can to restrain and minimize the negative environmental consequences of unconventional natural gas production (more commonly known as hydraulic fracturing). Banning the in-state treatment, discharge, disposal, and storage of hydraulic fracturing waste is an appropriate, environmentally-protective policy reform.

**H.B. 6535 (Raised) – AA REDEFINING CLASS I RENEWABLE ENERGY SOURCES.**

**ENE's position: Oppose, unless modified.** As drafted, H.B. 6535 will cause unnecessary Class I competition between power generation and thermal energy resources. More specifically, expansion of Class I renewable generating technologies to encompass other aspects of the energy system – in this case, thermal resources, which produce heat, not electricity – will have the effect of not furthering either the policy goal of promoting renewable generation or the policy goal of promoting thermal technologies. Both policy goals have merit, just not combined in the same RPS category.

ENE recommends that a separate RPS class be adopted for thermal resources so that thermal technologies are advanced without competition from power generation. Biodiesel and biofuels, in particular, will need to be carefully evaluated and categorized depending on their specific application (biodiesel and biofuels are usually combusted for heat or to power vehicles, but they can also be used to generate electricity).

Thank you again for the opportunity to submit this testimony.

Respectfully submitted,

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The proposed draft language below has been jointly developed by ENE and Connecticut Fund for the Environment:

## **AN ACT CONCERNING REDUCING FUEL OIL AND PROPANE HEAT BILLS**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) (a) The Fuel Oil Conservation Board shall establish a separate fund to be known as the Oil Heat and Propane Energy Efficiency Fund, which shall be held separate and apart from all other funds or accounts. Receipts from the charge imposed under subsection (d) of this section shall be deposited into the fund. The fund shall be expended exclusively for the purposes of said subsections (c) and (d). The fund shall be an expendable trust fund and shall not be subject to appropriation or allotment. The Fuel Oil Conservation Board shall report to the Department of Energy and Environmental Protection each quarter by source all amounts credited to the fund and all expenditures made from the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fiscal year next succeeding. The Fuel Oil Conservation Board shall authorize to the Conservation and Load Management Fund from the Oil Heat and Propane Energy Efficiency Fund an amount consistent with the plan developed under subsection (c) of this section. Disbursements from the Conservation and Load Management Fund by the electric and gas distribution companies to carry out the plan developed under subsection (c) of this section shall be authorized by the Public Utilities Regulatory Authority in accordance with Section 16-245m.

(b) As used in this title:

- (1) “Authority” means the Public Utilities Regulatory Authority;
- (2) “Department” means the Department of Energy and Environmental Protection;
- (3) “No. 1 distillate” means fuel oil classified as No. 1 distillate by the American Society for Testing and Materials (ASTM);
- (4) “No. 2 dyed distillate” means fuel oil classified as No. 2 distillate by the ASTM that is indelibly dyed in accordance with regulations prescribed by the Secretary of the Treasury under section 4082(a)(2) of the Internal Revenue Code of 1986;
- (5) “Oil heat fuel” means No. 1 distillate and No. 2 dyed distillate that is used for residential or non-industrial commercial space or hot water heating;
- (6) “Fuel oil industry” or “oil heat industry” includes persons in the production, transportation, or sale of oil heat fuel, and persons engaged in the manufacture or distribution of oil heat fuel utilization equipment; provided that “fuel oil industry” or “oil heat industry” shall not include ultimate consumers of oil heat fuel;
- (7) “Propane” or “propane fuel” means a hydrocarbon fuel with a chemical makeup of  $C_3H_8$  that is used for space and hot water heating;
- (8) “Propane industry” includes persons in the production, transportation, or sale of propane fuel, and persons engaged in the manufacture or distribution of propane fuel utilization equipment; provided that “propane industry” shall not include ultimate consumers of propane fuel;
- (9) “Retail marketer” means a person engaged primarily in the sale of oil heat fuel or propane fuel to ultimate consumers;
- (10) “Wholesale distributor” means a person or business entity that produces No. 1 distillate or No. 2 dyed distillate or propane; blends No. 1 distillate or No. 2 dyed distillate or propane; or transports No. 1 distillate or No. 2 dyed distillate or propane across state

boundaries or among local marketing areas; and sells the products to retail home heating oil and propane companies for resale.

(c)(1) The Fuel Oil Conservation Board and the Energy Conservation Management Board shall advise and assist in the development and implementation of the plan submitted under subsection (d) of Section 16-245m. Each program concerning consumers of oil heat fuel or propane fuel contained in the plan shall be reviewed by and shall be either accepted, modified or rejected by the Fuel Oil Conservation Board and the Energy Conservation Management Board before submission of the plan to the Department for approval. The Energy Conservation Management Board shall, as part of its review, examine opportunities to offer joint programs providing similar efficiency measures that save more than one fuel resource or to otherwise coordinate programs targeted at saving more than one fuel resource. Any costs for joint programs shall be allocated equitably among the conservation programs.

(2) Programs included in the plan shall be screened through cost-effectiveness testing that compares the value and payback period of program benefits to program costs to ensure that the programs are designed to obtain energy savings whose value is greater than the costs of the program. Program cost-effectiveness shall be reviewed annually by the Department, or otherwise as is practicable. If the Department determines that a program fails the cost-effectiveness test as part of the review process, the program shall either be modified to meet the test or be terminated. On or before January 1, 2014, and annually thereafter, the Energy Conservation Management Board and the Fuel Oil Conservation Board shall provide a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to energy and the environment, that documents expenditures and funding for such programs and evaluates the cost-effectiveness of such programs conducted in the preceding year, including any increased cost-effectiveness owing to offering programs that save more than one fuel resource.

(3) Programs included in the plan may include, but are not limited to: (A) Conservation and load management programs, including programs that benefit low-income individuals; (B) research, development and commercialization of products or processes that are more energy-efficient than those generally available; (C) development of markets for such products and processes; (D) support for energy use assessment, engineering studies and services related to new construction or major building renovations; (E) the design, manufacture, commercialization and purchase of energy-efficient appliances, air conditioning and heating devices; (F) program planning and evaluation; (G) joint fuel conservation initiatives and programs targeted at saving more than one fuel resource; and (H) public education regarding conservation. Such support may be by direct funding, manufacturers' rebates, sale price and loan subsidies, leases and promotional and educational activities. The plan shall also provide for expenditures by the Energy Conservation Management Board for the retention of expert consultants and reasonable administrative costs, provided such consultants shall not be employed by, or have any contractual relationship with, the fuel oil industry or propane industry. Such costs shall not exceed five per cent of the total cost of the plan.

(d) (1) In order to establish oil heat energy efficiency programs, an assessment of one and one-half cents per gallon shall be imposed on all gallons of oil heat fuel sold in Connecticut from July 1, 2013 through June 30, 2014, two and one-half cents per gallon from July 1, 2014 through June 30, 2015, and three and one-half cents per gallon on and after July 1, 2015. The assessment shall be collected at the point of sale of oil heat fuel by a wholesale distributor to a person other than

a wholesale distributor, including a sale made pursuant to an exchange. A wholesale distributor shall be responsible for payment of the assessment to the Oil Heat and Propane Energy Efficiency Fund on a quarterly basis; and shall provide to the Department a certification of the volume of fuel sold. No. 1 distillate and No. 2 dyed distillate fuel sold for uses other than as oil heat fuel are excluded from the assessment. Distillate fuel used by vessels, railroad, utilities, farmers, and the military are exempt from the assessment.

(2) In order to establish propane energy efficiency programs, an assessment of one and one-half cents per gallon shall be imposed on all gallons of propane fuel sold in Connecticut from July 1, 2013 through June 30, 2014, two and one-half cents per gallon from July 1, 2014 through June 30, 2015, and three and one-half cents per gallon on and after July 1, 2015. The assessment shall be collected at the point of sale of propane fuel by a wholesale distributor to a person other than a wholesale distributor, including a sale made pursuant to an exchange. A wholesale distributor shall be responsible for payment of the assessment to the Oil Heat and Propane Energy Efficiency Fund on a quarterly basis; and shall provide to the Department a certification of the volume of fuel sold. Propane fuel sold for uses other than as oil heat fuel are excluded from the assessment. Propane fuel used by vessels, railroad, utilities, farmers, and the military are exempt from the assessment.

(c) The Department of Energy and Environmental Protection shall issue regulations implementing this section within 3 months of enactment of this section.

This act shall take effect on July 1, 2013.