



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 House Bill No. 6536 – AN ACT CONCERNING GENERAL PERMITS OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION

Thank you for the opportunity to present testimony regarding Raised House Bill No. 6536– An Act Concerning General Permits Of 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 provide authority to the commissioner to establish, in a general permit, fees sufficient to cover monitoring and compliance with terms and conditions of such general permit. This proposal would level the playing field by authorizing fees for monitoring compliance regardless of whether an activity is covered by an individual permit or general permit.

As you may know, DEEP has been transforming its permitting programs to reduce the timeframes for processing applications for permits. To achieve this objective, DEEP has been increasingly reliant on the use of general permits as the regulatory control mechanism, rather than individual permits. As a result, activities regulated under general permits have become DEEP’s largest universe of regulated entities. Section 22a-6(11) of the Connecticut General Statutes (CGS) authorizes the Commissioner by regulation to, among other things, assess fees for processing applications for individual permits and annual fees to cover the costs for monitoring compliance with the terms and conditions of any state or federal permit. However, CGS Section 22a-6f, which authorizes fees associated with a registration under a general permit, does not authorize the assessment of a fee to cover the costs for monitoring compliance with the terms and conditions of the general permit.

The bill would authorize DEEP to assess annual fees to cover the costs to the state for monitoring and assuring compliance regardless of whether the activity is regulated under an individual permit or general permit.

States vary widely in how their fees are structured based on their respective legislative authorities and funding mechanisms, but a number of states do assess annual fees for general permits. For example, a

review of analogous permitting programs in the neighboring states of New York and New Jersey revealed that these states have the legal authority to assess annual fees for general permits. In New York, the annual fee for coverage under its version of Connecticut's Industrial Stormwater General Permit is \$100.00, while in New Jersey the annual fee for the same type of general permit ranges between \$800.00 and \$2,300.00.

Since the amount of the annual fee would be established in the general permit, regulated entities would, through the general permit development process, have opportunities to comment on the amount of any proposed annual fee. Moreover, the impact of any fee additions for regulated entities currently covered under general permits will likely be spaced out and not felt until such general permit comes up for reissuance; for activities covered under individual permits which could be converted to either general permits currently in place or to be developed in the future, the fiscal impact will be the same as it was under the individual permit or in most cases, overall less since the registration cost for a general permit is typically less than the application fee for an individual permit.

We request that the committee review a drafting change that we suggest to line 59 of this bill: "Unless otherwise specified in a general permit issued on or after October 1, 2013, any person authorized to engage in a regulated activity covered by a general permit issued pursuant to any provision of this title shall pay an annual fee as follows:" in order to make it clear that annual fees would be applied prospectively.

In conclusion, providing the commissioner with authority to establish annual fees for general permits is an evenhanded and equitable way to cover the costs of compliance monitoring as DEEP streamlines its permitting processing and timeliness.

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.