



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

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

Public Hearing – March 22, 2013
Environment Committee

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

Raised House Bill No. 6653 – AN ACT CONCERNING DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION REGULATORY STREAMLINING TO ASSIST MUNICIPALITIES

Thank you for the opportunity to present testimony regarding Raised House Bill No. 6653 – An Act Concerning Department of Energy and Environmental Protection Regulatory Streamlining to Assist Municipalities. 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) streamline various notice provisions; 2) eliminate the 60-day waiting period for the issuance of certain general permits; 3) eliminate outdated tidal wetlands provisions; 4) remove the mandate to develop certain farm management regulations; 5) eliminate the mandate to adopt certain regulations related to wastewater discharge plans and specifications; 6) repeal the registration requirements for sewage additives; 7) restore balance and consistency in the right to a hearing for certain coastal activities; and 8) require review of water pollution control plans. All of these proposed changes allow DEEP to focus more keenly on issues that are important to municipalities and spend less time on programmatic requirements that have outlived their useful life.

Streamline Notice of Application Process. Section 2 of the proposed bill would amend Section 22a-6g of the CGS to streamline the Notice of Application process by having the applicant publish notice and notify the chief elected official of the town where the activity is taking place prior to submission of the application to DEEP. This will save time for both applicants and DEEP, while maintaining public participation opportunities.

Allow For Hearing Upon Petition. Sections 3 and 8 of the proposed bill would correct an inequity established by last year's Public Act 12-100, which allowed only applicants for coastal structures and dredging permit applications and Section 401 Water Quality Certifications to obtain a full contested case hearing upon request. While DEEP testified against this legislation because of the staff resources that would be diverted to the hearing process, we understand and respect the General Assembly's conclusion that an opportunity for hearing would promote a fairer and more transparent process. However, permit applicants are not the only persons with an interest in coastal regulatory proceedings, and the committee should also consider fairness to neighbors, municipalities, and other stakeholders

that may be concerned with Section 22a-361 of the CGS and section 401 applications. Now that applicants can obtain a full contested case hearing upon request, other interested parties should also have the same opportunity to obtain a hearing to express their views and present evidence – in the interest of balance, fairness, and consistency with other DEEP permit processes. Accordingly, we are proposing that any person may obtain a hearing for such applications, upon timely presentation of a petition with 25 signatures. Similar hearing provisions apply in other DEEP permit processes – including, notably, Tidal Wetlands Act applications which are routinely associated with Structures and Dredging applications.

Eliminate Tidal Wetlands Act Provisions. Sections 4 and 13 of the proposed bill will eliminate the portions of Section 22a-30 of the CGS which describes the methodology for undertaking an inventory and for mapping tidal wetlands boundaries throughout the state. The Tidal Wetlands Act was amended in 1987 to define tidal wetlands by vegetation and location referenced to tidal waters, not by mapping. Since that time, the tidal wetland maps have become obsolete and not legally binding for any regulatory purpose. In addition, the proposal eliminates redundant authority for appointing hearing officers for Tidal Wetlands Act applications.

Provide Option for E-Notifications. Sections 5, 9 and 10 of the proposed bill would broaden the option – currently included in several different permitting programs throughout DEEP – of providing notification of applications by electronic means. This time and paper-saving proposal, which has been successfully implemented in other settings, would apply to the notifications required by Sections 22a-371(c) &(d), 22a-39(k), and 22a-403(a) of the CGS.

Eliminate 60 Day Waiting Period For General Permits. Section 6 of the proposed bill would make general permit language for DEEP's Inland Water Resources Division (IWRD) programs consistent with DEEP's other general permit requirements. The proposal eliminates a 60-day waiting period before an activity covered by such permit could be conducted. The waiting period was originally included primarily because IWRD's general permits were among the first developed and, as such, were new and untested. The waiting period also was intended to provide a municipality the opportunity to comment on each proposed activity under the general permit. However, municipal comments were rarely (if ever) received – probably due to the minor nature of the covered activities. Thus, the waiting period simply became an impediment for applicants seeking to accomplish simple, minor projects – sometimes on an urgent basis. Municipalities will still be notified of all actions authorized under the general permit, so that they may be aware of activities in their purview and can determine if local action is needed.

Remove Mandate To Develop Farm Management Regulations. Section 7 of the proposed bill would amend Subsection 22a-354m(d) of the CGS to eliminate the firm date and requirement to develop regulations for farm resource management plans under the aquifer protection program. Due to the declining number of farms, improvements to related environmental protection programs related to agriculture, and limited DEEP resources, the development of formal regulations is not a high priority at this time. However, the amendment would allow DEEP to preserve the ability to develop regulations in the future.

Eliminate Unnecessary Plans and Specifications. Section 11 of this bill would repeal the mandate to adopt regulations, by June 30, 2011, establishing categories of wastewater discharges exempted from the requirement to submit detailed engineering plans and specifications as part of the permitting process. This change will once again make the regulation mandate discretionary, as it had been prior to the enactment of Public Act 10-158. The mandate, promoted by the Connecticut Business & Industry

Association (CBIA), grew out of a broader effort during the 2010 legislative session to streamline DEEP's permitting process. Subsequently, DEEP has been working with CBIA and the regulated community on a Pilot Expedited Permit Process identified in Section 1(a) of Public Act 10-158. DEEP resources can be better utilized developing and implementing strategies and innovations to achieve water permitting efficiencies rather than developing mandated regulations. CBIA has indicated its support of repealing the mandate and focusing on the Pilot Expedited Permit Process which is near completion.

Repeal Requirement for Sewage Additive Registration. Section 12 of this bill would repeal the requirement for the registration of sewage system additives. In 1995, the law required the labeling of sewage additives and the adoption of regulations to require the registration of such additives. While regulations were subsequently adopted, a subsequent amendment in 1997 eliminated the requirement for labeling of sewage additives. Since there is no labeling requirement, there is no substantive environmental benefit for requiring registration of sewage system additives, and the requirement to mandate registration regulations is unnecessary.

Eliminate Notification Redundancy. Section 13 of the proposed bill would eliminate the requirement for notice to the chief executive officer pursuant to Section 22a-370 of the CGS. This notification is already a requirement under Section 22a-6g of the CGS, making this section of the statutes redundant.

In conclusion, DEEP strongly supports these proposals and believes that we have an obligation to repeal requirements that are no longer necessary and improve the efficiency and speed with which we address real concerns of municipalities.

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.