

TESTIMONY OF ERIC J. BROWN
CONNECTICUT BUSINESS & INDUSTRY ASSOCIATION
before the
ENVIRONMENT COMMITTEE
February 13, 2015

Good afternoon. My name is Eric Brown and I am an attorney with the Connecticut Business & Industry Association (“CBIA”). CBIA’s mission is to work with our members and public officials to make Connecticut a more attractive location for business investment in order to grow jobs and economic opportunity for those who live here. Our members include businesses from across the state of all sizes and from nearly every industry in Connecticut.

Thank you for this opportunity to submit comments in **support of Proposed Bill 5406, An Act Authorizing an Increase in the Maximum Amount of Hazardous Waste Stored at Certain Commercial Facilities.**

CBIA appreciates this committee’s willingness to consider bills that are designed to improve Connecticut’s regulatory climate without meaningfully risking human or environmental health.

Assessing acceptable risk is a challenging and often subjective exercise. As is the case with financial matters, each person has their own risk-tolerance when it comes to environmental or other public policy matters. And yet, we can not eliminate risk. All in our society must be willing to live with a certain degree of risk – or they can not live at all. The challenge then becomes lowering risk to a degree that is sufficiently protective without unnecessarily hampering society’s ability to enjoy social, economic and environmental prosperity.

The Department of Energy & Environmental Protection (“DEEP”) is currently reviewing a report prepared by a nationally recognized risk-assessment firm. This independent study was required by legislation passed in 2013. One recommendation of the study – designed to ensure Connecticut cleanup standards are consistent and defensible with respect to national and international risk-assessment science, is that Connecticut consider changing its risk-tolerance. Currently most cleanup standards are based on reducing risk to a level where ingesting (i.e. eating) about a teaspoon of dirt daily for a number of years will create no more than a one in a million risk of causing cancer. The independent risk-assessment experts contend that this risk-tolerance level is overly-conservative and may lead to “site actions that are wasteful of resources and not likely to produce actual improvements in public health or ecological health.”

Instead, they recommend a one in 100,000 risk per chemical and up to 1 in 10,000 risk per contaminated site, versus DEEP’s current one in 1,000,000 risk. This will be the subject of significant debate in the weeks and months ahead. And while that is a debate for another day, the concept is directly applicable to the questions raised by this bill.

Specifically, what is the basis for Connecticut’s risk-tolerance when it comes to the storage of hazardous waste? Current federal law allow certain small quantity generators to store up to 1,000 kilograms (kg) of hazardous waste, properly managed, on-site for up to 180 days without a permit. 1,000 kg translates to roughly five typical 55 gallon storage drums. The current federal rules have a similar provision that allows up to 6,000 kg of short-term storage – about 30 typical drums.

Connecticut has every right to adopt more stringent storage standards than the federal government - and they have, based on a lower risk-tolerance than the federal government. But as with any such judgment, there is a price. In this case, Connecticut manufacturers

that generate relatively small quantities of hazardous waste have to arrange for expensive pick and disposal by licensed contractors more often than competitors in other states with a higher storage limits. For example, in a state following the federal rules, a facility generating five drums of hazardous waste each month is only required to pay for one vendor pick-up and disposal every six months. In Connecticut, that same manufacturer is required to have their five drums picked-up and disposed of every month. Therefore, the cost disadvantage to the Connecticut manufacturer for vendor pick-up charges is six times that of their competitor in a state that follows the federal rules.

That is the cost, but what of the risk of having more frequent pick-ups of hazardous waste? One could make a variety of arguments that this reduces or increases risk. For example, each time a pick-up is made, drums are moved, lifted on pallets from storage into trucks. Does that not mean in Connecticut there are six times as many opportunities for spillage or rupture during the moving process?

Our point is that we are not totally left to speculation on this matter. The 1,000 kg / 180-day storage limit has been in place in Connecticut for many years. CBIA requests that before taking action on this bill, it ask DEEP to provide specific examples of instances of over the past ten years where contamination of the environment (soils or water) occurred due to an accidental failure of all the drums located at a facility such that the harm to the environment would demonstrably have been worse if more drums had been stored at the site. In other words, how many events have occurred where all the drums were compromise such that we could reasonably expect that if more drums had been located at the site, then the environmental damage would have been worse. And how many of those were associated with moving the drums rather than a failure during storage.

CBIA does not have that data, but our experience would tell us that the number of such events is extremely small. If that is the case, then it is fair to ask the question, in our

view: is that level of risk reduction worth the economic hardship it places Connecticut manufacturers? And is it reasonable to consider increasing the allowed storage capacity, if not to the federal level of 6,000 kg in any six month period, then perhaps to 3,000 kg.?

CBIA believes it is reasonable and we hope this committee will ask those questions of DEEP and make a determination based on your best judgment on balancing risk and not simply default to a position that zero-risk is best and the closer we can get to that, the better. We think it is time in Connecticut for more critical thinking and constructive dialogue on defining acceptable risk.

Thank you again for raising this bill and providing the opportunity to comment on this important area of environmental policy.