



Connecticut Department of  
**ENERGY &  
ENVIRONMENTAL  
PROTECTION**

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

Public Hearing – February 27, 2015  
Environment Committee

Testimony Submitted by Commissioner Robert J. Klee

**Raised Senate Bill No. 941 – AN ACT DELAYING IMPLEMENTATION OF CERTAIN STANDARDS AND SAMPLING REQUIREMENTS UPON THE DETECTION OF POLLUTANTS CAUSING CONTAMINATION OF SOIL, GROUNDWATER OR PUBLIC OR PRIVATE DRINKING WATER WELLS**

Thank you for the opportunity to present testimony regarding **Raised Senate Bill No. 941 – AN ACT DELAYING IMPLEMENTATION OF CERTAIN STANDARDS AND SAMPLING REQUIREMENTS UPON THE DETECTION OF POLLUTANTS CAUSING CONTAMINATION OF SOIL, GROUNDWATER OR PUBLIC OR PRIVATE DRINKING WATER WELLS**. The Department of Energy and Environmental Protection (DEEP) welcomes the opportunity to offer the following testimony.

DEEP has concerns about the proposal and welcomes the opportunity to offer the following testimony.

Over the past few years DEEP has been engaged in transforming Connecticut's site cleanup programs to improve on past successes. The key theme is to focus on fast risk reduction for higher risks from hazardous substances released into the environment, and to create faster, easier paths to address lower risks and site cleanup overall. The transformation has been underway for a few years now. In 2013, DEEP completed amendments to the state's Remediation Standard Regulations. The amendments provided more flexible approaches to site cleanup, focusing largely on faster, practical ways to match remedies to the level of risk. While many factors affect completing a cleanup, DEEP notes that the average number of site cleanups was 48 per year in the ten years prior to the 2013 amendments to the Remediation Standard Regulations, and that increased to an impressive 116 site cleanups completed in the first full year after the amendments.

Also in 2013, continuing the transformation, the legislature enacted Public Act 13-308 that among other things, included four additional transformation items. One item was amendment of the Significant Environmental Hazard Notification General Statute, Section 22a-6u, so that the public and DEEP would be notified of a few additional conditions of higher risk, and exposures would be controlled. The amendments enacted were carefully tailored after a significant level of discussion with legislators and interested parties. The law was narrowly expanded to provide notice and better control of certain higher risks, such as contamination in or near drinking water wells; high levels of heavy metals or PCBs in surface soil close to schools, playgrounds and residences; and breathing in vapors that might rise and enter a building from polluted groundwater.

There is no reason to delay implementation of this law. You may hear from others that the law should be delayed until additional, future changes are made to the state's cleanup laws. However, there is no "all-at-once" process for change in the future. Many interested parties have expressed opposition to an "all-at-once" approach. Instead, improvements started a few years ago and will continue in an incremental fashion taking reasonable steps, such as the amendments to the Remediation Standard Regulations in 2013. You may also hear from others that the law's implementation should be delayed until DEEP's evaluation of risk-based decision-making is complete. Again, such delay is not necessary. Section 28 of PA 13-308 required the Commissioner to commission a report that includes an assessment of the existing process of risk-based decision making including risk assessment and risk management tools utilized to protect public health, general welfare and the environment. The independent contractor's report, which was published in September of 2014, did not indicate a basis for delay of a law designed to provide the public a right-to-know about exposure to high levels of contaminants and short-term measures to prevent any such exposure. While the DEEP is still preparing a detailed formal response to that report<sup>1</sup> that was to be delivered to the General Assembly in October of 2014, delaying implementation of a narrowly crafted law that was passed, and not conditioned upon such report, is not necessary. DEEP commits to provide its detailed formal response to that report no later than April 15<sup>th</sup> of this year.

In conclusion, DEEP opposes **Raised Senate Bill No. 941 – AN ACT DELAYING IMPLEMENTATION OF CERTAIN STANDARDS AND SAMPLING REQUIREMENTS UPON THE DETECTION OF POLLUTANTS CAUSING CONTAMINATION OF SOIL, GROUNDWATER OR PUBLIC OR PRIVATE DRINKING WATER WELLS** and supports implementation of the law already enacted as practical, carefully tailored to focus on only the higher risks, and targeting conditions that may require short-term measures to "make safe", instead of allowing additional years for exposures to occur.

Thank you for the opportunity to present testimony on this proposal. If you should require any additional information, please contact Robert LaFrance, DEEP's Director of Governmental Affairs, at 860.424.3401 or [Robert.LaFrance@ct.gov](mailto:Robert.LaFrance@ct.gov) (or, Elizabeth McAuliffe, DEEP Legislative Liaison, at 860.424.3458 or [Elizabeth.McAuliffe@ct.gov](mailto:Elizabeth.McAuliffe@ct.gov)).

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<sup>1</sup> Sec. 28. (NEW) (*Effective from passage*) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health, shall evaluate risk-based decision making related to the remediation of contaminated sites. The commissioner shall, within existing resources, engage independent experts in the field, with broad national experience, to conduct such evaluation and prepare a report that includes an assessment of the existing process of risk-based decision making including risk assessment and risk management tools utilized to protect public health, general welfare and the environment. Such evaluation and report shall also include identification of best practices in ecological and human health risk assessment and risk management used by the United States Environmental Protection Agency and other regulatory agencies, and those published by the National Academy of Sciences. The commissioner shall provide opportunities for public review and input during the evaluation process. Upon completion of the evaluation and report, the commissioner shall consider the evaluation and report and make recommendations for statutory and regulatory changes to the risk-based decision making process including, but not limited to, those in section 22a-6u of the general statutes, as amended by this act, not later than October 1, 2014. For purposes of this section, "commissioner" means the Commissioner of Energy and Environmental Protection.