



**HOME BUILDERS & REMODELERS ASSOCIATION  
OF CONNECTICUT, INC.**

3 Regency Drive, Suite 204, Bloomfield, CT 06002  
Tel: 860-216-5858 Fax: 860-206-8954 Web: [www.hbact.org](http://www.hbact.org)

*Your Home  
Is Our  
Business*

March 14, 2018

To: Senators Kennedy and Miner, and Representative Demicco, Co-Chairs  
Representative Harding, Ranking Member  
Members of the Environment Committee

From: Bill Ethier, CAE, Chief Executive Officer ([bethier@hbact.org](mailto:bethier@hbact.org))

Re: **Support SB 342, AAC the Threshold for DEEP's Review of  
Alternative Treatment Septic Systems**

The HBRA of Connecticut is a professional trade association with about eight hundred (800) member firms statewide employing tens of thousands of CT's citizens. Our members, all small businesses, are residential and commercial builders, land developers, remodelers, general contractors, subcontractors, suppliers and those businesses and professionals that provide services to our diverse industry and to consumers. We build between 70% to 80% of all new homes and apartments in the state each year and engage in countless home remodeling projects.

**The HBRA of CT strongly supports SB 342.** Unfortunately, I cannot attend today's public hearing as I have a commitment elsewhere I cannot break. However, I am available to discuss our comments with committee members at any other time.

**SB 342's change in the threshold for regulating alternative treatment (AT) wastewater systems follows and is consistent with the change made last year in PA 17-146, section 30,** which changed the threshold for regulating traditional septic systems. The joint jurisdiction for regulating wastewater between DEEP and DPH is explained below. And, we offer attached substitute language that implements the threshold change of SB 342, as well as additional ways to improve wastewater regulation in Connecticut.

**There are three broad types of wastewater systems.** First is public sewer or centralized systems (i.e., the buildings are connected to the public sewer system, and the wastewater is treated at a sewer plant). See definitions in CGS, sec. 7-245. The second broad type is a "subsurface sewage disposal system" – these are traditional septic systems, using a tank and leaching field. The third type is an alternative or advanced treatment system. These "AT" systems are generally newer technologies that can handle wastewater flows of various design flows, including from groups of buildings that are not on the public sewer system.

**Joint Jurisdiction of Wastewater Control Between DEEP and DPH:**

Wastewater from homes and other buildings is regulated by both DEEP and DPH. The statutes determine which agency controls wastewater systems based on the magnitude of the design flow (i.e., gallons per day, or gpd) of the system to be used to process the wastewater from a building or group of buildings. See Regulatory Split below.

**Vision: "Building CT's Economy, Communities and Better Lives One Home at a Time"**  
**Mission: "Using Effective Advocacy and New Knowledge to Solve Our Member's Problems"**

Also, for residential buildings (homes, apartments, condos), the determination of total gpd is based on the Public Health Code's standard of 150 gpd/bedroom for the first 3 bedrooms in a dwelling unit. For units with 4 bedrooms or more, the standard for additional bedrooms is 75 gpd. Thus, a 2-bedroom apartment is assumed to produce 300 gpd, a 4-bedroom home is assumed to produce 525 gpd, while a 5-bedroom home is assumed to produce 600 gpd, and so on. Higher gpd means larger (and more expensive) systems are required to handle wastewater flows.

**Some context as to the size of home communities impacted by SB 342's change follows:** Because of the Public Health Code's standard of 150 gpd/bedroom, at a 7,500 gpd threshold, DPH would regulate residential developments of up to 50 bedrooms ( $7,500/150 = 50$ ). At 5,000 gpd, this translates into a development of 33 bedrooms ( $5,000/150 = 33$ ). So, for a new home community of 3-bedroom homes, at 7,500 threshold, DPH regulates a community of 16 homes or less, while at a 5,000 gpd threshold, it would regulate a community of 11 homes or fewer. DEEP would continue to regulate all larger home communities.

### **Regulatory Split:**

Since 1977, CGS sec. 22a-430(g) has required DEEP to delegate to DPH the regulation of subsurface sewage disposal systems (traditional septic systems) with a capacity of 5,000 gpd or less. PA 17-146, sec. 30, changed this threshold to 7,500 gpd or less.

Since 2007, CGS sec. 19a-35a required DPH to define AT systems with capacities of 5,000 gpd or less. After such regulations are created, DPH is to regulate these smaller systems. However, the original bill in 2007 contained funding to go along with DPH's new regulatory responsibility. During the legislative process that year, the funding to DPH was stripped. Then, in 2008 or 2009, the deadline date for DPH to produce these regulations was repealed. **So, despite the 2007 directive from the legislature, DPH has not yet promulgated these regulations and all AT systems remain under DEEP's authority.** In the 2017 session, HB 6332 (in Environment) was intended to address the process for regulating AT systems, while HB 6243 (which was referred to Appropriations from the Public Health Committee) would have transferred funding for regulating 5,000 gpd or less AT systems from DEEP to DPH. Neither of these bills were adopted.

**We urge that the threshold for AT systems, as intended by SB 342, be set at 7,500 gpd. It not only will match the septic system threshold but also it must be done with a stronger directive to DPH to write AT system regulations for the small systems. To effectuate this intent, we offer substitute language that amends the appropriate statutes (see attached).**

**In addition, we urge that you direct both agencies, DEEP and DPH, to develop a swift and certain process for approving AT systems, both large (DEEP) and small (DPH). It**

**can be done; it is done in other states – i.e., direct our agencies to look at the approval systems in place in MA and RI. Our slow system of review of AT systems harms CT’s economic and housing development opportunities and puts CT at a competitive disadvantage.**

**And, we urge you to direct both DEEP and DPH to investigate or adopt the following additional ways to greatly improve the regulation of wastewater systems (both AT systems and traditional septic systems):**

1. Increase DPH’s regulatory authority for subsurface sewage disposal and AT systems to 10,000 gpd, i.e., make the threshold change a bit more significant than 7,500 gpd.
2. Reduce further the 150 gpd/bedroom standard in the Public Health Code. A small reduction was made in the Jan. 1, 2018, Technical Standards for Subsurface Sewage Disposal Systems, but we believe further reductions to become competitive with other states can be done without sacrificing environmental or public health. Other states use lower design flow calculations, e.g., RI uses 115 gpd/bedroom; MA uses 110 gpd for all bedrooms in senior housing. So, if CT used RI’s 115 gpd/bedroom standard, and DPH regulated systems with a capacity up to 7,500 gpd, DPH would regulate residential communities containing 65 bedrooms or less. Larger communities would go to DEEP. This change would be even more significant than just transferring larger projects from DEEP to DPH, as it would reduce the cost of construction of required systems by almost a third.
3. Eliminate the requirement of preserving a “reserve area” on the building lot when constructing a subsurface sewage disposal system, which includes a leach field. A “reserve area” is an additional area of land that can be used in the future if the leach field fails. However, when repairs are necessary, they are made to the existing leach field and the reserve area is not typically used, i.e., there’s no need for it.
4. Allow licensed engineers to self-certify system approvals, as is done at DEEP for stormwater control plans and hazardous waste issues.

**We urge you to support SB 342 and the attached substitute to help further improve the regulatory environment in Connecticut.** Please also consider adopting the additional ways to improve wastewater regulations suggested above.

Thank you for the opportunity to comment on this important legislation.

**Substitute for SB 342, AAC the Threshold for Jurisdiction to Regulate Certain Wastewater Treatment Systems (all changes below highlighted):**

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

Section 1. Subsection (a) of section 19a-35a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(a) Notwithstanding the provisions of chapter 439 and sections 22a-430 and 22a-430b, the Commissioner of Public Health shall, [within available appropriations,] not later than July 1, 2019, and pursuant to section 19a-36, establish and define categories of discharge that constitute alternative on-site sewage treatment systems with capacities of [five thousand] seven thousand five hundred gallons or less per day. After the establishment of such categories, said commissioner shall have jurisdiction [, within available appropriations,] to issue or deny permits and approvals for such systems and for all discharges of domestic sewage to the groundwaters of the state from such systems. Said commissioner shall, pursuant to section 19a-36, [and within available appropriations,] establish minimum requirements for alternative on-site sewage treatment systems under said commissioner's jurisdiction, including, but not limited to: (1) Requirements related to activities that may occur on the property; (2) changes that may occur to the property or to buildings on the property that may affect the installation or operation of such systems; and (3) procedures for the issuance of permits or approvals by said commissioner, a local director of health, or a sanitarian licensed pursuant to chapter 395. A permit or approval granted by said commissioner, such local director of health or such sanitarian for an alternative on-site sewage treatment system pursuant to this section shall: (A) Not be inconsistent with the requirements of the federal Water Pollution Control Act, 33 USC 1251 et seq., the federal Safe Drinking Water Act, 42 USC 300f et seq., and the standards of water quality adopted pursuant to section 22a-426, as such laws and standards may be amended from time to time, (B) not be construed or deemed to be an approval for any other purpose, including, but not limited to, any planning and zoning or municipal inland wetlands and watercourses requirement, and (C) be in lieu of a permit issued under section 22a-430 or 22a-430b. For purposes of this section, "alternative on-site sewage treatment system" means a sewage treatment system serving one or more buildings on a single parcel of property that utilizes a method of treatment other than a subsurface sewage disposal system and that involves a discharge of domestic sewage to the groundwaters of the state.

Section 2. Section 7-245 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2019*):

For the purposes of this chapter: (1) "Acquire a sewerage system" means obtain title to all or any part of a sewerage system or any interest therein by purchase, condemnation, grant, gift, lease, rental or otherwise; (2) "alternative sewage treatment system" means a sewage treatment system serving one or more buildings that utilizes a method of

treatment other than a subsurface sewage disposal system and that involves a discharge to the groundwaters of the state; (3) "community sewerage system" means any sewerage system serving two or more residences in separate structures which is not connected to a municipal sewerage system or which is connected to a municipal sewerage system as a distinct and separately managed district or segment of such system; (4) "construct a sewerage system" means to acquire land, easements, rights-of-way or any other real or personal property or any interest therein, plan, construct, reconstruct, equip, extend and enlarge all or any part of a sewerage system; (5) "decentralized system" means managed subsurface sewage disposal systems, managed alternative sewage treatment systems or community sewerage systems that discharge sewage flows of less than **five thousand seven thousand five hundred** gallons per day, are used to collect and treat domestic sewage, and involve a discharge to the groundwaters of the state from areas of a municipality; (6) "decentralized wastewater management district" means areas of a municipality designated by the municipality through a municipal ordinance when an engineering report has determined that the existing subsurface sewage disposal systems may be detrimental to public health or the environment and that decentralized systems are required and such report is approved by the Commissioner of Energy and Environmental Protection with concurring approval by the Commissioner of Public Health, after consultation with the local director of health; (7) "municipality" means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district and each municipal organization having authority to levy and collect taxes; (8) "operate a sewerage system" means own, use, equip, reequip, repair, maintain, supervise, manage, operate and perform any act pertinent to the collection, transportation and disposal of sewage; (9) "person" means any person, partnership, corporation, limited liability company, association or public agency; (10) "remediation standards" means pollutant limits, performance requirements, design parameters or technical standards for application to existing sewage discharges in a decentralized wastewater management district for the improvement of wastewater treatment to protect public health and the environment; (11) "sewage" means any substance, liquid or solid, which may contaminate or pollute or affect the cleanliness or purity of any water; and (12) "sewerage system" means any device, equipment, appurtenance, facility and method for collecting, transporting, receiving, treating, disposing of or discharging sewage, including, but not limited to, decentralized systems within a decentralized wastewater management district when such district is established by municipal ordinance pursuant to section 7-247.

Section 3. **(NEW)** (Effective July 1, 2019) Notwithstanding any provision of the Public Health Code or title 22a or 25 of the general statutes, the threshold for the Department of Energy and Environmental Protection's review of an alternative on-site sewage treatment system shall be such a system with a capacity of greater than seven thousand five hundred gallons.