

Public Hearing – March 12, 2019
Commerce Committee

Testimony Submitted by Commissioner Katie S. Dykes

Senate Bill No. 1030 – AN ACT CONCERNING THE AUDIT PERIOD FOR THE TRANSFER OF HAZARDOUS WASTE ESTABLISHMENTS

Thank you for the opportunity to present testimony regarding Senate Bill No. 1030 – An Act Concerning the Audit Period for the Transfer of Hazardous Waste Establishments. The purpose of this bill is to shorten the audit period for the verification of cleanup of hazardous waste establishments from three years to sixty days.

The Department of Energy and Environmental Protection (DEEP) opposes this bill as drafted because it will significantly constrain DEEP's ability to protect human health and the environment by weakening DEEP's ability to perform audits of verifications rendered by Licensed Environmental Professionals (LEPs). A verification is an LEP's written opinion that the investigation of the parcel has been performed in accordance with prevailing standards and guidelines and has been remediated in accordance with the Remediation Standard Regulations.

Since 1995, Connecticut has utilized the services of private LEPs to verify the cleanup of polluted properties. The LEP Program was established in 1995 to keep pace with all of the cleanup activity being undertaken. DEEP's audit program is essential to ensuring that the 361 LEPs currently licensed by the Commissioner of DEEP to verify site cleanups in Connecticut are properly applying state law and DEEP technical guidance regarding release investigation and remediation in a manner that is protective of human health and the environment. Present law provides DEEP three years to complete such audit.

DEEP provides training and guidance to LEPs annually. From January 1, 2006 to September 30, 2018, DEEP received 931 LEP verifications. DEEP audited 190 (20%) resulting in 78 of those 190 (41%) being rejected due to failure to appropriately apply state law and/or prevailing standards and guidelines. Approximately 54% of the audits undertaken by the Commissioner required a period exceeding one year to complete the audit.

Through the years, DEEP has adjusted how the auditing process is implemented to properly balance the protection of human health and the environment with efficiency and certainty for the regulated community. DEEP issues Letters of No-Audit to parties submitting verifications when DEEP determines that no audit will be performed. This timely notice to approximately 80% of verification filers provides certainty of DEEP's position in an efficient manner. If an audit is conducted, DEEP reviews substantial investigation and remediation documents and supporting data on which the verification is based. For those verifications selected for audit, the majority of audits exceed 1 year to complete given the complexity of the environmental issues associated with site cleanups and the opportunity afforded to the LEPs to provide additional information during the audit process. (~20% of audits required greater than 2 years to complete).

DEEP is concerned that reducing the audit time frame to sixty days will significantly impact the effectiveness of DEEP's auditing program and the necessary checks and balances that it provides for verifications. We would welcome the opportunity to work with the committee to discuss other approaches to achieving more efficient certainty for the regulated community without compromising public health and the environment.

Thank you for the opportunity to present testimony on this proposal. Should you have any questions, please do not hesitate to contact Mandi Careathers, the Department's legislative liaison, at Mandi.Careathers@ct.gov.