
OLR Bill Analysis

sHB 6501

AN ACT CONCERNING THE STREAMLINING OF CERTAIN PROGRAMS OF THE DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION.

SUMMARY

This bill makes the following changes to environment-related statutes:

1. establishes annual fees for people operating under Department of Energy and Environmental Protection (DEEP) general permits (§ 10);
2. eliminates the DEEP commissioner's role in approving municipal noise ordinances (§ 4);
3. allows Connecticut to exchange forest fire protection and control resources with states beyond New England and New York (§ 7);
4. requires the commissioner to send certified pesticide applicators a notice about an upcoming certification expiration (§ 8);
5. authorizes the commissioner to renew certifications for pesticide applicators whose certifications have lapsed for less than one year without reexamination but upon payment of a late fee (§ 8);
6. authorizes the commissioner to register pesticides either on an annual basis or, as under current law, for five-year periods (§ 9);
7. prohibits registration fee refunds for pesticide products that are voluntarily withdrawn or cancelled before the registration period ends (§ 9);

8. limits the examination requirement for class III and IV wastewater treatment plant operator certification applicants to the standardized national examination (§ 1);
9. authorizes the commissioner to require air pollution sources that are permitted under federal law (i.e., Title V of the Clean Air Act Amendments of 1990) to comply with applicable federal standards for incineration (40 C.F.R. Part 62), which have already been incorporated into state air regulations (Conn. Agencies Regs. § 22a-174-1 *et seq.*) (§ 5);
10. requires, instead of allows, a petition for a hearing on an application to designate a person authorized to withdraw the petition (§ 11);
11. exempts certain aquaculture structures in tidal, coastal, or navigable waters from a DEEP permitting requirement (§ 3); and
12. eliminates the requirement that the representative on the Nitrogen Credit Advisory Board from a municipality with a population of less than 20,000 must also be from a municipality that purchases nitrogen credits (§ 2).

Lastly, the bill makes technical and conforming changes and a minor change to clarify that the state's forest fire warden has the authority to supplement state forest fire control personnel with specially trained temporary emergency workers to help combat a forest fire outside Connecticut, rather than only for in-state fires (§ 6).

EFFECTIVE DATE: Upon passage, except the provision on general permit fees takes effect October 1, 2021, and the changes to the pesticide registration take effect January 1, 2022.

§ 10 — GENERAL PERMIT FEES

The bill establishes annual fees for people operating under general permits issued by DEEP on or after October 1, 2021. It requires them to pay the annual fee in addition to the registration fee required under

existing law. (DEEP issues both individual and general permits to regulate activities. It issues individual permits directly to an applicant. General permits authorize similar minor activities by one or more applicants (e.g., removal of derelict structures, minor seawall repair). The general permit may require an applicant to register with DEEP or both register and obtain DEEP approval.)

Unless a general permit specifies otherwise, the bill requires anyone authorized to conduct a regulated activity covered by a general permit to pay an annual fee of (1) \$200 when the permit requires both registering with DEEP and obtaining its approval of the registration before starting the activity or (2) \$100 when the permit requires only registration with DEEP before the activity is allowed.

The bill prohibits an annual fee for a general permit issued on or after October 1, 2021, from exceeding \$1,000.

§ 4 — NOISE REGULATION

The bill eliminates the DEEP commissioner's role in approving municipal noise ordinances.

By law, municipalities may adopt and enforce a noise control ordinance that includes certain elements set in statute, including noise levels and implementation procedures. Current law requires (1) that an ordinance conform to applicable federal noise standards or regulations and be at least as stringent as state and federal noise standards or regulations (e.g., Conn. Agencies Regs. § 22a-69-1 *et seq.*) and (2) the commissioner's approval before the ordinance can take effect.

The bill (1) eliminates the requirement to obtain the commissioner's approval and (2) allows municipal noise ordinances to be more stringent standards than those adopted by the commissioner.

§ 7 — INTERSTATE FOREST FIRE RESOURCES

The bill expands the applicability of the Northeastern Interstate Forest Fire Protection Compact's interstate aid provisions by allowing aid to or from any state that belongs to a regional forest fire protection compact, if that state's legislature agrees to the provisions. In doing so,

it allows Connecticut to exchange forest fire protection and control resources with up to 43 other states, instead of only member states. (Members of the northeastern compact include the New England states and New York.)

By law, the compact's interstate aid provisions seek to help control, combat, or prevent forest fires and address issues such as the powers and rights of responding forces, liability, and repayment for services.

§ 8 — PESTICIDE APPLICATOR CERTIFICATION RENEWAL

Notice and Certification Lapse

The bill requires the DEEP commissioner to provide a certified pesticide applicator, at least 60 days before his or her certification expires, notice of the upcoming expiration and a renewal application. But failing to receive the notice and application does not prevent a certification's lapse.

Under the bill, a certification lapses if the commissioner does not receive a signed renewal application with the applicable renewal fee by midnight on the expiration date or midnight on the next business day if the expiration date is on a weekend or legal holiday.

Renewal Without Reexamination

The bill allows the DEEP commissioner to renew a pesticide applicator's certification that has lapsed for less than one year if the applicator (1) submits a signed renewal application and (2) pays both the renewal fee and any late fee. By law, renewal fees range from \$80 to \$285, depending on the certification level. Under the bill, the late fee is equal to 10% of the renewal fee, plus 1.25% per month or part of a month, dating from when the certification lapsed.

Under the bill, anyone whose certification lapses for one year or more must retake the examination. By law, pesticide application certifications are valid for five years.

§ 1 — WASTEWATER TREATMENT PLANT OPERATOR CERTIFICATION

The bill limits the examination requirement for class III and class IV

wastewater treatment plant operator certification applicants to the standardized national examination prepared by the Association of Boards of Certification for Wastewater Treatment Facility Operators. Current law requires them to also pass additional questions from the DEEP commissioner. It allows the commissioner to designate an agent to administer and proctor the examination.

The bill authorizes the commissioner to adopt regulations on wastewater treatment plant operators' certification application, renewal, and continuing education requirements. Current law allows her to adopt regulations on a regular state-certified training course for operators. The bill also requires the commissioner or her designated agent, in consultation with the state's operator certification advisory board, to approve continuing education and associated courses. The board advises and assists with administering the certification program (Conn. Agencies Regs. § 22a-416-10).

§ 11 — DESIGNATED PERSON TO WITHDRAW HEARING PETITION

Several statutes and regulations require the DEEP commissioner to hold a public hearing before acting on a permit application. Most require her to do so if at least 25 people sign a petition requesting a hearing. Current law allows them to designate in the petition a person authorized to discuss the application and, depending on the outcome of those discussions, withdraw the petition. The bill instead requires the designation of this authorized person.

§ 3 — AQUACULTURE STRUCTURES

Existing law requires a DEEP certificate or permit in order to conduct certain work, including erecting and maintaining structures, in the state's tidal, coastal, or navigable waters, waterward of the coastal jurisdiction line.

The bill exempts from this permitting requirement individual structures used for aquaculture in leased or designated shellfish areas that (1) have a federal Army Corps of Engineers permit and (2) do not interfere with navigation in designated or customary boating or

shipping areas. It eliminates current law's exemption for the structures that do not need an Army Corps permit and are in these areas.

Aquaculture includes the controlled rearing, cultivation, and harvest of aquatic plants and animals. Aquaculture structures include such things as racks, cages, bags, and buoys.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 33 Nay 0 (03/12/2021)