



**Department of Energy & Environmental Protection**  
**Index of Year 2015 Legislative Proposals to the**  
**Office of Policy and Management**  
**Department of Energy & Environmental Protection**

**Branch of Environmental Conservation**

**AAC COMMERCIAL FISHERIES LICENSING REFORM (DEEP-EC1)**

- Amend to provide whelk conservation measures.
- Amend to provide an exception to confidentiality rules to allow disclosure of fishing privileges associated with commercial fishing licenses.
- Amend to provide opportunity for other residents to fish.
- Increase transparency in government.
- Make better use of existing resources.
- Improve interstate fishery management.

**AAC TECHNICAL CHANGES TO THE BOATING STATUTES REGARDING WATER-SKIING AND JETTED ARTICULATED VESSELS (DEEP-EC7)**

- Add fly boards and wake surfing where water ski is referenced to reflect today's recreational uses.
- Improves our ability to protect public safety.

**AAC FIREWOOD TRANSPORTATION REGULATIONS INFRACTION (DEEP-EC3)**

- Add infraction for firewood transport to existing authorities.
- Improves our ability to protect regional forests.

## **Branch of Environmental Quality**

### **AAC LEASING LIGHTHOUSE BOTTOMLANDS. (DEEP-EQ1)**

To expand authority to other lighthouses beyond Penfield Reef Lighthouse and remain consistent with the National Historic Lighthouse Preservation Act.

### **AA ESTABLISHING A TIRE STEWARDSHIP PROGRAM. (DEEP-EQ12)**

The proposal seeks to recover the material value of scrap tires. There are about 3.5M scrap tires generated in Connecticut every year most of which are converted to tire-derived fuel and burned in pulp mills in Maine. Connecticut strives to reduce, reuse, and recycle before burning for energy recovery. There is also a significant cost from illegal dumping of tires that would be reduced.

### **AAC ENFORCEMENT OF ENVIRONMENTAL LAWS (DEEP-EQ14 and 17)**

- To enhance regulation of Stage I vapor recovery systems at gasoline dispensing facilities to reduce volatile organic compound emissions.
- To allow DEEP to enforce home heating oil sulfur content requirements to reduce emissions.



## Agency Legislative Proposal – 2015 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DEEP-EC1**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

**Department of Energy and Environmental Protection**

Liaison: Robert LaFrance

Phone: Cell: 860.622.1797 Office: 860.424.4301

E-mail: [Robert.lafrance@ct.gov](mailto:Robert.lafrance@ct.gov)

Lead agency division requesting this proposal: **Bureau of Natural Resources**

Agency Analyst/Drafter of Proposal: **David Simpson, Marine Fisheries Division, BNR**

**Title of Proposal: AAC Commercial Fisheries Licensing Reform**

**Statutory Reference: 26-1, 26-142a, 26-142b, 26-142c, 26-157b**

### Proposal Summary

**Section 1.** Redefines species (finfish, bait species, crustacean, sea scallops, horseshoe crabs) that are taken commercially as “regulated species” and adds whelk to this list.

**Section 2.** Makes a number of changes to revise and update commercial fishing laws to reflect current realities, improve commercial fishing licensing process and increase participation:

- Defines various commercial fishing license and fishing related terms.
- Authorizes the commissioner to regulate whelk fishing and transfers whelk fishing licensing authority from the Department of Agriculture to DEEP.
- Creates new commercial fishing license types, adjusts fees for some licenses.
- Establishes a required annual renewal of limited access license types, incorporates the current restrictions on issuance of licenses in 26-142b into this section, authorizes the use of random draw in issuing new licenses.
- Authorizes leasing a portion of the state’s harvest limit of quota managed species.
- Amends the violation provisions of this section to clarify the penalties and establishes a more effective and proportionate penalty schedule.

**Section 3.** This section makes a number of changes to commercial fishing licensing provisions:

- Clarifies the conditions for a temporary license reissuance for reasons of incapacity, and specifies the term of the temporary license.



- Limits permanent resident license transfers to resident-to-resident transfers involving the sale of a 30 foot or longer length vessel and clarifies that a non-resident may only be transferred a non-resident license.
- Makes conforming changes with section 2 provisions.

**Section 4.** Revises commercial fishing reporting requirements and associated penalties. The penalty for violating reporting requirements is amended to include possible license suspension and raise the penalty for falsifying reports on quota-managed species. Additionally, the disclosure of the identities of persons holding any form of fishing license issued under CGS 26-142a would be allowed and clear guidance for the release of aggregated landings data would be provided.

**Section 5.** Repeals section 26-142c (exemptions from vessel permits for taking fish and lobsters for personal use) fish as this proposal incorporates these provisions into CGS section 26-142a (see section 2).

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

*Please consider the following, if applicable:*

- (1) *Have there been changes in federal/state/local laws and regulations that make this legislation necessary?*
- (2) *Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)?*
- (3) *Have certain constituencies called for this action?*
- (4) *What would happen if this was not enacted in law this session?*

**Sections 1, 2, 3, 4 & 5.** These changes are needed to enable a new generation of commercial fishermen the opportunity to fish and operate profitable businesses in Connecticut waters.

The DEEP, in response to industry urging, formed a working group to explore ways to adapt to the lobster fishery collapse. This working group was comprised of industry members, academics, environmental advocates, fishery managers and law enforcement, and was tasked with examining the current commercial licensing system and recommending modifications that would better position the industry to adapt and prosper. This group met three times over the course of a year. These proposals respond to the many comments and recommendations the working group provided.

In addition, recent changes to interstate fishery management requirements make this legislation necessary if we are to help the broader commercial fishing industry adapt and prosper. Changes put in place by the Atlantic States Marine Fisheries Commission include a mandated 10% reduction in lobster harvest which culminated in an annual three month long season closure. Quotas (the amount of fish that can be harvested) for other important commercial species such as summer flounder, black-sea bass, and scup, are also being adjusted annually to meet coast-wide conservation targets

The proposed legislation is needed to: (a) address the problem caused by gear that is currently licensed but is sitting idle and thus prevents others from being able to enter the fishery, (b) ensure resident commercial licenses are transferred to and held only by residents and clarify that non-



residents may only be transferred a non-resident license, (c) allow resident fishermen the opportunity to purchase a transferred license at a price that will enable them to be profitable, and (d) provide a new generation of fishermen the opportunity to fish, something that the existing license moratorium has prevented for 20 years (since 1995).

- **Origin of Proposal**       **New Proposal**       **Resubmission**

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration’s package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

**PROPOSAL IMPACT**

- **Agencies Affected** (please list for each affected agency)

Agency Name: **Department of Agriculture**  
Agency Contact (**George Krivda, Legislative Liaison, phone 860-713-2573**):  
Date Contacted: 12/11/2014  
  
Approve of Proposal     **YES**     **NO**     **Talks Ongoing**

**Summary of Affected Agency’s Comments**

Will there need to be further negotiation?     **YES**     **NO**

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)  
  
**NONE.**

**State**  
**Sections 1 & 2.** The proposed changes to 26-142a (commercial fishing) license fees and licensing structure are projected to be revenue neutral to 30% revenue positive. Importantly, the proposed changes including a reduction in fee for Personal Use lobster, the addition of new hobby level commercial licenses and establishing a small fee for quota-managed species endorsements, coupled with requirement to renew limited access licenses on an annual basis are expected stabilize license sales and revenue which have been in troubling decline for many years. Annual license sales have



declined by an average of 90 licenses annually since 1980 when 5,000 were sold to 2013 when just 1,257 licenses of all types were issued.

The rate of decline in license sales has doubled since fees were increased in 2010 leading to a 25% (\$79,280) decline in revenue over the last four years. In 2010, fees associated with 26-142a licenses generated \$313,310 in revenue. In 2013, sales of these licenses generated only \$234,030.

License reform that better aligns fees with the level of associated fishing privileges is essential to stabilize the revenue stream while controlled reopening of licenses and permits to the public provides opportunity for a modest increase in future revenue.

The proposed transfer of whelk (conch) fishing licensing authority from Agriculture to Energy and Environmental Protection is expected to be revenue neutral to the General Fund as no changes to the fee or eligibility criteria are proposed.

**Section 4.** May provided minimal revenue gain from fines to the general fund.

**Federal  
NONE.**

Additional notes on fiscal impact

• **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Policy impacts:

**Section 1 & 2:**

Implements a framework that will enable the sustainable management of whelk (conch) in Connecticut waters: Whelk will be added to the list of species managed and licensed by DEEP. Currently the DoAg issues whelk licenses but no agency has clear fishery management authority. This change will enable sustainable regulation of the whelk fishery consistent with neighboring states.

Redirects fishing pressure to species able to sustain greater harvest: A new small scale open access commercial fishing license would be created. This license does not authorize the take of quota-managed species without additional authorization (an endorsement), thus the species targeted under this license are those able to sustain additional fishing pressure.

Initiates realigning the lobster fishery to better reflect the current abundance of lobsters and begins to stabilize participation in the fishery. A new small scale commercial lobster fishing license (50 trap maximum) with a lower fee is created and the fee for personal use lobster fishing is lowered.

Increases opportunity for established and novice fisherman to adjust and enter new fisheries: Creates a requirement that limited access licenses be renewed annually. Establishes fees for the new licenses including a modest fee for a quota-managed species endorsement. Authorizes the Commissioner to



(a) use random draw as a means of selecting new entrants into limited access fisheries, and (b) lease a portion of the state's allocation of a quota-managed species.

Provides conservation measures by: setting limits on at-sea processing to preserve species identification and prevent wasteful practices (e.g. shark finning), adding substantial violations of possession limits to the list of offenses that may result in a fishing vessel permit sanction, and establishing a penalty schedule.

**Section 3:**

Provides specific guidance that temporary license reissues to a family or crew member in the event the license holder is temporarily incapacitated may not exceed twelve months.

Establishes new restrictions on license transfers that will allow more licenses to retire thereby helping to reduce excess capacity in the fishery and allow some new licenses to be issued. This will enable future fishermen to acquire a license directly from the department and thereby avoid the inflated prices asked for in transfer that render future fishermen's businesses unprofitable. Permanent license transfers would be limited to resident-to-resident transactions where a commercial fishing vessel is at least 30 feet in length. The restriction to resident-resident transfers is needed to maintain current levels of resident-held licenses and ensure an effective balance is struck for access to landing privileges for valuable state quota-managed species, and ensure any loophole that would allow a resident license to be transferred to a non-resident is closed. Allowing license transfers when a large vessel is being sold with the license will protect the value of the seller's vessel which may be more difficult to market if it cannot be used for commercial fishing in this state.

**Section 4:**

Provides Agency authority to suspend a license for failing to report commercial fishing activity and increases the penalty for falsifying reports pertaining to quota-managed species.

Allows for public disclosure of the names of persons and the fishing privileges associated with any fishing license issued under 26-142a and provides specific guidance on public disclosure of data on landings and catch.



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

**Section 1.** Sections 26-1 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective January 1, 2016*).

- (1) "Animal" includes birds, quadrupeds, reptiles and amphibians.
- (2) "Bait species" means all species of fish, frogs, crustaceans and insects listed as bait in the regulations issued by the Commissioner of Energy and Environmental Protection.
- (3) "Black bass" means smallmouth bass (*Micropterus dolomieu*) and largemouth bass (*Micropterus salmoides*).
- (4) Repealed.
- (5) "Closed season" means that period of time during which hunting, trapping or fishing is prohibited for any species of wildlife.
- (6) "Commercial fisherman" means any person, firm or corporation engaged in commercial fishing.
- (7) "Commercial fishing" means taking or attempting to take any [finfish, crustacea, sea scallops, squid, horseshoe crabs or bait species] regulated species for commercial purposes or by the use of any commercial fishing gear.
- (8) "Commercial fishing gear" means any equipment commonly used to take [finfish, crustacea, sea scallops, squid, horseshoe crabs or bait species] regulated species for commercial purposes including, but not limited to, lobster pots, otter trawls, beam trawls, balloon trawls, midwater trawls, sea scallop dredges, scoop nets, scap nets, seines, trap nets, fyke nets, crab traps, gill nets, trammel nets, set lines, long lines, hook and line if such fishing is conducted for commercial purposes, minnow seines, minnow traps, eel pots, fish pots, pound nets, throw nets or similar devices and any equipment listed as commercial fishing gear in regulations adopted by the Commissioner of Energy and Environmental Protection.
- (9) "Commercial hatchery" means an institution or place where legally acquired fish are held, hatched and reared for sale or where fish so acquired or hatched are reared or held for sale in waters which are under complete control of the owner.
- (10) "Daily bag, catch or creel limit" means the quantity or number of wildlife allowed to be taken during the period from 12:01 a.m. to 12:00 midnight as provided by this chapter or by regulations made by the Commissioner of Energy and Environmental Protection.





(11) "Grouse" includes ruffed grouse, partridge and spruce grouse.

(12) "Hunting" means pursuing, shooting, killing and capturing any bird, quadruped or reptile and attempting to pursue, shoot, kill and capture any bird, quadruped or reptile, whether such act results in taking or not, including any act of assistance to any other person in taking or attempting to take any such animal.

(13) "Quadruped" means any four-legged animal which is ferae naturae or wild by nature, although such animal may be enclosed and considered a pet or semidomesticated, but shall exclude purely domesticated animals.

(14) "Pickerel" means the chain pickerel (*Esox niger*), not the dwarf species referred to variously as the banded pickerel (*Esox americanus*), grass pike, grass pickerel, mud pike or brook pickerel.

(15) "Private waters" means a natural or artificial pond or lake to which the owner, not a corporation, partnership or voluntary association, has exclusive right of access, of which water supply all sources are located substantially within the property of the owner, to which fish do not have access from waters not under the control of such owner or from water stocked at the expense of the state, except that a natural or artificial pond five acres or less in extent may be owned by an individual, a corporation, partnership or voluntary association and, when meeting the other requirements of this subsection, such pond may be registered as private waters.

(16) "Regulated species" means the following species or species groups: bait species, crabs, finfish, horseshoe crabs, lobsters, sea scallops, squid and whelk.

[(16)] (17) "Seafood dealer" means (A) a person, firm or corporation, other than the ultimate consumer, who purchases, ships, consigns, transfers, transports, barbers, accepts or packs [lobsters, sea scallops, finfish, crabs, including horseshoe crabs, or squid] regulated species, except bait species directly from a commercial fisherman for resale, or (B) a commercial fisherman who sells, ships, consigns, transfers or barbers his or her own catch of such species to anyone other than a seafood dealer.

[(17)] (18) "Set line" means a line fastened between two points, to which is attached a number of smaller lines with hooks attached, but a single line not personally attended may constitute a set line.

[(18)] (19) "Sport fishing" means taking or attempting to take any [fish, crustacea, sea scallops, squid, horseshoe crabs or bait] regulated species whether from salt, brackish or fresh water by any method other than by commercial methods specified by law and regulations of the Commissioner of Energy and Environmental Protection for commercial purposes.



[(19)] (20) "Taking" means shooting, pursuing, hunting, fishing, killing, capturing, trapping, snaring, hooking and netting any species of wildlife and attempting to shoot, pursue, hunt, fish, kill, capture, trap, snare, hook, net or catch any species of wildlife or any act of assistance to any other person in taking or attempting to take such wildlife whether or not such act results in the capture of any such wildlife.

[(20)] (21) "Trapping" means pursuing, killing and capturing by use of any trap, snare, net or other device any bird or wild or domestic quadruped, excluding rats, mice, moles and reptiles, whether such act results in taking or not, including any act of assistance to any other person in taking or attempting to take any such animal by any such method.

[(21)] (22) "Trout and salmon" includes brook trout or speckled trout, brown trout, rainbow trout, lake trout, Atlantic salmon, kokanee or sockeye salmon, coho salmon, chinook salmon or any hybrid of any two or more of these species.

[(22)] (23) "Wildlife" means all species of invertebrates, fish, amphibians, reptiles, birds and mammals which are *ferae naturae* or wild by nature.

**Sec. 2.** Section 26-142a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2016*).

(a) [For the purposes of this section, an environmental tourism cruise vessel is one which is operated for a fee for the purpose of education and observation and retention of marine and estuarine resources collected under the conditions of the permit issued under this section, except that holders of a permit issued under section 26-60 shall not be required to obtain a permit under this section. No person shall operate, use or attempt to operate or use a vessel for commercial fishing or landing activities authorized by this section unless the commissioner has issued a vessel permit for such vessel to the owner of the vessel. No person shall operate, use or attempt to operate or use a vessel or commercial fishing gear for environmental tourism cruises authorized by this section unless the commissioner has issued an environmental tourism cruise permit for such vessel, including conditions for the use of such fishing gear, to the owner of the vessel. No person shall use or assist in using commercial fishing gear in any water of the state or land in this state any species taken by commercial fishing gear or for commercial purposes, regardless of where such species was taken, unless such person has been licensed by the Commissioner of Energy and Environmental Protection to use such commercial fishing gear or land such species; except that any person who holds a license to use gill nets, lobster pots,



trawl nets, sea scallop dredges, seines, traps, fish pots, fykes, hook and line, long lines or eel pots may, when using such gear, be accompanied and assisted by persons not so licensed. A resident of a state which does not issue commercial licenses to take eels to residents of Connecticut shall not be eligible to obtain a commercial license to take eels in the waters of this state or to land eels in this state. No vessel shall be used to land any finfish, lobsters, crabs, including blue crabs and horseshoe crabs, sea scallops, squid or bait species for sale, barter, exchange, consignment or transportation to any point of sale unless an operator of the vessel is licensed for such purpose, except that any person who holds a commercial fishing license issued by the commissioner to fish by the method used to take such species, regardless of where such species were taken, shall not be required to obtain a landing license. No person shall take or attempt to take lobsters or horseshoe crabs for personal use by hand or by scuba diving or skin diving unless such person has been licensed by the commissioner to take lobsters or horseshoe crabs by such methods. No person shall take or attempt to take finfish for commercial purposes by the use of hook and line, including, but not limited to, rod and reel, hand line, set line, long line, or similar device unless such person has been licensed by the commissioner to use such gear for commercial purposes, except that notwithstanding the issuance of such a license, no person shall take finfish for commercial purposes in the inland district by the use of hook and line. The use of a purse seine or similar device is prohibited. No pound net shall be used to take finfish unless such pound net is registered with the commissioner. Lobsters and blue crabs taken in pound nets shall be released unharmed. No person shall buy for resale finfish, lobsters, crabs, including blue crabs and horseshoe crabs, sea scallops or squid landed in Connecticut from any commercial fisherman unless such buyer and commercial fisherman have been licensed by the commissioner. A licensed commercial fisherman who acts as a seafood dealer may, without holding a seafood dealer license, sell, ship, consign, transfer or barter his or her own catch of finfish, lobsters, crabs, including blue crabs and horseshoe crabs, sea scallops or squid landed in this state. No person shall take blue crabs for commercial purposes except by scoop net, hand line or manually operated and personally attended devices approved by the commissioner and unless such person has been licensed by the commissioner. No person shall operate a charter boat, party boat or head boat for the purpose of fishing unless such boat has been registered for such purpose with the commissioner and such person holds a current passenger-for-hire license issued by the United States Coast Guard. The owner, operator or captain of any such boat may sell the boat's or crew's share of any tuna species if such sale is not prohibited on the basis of species, size or closed season. For the purposes of this chapter, a charter boat, party boat or head boat is a vessel operated for a fee for the purpose of transporting and providing a fishing platform for sport fishermen taking marine species in Connecticut waters or landing marine species at



Connecticut ports regardless of where such species are taken. The commissioner may by regulations adopted in accordance with the provisions of chapter 54 exempt certain minnow seines, cast nets, scoop nets, traps, eel pots, seines less than thirty feet in length or any similar device used to take bait species and other species for personal use under a sport fishing license in the inland district and under a marine waters fishing license in the marine district. No vessel used to take bait species may employ a fish pump. Persons licensed, registered or issued a permit to engage in activities authorized by this subsection shall carry on their persons or in the vessel being used to engage in such activity the permit, license or registration covering such activity.] Definitions. The words and terms used in this section as amended by this act, section 26-142b as amended by this act, and section 26-157b as amended by this act shall have the following meaning:

- (1) "Application deadline" means March thirty-first of each year;
- (2) "Commercial bait fishing" means commercial fishing by use of seines, traps, scaps, scoops, weirs or similar devices to take and land bait species;
- (3) "Commercial blue crab fishing" means commercial fishing by use of scoop nets, hand lines or manually operated and personally attended devices approved by the commissioner to take and land blue crabs only.
- (4) "Commercial fishing vessel" means a commercial landing vessel, or a vessel used to engage in commercial lobster pot fishing, otter trawl fishing, general commercial fishing, or pound net fishing, excluding skiffs used to aid the primary pound net fishing vessel;
- (5) "Commercial landing vessel" means a vessel used to land regulated species taken in commercial fishing conducted exclusively outside Connecticut waters;
- (6) "Commercial lobster pot fishing" means commercial fishing by use of lobster pots only to take and land regulated species other than blue crabs;
- (7) "Commercial shad fishing" means commercial fishing by use of gill nets, seines, scap or scoop nets to take and land American shad only;
- (8) "Environmental tourism vessel" means a vessel used to carry passengers for hire and operated for the purpose of providing a platform for education and observation and collection of marine or estuarine species using commercial fishing gear under conditions specified in the permit issued under this section;
- (9) "General commercial fishing" means commercial fishing by use of gill nets, seines, traps, fish pots, cast nets, fykes, scaps, scoops, eel pots, hook and line or similar devices to take and land



squid, finfish other than American shad or bait species, or commercial fishing for horseshoe crabs by hand;

(10) "Limited access license" means any endorsement, license, permit, or registration required under this section, the number of which that may be issued has been limited by the commissioner or by statute, provided that until regulations identifying limited access licenses are adopted the following commercial fishing licenses shall be limited access licenses and shall be issued only to persons who held such license at any time from June 1, 1995, to December 31, 2003, inclusive: commercial lobster pot fishing, principal commercial fishing, and general commercial fishing.

(11) "Otter trawl fishing" means commercial fishing by use of otter trawls, beam trawls, balloon trawls, mid-water trawls, sea scallop dredges or any similar devices to take and land regulated species other than blue crabs;

(12) "Party or charter fishing vessel" means a vessel used to carry passengers for hire and operated for the purpose of providing a recreational fishing platform to take and land marine regulated species;

(13) "Personal use gillnet fishing" means use of a gillnet not more than 60 feet in length to take menhaden only for personal use only;

(14) "Personal use lobster fishing" means use of not more than 10 lobster pots to take lobsters and finfish for personal use only provided such finfish are taken incidental to lobster fishing and in accordance with recreational fishery creel limits, length limits and seasons adopted under section 26-159a, or to take lobsters only by hand including by skin or SCUBA diving for personal use only;

(15) "Pound net fishing" means commercial fishing by use of pound nets or similar devices to take regulated species other than lobsters or blue crabs;

(16) "Principal commercial fishing license" means a license authorizing both commercial lobster pot fishing and otter trawl fishing;

(17) "Quota-managed species" means a regulated species managed through a statewide seasonal or annual commercial harvest limit;

(18) "Restricted commercial fishing" means commercial fishing by use of hook and line to take squid and finfish other than American shad or bait, or to take menhaden only by use of a gillnet not more than 200 feet in length provided such gillnet is manually set and retrieved and personally attended when in use;



(19) "Restricted commercial lobster pot fishing" means commercial fishing by use of not more than 50 lobster pots only to take and land regulated species other than blue crabs;

(b) Except as provided in subsection (c) of this section no person shall take or attempt to take any regulated species for commercial purposes or use commercial fishing gear or land any regulated species in the state for commercial purposes, regardless of where taken without first having obtained a license as provided in this chapter. No person shall act as a seafood dealer as defined in section 26-1(16)(A), as amended by this act, without first having obtained a license as provided in this chapter, except that a commercial fisherman acting as a seafood dealer as defined in section 26-1(16)(B), as amended by this act, shall not be required to obtain a seafood dealers license. No person shall buy for resale regulated species landed in Connecticut from any commercial fisherman unless such buyer and commercial fisherman have been licensed by the commissioner. No person shall operate a environmental tourism vessel, commercial landing vessel, or a vessel used in commercial lobster pot fishing, general commercial fishing or otter trawl fishing unless the commissioner has issued a permit for that vessel to the owner of such vessel. No person shall operate a party or charter fishing vessel unless the commissioner has issued a registration for that vessel to the owner of such vessel. No person shall possess or land a quota-managed species taken while commercial fishing unless the commissioner has issued such person a quota-managed species endorsement for that species or the commissioner has issued a quota-managed species endorsement for that species to the owner of the principal commercial fishing vessel used to take that species, provided that the commissioner may waive such quota-managed species endorsement requirement for a license or permit holder possessing a small quantity of such species under conditions specified by the commissioner. No person shall take or attempt to take lobsters or horseshoe crabs for personal use unless such person has been licensed by the commissioner.

(c) Notwithstanding the requirements of subsection (b) of this section, as amended by this act:

(1) holders of a permit issued under section 26-60 shall not be required to obtain a environmental tourism vessel permit under this section;

(2) persons licensed under this section may be accompanied and assisted by persons not so licensed;

(3) persons setting, operating, tending or assisting in setting, operating or tending registered pound nets shall not be required to be licensed;

(4) the commissioner may, by regulations adopted in accordance with the provisions of chapter 54, exempt certain minnow seines, cast nets, scoop nets, traps, eel pots, seines less than thirty feet in length or any similar device used to take bait species and other species for personal use



under a sport fishing license in the inland district and under a marine waters fishing license in the marine district;

(5) the owner, operator or captain of a party charter fishing vessel may sell the boat's or crew's share of any tuna species

(6) no license shall be required to take less than one half bushel of whelk daily.

(d) The use of a purse seine is prohibited. No person shall take finfish for commercial purposes in the inland district by the use of hook and line. No person shall take blue crabs for commercial purposes or for personal use except by scoop net, hand line or manually operated and personally attended devices approved by the commissioner. No person shall operate a party or charter fishing vessel or an environmental tourism vessel unless such person holds a current passenger-for-hire license issued by the United States Coast Guard. No vessel used to take regulated species may employ a fish pump except to offload their catch at a shore side facility.

[(b)] (e) The commissioner shall issue [fishing] endorsements, licenses, [vessel] permits and registrations to qualified applicants upon the submission of an application[, on forms provided by the commissioner,] containing such information as prescribed by the commissioner, and upon the payment of such endorsement, license, registration or permit fees as are required by subsection [(c)] (f) of this section, as amended by this act, except that a nonresident whose endorsement, permit, license or registration in the state of residence has been voided or suspended shall have the Connecticut endorsement, permit, license or registration voided or suspended during the suspension of such out-of-state endorsement, permit, license or registration or until another endorsement, permit, license or registration is obtained in the state of residence. The commissioner shall not issue any fishing license or registration or vessel permit to any applicant who has not met the reporting requirements of section 26-157b, as amended by this act. The commissioner shall not renew any limited access license, the application and payment for which is received or post marked after the application deadline. Failure to renew any limited access license and associated commercial fishing vessel permit annually shall constitute a permanent forfeiture of renewal privileges for that limited access license. Any person who so forfeits license renewal privileges shall be eligible to obtain another such limited access license through means established by the commissioner for issuing new limited access licenses. A resident of a state which does not issue commercial licenses to take eels to residents of Connecticut shall not be eligible to obtain a commercial license to take eels in the waters of this state or to land eels in this state. A resident of a state which does not issue commercial licenses to take lobsters to residents of Connecticut shall not be eligible to obtain a commercial license to take lobsters in the waters of this state or to land lobsters in this state. A



nonresident shall not be issued a license to take lobsters if the laws of the nonresident's state concerning the taking of lobster are less restrictive than regulations adopted pursuant to section 26-157c. No vessel permit or registration shall be issued to any person for any vessel during the time period that such vessel permit has been revoked pursuant to subsection [(f)] (i) of this section as amended by this act. Persons licensed, registered or permitted to engage in activities authorized by this subsection shall carry on their persons or aboard the vessel being used to engage in such activity the license, registration or permit authorizing such activity. Any fishing license or registration or vessel permit issued by the commissioner shall be nontransferable, except as provided in section 26-142b, as amended by this act, and shall expire on the thirty-first day of December next following its issuance.

[(c)] (f) The fee for the following fishing endorsements, licenses and registrations and for a commercial fishing vessel permit shall be: (1) For a commercial blue crab fishing license [to take blue crabs for commercial purposes], one hundred fifty dollars; (2) for a personal use lobster fishing license [to take lobsters for personal use, but not for sale, (A) by the use of not more than ten lobster pots, traps or similar devices provided finfish may be taken incidentally during such use if taken in accordance with recreational fishery creel limits, length limits and seasons adopted under section 26-159a and if taken for personal use and not for sale, or (B) by skin diving, scuba diving or by hand, one hundred twenty], sixty dollars; (3) for a commercial lobster pot fishing license [to take lobsters, fish or crabs, other than blue crabs for personal use or for sale, by the use of more than ten lobster pots or similar devices], one hundred ninety dollars for residents of this state and two hundred eighty-five dollars for nonresidents[, provided any such license issued to a resident of a state that does not issue commercial licenses conferring the same authority to take lobsters to residents of Connecticut shall be limited to the taking of crabs, other than blue crabs, and a nonresident shall not be issued such license if the laws of the nonresident's state concerning the taking of lobster are less restrictive than regulations adopted pursuant to section 26-157c]; (4) for a principal commercial fishing license [to take lobsters, crabs other than blue crabs, squid, sea scallops and finfish, for personal use or for sale, by the use of more than ten lobster pots or similar devices, or by the use of any otter trawl, balloon trawl, beam trawl, sea scallop dredge or similar device], two hundred eighty-five dollars for residents of this state and one thousand five hundred dollars for nonresidents, [provided any such license issued to residents of states which do not issue commercial licenses conferring the same authority to take lobsters to residents of Connecticut shall be limited to the taking of crabs other than blue crabs, squid, sea scallops and finfish by the use of any otter trawl, balloon trawl, beam trawl, sea scallop dredge or similar device, and a nonresident shall not be issued such license if the laws of the state of residency concerning the taking of lobster are less





restrictive than regulations adopted under the authority of section 26-157c]; (5) for a commercial shad fishing license [to set or tend gill nets, seines, scap or scoop nets used to take American shad], two hundred dollars; (6) for the registration of each pound net or similar device [used to take finfish], two hundred eighty-five dollars, provided [persons setting, operating, tending or assisting in setting, operating or tending such pound nets shall not be required to be licensed]; (7) for a general commercial fishing license [to set or tend gill nets, seines, traps, fish pots, cast nets, fykes, scaps, scoops, eel pots or similar devices to take finfish other than American shad or bait species for commercial purposes, or, in any waters seaward of the inland district demarcation line, to take finfish other than American shad or bait species for commercial purposes by hook and line, or to take horseshoe crabs by hand], one hundred ninety dollars for residents of this state and two hundred fifty dollars for nonresidents, and any [such] general commercial fishing license obtained for the taking of any fish species for commercial purposes by hook and line, in excess of any creel limit adopted under the authority of section 26-159a, three hundred seventy-five dollars for residents of this state and six hundred twenty-five dollars for nonresidents, provided for the taking for bait of horseshoe crabs only, this license may be issued without regard to the limitations in section 26-142b, as amended by this act, to any holder of a Department of Agriculture conch license who held such license between January 1, 1995, and July 1, 2000, inclusive; (8) for a commercial bait fishing license [to set or tend seines, traps, scaps, scoops, weirs or similar devices] to take bait species in the inland district [for commercial purposes], one hundred dollars; (9) for a commercial bait fishing license [to set or tend seines, traps, scaps, scoops or similar devices] to take bait species in the marine district [for commercial purposes], one hundred dollars; (10) for a seafood dealer license [to buy finfish, lobsters, crabs, including blue crabs and horseshoe crabs, sea scallops, squid or bait species for resale from any commercial fisherman licensed to take or land such species for commercial purposes, regardless of where taken], two hundred fifty dollars; (11) for [the] a party or charter fishing vessel registration [of any party boat, head boat or charter boat used for fishing], three hundred fifteen dollars; (12) for a commercial landing vessel operator's license [to land finfish, lobsters, crabs, including blue crabs and horseshoe crabs, sea scallops, squid or bait species], five hundred dollars; (13) for a commercial fishing vessel permit, one hundred dollars; (14) for a personal use gillnet fishing license [to take menhaden from marine waters for personal use, but not for sale, by the use of a single gill net not more than sixty feet in length], one hundred dollars; [and] (15) for an environmental tourism [cruise] vessel permit, one hundred dollars[, provided the landing of any species regulated under Department of Energy and Environmental Protection regulations is prohibited]; (16) for a restricted commercial fishing license, one hundred twenty five dollars for residents and two hundred fifty dollars for nonresidents; (17) for a restricted commercial lobster pot fishing license, one



hundred twenty five dollars for residents and two hundred fifty dollars for nonresidents; (18) for a quota-managed species endorsement, fifteen dollars for each species endorsement; and (19) for a license to take whelk in excess of one-half bushel daily, one hundred dollars.

[(d)] (g) The commissioner may determine for all waters of the state, including the inland and marine districts, areas within which commercial fishing gear may be set or used, the specifications and dimensions of such commercial fishing gear, including materials, length, depth, width, and size of mesh, the length of set lines or long lines, the number and size of hooks, and, for all commercial fishing and landing activities by persons issued either a commercial fishing vessel permit or a license by the commissioner, regardless where such activities take place, the species which may be taken, possessed or landed, the limits on at-sea fish processing related to preserving species identification and prevention of wasteful harvesting practices, the seasons in which species may be taken, possessed or landed, the number and size of [finfish, squid and crabs, including blue crabs] regulated species, which may be taken, possessed or landed and the rules regulating the use of commercial fishing gear, including hours or days of use, and the number of endorsements, licenses, permits or registrations which may be issued. In managing the number of limited access licenses issued, the commissioner may consider an applicant's recent fishing activity authorized under this section, use random draw, lease not more than twenty percent of the available harvest of any quota-managed species, or use other methods for managing the number of fishery participants. The commissioner may also order the emergency closure of any fishery if such closure is necessary to conform to regulations adopted under the Fishery Conservation and Management Act of 1976 (Public Law 94-265, as amended) or by other regional fisheries management authorities.

[(e)] (h) The commissioner may, during and for any reasonable period of time prior to and after the spawning period of any inland or marine game fish or food fish, close any portion of any inland or marine water where any such fish congregate prior to or during the spawning season.

[(f)] (i) The commissioner shall revoke any commercial fishing vessel permit issued under authority of subsection [(b)] (e) of this section, as amended by this act, upon conviction or upon the forfeiture of any bond taken upon any complaint, for the following offenses: (1) Possession of ten or more egg-bearing lobsters or lobsters from which the eggs have been removed; (2) possession of either: (A) Ten or more lobsters less than the minimum length if such lobsters constitute more than ten per cent of the lobsters on board; or (B) fifty lobsters which are less than the minimum length, whichever is the lesser amount; (3) possession of either: (A) Twenty or more finfish of at least one species which are less than the minimum length if such finfish constitute more than ten per cent of the finfish on board for that species; or (B) one hundred



finfish of at least one species which are less than the minimum length, whichever is the lesser amount; (4) possession of either: (A) quota-managed species more than twenty percent in excess of the possession limit for that species; or (B) fifty pounds, whichever is the greater amount; ~~[(4)]~~ (5) for a second offense within seven hundred thirty days in violation of regulations relating to bottom trawl nets adopted under this section; ~~[(5)]~~ (6) for a second offense within seven hundred thirty days for possession of other than quota-managed species of finfish or lobsters more than ten per cent in excess of possession limits specified in regulations adopted under authority of section 26-157c or 26-159a. Such revocation period shall be for one hundred eighty days for a first offense, one year for a second offense, two years for a third offense, and shall be permanent for a fourth offense. The provisions of this subsection are in addition to and in no way derogate from any other enforcement provision or penalty contained in any other statute.

~~[(g) Any]~~ (j) (1) Except as provided in subdivision (2) of this subsection, any person who violates any provision of this [part relating to commercial fishing vessel permits shall be fined no more than five hundred dollars or imprisoned not more than thirty days or both, and each violation of any provision of this section relating to commercial fishing vessel permits] section as amended by this act shall for a first offense, be guilty of a class C misdemeanor, and each regulated species taken or possessed in violation of any provision of this section shall constitute a separate offense, and for any subsequent offense, be guilty of a class B misdemeanor, and each regulated species taken or possessed in violation of this section shall constitute a separate offense; and (2) any person who violates any regulation concerning sport fishing for blue crabs adopted in accordance with the provisions of chapter 54 and this section shall have committed an infraction and may pay the fine by mail or plead not guilty under the provisions of section 51-164n.

~~[(h) Notwithstanding the requirements of subsection (a) of this section, no commercial fishing vessel permit shall be required for any vessel used for the operation of an environmental tourism cruise, a charter, party or head boat or for a vessel used for taking of lobsters for personal use only, or a vessel used for taking inland or marine bait, blue crabs, or American shad, or any vessel used in support of a vessel issued a commercial fishing vessel permit and engaged in the operation of a registered marine pound net.]~~

**Sec. 3.** Section 26-142b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2016*).



(a) For the purposes of this section, “active” with regard to a principal commercial [finfish] fishing license, general commercial fishing license or commercial lobster pot fishing license means that the license has been renewed in the current year [and “number of lobster pots actively fished” means the maximum calculated number of pots as established by the Commissioner of Energy and Environmental Protection pursuant to regulations adopted in accordance with section 26-157c].

(b) Notwithstanding any other provision of law, the Commissioner of Energy and Environmental Protection [shall issue resident and nonresident commercial finfish licenses, commercial fishing licenses and commercial lobster pot licenses under section 26-142a only to persons who held a commercial finfish license, a commercial fishing license, or a commercial lobster pot license at any time from June 1, 1995, to December 31, 2003, inclusive, provided, if such license holder is incapacitated or unable to operate a vessel, the commissioner] may reissue an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license in the event the license holder is temporarily incapacitated and unable to operate a vessel or perform other necessary functions associated with commercial fishing. Such temporary license may only be issued to a member of [such] the incapacitated license holder’s immediate family or to a member of such license holder’s crew, as designated by such license holder, [on a temporary basis not to exceed] for the duration of such incapacity [or inability] or twelve consecutive months, whichever is the shorter period. Such temporary license shall be subject to the provisions of section 26-142a.

(c) [(1)] The commissioner may authorize the transfer of an active resident principal commercial [finfish] fishing license, general commercial fishing license or commercial lobster pot fishing license, issued pursuant to subsection [(c)] (f) of section 26-142a, as amended by this act, provided: (1) For purposes of an active resident-held principal or general commercial fishing license or commercial lobster pot license: (A) the person transferring the license is the primary owner of the vessel permitted to conduct the licensed fishing activity and such vessel is at least 30 feet in length, (B) the person receiving the license in transfer is a resident and is purchasing such vessel, and (C) the person transferring the license held the license and landed [finfish, lobsters, sea scallops, crabs or squid] regulated species in at least five of the eight calendar years preceding the transfer request and reported such landings to the commissioner, pursuant to section 26-157b, for at least thirty fishing days in each year or (2) For purposes of an active nonresident-held principal or general commercial fishing license or commercial lobster pot license: (A) the person transferring the license is the primary owner of the vessel permitted to conduct the licensed fishing activity and such vessel is at least 30 feet in length, (B) the person receiving the license in transfer is purchasing such vessel, and (C) the person transferring the



license held the license and landed regulated species in at least five of the eight calendar years preceding the transfer request and reported such landings to the commissioner, pursuant to section 26-157b, for at least thirty fishing days in each year. Such landings shall be verified by seafood dealer reports submitted pursuant to section 26-157b. The recipient of a transferred commercial lobster pot fishing license shall be limited to the number of lobster pots allocated to such license, except a transferee who currently holds a commercial lobster pot fishing license or principal commercial fishing license, issued pursuant to subsection [(c)] (f) of section 26-142a, as amended by this act, shall be limited to the number of pots allocated to such person's currently held lobster pot license or to the transferred license, whichever is greater. The length of any commercial fishing vessel used by the recipient of a transferred license to fish with a trawl net in the waters of this state shall be not more than ten per cent greater than the length of the largest vessel used by the person transferring the license during such qualifying period.

[(2) The commissioner shall authorize the transfer of an active commercial fishing license, issued pursuant to subsection (c) of section 26-142a, provided the person transferring the license held the license every year from 1980 to 1989, inclusive, and landed summer flounder in this state in at least six of such ten years and reported such landings to the commissioner pursuant to section 26-157b.]

(d) In the event of the death of the holder of an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license, [T]the commissioner may authorize the transfer of [an active commercial finfish license, commercial fishing license or commercial lobster pot] such license pursuant to subsection (c) of this section, for a period of two years from the date of death of such license holder.

(e) Upon transfer of a license, the original license holder shall become ineligible to obtain a renewal of that license. Such original license holder may acquire a new license through a subsequent license transfer.

(f) A transfer of a license under this section shall not be made while a commercial fishery license, registration or vessel permit held by the transferor or transferee is under suspension and a transfer shall not be authorized for any transferee who has had a commercial fishery license, registration or vessel permit revoked or suspended within the preceding twelve months.



**Sec. 4.** Section 26-157b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective January 1, 2016*).

(a) Each person who engages in commercial fishing in the waters of this state, lands [lobsters, sea scallops, finfish, crabs, including horseshoe crabs, squid or bait species] regulated species for commercial purposes in this state regardless of where such species are taken, operates as a seafood dealer or holds any commercial fishing license issued by the commissioner, license to take lobsters for personal use, license to take menhaden for personal use, license to buy finfish, lobsters, crabs, sea scallops, squid or bait species for resale, license to land lobsters, sea scallops, finfish, crabs, or squid or pound net registration shall report information to the commissioner that the commissioner deems necessary at intervals and by methods the commissioner deems necessary. The commissioner may request that commercial shellfish harvesters of oysters and clams voluntarily report, upon forms provided by the commissioner, such information as the commissioner deems necessary. The information required to be reported or voluntarily submitted may include but is not limited to: The number of individuals employed by such person, the number and value of boats, nets, apparatus and other devices used, the area fished, the effort expended and the number, weight, market value and species of finfish, lobsters, oysters, clams, sea scallops, squid, crabs, including horseshoe crabs or bait species caught, landed or purchased. Each person who holds a party boat, head boat or charter boat registration shall report to the commissioner, at such times and at such intervals as may be required and upon forms provided by the commissioner, such information as the commissioner deems necessary, which may include but is not limited to: The number of individuals carried for the purpose of fishing, the area fished, the effort expended, the number and weight by species of all finfish taken and, if any of the catch is sold by such person or by the captain or crew of such vessel, the number, weight, species and value of such finfish.

(b) (1) Except as provided in subdivision (2) of this subsection, as amended by this act, [A]any person who violates any reporting requirement under subsection (a) of this section shall have committed an infraction and may pay the fine by mail or plead not guilty under the provisions of section 51-164n and shall [not] be subject to the provisions of section 26-61. (2) Any person who falsifies a report of a quota-managed species landing, sale, or purchase shall have committed a class D misdemeanor and shall be subject to the provisions of section 26-61.

(c) Notwithstanding any provision of section 1-210 to the contrary, no person shall obtain, attempt to obtain or release to any person or government agency any identifiable individual record [of or information derived] from any report required to be submitted or voluntarily submitted in accordance with the provisions of subsection (a) of this section, as amended by this act, or any identifiable fishery record or fishery sampling information provided or



submitted voluntarily or received by the department upon request of the commissioner, without the consent of the person making the report or providing the information, provided: (1) the commissioner may authorize the release of such information for the purposes of fisheries research, management and development and conservation law enforcement; (2) the identity of persons holding any endorsement, license, permit, or registration issued under the authority of section 142a, as amended by this act, including any associated fishing privileges as may be established by statute or regulation, shall be a matter of public record; and (3) catch or landings data aggregated by species, month and statistical catch area shall be a matter of public record regardless the number of fishermen contributing to such aggregate catch or landings. Any person who violates any provision of this section shall be fined not more than one thousand dollars or imprisoned not more than thirty days or both and each such violation shall constitute a separate offense.

**Sec. 5.** Section 26-142c of the general statutes is repealed. *(Effective January 1, 2016)*

## Agency Legislative Proposal – 2015 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DEEP-EQ14 and 17**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Energy and Environmental Protection

Liaison: Robert LaFrance

Phone: 860.622.1797 Office: 860.424.4301

E-mail: LaFrance@CT.gov

Lead agency division requesting this proposal:

Bureau of Central Services, Office of Enforcement Policy and Coordination

Agency Analyst/Drafter of Proposal:

Nicole M. Lugli

**Title of Proposal**

**An Act Concerning Enforcement of Environmental Protection Programs**

**Statutory Reference**

**CGS Sections 22a-174e and 16a-21a**

**Proposal Summary**

Section 1. This proposal seeks to enhance regulation of Stage I vapor recovery systems at gasoline dispensing facilities by amending section 22a-174e of Connecticut General Statutes.

Section 2. This proposal authorizes the DEEP to enforce home heating oil (HHO) sulfur content requirements in in section 16a-21a.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- **Reason for Proposal**

Section 1. In 2013, the Connecticut General Assembly passed Public Act 13-120 to update vapor control standards at gasoline dispensing facilities (GDFs) in Connecticut. The public act phases out Stage II emission controls, designed to reduce vapor emissions during vehicle refueling, and improves Stage I controls, designed to reduce vapor emissions during gasoline deliveries to gasoline storage tanks, by increasing the frequency of testing of the systems from once every three years to annually. The enhancement of the Stage I controls was required by the Environmental Protection Agency (EPA) to fulfill anti-backsliding requirements due to the decommissioning of Stage II units.

Stage I vapor recovery is used during the refueling of gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose into the cargo tanker, instead of being vented to the atmosphere. Improperly functioning Stage I systems could lead to releases of these hydrocarbons which are toxic air pollutants and can contribute to the formation of ground level ozone, another harmful air pollutant.



While the Public Act made testing more rigorous, there were no provisions to improve the Department's capability to shutdown improperly functioning Stage I equipment. This proposal would allow the Department to use "Red Tags" to shut down improperly functioning equipment until it could be repaired or replaced, reducing potentially harmful emissions into the air. A "Red Tag" program has been effectively utilized in the Department's Underground Storage Tank (UST) program.

Section 2. In 2000, the EPA implemented standards to reduce the amount of sulfur in distillate fuel (i.e. diesel) used in motor vehicles and off-road equipment to 15 parts per million. This standard was phased in from 2006 through 2014. Public Act 13-298 limits the sulfur content of HHO sold in CT to 500 ppm beginning in July 2014 and 15 ppm as of July 2018. However, the Department, which has expertise in regulating the sulfur content of distillate fuel burned in industrial and electric generating facilities, does not have enforcement authority for the HHO provisions of 16-21a.

This proposal grants the authority to the Department to be able to enforce the provisions of 16a-21a for distillate fuel burned as HHO, and includes specific testing methods and document retention requirements.

The burning of distillate fuel oil contributes significantly to Connecticut sulfur dioxide and fine particulate matter (PM<sub>2.5</sub>) emissions. Both sulfur dioxide and PM<sub>2.5</sub> are harmful pollutants that can impact the health and welfare of Connecticut's citizens and their environment. Exposure to these pollutants can result in significant health impacts, particularly among the young, the elderly and those with pre-existing health conditions like asthma. Both pollutants can contribute to regional visibility impairment (regional haze). This proposal will enable Connecticut to meet its federally enforceable regional haze commitments made in conjunction with the Mid Atlantic New England Visibility Union (MANE-VU).

- **Origin of Proposal**      \_\_\_ New Proposal      X Resubmission

*If this is a resubmission, please share:*

- (1) *What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?*
- (2) *Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?*
- (3) *Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?*
- (4) *What was the last action taken during the past legislative session?*

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Office of the Chief Attorney

Agency Contact (name, title, phone): Tamberlyn Conopask

Approve of Proposal    \_\_\_ YES    \_\_\_ NO    X Talks Ongoing

**Summary of Affected Agency's Comments**

Will there need to be further negotiation? ___ YES ___ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

<p><b>Municipal</b> Sec 1. Deminimis. Municipalities that own fueling stations with non-compliant Stage I systems would be forced to fuel via retail GDFs, during the time for which the unit was red tagged. There have been no municipal Stage I units that have been found out of compliance since testing has become annual.</p>
<p><b>State</b></p> <p>Sec. 1. None. There are no fines associated with the red tag enforcement mechanism therefore there would be no increase in revenue.</p> <p>Sec. 2. Indeterminate. There would be some increase in revenue due to increases in violations. As there is no enforcement of the standard currently it is unknown how many violations exist.</p>
<p><b>Federal</b> N/A</p>
<p>Additional notes on fiscal impact N/A</p>

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

<p>Section 1. The federal Clean Air Act includes several program requirements for areas not meeting the national ambient air quality standards. The Act requires each state to develop and implement a State Implementation Plan (SIP). The SIP includes descriptions of control strategies, or measures to address pollution. The CT SIP includes Stage I as a control strategy being used to meet the federally required state air quality goals including the 2008 federal ozone standard for which Connecticut is in nonattainment.</p> <p>Stage I vapor recovery is used during the refueling of gasoline storage tanks to reduce hydrocarbon emissions. Vapors in the tank, which are displaced by the incoming gasoline, are routed through a hose back into the gasoline tanker truck, instead of being vented to the atmosphere. Improperly functioning Stage I systems could lead to releases of these hydrocarbons which can contribute to the formation of ground level ozone.</p> <p>This action is necessary to ensure DEEP meets its federal obligations. It can be implemented through existing resources and requires no significant policy or programmatic changes.</p>
---

Section 2. The pollution emitted from burning HHO and other distillate fuel contributes to Connecticut's air quality problems. The sulfur in the fuel is emitted as sulfates and transforms into particulate matter, which can contribute to negative health impacts such as asthma and lung cancer. Effective enforcement of the sulfur content requirements will assist Connecticut in meeting desired air quality objectives.

Currently there is no enforcement mechanism for the standards in R.C.S.A. section 16a-21a. This proposal does not alter the standards but will provide for the enforcement of existing standards which came into effect in 2013. The provisions of this section can be administered through existing resources in DEEP.

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

Section 1. Section 22a-174e of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

(a) As used in this section:

(1) "Decommission" means to render inoperable an operational stage II vapor recovery system by (A) permanently disconnecting all above-ground stage II vapor recovery equipment, and (B) sealing all above-ground and below-ground vapor or liquid paths that may release to the ambient air. Decommission does not require removal of below-ground stage II vapor recovery equipment;

(2) "Gasoline dispensing facility" means any site where gasoline is transferred to a motor vehicle from any stationary storage tank with a capacity of two hundred fifty gallons or more;

(3) "Pressure decay test" means an integrity test of the ullage portion of a gasoline storage system, during which such storage system is pressurized, pressure changes are monitored for a specified period of time and the final pressure is compared to an allowable value;

(4) "Stage I vapor recovery system" means a vapor recovery system that prevents the discharge to the ambient air of gasoline vapors while gasoline is transferred between a delivery vehicle and a gasoline dispensing facility; and

(5) "Stage II vapor recovery system" or "stage II vapor recovery equipment" means a vapor recovery system that prevents the discharge to the ambient air of gasoline vapors displaced during the dispensing of gasoline into a motor vehicle fuel tank.

(b) On or before July 1, 2015, the owner of any gasoline dispensing facility shall decommission any installed stage II vapor recovery equipment in accordance with subsection (c) of this section, notwithstanding any requirements in the regulations of Connecticut state agencies adopted by the Department of Energy and Environmental Protection pertaining to stage II vapor recovery systems. On or after June 18, 2013, no owner of any gasoline dispensing facility shall install a stage II vapor recovery system.

(c) Decommissioning of a stage II vapor recovery system shall: (1) Begin after such owner has notified the commissioner of the intent to decommission; (2) be performed in accordance with Section 14 of the 2009 "Recommended Practices for Installation and Testing of Vapor Recovery Systems at Vehicle Refueling Sites" of the Petroleum Equipment Institute; and (3) be completed within one hundred days from initiation, unless the Commissioner of Energy and Environmental Protection grants an extension of time for good cause after a request for such extension by the owner of a gasoline dispensing facility. Such notification shall be made at least thirty days prior to decommissioning on a form prescribed by the commissioner.

(d) The owner of any gasoline dispensing facility with a stage I vapor recovery system annually shall perform a pressure decay test of such system. Such owner shall notify the Commissioner of Energy and Environmental Protection at least seven business days prior to a scheduled test on a form prescribed by the commissioner.

(e) (1) If the Commissioner determines that (A) the owner of any gasoline dispensing facility has failed to perform the annual pressure decay test pursuant to subsection (d) of this section, or (B) a Stage I system is not operated in accordance with regulations adopted pursuant to this section then the Commissioner of the Department of Energy and Environmental Protection may prevent the use of such system by placing a disabling device onto the dispenser of a gasoline dispensing facility. Except as provided in subdivision (3) of this subsection, no person or municipality shall remove, alter, deface or tamper with any disabling device placed by the Commissioner pursuant to this subdivision.

(2) Not later than two business days after placing a disabling device onto the dispenser of a gasoline dispensing facility pursuant to subdivision (1) of this subsection, the commissioner shall provide the owner or operator of the affected gasoline dispensing facility with an opportunity for a hearing. Any such hearing shall be limited to whether the violation upon which the commissioner took action under subdivision (1) of this subsection occurred and whether such violation is continuing.

(3) A gasoline dispensing facility's dispenser upon which a disabling device has been placed pursuant to subdivision (1) of this subsection shall not be put back into service and shall not be used for dispensing gasoline until the violations that caused the disabling device to be placed have been corrected to the satisfaction of the

commissioner. The commissioner shall determine whether any applicable violation has been corrected not later than twenty-four hours after being contacted by the owner or operator of the gasoline dispensing facility that any such violation has been fully corrected.

(4) The owner or operator of a previously violating gasoline dispensing facility may place such system back into service, if the commissioner has determined the applicable violation has been corrected, or the owner or operator provides the Commissioner with a written affidavit. Upon receipt of any such affidavit, the Commissioner shall review the corrective actions specified in the affidavit on the day such system is returned to service or the next business day in the event such day is a Saturday, Sunday or legal holiday.

(5) An affidavit submitted to the Commissioner subsequent to subclause (4) must fully describe all actions taken to correct the violations that caused a notice or disabling device to be placed upon such system and certify that all such violations were fully corrected before any such system was returned to service.

Section 2. Section 16a-21a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2015*):

Sec. 16a-21a. Sulfur content of home heating oil and off-road diesel fuel. Suspension of requirements for emergency. (a)(1) The amount of sulfur content of the following fuels sold, offered for sale, distributed or used in this state shall not exceed the following percentages by weight: (A) For number two heating oil, three-tenths of one per cent, and (B) for number two off-road diesel fuel, three-tenths of one per cent.

(2) Notwithstanding subdivision (1) of this subsection, the amount of sulfur content of number two heating oil sold, offered for sale, distributed or used in this state shall not exceed the following percentages by weight: (A) For the period beginning July 1, 2014, and ending June 30, 2018, five hundred parts per million, and (B) on and after July 1, 2018, fifteen parts per million.

(b) The Commissioner of Energy and Environmental Protection may suspend the requirements of subsection (a) of this section if the commissioner finds that the physical availability of fuel which complies with such requirements is inadequate to meet the needs of residential, commercial or industrial users in this state and that such inadequate physical availability constitutes an emergency provided the commissioner shall specify in writing the period of time such suspension shall be in effect.

(c) Notwithstanding the provisions of 22a-174-19b of the regulations of Connecticut state agencies to the contrary, the commissioner of Energy and Environmental Protection may

enforce subsections (a) and (b) of this section using the methodologies and standards specified in section 22a-174-19b.

DRAFT



## Agency Legislative Proposal – 2015 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DEEP-EC3**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Energy and Environmental Protection

Liaison: Christopher Martin, Director Forestry/State Forester

Phone: 860-424-3630

E-mail: [christopher.martin@ct.gov](mailto:christopher.martin@ct.gov)

Lead agency division requesting this proposal:

Forestry – Bureau of Natural Resources

Agency Analyst/Drafter of Proposal:

Department of Energy and Environmental Protection, Forestry Director Christopher Martin

**Title of Proposal**

**AAC Firewood Transportation Regulations - Infraction**

Statutory Reference 22-84, Sec. 51-164n(b)

**Proposal Summary**

Transporting firewood long distances is a proven vector for spreading destructive tree killing insects such as Asian Longhorned beetle (ALB) and Emerald Ash Borer (EAB). This proposal will establish an alternate, easily enforceable and easily payable by mail fine for lesser firewood transportation violations of regulations promulgated under section 22-84, providing a more effective tool for authorized law enforcement agencies.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- **Reason for Proposal**

Thirty-six states advocate minimizing firewood transport with twenty- six states (including Connecticut) restricting its movement through regulation as firewood is a known vector for spreading invasive tree destroying insects. New York, New Hampshire, and Maine have conducted numerous checkpoints issuing tickets and confiscating hundreds of cords of out-of-state firewood. Vermont, Massachusetts and the Green and White Mountain National forest prohibit firewood brought into campgrounds unless it is packaged, labeled as having been heat treated, and certified by USDA or the appropriate state department of agriculture. Public awareness has been heightened and compliance is increasing.

Connecticut's Forest Practices Advisory Board established under 23-65g has been consulted and is supportive of adding a mail-in fine option to make enforcement of firewood regulations easier more practical, and frequent. Most Connecticut private campground owners prohibit



their guests from bringing firewood and have assisted DEEP with education and outreach. 2010 National Firewood Task Force with input from forest product industry, federal and state government, and other stakeholders recommends states regulate the movement of firewood and that federal government require national labeling, record keeping, and treatment for interstate transport.

Prompt establishment of fines payable by mail will greatly simplify enforcement and increase efficiencies, thereby reducing further risk of spreading unwanted destructive forest pests and providing additional opportunities for increased public awareness and vigilance. Without this enforcement enhancement, eradication and mitigation costs are likely to increase, due to delayed detection should a foreign pest get establish in Connecticut from infested out-of-state firewood.

- **Origin of Proposal**       **New Proposal**       **Resubmission**

If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package?
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name: Connecticut Agricultural Experiment Station, and Department of Agriculture  
Agency Contact Kirby C. Stafford III, Ph.D., Chief Entomologist, State Entomologist, 203-974-8485  
George Krivda, Legislative Liaison, Department of Agriculture, George.Krivda@ct.gov  
Date Contacted: June 27, 2014 Agricultural Experiment Station, December 11, 2014 DOAG

Approve of Proposal     YES     NO    Talks Ongoing

### Summary of Affected Agency's Comments

1. *Firewood transport infraction/violation.* Add mail in infraction/violation schedule to existing authorities of CGS 22-84 as allowed in Section 51-164n. Penalty authority exists for quarantine and regulation violations of the Connecticut Agriculture Experiment Station. Whereby any person interfering with the director or the director's designee in the performance of duty or violating any quarantine or any regulation established Sec 22-84 shall be fined not less than five hundred dollars or more than two thousand five hundred dollars. DEEP is one of CAES's designees and with other law enforcement authorities needs ability to address violations of firewood transportation regulations immediately and efficiently. Adding a mail in infraction/violation option for lesser violations of RCSA 22-84-5g – "Regulation of firewood transported into and within Connecticut" will provide this flexibility.





Will there need to be further negotiation? \_\_\_ YES  NO Connecticut Agricultural Experiment Station and DOAG to remain informed as proposal moves towards approval.

• **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation) NONE  
Possible future costs avoided for tree removal.

**State** May provide minimal revenue gain from fines to the general fund.

But not acting will impact sales tax negatively. Most all Connecticut's hardwood trees are susceptible to new exotic invasive insects. Connecticut is approximately 3.18 million acres 56% of which is forested. The sales of forest products accounted for approximately \$131.5 million in 2007. This figure does not include ancillary economic activity directly tied to Connecticut's forested landscape such as tourism (Fall foliage in particular), outdoor recreation, and directly associated secondary forest product processing such as hardwood flooring, cabinetry, and furniture production. Additional public benefits provided by Connecticut's healthy forests include public drinking water supply protection, improved air quality, carbon sequestration, diverse wildlife habitats, and energy conservation especially in urban forests. Jobs and economic activity associated with the tree care industry are not included in this figure.

**Federal** NONE

Additional notes on fiscal impact

• **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This proposal will greatly enhance DEEP's ability to prevent the introduction or spread of federal and state regulated forest pests and the enforceability of non-documented firewood origin transported into and within Connecticut. Transportation of untreated firewood is an established vector for spreading tree destroying insects such as Asian Longhorned beetle, Emerald, ash borer, gypsy moth, and the Spotted Lanternfly a new invasive insect to the United States recently discovered in Pennsylvania. Most all introductions of these forest pests have found their way to the United States in wood packing material associated with international trade.



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

**Section 1.** Section 22-84 of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*).

(a) The director of the Connecticut Agricultural Experiment Station shall have charge of all matters pertaining to official control, suppression or extermination of insects or diseases which are, or threaten to become, serious pests of plants of economic importance. The director shall receive no additional compensation for such work, and may designate members of the station staff to carry out certain lines thereof and may employ such other assistance as may be required. Said director may: (1) Cooperate with the agents of the United States Department of Agriculture in the control of plant pests; (2) make regulations and orders regarding the destruction or treatment of infested plants; (3) seize, treat, disinfect or destroy any plants or plant material moved in violation of any quarantine or regulation established under the provisions of this section or suspected of being infested by any dangerous insect pest or plant disease; (4) prohibit or regulate the transportation of plants and plant materials, brick, stone and quarry products or any other objects or materials liable to carry dangerous pests and may designate certain areas or districts wherein all such plants may be destroyed; (5) adopt, and enforce by appropriate regulations, a quarantine prohibiting or restricting the transportation of any class of nursery stock, plant, fruit, seed or other article capable of carrying any dangerous plant disease or insect infestation, with reference to which the Secretary of Agriculture of the United States has not determined that a quarantine is necessary and established such quarantine, into or through this state or any portion thereof from any other state, the District of Columbia or any part of such state or said district in which said director finds such plant disease or insect infestation to exist; (6) adopt regulations for the seizure, inspection, disinfection, destruction or other disposition of any nursery stock, plant, fruit, seed or other article capable of carrying any dangerous plant disease or insect infestation, a quarantine with respect to which has been established by the Secretary of Agriculture of the United States, and which have been transported to, into or through this state in violation of such quarantine; (7) inspect nurseries and nursery stock, as defined in section 22-97, for any violation of the provisions of section 22a-381d; and (8) establish and maintain a quarantine against any premises, district, town or group of towns in this state, provided, before any quarantine is established within the state, a public hearing shall be held, of which five days' notice shall be given to the parties affected, either by mail or by publishing such notice in two newspapers having a circulation in the part of the state affected by such quarantine. In carrying out the duties and authority described in this subsection, the director may issue permits to any party or enter into compliance agreements with any party.

(b) The director or a designee may, at any reasonable time, enter any public or private premises to enforce the provisions of this section. Any person aggrieved by any order of quarantine issued under the provisions of this section may appeal to the Superior Court, or to any judge thereof if said court is not in



session, and said court or such judge may grant such relief or issue such order or judgment in the premises as to equity may appertain.

(c) [Any] Except as provided in subsection (d) of this section, as amended by this act, any person interfering with the director or the director's designee in the performance of said director's duty under the provisions of this section or violating any quarantine or any regulation established under the provisions of this section shall be fined not less than five hundred dollars or more than two thousand five hundred dollars.

**(NEW)** (d) Any person who transports firewood by any means for sale in violation of this section or any regulation adopted pursuant to this section shall have committed a violation and shall be fined two hundred dollars. Any person who transports firewood by any means for personal use in violation of this section or any regulation adopted pursuant to this section shall have committed an infraction and shall be fined eighty-five dollars.

**Sec. 2.** Subsection (b) of section 51-164n of the 2014 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(b) Notwithstanding any provision of the general statutes, any person who is alleged to have committed (1) a violation under the provisions of section 1-9, 1-10, 1-11, 4b-13, 7-13, 7-14, 7-35, 7-41, 7-83, 7-283, 7-325, 7-393, 8-12, 8-25, 8-27, 9-63, 9-322, 9-350, 10-193, 10-197, 10-198, 10-230, 10-251, 10-254, 12-52, 12-170aa, 12-292 or 12-326g, subdivision (4) of section 12-408, subdivision (3), (5) or (6) of section 12-411, section 12-435c, 12-476a, 12-476b, 12-487, 13a-71, 13a-107, 13a-113, 13a-114, 13a-115, 13a-117b, 13a-123, 13a-124, 13a-139, 13a-140, 13a-143b, 13a-247 or 13a-253, subsection (f) of section 13b-42, section 13b-90, 13b-221, 13b-292, 13b-336, 13b-337, 13b-338, 13b-410a, 13b-410b or 13b-410c, subsection (a), (b) or (c) of section 13b-412, section 13b-414, subsection (d) of section 14-12, section 14-20a or 14-27a, subsection (e) of section 14-34a, subsection (d) of section 14-35, section 14-43, 14-49, 14-50a or 14-58, subsection (b) of section 14-66, section 14-66a, 14-66b or 14-67a, subsection (g) of section 14-80, subsection (f) of section 14-80h, section 14-97a, 14-100b, 14-103a, 14-106a, 14-106c, 14-146, 14-152, 14-153 or 14-163b, a first violation as specified in subsection (f) of section 14-164i, section 14-219 as specified in subsection (e) of said section, subdivision (1) of section 14-223a, section 14-240, 14-249, 14-250 or 14-253a, subsection (a) of section 14-261a, section 14-262, 14-264, 14-267a, 14-269, 14-270, 14-275a, 14-278 or 14-279, subsection (e) or (h) of section 14-283, section 14-291, 14-293b, 14-296aa, 14-319, 14-320, 14-321, 14-325a, 14-326, 14-330 or 14-332a, subdivision (1), (2) or (3) of section 14-386a, section 15-25 or 15-33, subdivision (1) of section 15-97, subsection (a) of section 15-115, section 16-44, 16-256e, 16a-15 or 16a-22, subsection (a) or (b) of section 16a-22h, section 17a-24, 17a-145, 17a-149, 17a-152, 17a-465, 17a-642, 17b-124, 17b-131, 17b-137 or 17b-734, subsection (b) of section 17b-736, section 19a-30, 19a-33, 19a-39 or 19a-87, subsection (b) of section 19a-87a, section



19a-91, 19a-105, 19a-107, 19a-113, 19a-215, 19a-219, 19a-222, 19a-224, 19a-286, 19a-287, 19a-297, 19a-301, 19a-309, 19a-335, 19a-336, 19a-338, 19a-339, 19a-340, 19a-425, 19a-502, 20-7a, 20-14, 20-158, 20-231, 20-249, 20-257, 20-265, 20-324e, 20-341l, 20-366, 20-597, 20-608, 20-610, 21-1, 21-30, 21-38, 21-39, 21-43, 21-47, 21-48, 21-63 or 21-76a, subdivision (1) of section 21a-19, section 21a-21, subdivision (1) of subsection (b) of section 21a-25, section 21a-26 or 21a-30, subsection (a) of section 21a-37, section 21a-46, 21a-61, 21a-63 or 21a-77, subsection (b) of section 21a-79, section 21a-85 or 21a-154, subdivision (1) of subsection (a) of section 21a-159, subsection (a) of section 21a-279a, section 22-12b, 22-13, 22-14, 22-15, 22-16, 22-29, 22-34, 22-35, 22-36, 22-38, 22-39, 22-39a, 22-39b, 22-39c, 22-39d, 22-39e, 22-49, 22-54, 22-61, subsection (d) of section 22-84 as amended by this act, 22-89, 22-90, 22-98, 22-99, 22-100, 22-111o, 22-167, 22-279, 22-280a, 22-318a, 22-320h, 22-324a, 22-326 or 22-342, subsection (b), (e) or (f) of section 22-344, section 22-359, 22-366, 22-391, 22-413, 22-414, 22-415, 22a-66a or 22a-246, subsection (a) of section 22a-250, subsection (e) of section 22a-256h, section 22a-363 or 22a-381d, subsections (c) and (d) of section 22a-381e, section 22a-449, 22a-461, 23-37, 23-38, 23-46 or 23-61b, subsection (a) or subdivision (1) of subsection (c) of section 23-65, section 25-37 or 25-40, subsection (a) of section 25-43, section 25-43d, 25-135, 26-16, 26-18, 26-19, 26-21, 26-31, 26-40, 26-40a, 26-42, 26-49, 26-54, 26-55, 26-56, 26-58 or 26-59, subdivision (1) of subsection (d) of section 26-61, section 26-64, subdivision (1) of section 26-76, section 26-79, 26-87, 26-89, 26-91, 26-94, 26-97, 26-98, 26-104, 26-105, 26-107, 26-117, 26-128, 26-131, 26-132, 26-138 or 26-141, subdivision (1) of section 26-186, section 26-207, 26-215, 26-217 or 26-224a, subdivision (1) of section 26-226, section 26-227, 26-230, 26-232, 26-244, 26-257a, 26-260, 26-276, 26-284, 26-285, 26-286, 26-288, 26-294, 28-13, 29-6a, 29-25, 29-109, 29-143o, 29-143z or 29-156a, subsection (b), (d), (e) or (g) of section 29-161q, section 29-161y or 29-161z, subdivision (1) of section 29-198, section 29-210, 29-243 or 29-277, subsection (c) of section 29-291c, section 29-316, 29-318, 29-381, 30-48a, 30-86a, 31-3, 31-10, 31-11, 31-12, 31-13, 31-14, 31-15, 31-16, 31-18, 31-23, 31-24, 31-25, 31-32, 31-36, 31-38, 31-38a, 31-40, 31-44, 31-47, 31-48, 31-51, 31-51k, 31-52, 31-52a or 31-54, subsection (a) or (c) of section 31-69, section 31-70, 31-74, 31-75, 31-76, 31-76a, 31-89b or 31-134, subsection (i) of section 31-273, section 31-288, subdivision (1) of section 35-20, section 36a-787, 42-230, 45a-283, 45a-450, 45a-634 or 45a-658, subdivision (13) or (14) of section 46a-54, section 46a-59, 46b-22, 46b-24, 46b-34, 47-34a, 47-47, 49-8a, 49-16, 53-133, 53-199, 53-212a, 53-249a, 53-252, 53-264, 53-280, 53-302a, 53-303e, 53-311a, 53-321, 53-322, 53-323, 53-331, 53-344 or 53-450, or (2) a violation under the provisions of chapter 268, or (3) a violation of any regulation adopted in accordance with the provisions of section 12-484, 12-487 or 13b-410, or (4) a violation of any ordinance, regulation or bylaw of any town, city or borough, except violations of building codes and the health code, for which the penalty exceeds ninety dollars but does not exceed two hundred fifty dollars, unless such town, city or borough has established a payment and hearing procedure for such violation pursuant to section 7-152c, shall follow the procedures set forth in this section.



## Agency Legislative Proposal - 2015 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DEEP-EC7**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Energy and Environmental Protection

Liaison: Robert LaFrance

Phone:

E-mail:

Lead agency division requesting this proposal: Boating Division

Agency Analyst/Drafter of Proposal: Timothy F. Delgado, Environmental Analyst

### Title of Proposal

An Act Concerning Technical Changes to the Boating Statutes Regarding Water-Skiing and Jetted Articulated Vessels

### Statutory Reference

CGS Section 15-127 , 15-134, and 15-140j

### Proposal Summary

DEEP proposes to revise the waterskiing statutes to conform to current practice and to regulate an emerging class of vessels, which we call Jetted Articulated Vessels (JAVs), under rules similar to those for personal watercraft, since they share commonality in structure and function.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

- Reason for Proposal

The term ‘water ski’ needs to be expanded to reflect the ever changing activities that are conducted behind a vessel that is underway to ensure that boaters and law enforcement officers know how to apply the laws. Our current definition is unclear on whether “wake surfing”, an activity performed without a tow rope, is considered a towed water sport and subject to life jacket wear and other rules for water skiing. The expansion will solidify that all forms of water activity conducted behind a vessel, unless specified, must comply with the requisite safety requirements under water skiing. To close this gap we broaden the definition of water skiing while eliminating the reference to “aquaplaning,” an artifact that no longer serves a useful purpose.

Additionally a fundamental water-skiing safety rule that we must be able to enforce has been called into question. While we have taught for years that the aggregate of water-skiers and vessel occupants



must not exceed the carrying capacity of the towing vessel this rule was never codified for general vessels (only for personal watercraft). The lack of a rule has been called into question on lakes whereby a boat is filled to capacity and water skiers are picked up from shore. Similarly, clarifying language is added for safety to ensure that the boat operator is responsible for the wake from the ski boat or the water-skier.

Finally, there has been much concern over “flyboards” or “Jet Levs” (both trade names) as they are gaining in popularity in Connecticut. States have been unsure as whether to consider these devices a towed water sport or an extension of a personal watercraft (PWC). Recently, the US Coast Guard determined that the devices vessels by definition (1 USC 3). Therefore, we propose clarifying language which recognizes these units, often operated from personal watercraft or modified personal watercraft as a vessel and provide needed safety requirements specific to these craft. To eliminate the use of trade names, we first establish a definition of the vessel under the term Jetted Articulated Vessel, or JAV. A JAV consists of a base pumping unit (often a personal watercraft or modified PWC), an articulated hose used to convey water or other media under pressure, and a device such as a platform or backpack through which high pressure media is ejected, elevating the operator or passenger and propelling the entire vessel. Sometimes operation requires a person to ride the base unit and is integral to the operation of the vessel, sometimes not.

The purpose of the vessel-based system is to allow an operator or passenger to “fly” significant heights above the water (limited by the length of the hose) and to perform both aerial maneuvers and submerged maneuvers. A person performing such maneuvers needs both adequate depth and an area free from spectators or other obstacles to safely operate.

In the interest of safety for operators and spectators alike we propose to include JAVs under the rubric of personal watercraft rules, thereby applying age and speed limits that already exist.

We anticipate little or no fiscal impact.

- **Origin of Proposal**       New Proposal       Resubmission

- **PROPOSAL IMPACT**

- **Agencies Affected** (please list for each affected agency)

Agency Name: None
Agency Contact (name, title, phone):
Date Contacted:
Approve of Proposal <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> Talks Ongoing

**Summary of Affected Agency’s Comments**



--

Will there need to be further negotiation? \_\_\_ YES \_\_\_ NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

None

Additional notes on fiscal impact

- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

Implementation of this proposal will assist boaters and law enforcement in understanding their respective rights and obligations with respect to towed sports and the operation of JAVs.

This proposal is consistent with the Commissioner's duty under CGS Section 15-121(b)(9) to adopt such rules *"as he finds necessary to...promote safe use and protection of waters and safe operation of vessels..."*



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

Section 1. Section 15-127 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

As used in this part unless the context otherwise requires: “Commissioner” means the Commissioner of Energy and Environmental Protection; “federal waters” means the navigable waters of the United States within the territorial limits of the state; “state waters” means all waters within the territorial limits of the state except federal waters; “vessel” means every description of watercraft, other than a seaplane on water, used or capable of being used as a means of transportation on water; “motorboat” means any vessel, not more than sixty-five feet in length and propelled by machinery, whether or not such machinery is the principal source of propulsion; “sailboat” means any vessel propelled by sail alone; “sailboard” means any sailboat whose unsupported mast is connected by a swivel or a flexible universal joint to a hull similar to the hull of a surfboard; “water-skiing” includes [aquaplaning,] towing of any person behind a vessel under power whether such person is tethered or not and similar forms of activity where a passenger exits a vessel and uses the suction or wake of the underway vessel to engage in the activity; “operate” means to navigate or otherwise use a vessel; a vessel is “under way” when it is not moored, anchored, made fast to the shore or aground; “person” means any individual, partnership, firm, association, limited liability company, corporation or other entity; “town” includes city, town, borough and any other political subdivision of the state; “masthead light” means a white light placed over the fore and aft centerline of the vessel aft of and higher than the side lights and forward of the stern light showing an unbroken light over an arc of the horizon of 225 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on either side of the vessel; “side light” means a green light on the starboard side or a red light on the port side, placed forward of the stern light and as near as practicable to the bow of the vessel, each showing an unbroken light over an arc of the horizon of 112.5 degrees and so fixed as to show the light from right ahead to 22.5 degrees abaft the beam on its respective side, except that on a vessel of less than twenty meters in length the side lights may be combined in one lantern carried on the fore and aft centerline of the vessel; “stern light” means a white light placed as near as practicable to the stern showing an unbroken light over an arc of the horizon of 135 degrees and so fixed as to show the light 67.5 degrees from right aft on each side of the vessel; “all-around light” means a light showing an unbroken light over an arc of the horizon 360 degrees; “anchor light” means an all-around white light exhibited forward and displayed where it can best be seen; [and] “international regulations” means the International Regulations for Preventing Collisions at Sea, 1972, including annexes currently in force for the United States; and a “Jetted Articulated Vessel” (JAV) means any vessel that consists of a base pumping unit used to generate water or other media under pressure, an articulated hose used to convey media under pressure, and a device, including but not limited to a platform, backpack, or boots through which high pressure media is ejected, elevating or submerging an operator or passenger.

**Section 2. Section 15-134 of the general statutes is repealed and the following is substituted in lieu thereof:**





(a) No person shall operate a motorboat towing a water skier unless there is present in such motorboat, in addition to the operator, a responsible person at least twelve years of age assisting the operator and observing the progress of such water skier.

(b) No person shall engage in water skiing and no person shall operate a motorboat towing a person so engaged on any water area on which water skiing is prohibited.

(c) The number of persons on board a vessel towing one or more water skiers added together with the number of water skiers shall not exceed the "persons" carrying capacity of the vessel as indicated by the capacity label affixed to the vessel by the manufacturer.

[(c)] (d) No person shall engage in water skiing from one-half hour after sunset until sunrise or when weather conditions restrict normal visibility to less than one hundred yards.

[(d)] (e) No person shall engage in water skiing in such manner as to strike or threaten to strike any person or vessel and no person shall operate a motorboat or manipulate a tow line or other towing device in such manner as to cause a water skier to strike or threaten to strike another person or vessel.

(f) No person shall operate a vessel engaged in water skiing such that the wake creates an injury to any persons or damage to vessels or structures of any kind.

[(e)] (g) The commissioner may modify or suspend the provisions of this section in respect to any person performing or competing in a bona fide race, regatta, water carnival or similar public event.

[(f)] (h) (1) No individual, municipality, association or corporation shall place or cause to be placed on the waters of this state any marked course or jump ramp for use by any water skier or vessel without written authorization of the commissioner except on lakes or ponds owned by, and whose access is entirely under the control of, private landowners or lessees who all agree to the establishment of such course or ramp. On and after October 1, 1993, no new authorization shall be granted on any body of water with a surface area less than one hundred acres. Application for authorization shall be made on forms provided by the commissioner and shall be accompanied by: (A) A detailed map showing the proposed location of such marked course or jump ramp, (B) a detailed diagram of the proposed course markers or jump ramp, and (C) a detailed statement addressing the safety and environmental impact of such proposal.

(2) The commissioner shall hold an informational meeting in the town or one of the towns in which authorization is sought, giving all towns involved and all interested persons an opportunity to present their views regarding the proposed marked course or jump ramp. Any such informational meeting shall not be deemed to be a hearing under the provisions of chapter 54. Prior to issuing or denying such authorization the commissioner shall consider: (A) The completeness, accuracy and detail of the application, (B) public safety, (C) any environmental impacts directly related to the proposed marked course or jump ramp, and (D) the possible conflicts with other water uses.

(3) Any authorization issued by the commissioner pursuant to this subsection may contain such conditions as the commissioner deems necessary to safeguard public safety, welfare or the environment.



**Section 3. Section 15-140j of the general statutes is repealed and the following is substituted in lieu thereof:**

(a) As used in this section, “personal watercraft” is any inboard powered vessel less than sixteen feet in length which has an internal combustion engine powering a water-jet pump as its primary source of motor propulsion and which is designed to be operated by a person sitting, standing or kneeling on the vessel, rather than the conventional manner of sitting or standing inside the vessel. A “Jetted Articulated Vessel” (JAV) is the same as defined in section 15-127.

(b) No person shall operate a personal watercraft or a JAV or be a passenger on a JAV unless such person has been issued a certificate of personal watercraft operation by the Commissioner of Energy and Environmental Protection. No person younger than the age of 18 shall operate or be a passenger on a JAV. No owner of a personal watercraft shall knowingly authorize or permit a person who is less than sixteen years of age who does not have a certificate of personal watercraft operation issued by the commissioner to operate such personal watercraft on the waters of the state. No owner of a JAV shall knowingly authorize or permit a person who is less than 18 years of age who does not have a certificate of personal watercraft operation issued by the commissioner to operate or be a passenger on a JAV on the waters of the state. Notwithstanding the provisions of this section, the commissioner may modify or suspend requirements for a certificate of personal watercraft operation by written authorization with respect to any marine event authorized by the commissioner or upon receipt of a copy of the United States Coast Guard authorization for a marine event.

(c) A certificate of personal watercraft operation shall be issued under subsection (b) of this section to any applicant who provides proof that such applicant has: (1) Successfully completed a combined course in safe boating operation and safe personal watercraft handling approved by the commissioner, which courses include, but are not limited to, courses offered by the United States Power Squadrons, Coast Guard Auxiliary or other similar organization, (2) been issued or has satisfied the requirements for issuance of a safe boating certificate and successfully completed a course in safe personal watercraft handling approved by the commissioner, which include, but are not limited to, courses offered by the United States Power Squadrons, Coast Guard Auxiliary or other similar organization, or (3) successfully passed an equivalency examination testing knowledge of safe boating operation and safe personal watercraft handling administered by the commissioner.

(d) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, establishing the content of courses in safe personal watercraft handling. Such regulations may include provisions for examinations, issuance of certificates of personal watercraft operation and establishment of a reasonable fee for such course and examination and for the issuance of a certificate and duplicate certificate.



(e) Notwithstanding subsection (b) of this section, any person who purchases a new or used personal watercraft may, upon vessel registration, apply to the Commissioner of Energy and Environmental Protection for a temporary certificate of personal watercraft operation which shall be valid for three months from the date of registration, provided the applicant has successfully completed a course in safe personal watercraft handling prior to application for the temporary certificate. No person shall be issued more than one temporary certificate of personal watercraft operation.

(f) The commissioner may enter into a reciprocal agreement with any other state which has a similar safe personal watercraft handling certificate program which the commissioner deems acceptable for purposes of this subsection. Any person who successfully completes a course in safe personal watercraft handling and holds a certificate or license from another state which has such a reciprocal agreement with the commissioner may operate a personal watercraft on the waters of this state.

(g) Any person required to obtain a certificate of personal watercraft operation pursuant to this section shall have such certificate on board at all times while operating a personal watercraft. On demand of an officer authorized to enforce the provisions of this chapter, such person shall exhibit the certificate to the officer.

(h) No passenger shall be permitted to ride in front of the operator on a personal watercraft. No passenger shall be permitted to ride upon a personal watercraft unless the passenger is able to securely hold onto the person in front of them or to the handholds on the personal watercraft, and is able to keep both feet on the deck of the personal watercraft so as to maintain balance while the personal watercraft is in operation.

(i) Unless authorized by the commissioner under section 15-140b no person shall operate a JAV in any Slow-No-Wake area or within 200 feet of dock, shore, pier, or fixed structure, except to directly transit such area and no person shall operate a JAV within 100 feet of any vessel unless in the act of directly transiting the area.

[(i)] (j) No person shall teach a course in safe personal watercraft handling that satisfies the requirements for issuance of a certificate of personal watercraft operation unless the commissioner has approved such course.

[(j)] (k) No Department of Energy and Environmental Protection agent or employee shall use department safe personal watercraft handling course materials for personal financial gain.

[(k)] (l) Any person who violates any provision of this section shall be fined not less than sixty dollars or more than two hundred fifty dollars for each such violation.

[(l)] (m) A certificate of personal watercraft operation may be suspended or revoked in accordance with the provisions of section 15-132a, 15-133, 15-140l or 15-140n.



DRAFT



## Agency Legislative Proposal - 2015 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DEEP-EQ1**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Energy & Environmental Protection

Liaison: Robert LaFrance

Phone: 860-424-3401

E-mail: Robert.LaFrance@ct.gov

Lead agency division requesting this proposal: LIS

Agency Analyst/Drafter of Proposal:

Jessie Stratton/David Blatt

**Title of Proposal**

**AAC Leasing of Lighthouse Bottomlands**

**Proposal Summary**

To allow the State to enter into long term leases for the bottomlands under lighthouses acquired by not for profits or private entities.

*Please attach a copy of fully drafted bill (required for review)*

### PROPOSAL BACKGROUND

- Reason for Proposal**

*Please consider the following, if applicable:*

- (1) Have there been changes in federal/state/local laws and regulations that make this legislation necessary? Yes*
- (2) Has this proposal or something similar been implemented in other states? If yes, what is the outcome(s)? Yes. Have certain constituencies called for this action? Yes, the federal Department of Administrative Services have requested that we do this*
- (3) What would happen if this was not enacted in law this session? US DAS would continue to be unable to transfer title to the lighthouses it is seeking to transfer to other owners*

- Origin of Proposal**

New Proposal

Resubmission



If this is a resubmission, please share:

- (1) What was the reason this proposal did not pass, or if applicable, was not included in the Administration's package
- (2) Have there been negotiations/discussions during or after the previous legislative session to improve this proposal?
- (3) Who were the major stakeholders/advocates/legislators involved in the previous work on this legislation?
- (4) What was the last action taken during the past legislative session?

While there was no opposition and passed unanimously in the Senate, it failed to be called in the House before the session ended even though it was on the "GO" list

## PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:

Agency Contact (name, title, phone):

Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

### Summary of Affected Agency's Comments

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

**Municipal** (please include any municipal mandate that can be found within legislation)

None

**State**

None

**Federal**

Saves some administrative federal dollars to the extent any are expended; the federal government is not making maintenance investments

Additional notes on fiscal impact



- **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

***AN ACT CONCERNING LEASING LIGHTHOUSE BOTTOMLANDS***

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

Sec. 22a-27w. is repealed and the following is substituted in lieu thereof (*Effective upon passage*).

**Lease or other authorization to facilitate the preservation of the Penfield Reef Lighthouse.**

The state of Connecticut, acting through the Commissioner of Energy and Environmental Protection, is authorized to grant a lease or other appropriate authorization [over] to allow for the occupancy of submerged lands held in public trust by the state underlying or associated with [the Penfield Reef Lighthouse] lighthouses for the purpose of facilitating the preservation of [said lighthouse. Such lease or other authorization shall constitute a right of occupancy so as to facilitate the preservation of] such [lighthouse] lighthouses pursuant to the [federal]National Historic Lighthouse Preservation Act of 2000, 16 USC 470w-7, provided such lease shall be for consideration as determined by the Commissioner of Energy and Environmental Protection, for a term of [no more than ten] thirty years, [subject] with the option to [subsequent renewals] renew, and shall contain appropriate conditions to ensure consistency with the goals and policies of section 22a-92 and with other interests of the state, including, but not limited to, reasonable public access, preservation of historic structures and education of the public regarding such structures in the event such lighthouse is leased to a not-for-profit entity Nothing herein or in any lease issued pursuant to this section shall relieve any lessee of the obligation to obtain any applicable federal, state or local permits for any new structures or appurtenances



## Agency Legislative Proposal – 2015 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc):

**DEEP-EQ12**

(If submitting an electronically, please label with date, agency, and title of proposal – 092611\_SDE\_TechRevisions)

State Agency:

Department of Energy and Environmental Protection

Liaison: Robert LaFrance

Phone: Cell: 860.622.1797 Office: 860.424.4301

E-mail: Robert.LaFrance@ct.gov

Lead agency division requesting this proposal:

Bureau of Materials Management & Compliance Assurance

Agency Analyst/Drafter of Proposal:

Tom Metzner

### Title of Proposal

An Act Establishing a Tire Stewardship Program

### Statutory Reference

None

### Proposal Summary

The proposal seeks to establish an Extended Producer Responsibility (EPR) program for tires in order to promote the proper recycling and to recover the material value of scrap tires.

*Please attach a copy of fully drafted bill (required for review)*

## PROPOSAL BACKGROUND

### • Reason for Proposal

There are about 3.5 million scrap tires generated in Connecticut every year based on the standard assumption, consistent with that by the Scrap Tire Management Council, that scrap tires are generated at the rate of one tire per person per year. Most of the tires lawfully disposed of from Connecticut are converted to tire-derived fuel and burned in pulp mills in Maine. Connecticut does not recognize burning tires as recycling and strives for higher end uses for waste materials by upholding the waste management hierarchy to reduce, reuse, and recycle before burning for energy recovery. There is also a significant problem with illegal dumping of tires due to unscrupulous vendors and individuals trying to avoid fees charged for legal disposal. Connecticut has not quantified the cost of managing illegally dumped tires, but a study in Vermont estimated their statewide costs at between \$380,000 and \$1,000,000 annually.

DEEP is aware of several dozen sites in Connecticut with illegal tire piles, for which DEEP continues to pursue enforcement actions to cause the clean-up of these tire piles. Connecticut was the unfortunate host to the nation's largest illegal tire disposal area, most commonly known as the Tire-pond in Hamden and North Haven, where an estimated 15-30 million tires were illegally disposed. DEEP, in conjunction with the Office of the Attorney General and Chief State's Attorney Office, have spent over 20 years on civil and criminal enforcement efforts to remedy this public health and environmental hazard. In another case in 2012, DEEP caused the removal and proper disposal of approximately one-quarter of a million tires illegally disposed of at a site in Plainville. Illegal tire disposal sites not only present a risk to the environment, but also pose a substantial public health risk resulting from the habitat tires create for the harboring of mosquitoes and other pests. Tires are unsightly when dumped at a waterway, open space, roadside or any other unpermitted location.

This proposal offers an opportunity to increase the recycling of tires in Connecticut through a system equitably financed by the manufacturers. This proposal is consistent with the state's solid waste management plan objective of using extended





producer responsibility (EPR) to increase recycling and create economic benefits from waste materials. By financing the cost of managing scrap tires through the purchase price, we can virtually eliminate illegal dumping by providing free, convenient drop sites for discarded tires.

This proposed bill would require tire producers/manufacturers to pay for the collection, transportation, and recycling of scrap tires. The program would essentially replace the typical consumer costs for a "tire disposal" or "environmental fee" currently being assessed and collected by the tire service industry, and saves money for municipalities by diverting tires from the solid waste stream and landfills. The cost of the collection and processing tires will be internalized by the producer into the price of tires for sale.

There are existing markets for recycled tires, but these uses have a difficult time competing with tire-derived fuel outlets and illegal dumping. This EPR program will divert tires to higher end uses while creating economic opportunity for tire recyclers to locate and to thrive in Connecticut. EPR programs help drive innovation and investment to develop existing and new markets for using tire derived materials as a feedstock to make new products rather than dispose of these materials.

- **Origin of Proposal**       **New Proposal**       **Resubmission**

### PROPOSAL IMPACT

- **Agencies Affected** (please list for each affected agency)

Agency Name:  
 Agency Contact (name, title, phone):  
 Date Contacted:

Approve of Proposal     YES     NO     Talks Ongoing

#### Summary of Affected Agency's Comments

Will there need to be further negotiation?     YES     NO

- **Fiscal Impact** (please include the proposal section that causes the fiscal impact and the anticipated impact)

#### Municipal (please include any municipal mandate that can be found within legislation)

The bill will result in savings for municipalities through a reduction in tipping fees due to diversion of tires from the waste stream and the reduction in costs associated with illegal tire dumping in Connecticut. Based on estimates from municipalities, municipal costs vary from under \$5,000/year for smaller towns to as much as \$12,000/year for larger cities. Municipalities will also save money through a reduction in their employee time spent cleaning up illegally dumped tires.

#### State

The state will be able to save money on the cost of tire disposal and reduced illegal dumping costs. The bill would require some administrative oversight from the Department.

#### Federal

None



**Additional notes on fiscal impact**

None

• **Policy and Programmatic Impacts** (Please specify the proposal section associated with the impact)

This bill would have four major policy impacts: (1) increase recycling of tires, (2) eliminate the financial incentive to illegally dump tires, (3) create economic opportunity for tire processing jobs, and (4) improve the quality of life for residents and communities subjected to illegal disposal areas.

Current market forces direct scrap tires that cannot be reused toward tire-derived fuel to be used in pulp mills in Maine and kilns in Pennsylvania. Neither of these uses are considered recycling, are a lower value destination, and may not be sustainable long-term markets. Recycling is the preferred method for managing waste, as established by the waste management hierarchy set forth by the US EPA and by CGS Sec. 22a-228(b). By establishing a manufacturer-financed program for managing scrap tires, tires can be directed to higher end uses such as crumb rubber and carbon black, which can be turned into new products.

Tires are illegally dumped by unscrupulous businesses and individuals wishing to avoid tipping fees charged by tire processors. Under this program, manufacturers would establish free, convenient, statewide collection system for scrap tires. It is intuitive that given the option to comply with the law and dispose of tires at no cost to the generator, that tires will go to legal, environmentally-preferable destinations.

A permitted tire-derived fuel plant in Sterling Connecticut with an annual capacity of almost three times the annual generation rate of tires for Connecticut closed in 2013. Since that time, tire processors have been inquiring about business opportunities for managing tires in Connecticut. These processors need to charge a fee to accept tires or can only take a limited number. Under this program, tire processors would be guaranteed a steady supply of tires without having to compete with illegal dumping or tire-derived fuel markets. This would create an incentive for tire processors to compete to locate in Connecticut to be a part of this program.

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

*(Effective upon passage).*

**An Act Establishing a Tire Stewardship Program**

**(NEW) Section 1.** For the purposes of this section and sections x to x, inclusive of this act:

- (1) "Brand" means a name, symbol, word or mark that attributes a tire to the producer of such tire;
- (2) "Commissioner" means the Commissioner of Energy and Environmental Protection;
- (3) "Covered entity" means any permitted transfer station, tire retailer, car dealership, or automotive garage, private or public sector fleet maintenance garage.
- (4) "Department" means the Department of Energy and Environmental Protection;
- (5) "Discarded tire" means any tire that a person discarded, intends to discard or abandoned;
- (6) "Tire Stewardship Program" or "program" means the state-wide program described in section 2 of this act and implemented pursuant to the tire stewardship plan.
- (7) "Tire" means products composed primarily of rubber, mounted on all types of passenger and commercial on-road and off-the-road motorized vehicles including passenger vehicles, motorcycles, trucks, buses, mobile homes, trailers, aircraft, earthmoving, road building, mining, logging,



- agricultural, industrial and other vehicles to provide mobility. “Tire” does not include tires from toys, bicycles, commercial aircraft, and personal mobility devices.
- (8) “Performance goal” means a metric to measure, on an annual basis the performance of the tire stewardship program, taking into consideration technical and economic feasibilities, in achieving continuous, meaningful improvement in increasing the rate of tire recycling in the state and any other specified goal of the program.
  - (9) “Producer” means any person who manufactures a tire that is sold, offered for sale, or distributed in the state under the producer’s own name or brand. “Producer” includes (A) the owner of a trademark or brand under which a tire is sold, offered for sale, or distributed in this state, and (B) any person who imports a tire into the United States that is sold or offered for sale in this state and that is manufactured by a person who does not have a presence in the United States. “Producer” does not include any manufacturer with less than one-tenth of one percent nationally recognized market share;
  - (10) “Recycling” means any process in which discarded products, components and by-products may lose their original identity or form as they are transformed into new, usable or marketable materials. “Recycling” does not include the use of incineration for energy recovery;
  - (11) “Stewardship Organization” means a non-profit organization created by two or more tire producers with a minimum of 5% market share to design, submit and implement a tire stewardship program described in section 2 of this act.

(NEW) Section 2. (a) On or before July 1, 2016, each producer or such producer’s designee shall submit a plan, for the Commissioner of Energy and Environmental Protection’s approval, to establish a state-wide tire stewardship program as described in this subsection. Such tire stewardship program shall, to the extent it is technologically feasible and economically practical: (1) Minimize public sector involvement in the management of discarded tires; (2) provide for free, convenient and accessible state-wide opportunities for the receipt of discarded tires from any person in the state with a discarded tire that was discarded in the state, including but not limited to, participating covered entities that accumulate and segregate a minimum of six cubic yards discarded tires for collection at one time; (3) provide for free collection of discarded tires from municipal transfer stations that accumulate and segregate fewer than (50? 100?) tires, provided the transfer stations require collection due to space or permit requirements; (4) provide for producer (or council) financed end-of-life management for discarded tires collected pursuant to subdivisions (2) and (3) of this subsection; (5) provide suitable storage containers at, or make other mutually agreeable storage and transport arrangements for, permitted municipal transfer stations for segregated, discarded tires, at no cost to such municipality.

(b) The plan submitted pursuant to subsection (a) of this section shall: (1) identify each producer participating in the program; (2) describe how the program will be financed; (3) establish performance goals for the first two years of the program; (4) identify proposed facilities to be used by the program; (5) detail how the program follows the solid waste hierarchy as defined in the CT State Solid Waste Management Plan and will promote the recycling of discarded tires; and (6) include a description of the public education program.

(c) The producer or stewardship organization shall establish and implement a system for financing the program that covers, but does not exceed, the costs of developing the plan described in subsection (b) of this section, operating and administering the program described in subsection (a) of this section and maintaining a financial reserve sufficient to operate the program. The producer or stewardship organization shall maintain all records relating to the program for a period of not less than three years.



(d) Pursuant to the program, recycling shall be preferred over any other disposal method for tires to the extent that recycling is technologically feasible and economically practical.

(e) The Commissioner of Energy and Environmental Protection shall approve any plan for the establishment of a tire stewardship program, provided such plan meets the requirements of subsections (a) to (d), inclusive, of this section. Not later than 90 days after submission of a plan pursuant to this section, the commissioner shall make a determination whether to approve the plan. In the event that the commissioner disapproves a plan because it does not meet the requirements of subsections (a) to (d), inclusive, of this section, the commissioner shall describe the reasons for the disapproval in a notice of determination that the commissioner shall provide to the producer or stewardship organization. The producer or stewardship organization shall revise and resubmit the plan to the commissioner not later than forty-five days after receipt of the commissioner's disapproval notice. Not later than forty-five days after receipt of the revised plan, the commissioner shall review and approve or disapprove the revised plan and provide a notice of determination to the producer or stewardship organization. The producer or stewardship organization may resubmit a revised plan to the commissioner on not more than two occasions. If the producer or stewardship organization fails to submit a plan that is acceptable to the commissioner because it does not meet the requirements of subsections (a) to (d) inclusive of this section, the commissioner shall modify a submitted plan to make it conform to the requirements of subsections (a) to (d), inclusive, of this section, and approve it. Not later than one hundred twenty days after the approval of a plan pursuant to this section, or one hundred eighty days, in the case of a plan modified by the commissioner, the council shall implement the tire stewardship program.

(f) (1) The producer or stewardship organization shall submit any proposed substantial change to the program to the Commissioner of Energy and Environmental Protection for approval. For the purposes of this subdivision, "substantial change" means: (A) A change in the processing facilities to be used for discarded tires collected pursuant to the program, or (B) a material change to the system for collecting tires.

(2) Not later than July 1, 2019 a producer or stewardship organization shall submit updated performance goals to the commissioner for approval that are based on the experience of the program during the first two years of the program.

(g) Any producer or stewardship organization shall notify the Commissioner of Energy and Environmental Protection of other material changes to the program on an ongoing basis, without resubmission of the plan to the commissioner for approval.

(h) Commencing in 2018, not later than October fifteenth of each year, any producer or stewardship organization shall submit an annual report to the Commissioner of Energy and Environmental Protection, on a form prescribed by the commissioner. The report shall include: (1) the tonnage of tires collected pursuant to the program from: (A) public covered entities and (B) all other covered entities; (2) the tonnage of tires diverted to recycling; (3) a summary of the public education that supports the program; (4) an evaluation of the effectiveness of methods and processes used to achieve the various performance goals of the program; and (5) recommendations for any changes to the program.

(NEW) Section 3. Upon implementation of a tire stewardship program described in section 2 of this act, any covered entity that participates in such program shall not charge for the receipt of discarded tires that are discarded in this state. The covered entity may restrict the acceptance of tires by number, source or physical condition.



(NEW) Section 4. Not later than three years after the approval of tire stewardship plans pursuant to section 2 of this act, the Commissioner of Energy and Environmental Protection shall submit a report, in accordance with section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to the environment. Such report shall provide an evaluation of the tire stewardship program, establish a goal for the amount of discarded tires managed under the program and a separate goal for the recycling of such tires, taking into consideration technical and economic feasibilities.

(NEW) Section 5. Each producer that is a member of a stewardship organization and any stewardship organization shall be immune from liability for any claim of a violation of antitrust law or unfair trade practice, if such conduct is a violation of antitrust law, to the extent such producer or council is exercising authority pursuant to the provisions of sections 1 to 7, inclusive, of this act.

(NEW) Section 6. (a) The Commissioner of Energy and Environmental Protection may seek civil enforcement of the provisions of sections 2 and 3 of this act pursuant to chapter 439 of the general statutes.

(b) Whenever, in the judgment of the commissioner, any person has engaged in or is about to engage in any act, practice or omission that constitutes, or will constitute, a violation of any provision of section 2 or 3 of this act, the Attorney General may, at the request of the commissioner, bring an action in the superior court for the judicial district of New Britain for an order enjoining such act, practice or omission. Such order may require remedial measures and direct compliance with the provisions of section 2 or 3 of this act. Upon a showing by the commissioner that such person has engaged in or is about to engage in any such act, practice or omission, the court may issue a permanent or temporary injunction, restraining order or other order, as appropriate.

(c) Any action brought by the Attorney General pursuant to this section shall have precedence in the order of trial, as provided in section 52-191 of the general statutes.

(NEW) Section 7. In the event that another state implements a tire stewardship program, the council may collaborate with such state to conserve efforts and resources used in carrying out the tire stewardship program, provided such collaboration is consistent with the requirements of sections 1 to 6, inclusive, of this act.