

COUNCIL ON ENVIRONMENTAL QUALITY



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August 2, 2019

Katie S. Dykes, Commissioner
Department of Energy and Environmental Protection
79 Elm St.
Hartford, CT 06106

Dear Commissioner Dykes:

The Council commends the “20BY20” initiative to improve both efficiency and transparency for some of DEEP’s most important functions. The invitation to the public to comment on these goals and to offer new ones is most welcome. To that end, the Council proposes the following six additional goals (#17 – #22).

Implicit in DEEP’s goals and the Council’s suggested goals is the necessity of securing funding for new hiring to replace the recent and anticipated retirements.

Improving Efficiency and Compliance

Council Recommended Goal #17

Expansion of e-governance (“20BY20” Goal #13), should include online submission of monitoring reports with automatic flagging of violations.

The regulated community is entitled to the assurance that its submissions are reviewed. Monitoring of compliance should be as prompt as is intended for the issuance of permits (“20BY20” Goal # 12). The Council has reported on DEEP programs ([Pesticides](#) in 2017 and [ATS systems](#) in 2014), where insufficient resources often prevented more than a cursory review of mandated performance reports. DEEP has experimented with software that can identify violations in electronically submitted reports. This mode of receiving and reviewing reports needs to be adopted.

Council Recommended Goal #18

Same-to-same renewals (“20BY20” Goal #6) for any DEEP permit should be accelerated only for permit holders that have been in compliance with the provisions of their permits and only when permit requirements have not changed.

As referenced previously, Council inquiries have found multiple instances where interim reports were not reviewed until the permits were up for renewal. Determination of compliance should be continual, and not only upon the advent of a renewal. Accelerated renewals can be the reward for those permit holders who operate in accord with the conditions of their permits and who respond appropriately to any notices of violations they receive.

Council Recommended Goal #19

Use performance guarantees for certain permits.

Consideration should be given to the use of performance bonds to increase the likelihood that a permit holder will comply with the permit's requirements. It is often the case that citizens' complaints arrive at the Council after routine channels have been exhausted or have proven ineffective. As a consequence, the Council has observed instances of enterprises which deemed the cost of compliance to be higher than the sanctions for noncompliance. The use of performance bonds should be considered for many permit types, especially those involving remediation, as well as large construction and earth-moving projects.

Improving Transparency and Public Understanding of Process

Council Recommended Goal #20

Display the status of pending administrative actions online.

With regard to "20BY20" Goal # 12, the Council recommends displaying, online, the status of all permits that are in the permitting process. This is also consistent with "20BY20" Goals #13, #14 and #15. It could ease the burden on the "permitting concierge" if the location of a permit application in the process is easily determined, along with the steps remaining before issuance.

Improving Regulation and Enforcement

Council Recommended Goal #21

Expansion of the use of General Permits or "Permit By Rule", as proposed in Goals #7 and #8, should be paired with a structured program of compliance auditing for the facilities that choose these efficiencies.

The Council supports efforts to expedite the application and issuance (or registration) of permits. The permit system often functions as a virtual "honor system". Inspections are infrequent and often only in response to complaints. An increase in General Permits or the use of "Permit By Rule" is a prudent innovation only if accompanied by a quantifiable increase in field inspections. The Council also recommends that General Permits and "Permit By Rule" be restricted to actions for which the environment is not at great risk if the permit requirements are not met.

Council Recommended Goal #22

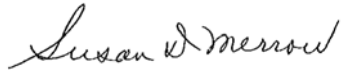
Regulation of gravel mining needs to be adopted.

A regulatory authority that has been overlooked in the past comes from CGS 22a-5 that mandates DEEP to provide for minimum state-wide standards for the mining, extraction, excavation or removal of earth materials of all types. These standards have yet to be proposed. The Council has received complaints from communities looking for such controls when their municipal ordinances are inadequate. Many of Connecticut's neighboring states have such regulations. It is time for DEEP to heed its legislative directive. At the very least, a model municipal ordinance could be put forth by DEEP.

Finally, the Council wishes to be clear that it sees the promulgation of DEEP's sixteen "20BY20" goals, which inform the public and the regulated community of the Agency's short term plans, as an innovative initiative in governance. The Council observes that innovation often has been a hallmark of DEEP. The use of "LEAN" events to streamline internal processes was initiated at DEEP and subsequently adopted at other State agencies. Presently, DEEP's new "Document Online Search Portal" is a new research tool for which DEEP deserves accolades. It is hoped that it also will be adopted by other agencies to improve transparency and facilitate public access to files and records.

Thank you for consideration of these comments. The Council is willing to elaborate on any of these suggestions.

Sincerely,

A handwritten signature in cursive script that reads "Susan D. Merrow".

Susan Merrow, Chair