



## DRAFT Agency Legislative Proposal - 2019 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): An Act Concerning Boating Safety

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

State Agency: Department of Energy and Environmental Protection

**Liaison:** Lee Sawyer

**Phone:** 860-471-4509

**E-mail:** lee.sawyer@ct.gov

Lead agency division requesting this proposal: Boating Division

Agency Analyst/Drafter of Proposal: Tim Delgado, 860-447-4354, timothy.delgado@ct.gov

**Title of Proposal:** An Act Concerning Boating Safety

**Statutory Reference:** CGS Section 15-154

**Proposal Summary:**

This proposal increases Boating Under the Influence (BUI) administrative suspension periods so as to provide a more effective deterrent for BUI and fixes a section of statute regarding third party vessel speeds in the vicinity of a law enforcement vessel that is using either audible or visual signal devices.

### PROPOSAL BACKGROUND

◇ **Reason for Proposal**

This section of law currently requires third party boaters to slow down when transiting an area where law enforcement is operating with simultaneous use of an audible and visual signal device - most commonly a siren and flashing blue lights. But in actual practice, once a stop has been initiated, law enforcement will leave the lights flashing on but necessarily turn the siren off, so that the siren does not interfere with the communication that necessarily attends a stop. Law enforcement has noted that they are prevented from enforcing against third party boaters who do not slow down when only flashing lights are displayed because of the way in which the law is currently phrased. This proposal corrects the phrasing and will allow law enforcement to take enforcement action against third party boaters who fail to slow down in the vicinity of a law enforcement vessel displaying flashing blue lights.

◇ **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?

[Click here to enter text.](#)

### **PROPOSAL IMPACT**

◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

**Agency Name:** [Click here to enter text.](#)

**Agency Contact (name, title, phone):** [Click here to enter text.](#)

**Date Contacted:** [Click here to enter text.](#)

Approve of Proposal     YES     NO     Talks Ongoing

**Summary of Affected Agency's Comments**

[Click here to enter text.](#)

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)*

No fiscal impact to municipalities is anticipated.

**State**

No fiscal impact to the state is anticipated.

**Federal**

No fiscal impact to the federal government is anticipated

**Additional notes on fiscal impact**

No fiscal impact is anticipated

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*



The purpose of Section 1 of the proposed act is to fix a section of statute regarding vessel speeds in the vicinity of a law enforcement vessel that is using either audible or visual signal devices, and will assist law enforcement to more safely execute their duties.

**[Insert fully drafted bill here](#)**

**Section 1.** Section 15-154 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any harbor master, deputy harbor master, conservation officer, special conservation officer or state police officer and any municipal police officer, any special police officer appointed under sections 29-18 and 29-19, any town marine officers appointed under section 15-154a and certified by the commissioner for marine police duty and any lake patrolman appointed under section 7-151b may enforce the provisions of section 15-16a, this chapter and chapter 446k, except that only peace officers shall enforce the provisions of section 15-132a, subsection (d) of section 15-133 and sections 15-140l and 15-140n. In the enforcement of this chapter, such officer may arrest, without previous complaint and warrant, any person who fails to comply with the provisions of this chapter. Failure to appear in court pursuant to such arrest, unless excused by the court or the state's attorney or assistant state's attorney, shall constitute sufficient cause for the suspension by the Commissioner of Motor Vehicles of the boat registration of the boat involved for not more than thirty days or until the matter is resolved by the court, whichever is sooner.

(b) When engaged in the enforcement of this chapter and chapter 446k, such officer shall have the authority to stop and board any vessel which is under way or which is moored on the waters of this state for the purposes of (1) examining decals, certificates and other documents, (2) inspecting safety equipment and waste disposal systems, (3) determining if the operation of such vessel exceeds the noise levels established in subsection (b) of section 15-129, (4) searching when such officer has probable cause to believe that any provision of any law of this state or any rule or regulation of the Department of Energy and Environmental Protection relating to boating or water pollution has been violated, (5) determining compliance with section 15-132a, subsections (d) and (e) of section 15-133 and sections 15-140l and 15-140n, when such authorized officer has probable cause to believe said section or subsection has been violated, and (6) making arrests.

(c) No person operating a vessel shall refuse to stop such vessel or, if sea conditions make stopping in that area unsafe, refuse to take such vessel to a designated area after being requested or signaled to do so by such officer. Any person operating a vessel who refuses to stop or refuses to take such vessel to the designated area shall have committed an infraction. Any person, when signaled to stop by such officer in a law enforcement vessel using an audible signal device or flashing blue lights, who operates such vessel in disregard of such signal so as to (1) interfere with or endanger the operation of the law enforcement vessel or any other



vessel, (2) endanger or cause damage to property or person, or (3) increase or maintain speed in an attempt to escape or elude such law enforcement officer shall be guilty of a class A misdemeanor. If such violation causes the death or serious physical injury of another person, the vessel operator shall be guilty of a class D felony, and such operator's safe boating certificate, certificate of personal watercraft operation or right to operate a vessel that requires a certificate shall be suspended for one year. For any subsequent offense, such operator shall be guilty of a class D felony, except that if any prior offense by such operator under this section caused, and such subsequent offense causes, the death or serious physical injury of another person, such operator shall be guilty of a class D felony for which one year of the sentence imposed may not be suspended or reduced by the court, and such operator's safe boating certificate, certificate of personal watercraft operation or right to operate a vessel that requires a certificate shall be suspended for not less than eighteen months or more than two years. Proof of the registration number of the vessel shall be prima facie evidence in any prosecution that the owner was the operator. For purposes of this subsection, "serious physical injury" means physical injury which creates a substantial risk of death, or which causes serious disfigurement, serious impairment of health or serious loss or impairment of the function of any bodily organ.

(d) Upon the immediate approach of a law enforcement vessel using an audible signal device **[and] or** flashing blue lights or a fire rescue vessel using an audible signal device **[and] or** flashing red or yellow lights, any person operating a vessel shall immediately slow to a speed sufficient to maintain steerage only, shall alter course, within its ability, so as not to inhibit or interfere with the operation of the law enforcement vessel or fire rescue vessel, and shall proceed, unless otherwise directed by an officer in the law enforcement vessel or fire rescue vessel, at a reduced speed until beyond the area of operation of the law enforcement vessel or fire rescue vessel. Any person operating a vessel who wilfully or negligently obstructs or retards any law enforcement or fire rescue vessel answering an emergency call or in pursuit of fleeing law violators shall be fined not more than two hundred fifty dollars.

(e) Any person operating a vessel passing within two hundred feet of a stationary law enforcement vessel using an audible signal device **[and] or** flashing blue lights or a stationary fire rescue vessel using flashing red or yellow lights shall reduce speed to a speed of slow-no-wake until there is a distance of more than two hundred feet between such person's vessel and the law enforcement vessel or fire rescue vessel. For purposes of this subsection, "slow-no-wake" means operation of a vessel at a speed that does not produce more than a minimum wake and is not greater than six miles per hour over ground, unless a higher minimum speed is necessary to maintain steerage when traveling with a strong current.

(f) A person who violates subsection (e) of this section shall be fined not less than fifty dollars or more than two hundred dollars.



(g) The Commissioner of Energy and Environmental Protection shall publish an enforcement manual, conduct training and educational sessions, serve as liaison between the enforcement groups and the Superior Court and shall be generally responsible for the overall coordination of enforcement.

## DRAFT Agency Legislative Proposal - 2019 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 2019 OPM Sheet\_DEEP\_EQ revisions

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

State Agency: Department of Energy and Environmental Protection

**Liaison:** Lee Sawyer

**Phone:** 860-471-4509

**E-mail:** lee.sawyer@ct.gov

Lead agency division requesting this proposal: Environmental Quality Branch

Agency Analyst/Drafter of Proposal: Lee Sawyer

**Title of Proposal:** AN ACT CONCERNING REVISIONS TO ENVIRONMENTAL STATUTES

**Statutory Reference:** 22a-133o(c), 22a-73, 22a-208i, 22a-174g, 16-11a

**Proposal Summary:**

These revisions improve and/or streamline programs of the Environmental Quality branch.

**Section 1 - Remove the one year limitation for the extension of a general permit**

Amend CGS section 22a-6aa to remove the one year limitation for the extension of a general permit while a renewal is pending. Section 22a-6aa allows the commissioner to extend a general permit for a 12 month period beyond its expiration date provided a Notice of Tentative Determination (NTD) to reissue/renew such general permit is published 180 days prior to its expiration date. Removing the one year limitation would avoid redundant efforts to extend the term of a general permit due to ongoing stakeholder involvement that may go beyond the 12 month period. This change is consistent with the general permit reissuance process under federal law. Under the federal Clean Water Act, a general permit may continue in effect beyond its expiration date until such time as a final decision on the reissuance.

**Section 2 – Allow the transfer of applications and conditional license transfer**

Amend CGS section 22a-6a to allow conditional approval of a license transfer to require resolution of noncompliance issues prior to transfer, and clarify that 22a-6o applies to transfers of applications (as well as licenses).

**Section 3 – Streamline pesticide reporting**

Amend section 22a-58(c) and (d) to repeal annual reporting mandate requiring private applicators and commercial pesticide supervisors, including arborists, to submit a summary of their pesticide use for the preceding calendar year. Licensed private applicators and commercial pesticide application businesses would be required to maintain annual summaries and make them available upon request. The Pesticide Management Program has found historically that there is much confusion with the reporting requirement for individual commercial licensees resulting in duplicate and inaccurate reports.

**Section 4 – Streamline lapsed renewals of pesticide applicator certifications**



Allow holder of a pesticide certification that has lapsed for less than one year to renew their certification without re-examination and to establish late fees for the late renewal. This will ease staff burden of administering exams to applicators who are late with their renewals.

**Section 5 – Public notice of general permits in newspapers**

Eliminate requirement to publish notices of intent to issue and notices of issuance for general permits in newspapers. Notices will instead be posted for a minimum of the full comment period on the department's website.

**Section 6 – Eliminate mandated regulations for certain discharge categories**

Amend section 22a-430(j)(2) to repeal the mandate to adopt regulations for categories of discharges which may be exempted from permitting and make the requirement to adopt regulations discretionary as the law existed prior to the enactment of PA 10-158. This mandate is not needed as the Department adopted two general permits consistent with the statutory purpose shortly after the passage of this mandate.

**Section 7 - Eliminate DEEP review and approval of alternative treatment for biomedical waste**

Amend section 22a-209b to establish self-implementing performance standards that would supersede the current regulation (22a-209-15(f)(C)iii) requiring DEEP to review and approve each alternate treatment technology. Performance standards would be protective of public health and the environment and could include efficacy testing standards and 3rd party validation tests (pre & post construction testing, annual monitoring, etc.).

**Section 8 – Clarify exemption of aquaculture structures from certain state permitting requirements**

Amend section 22-11h(c) to clarify the exemption of aquaculture structures from the permitting requirements of Structures, Dredging & Fill Act. This section of statute currently states that the exemption applies if no Army Corps permit is required. The flaw is that all aquaculture structures are subject to Army Corps permitting, whether it be General Permit, Letter of Permission or Individual Permit. Therefore, all aquaculture projects are subject to the SDF or COP application process which was not the intent.

**Section 9 – Removes the approval requirement from municipal noise ordinance adoption**

This proposal removes the approval requirement from municipal noise ordinance adoption. The State Noise Plan requires municipalities to get approval for municipal ordinances through the Department. Municipalities have found this to be a confusing process because the Department is not authorized to approve ordinances that regulate noise from mobile sources, provisions which often appear in municipal ordinances.

**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?

These provisions serve to improve and/or streamline programs.

◇ **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?

Section 4 (pesticide certification grace periods) passed the Senate in 2017 and 2018 but died on the calendar.

### PROPOSAL IMPACT

◇ **AGENCIES AFFECTED** (please list for each affected agency)

**Agency Name:** Department of Public Health

**Agency Contact (name, title, phone):** Suzanne Blancaflor, Chief, Environmental Health

**Date Contacted:** Click here to enter text.

Approve of Proposal     **YES**     **NO**     **Talks Ongoing**

**Summary of Affected Agency's Comments**

DPH consulted on Sec. 7 alternative treatment of biomedical waste. Reply pending.

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**

All provisions streamline processes and programs and will save resources.

**Federal**

None





<b>Additional notes on fiscal impact</b> Click here to enter text.

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Each section is designed to streamline DEEP programs and processes without compromising environmental protection.

**Insert fully drafted bill here**

Section 1. Section 22a-6aa of the general statutes is repealed and the following is substituted in lieu thereof *((Effective from passage):*

The Commissioner of Energy and Environmental Protection may continue in effect any general permit issued by the commissioner pursuant to the provisions of this title **[for a period of twelve months]** beyond the expiration date for such permit, provided the commissioner publishes notice, not later than one hundred eighty days prior to the expiration date of such general permit of the intent to renew such general permit in accordance with any applicable provision of this title. Any such general permit continued in effect beyond its expiration date shall remain in effect until the commissioner makes a final decision on the renewal of such general permit, in accordance with the provisions of this title, **provided such final decision is made on or before the twelfth month after the expiration date. If no final decision is made within such time period, such general permit shall expire.** The commissioner may require the remittance of a registration fee in an amount not to exceed the existing registration fee for such general permit whenever a general permit is continued in effect beyond its expiration date in accordance with the provisions of this section. Nothing in this section shall affect the obligation of any person to register for a general permit pursuant to the provisions of this title in a timely fashion or to comply with any general permit issued by the commissioner pursuant to the provisions of this title.

Section 2. Section 22a-6o of the general statutes is repealed and the following is substituted in lieu thereof *(Effective from passage)*

(a) Notwithstanding any provision of this title or regulations adopted thereunder, no person shall act or purport to act under the authority of a license issued to another unless such license has been transferred to such person in accordance with this section and such transfer is not inconsistent with the federal Clean Air Act, the federal Water Pollution Control Act or the federal Resource Conservation and Recovery Act.

(b) The **applicant or licensee** and the proposed transferee shall register any such proposed transfer **of a license or an application for a license** with the commissioner within thirty days of the transfer of ownership of the facility for which the license has been issued **or for which a license is sought**. Such registration shall be on forms to be prescribed by the commissioner and accompanied by a fee established by the commissioner to cover costs of processing the transfer of license **or application for a license**. Upon receipt of a registration of a proposed



transfer of license **or application for a license** pursuant to this section, if the commissioner determines that the transferee is able to comply with the terms and conditions of the license, the commissioner shall send a notice to the licensee and proposed transferee which confirms the registration, [and] acknowledges the applicability of the license to the transferee. **The Commissioner may include in the license any new conditions to enable the transferee to comply with the original terms and conditions of the license.**

(c) If the commissioner finds that the information submitted for a registration of a license transfer under this section is insufficient for purposes of determining whether the proposed transferee is able to comply with the terms and conditions of the license, the commissioner may require such transferee to submit such additional information as the commissioner deems necessary to make such determination, including, but not limited to, any information necessary to complete state and national criminal history records checks in accordance with subsection (d) of section 22a-6m.

Section 3. Subsections (c) and (d) of section 22a-58 of the general statutes are repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Private applicators shall maintain a record with respect to each use of restricted use pesticides shall include, but not be limited to, the following information: (1) The name of the applicator, (2) the kind and amount of pesticide used, (3) the date and place of application, and (4) the crop or site treated and the amount of acreage treated. **[A copy of the] Such records shall be compiled, in a format which may be prescribed by the commissioner, on or before January thirty-first for the preceding calendar year and maintained by the private applicator for a period not less than five years. Such report shall be made available upon the request of the commissioner.**

(d) Commercial applicators shall maintain records with respect to their use of and supervision of the use of pesticides. Such records shall be maintained for not less than five years after the date of application and shall include, but not be limited to, the (1) name and certification number of the commercial supervisor and the commercial operator, (2) kind and amount of pesticide used, (3) date and place of application, (4) pest treated for, and (5) crop or site treated. **Such records shall be compiled, in a format which may be prescribed by the commissioner, on or before January thirty-first for the preceding calendar year and maintained by the commercial applicator for a period not less than five years. Such report shall be made available upon the request of the commissioner. [A summary of the items maintained under subdivisions (1) and (2) shall be submitted to the commissioner on or before January thirty-first for the preceding calendar year in which the application was made on such form as the commissioner may prescribe.]**

Section 4. Section 22a-66g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

**Sec. 22a-66g. Records. Availability.** (a) A pesticide application business shall maintain records for not less than five years from the date such record is made or amended, whichever is later. **Such records shall be made available upon the request of the commissioner.** The record shall indicate:

(1) For each application of a pesticide made on behalf of the business, (A) the name and certification number of the commercial supervisor and the commercial operator, (B) the kind and amount of pesticide used and the amount of acreage treated, if applicable, (C) the date and place of application, (D) the pest treated for, and (E) the crop or site treated;



(2) A list of the names and corresponding Environmental Protection Agency registration numbers of any pesticide applied by the business; and

(3) The name and applicator certification number of each certified commercial pesticide applicator, operator or supervisory, who is an employee or agent of the business, and a list of the types of applications which each is performing.

Section 5. Subsection (f) of section 22a-54 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(f)(1) The commissioner may by regulation prescribe fees for applicants to defray the cost of administering examinations and assisting in carrying out the purposes of section 22a-451, except the fees for certification and renewal of a certification shall be as follows: (1) For supervisory certification as a commercial applicator, two hundred eighty-five dollars; (2) for operational certification as a commercial applicator, eighty dollars, and (3) for certification as a private applicator, one hundred dollars. A federal, state or municipal employee who applies pesticides solely as part of his employment shall be exempt from payment of a fee. Any certificate issued to a federal, state or municipal employee for which a fee has not been paid shall be void if the holder leaves government employment. The fees collected in accordance with this section shall be deposited in the General Fund.

**(2) The holder of a certification lapsed less than one year may renew the certification upon submission of a signed renewal application, payment of the statutory renewal fee and late fees. Beginning on the first day that the certification is lapsed, the fee for late payment shall be ten percent of the renewal fee due, plus one and one-quarter percent per month or part thereof for a maximum period of one year. The holder of a certification lapsed more than one year shall be examined in accordance with the requirements of section 22a-54 and regulations promulgated thereunder.**

Section 6. (NEW) (*Effective from passage*):

**Notwithstanding any provision of this title, for any required newspaper publication of public notice concerning a general permit, the Commissioner of Energy and Environmental Protection may provide such public notice on the Internet website of the Department of Energy and Environmental Protection. Such public notice shall remain posted on the Internet website for the duration of the entire public notice period and notice of issuance or decision not to issue a general permit shall be posted for not less than 30 days on such Internet website.**

Section 7. Subsection (j) of 22a-430 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*)

(j)(1) The commissioner may exempt persons who or municipalities which apply for permits for the following discharges from the requirements to submit plans and specifications under section (b) of this section:

- (A) A discharge from a new treatment or disposal system which system is substantially the same as a system that the applicant is operating in compliance with a permit for said system issued by the commissioner;
- (B) The discharge described in a general permit issued by the commissioner pursuant to section 22a-430b;



- (C) The discharge is from a system, the purpose of which, as determined by the commissioner, is not to treat any toxic or hazardous substances; or
- (D) The discharge is exempt from public notice under subsection (b) of this section and regulations adopted thereunder.

(2) The commissioner [shall] **may** adopt regulations [not later than February 1, 2015,] in accordance with the provisions of chapter 54[,] to establish other categories of discharges which may be exempted from the requirement to submit plans and specifications under subsection (b) of this section. Such regulations may include, but not be limited to, the following: (A) Minimum standards for the design and operation of treatment systems for such discharges; and (B) requirements for submission of information concerning such discharges.

Section 8. Subdivision (3) of subsection (3) of section 22a-209c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) Notwithstanding subdivisions (1) and (2) of this subsection, a different combination of operational time, temperature and pressure may be utilized for steam sterilization of biomedical waste if such combination **is proven to be effective in [is first described in writing to the commissioner and approved in writing by the commissioner. The commissioner shall not grant approval unless such combination is proven on the basis of thorough tests, including tests of] its capacity to kill bacillus stearothermophilus and to completely and reliably kill all microorganisms in the waste at design capacity through thorough testing consistent with prevailing and accepted industry standards. such alternate treatment shall not require written approval by the commissioner and demonstration of such effectiveness shall be maintained in accordance with the regulations adopted pursuant to section 22a-209.**

Section 9. Subsection (c) of section 22-11h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(c) Individual structures used for aquaculture as defined in section 22-11c, including, but not limited to, racks, cages or bags, as well as buoys marking such structures, which [**do not otherwise require**] **have received** a permit under federal Army Corps of Engineers regulations and do not interfere with navigation in designated or customary boating or shipping lanes and channels, shall be placed in leased or designated shellfish areas and shall be exempt from the requirements of sections 22a-359 to 22a-363f, inclusive.

Section 10. Section 22a-73 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) To carry out and effectuate the purposes and policies of this chapter it is the public policy of the state to encourage municipal participation by means of regulation of activities causing noise pollution within the territorial limits of the various municipalities. To that end, any municipality may develop and establish a comprehensive program of noise regulation. Such program may include a study of the noise problems resulting from uses and activities within its jurisdiction and its development and adoption of a noise control ordinance.

(b) Any municipality may adopt, amend and enforce a noise control ordinance which may include the following: (1) Noise levels which will not be exceeded in specified zones or other designated areas; (2) designation of a noise control officer and the designation of an existing board or commission, or the establishment of a new board or commission to direct such program; (3) implementation procedures of such program and the relation of such program to other plans within the jurisdiction of the municipality; (4) procedures for assuring compliance with



state and federal noise regulations; (5) noise level restrictions applicable to construction activities, including limitation on on-site hours of operation.

(c) **[No ordinance shall be effective until such ordinance has been approved by the commissioner. No] Municipal ordinance standards shall be [approved unless it is in conformity with] at least as stringent as any state noise control plan, including ambient noise standards, adopted pursuant to section 22a-69 or any standards or regulations adopted by the administrator of the United States Environmental Protection Agency pursuant to the Noise Control Act of 1972 (P.L. 92-574) or any amendment thereto. Notwithstanding the provisions of this subsection, any municipality may adopt more stringent noise standards than those adopted by the commissioner [, provided such standards are approved by the commissioner].**



## DRAFT Agency Legislative Proposal - 2019 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): Streamline and Modernizing DEEP Forestry Statutes

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

State Agency: Department of Energy and Environmental Protection

**Liaison:** Lee Sawyer

**Phone:** 860-471-4509

**E-mail:** lee.sawyer@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: An Act Concerning Forestry

**Statutory Reference:** Sec. 23-53, Sec 23-65g, Sec 23-65h(c)(4), Sec 23-65h(c)(6), Sec. 23-65h(c)(9), Sec. 23-65i(a)(5), 23-65i(b)(2), and 23-65i(c)(1)

#### Proposal Summary:

**Section 1.** Technical Revision to Article IX of the Northeastern Interstate Forest Fire Protection compact allowing for national response and acceptance of mutual aid from other regional Compacts for wild-fires.

#### Section 2.

- Adds a 60 day grace period for forest practitioners who fail to renew by the expiration date of their current certification.
- Authorizes acceptance of another state or professional organization forest practitioner license or certification obtained through examination as substitute for Connecticut's Certified forest practitioner exam. Requires the Agency to affirm the candidate's good standing with the qualifying state or organization and a candidate's knowledge and understanding attestation of Connecticut's forest practices laws and regulations.

#### Section 3.

- Eliminates "biennial" educational requirements while retaining the current four year educational requirements for forest practitioner certification renewal.
- Eliminates requirement to submit annual professional education evidence and replaces it with annual attestation for each of the three forest practitioner certification levels. Professional education evidence would be required once every four years with the practitioner certification renewal application.



## 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?

#### **Section 1.**

The Northeastern Interstate Forest Fire Protection Compact was the nation's first regional forest fire compact and since its founding in 1949 forty-three states now belong to one of eight regional forest protection compacts nationally. Other forest fire compacts have the language for inter-compact protections, but since Northeast was the first compact, there were no provision for exchanging resources with other compacts.

Article IX of the Northeastern Interstate Forest Fire Protection Compact is outdated, lacking the current federally endorsed compact-to-compact liability language found in other compacts. Article IX addressing mutual aid combating, controlling or preventing forest fires should be operative between all participating Northeast Compact states and any other state nationally which is party to a regional forest fire protection compact, provided that the legislature of such other state has given its assent to such mutual aid provisions allowing for exchange of Compact to Compact resources for mutual aid response.

If Connecticut were in the position of needing assistance, events over the last few years have shown that at least three of the eight compacts nationally wouldn't send resources to Connecticut because we do not have this language in place. In 2016, during the severe drought in the southeastern United States, Massachusetts had engines available to assist with firefighting efforts in another compact area, but was unable to send resources because Massachusetts did not have this mutual aid language in place.

#### **Section 2.**

This proposal would create a 60 day grace period whereby forest practitioners who failed to submit a complete application for renewal on or before the expiration date of their forest practitioner certification may submit such completed application and achieve forest practitioner certification without also having to submit to examination. Late applications would be subject to a late fee. Currently, forest practitioners that fail to renew in a timely basis must also submit to the certification examination. This places an unnecessary burden on the Department as the practitioner has already proven their ability by a previous examination. In



addition, the practitioner might wait up to six months before the next available examination is offered. Non-compliance with the certification requirement in the meantime could cause an additional enforcement burden on the Department. At least six states that have Forester licensing have similar provisions (Alabama, Maine, New Hampshire, North Carolina, South Carolina and California). Late fee penalties ranged from \$3.25 per month up to 100% of the original cost of the application and registration fees.

This proposal authorizes the Commissioner to grant forest practitioner certification pursuant to section 23-65h without examination to persons possessing either a license or certification from another state or professional organization such as the Society of American Foresters (SAF). The purpose is to grant certification to persons who already have proven their ability and knowledge through a credible credentialing process. By recognizing credentialed practitioners the Department would be relieved of maintaining reciprocity agreements with other entities and the responsibility of examining persons who have already proven themselves in a similar venue. This would result in DEEP staff time savings and allow the private sector a quicker transition into a forestry position. The existing statute only provides that the Commissioner may certify without examination any person who is certified in another state under a law which provides substantially similar qualifications for certification and which grants similar privileges of certification without examination to residents of Connecticut. When this statute was created, many states did not have professional forest practitioner licensure and SAF had not yet developed its Certified Forester program. Georgia, Maine, South Carolina, and Vermont currently accept the SAF CF exam as a substitute for their state administered forester licensure exams.

Due diligence including written confirmation of good standing from the certifying/licensing state or organization and an attestation of knowledge and understanding of Connecticut's forest practices laws and regulations by the applicant would be required prior to Connecticut forest practitioner certification issuance.

### **Section 3.**

This revision simplifies the requirement that forest practitioners obtain and report their required continuing education credits (CEUs). The proposal would remove the biennial schedule of CEU obtainment while keeping the current total number of CEUs the same for a four year certification. Tracking biennial forest practitioner educational achievements places an unnecessary burden on both the forest practitioner and DEEP. Biennial educational requirements also penalizes forest practitioners that take classes offering more continuing education units than required during a single biennial period. For example, a Supervising Forest Products Harvester must submit four continuing education credits (CEUs) each biennial period for a total of eight CEUs over the four- year certification period. A forest practitioner taking the full Game of Logging training, approved for twelve CEUs, would still be required to participate in an educational workshop in the second biennial period despite having exceeded





the four year requirement. Removing the biennial education requirement will reduce DEEP's administrative burden tracking forest practitioner CEU attainment for both biennial periods to just one four year certification period.

This Section also would simplify the CEU evidentiary reporting requirement from annual to once every four years upon recertification application with an attestation provided on required annual activity reports. Annual educational record keeping for forest practitioners is an excessive administrative burden and subjects the Department to a continuous stream of requests by practitioners who seek an accounting of their attained CEUs. This proposal shifts CEU record keeping responsibility to the practitioner. RCSA 23-65h-1(c) requires the forest practitioner provide a CEU attainment record upon applying for recertification. Should this proposal be adopted the Forestry Division will pursue regulatory changes to RCSA 23-65h-1(c) requiring evidence of sufficient CEU attainment.

**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?*

**2017** - Section 2 of this proposal was part of the administration's proposals submitted in 2017. It was included in raised SB-834, heard at public hearing and passed out by the Environment Committee. SB-834 was passed by the Senate, but was not voted on by the House.

**2018** - Sections 1 and 3 were new proposals in 2018 proposed in raised SB-102. Section 2 of this (2019) proposal is from SB-102 Senate LCO Amendment #3648 and is similar to section 1 of 2017 SB-834. SB-102 was passed out of the Environment committee and placed on the Senate Calendar with but did not receive a final vote.

## **PROPOSAL IMPACT**

**AGENCIES AFFECTED** *(please list for each affected agency)*



<p><b>Agency Name:</b> NONE</p> <p><b>Agency Contact (<i>name, title, phone</i>):</b> <a href="#">Click here to enter text.</a></p> <p><b>Date Contacted:</b> <a href="#">Click here to enter text.</a></p> <p>Approve of Proposal    <input type="checkbox"/> YES    <input type="checkbox"/> NO    <input type="checkbox"/> Talks Ongoing</p>
<p><b>Summary of Affected Agency's Comments</b></p>
<p>Will there need to be further negotiation?    <input type="checkbox"/> YES    <input checked="" type="checkbox"/> NO</p>

◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

<p><b>Municipal</b> <i>(please include any municipal mandate that can be found within legislation)</i></p> <p>NONE</p>
<p><b>State</b></p> <p>Minimal gain due to increased efficiencies.</p>
<p><b>Federal</b></p> <p>NONE</p>
<p><b>Additional notes on fiscal impact</b></p> <p>NONE</p>

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*



Section 1 of this proposal will allow non-federal wildfire resources from other regional compacts to assist Connecticut with wildfire suppression. Often when Connecticut experiences increased wildfire activity, adjacent states who are members of the same compact are experiencing the same, typically due to regional drought conditions. This limits the ability of participating Northeast Compact state resources to provide mutual aid due to similar home-state threats. Mutual liability language added to Article IX will allow states outside the northeast region to respond to Connecticut.

Section 2 acknowledges non-state forest practitioner certification programs that require examination and offering existing practitioners whose certification has lapsed a grace period to renew without reexamination will improve efficiency and save staff time. Sections 2 and 3 will provide increased efficiencies administering the Forest Practices Act Program and improve customer service for certified practitioners.

### Insert fully drafted bill here

Copy and paste here.

**Section 1.** Article IX of section 23-53 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective on passage*):

#### ARTICLE IX

Whenever the forces of any member state are rendering outside aid pursuant to the request of another member state under this compact, the employees of such state shall, under the direction of the officers of the state to which they are rendering aid, have the same powers (except the power of arrest), duties, rights, privileges and immunities as comparable employees of the state to which they are rendering aid.

No member state or its officers or employees rendering outside aid pursuant to this compact shall be liable on account of any act or omission on the part of such forces while so engaged, or on account of the maintenance or use of any equipment or supplies in connection therewith.

All liability that may arise either under the laws of the requesting state or under the laws of the aiding state or under the laws of a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

Any member state rendering outside aid pursuant to this compact shall be reimbursed by the member state receiving such aid for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of all materials, transportation, wages, salaries, and maintenance of employees and equipment incurred in connection with such request. Provided, that nothing herein contained shall prevent any assisting member state from assuming such loss, damage, expense or other cost or from loaning such equipment or from donating such services to the receiving member state without charge or cost.



Each member state shall provide for the payment of compensation and death benefits to injured employees and the representatives of deceased employees in case employees sustain injuries or are killed while rendering outside aid pursuant to this compact, in the same manner and on the same terms as if the injury or death were sustained within such state.

For the purposes of this compact the term employee shall include any volunteer or auxiliary legally included within the forest fire fighting forces of the aiding state under the laws thereof.

The commission shall formulate procedures for claims and reimbursement under the provisions of this article.

Aid by a member state to an area subject to federal jurisdiction beyond the borders of such state shall not be required under this compact unless substantially the same provisions of this article relative to powers, liabilities, losses and expenses in connection with such aid are embodied in federal laws.

The provisions of this article that relate to the rendering of outside aid in combating, controlling or preventing forest fires shall be applicable to the provision of such aid by any state that is party to this compact to any other state that is party to a regional forest fire protection compact in another region provided the legislature of such other state assents to the outside aid provisions of this compact.

**Section 2.** Section 23-65h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective on passage*):

(a) On or after July 1, 1992, no person shall advertise, solicit, contract or engage in commercial forest practices within this state at any time without a certificate issued in accordance with the provisions of this section, appropriate to the forest practices advertised, solicited, contracted or engaged in, except as provided in subsections (b) and (c) of this section.

(b) There shall be three classifications for commercial forest practitioners: Forester, supervising forest products harvester and forest products harvester. Forester certification shall be required for commercial forest practitioners who supervise or engage in the planning and design of forest practices, including but not limited to, commercial forest product harvest operations, or act as a property owner's agent in the sale of commercial forest products. A certified forester may also execute contracts or agreements, written or verbal, for the purchase of commercial forest products, act in the buyers behalf in the supervision of commercial forest product harvest operations and engage in the execution of commercial forest product harvest operations. Supervising forest products harvester certification shall be required for commercial forest practitioners who execute contracts or agreements, written or verbal, for the purchase of commercial forest products or who act in the buyer's behalf in the supervision of commercial forest product harvest operations. A certified supervising forest products harvester may also engage in the execution of commercial forest product harvest operations. Forest products harvester certification shall be required for commercial forest practitioners who engage in the execution of commercial forest product harvest operations, provided



no such certification shall be required for persons engaging in the execution of commercial forest practices under the direct, on-site supervision of a certified forest product harvester. No forest product harvester certified under this section shall engage in the on-site supervision of more than two noncertified persons executing commercial forest practices.

(c) An application for the certification as a forest practitioner shall be made to the Commissioner of Energy and Environmental Protection and shall contain such information regarding the applicant's qualifications and proposed operations and other relevant matters as the commissioner deems necessary.

(1) The commissioner shall require the applicant for forester certification to demonstrate, upon examination, that [he] the applicant possesses adequate knowledge concerning the proper application of forest management techniques, the ecological and environmental consequences of harvesting activity and mitigating measures to be employed to minimize possible adverse impacts on environmental conditions within the harvest area.

(2) The commissioner shall require the applicant for supervising forest products harvester certification to demonstrate, upon examination, that [he] the applicant possesses adequate knowledge concerning techniques and procedures normally employed in the conduct and supervision of a harvest operation, the safe and environmentally responsible operation of harvesting equipment, and mitigating measures to be employed to minimize possible adverse impacts of harvesting activity on environmental conditions within the harvest area.

(3) The commissioner shall require the applicant for forest products harvester certification to demonstrate, upon examination, that [he] the applicant possesses adequate knowledge concerning techniques and procedures normally employed in the conduct of a harvest operation and the safe and environmentally responsible operation of harvesting equipment, except that an applicant who demonstrates to the satisfaction of the commissioner that [he] the applicant has engaged in commercial forest practices at least once per year for the ten years immediately preceding October 1, 1991, shall be exempt from such examination requirement.

(4)(A) If the commissioner finds that the applicant is competent with respect to the required qualifications, including those provided in section 23-65o, [he] the commissioner shall certify the applicant to perform such forest practices as appropriate to the requested certification. The certification shall be valid for a period not to exceed five years and may be renewed by the commissioner with or without further examination. The commissioner may establish regulations for forest practitioner certification so that one-fifth of the certificates expire each year. The commissioner may certify a forest practitioner for less than five years and prorate the registration fee accordingly to implement the regulations established pursuant to this subsection.

(B) Notwithstanding the provisions of subparagraph (A) of this subdivision, the commissioner may grant a sixty-day extension for any forest practitioner who failed to submit a complete application for



renewal prior to the expiration date of such forest practitioner's certification. Such forest practitioner shall submit a complete application for renewal within such sixty-day extension period. Any renewed certification issued by the commissioner pursuant to this subparagraph shall not require reexamination by such forest practitioner prior to such issuance but shall require the submission of an additional fee, as determined by the commissioner.

(5) If the commissioner finds that the applicant is not competent with respect to the requirements for the requested certification, the commissioner shall refuse to issue the applicant a certificate. The commissioner shall inform the applicant of the refusal in writing, giving the reasons for such refusal. Any person aggrieved by such refusal may, within thirty days from date of issuance of such denial, request a hearing before the commissioner, which hearing shall be conducted in accordance with chapter 54.

(6) The commissioner may certify without examination any person who is certified: [in] (A) In another state under a law which provides substantially similar qualifications for certification [and which grants similar privileges of certification without examination to residents of this state certified under the provisions of this section] or (B) through examination by the Society of American Foresters, or a similar organization, that provides substantially similar qualifications for certification provided such person can demonstrate knowledge of the forestry laws of this state to the commissioner's satisfaction.

(7) The commissioner may, by regulation, adopted in accordance with the provisions of chapter 54, prescribe fees for applicants to defray the cost of administering examinations and carrying out the provisions of this chapter. A state or municipal employee who engages in activities for which certification is required by this section solely as part of his employment shall be exempt from payment of a fee. Any certificate issued to a state or municipal employee for which a fee has not been paid shall be void upon termination of such government employment.

(8) The commissioner may require the display of a decal or other evidence, indicating that a commercial forest practitioner has met the requirements of sections 23-65f to 23-65o, inclusive, in a prominent place on any licensed motor vehicle used in the practitioner's operations. A fee may be charged to the certified practitioner to cover the cost of the decal or other evidence.

(9) The commissioner shall require all forest practitioners certified under sections 23-65f to 23-65o, inclusive, to participate [biennially] in a relevant program of professional education to improve or maintain professional forestry skills that is sponsored by the Department of Energy and Environmental Protection, the New England Society of American Foresters, The University of Connecticut, Yale University or the Connecticut cooperative extension system, or participation in another program approved by the department. Professional education shall take place during the recertification cycle and be in accordance with the prescribed schedule set forth within regulations adopted in accordance with Sections 23-65f to 23-65o.



**Section 3.** Section 23-65i of the general statutes is repealed and the following is substituted in lieu thereof (*Effective on passage*):

- (a) Each certified forester, except any state employee who engages in activities regulated by sections 23-65f to 23-65o, inclusive, solely as part of his employment, shall submit an annual report to the Commissioner of Energy and Environmental Protection on or before June first of each year in a form prescribed by the commissioner. Such report shall include, but not be limited to, the following information:
- (1) The number of forest management plans completed and acres covered by said plans;
  - (2) The number and type of timber stand improvements completed and acres so improved;
  - (3) The number of acres planted in reforestation, afforestation and in Christmas tree plantations;
  - (4) The number of commercial forest product sales, the total number of acres harvested in such sales, the type and total volumes of products generated by such sales and total annual expenditure for the purchase of such sales;
  - (5) [Evidence] Attestation of [biennial] participation in a relevant program of professional education to improve or maintain professional forestry skills that is sponsored by the Department of Energy and Environmental Protection, the New England Society of American Foresters, The University of Connecticut, Yale University or the Connecticut cooperative extension system, or participation in another program approved by the department, provided proof of such participation shall be furnished to the commissioner upon request and be in accordance with the prescribed schedule set forth within regulations adopted in accordance with Sections 23-65f to 23-65o; and
  - (6) Other information which the commissioner deems necessary.
- (b) Each certified supervising forest products harvester shall be required to submit an annual report to the Commissioner of Energy and Environmental Protection on or before June first of each year in a form prescribed by the commissioner. Such report shall include, but not be limited to, the following information:
- (1) The number of commercial forest product sales harvested, and the type and total volumes of products generated by such sales;
  - (2) [Evidence] Attestation of [biennial] participation in a relevant program of professional education to improve or maintain forest products harvesting skills that is sponsored by the



Department of Energy and Environmental Protection, the New England Society of American Foresters, the University of Connecticut, Yale University, the Connecticut cooperative extension system or is otherwise approved by the department, provided proof of such participation shall be furnished to the commissioner upon request and be in accordance with the prescribed schedule set forth within regulations adopted in accordance with Sections 23-65f to 23-65o; and

- (3) Other information which the commissioner deems necessary.
- (c) All certified forest products harvesters shall be required to submit to the Commissioner of Energy and Environmental Protection, on or before June first of each year, annual reports in a form prescribed by the commissioner. Such reports shall include, but not be limited to, the following information
  - (1) [Evidence] Attestation of [biennial] participation in a relevant program of professional education to improve or maintain forest products harvesting skills that is sponsored by the Department of Energy and Environmental Protection, the New England Society of American Foresters, The University of Connecticut, Yale University, the Connecticut cooperative extension system or is otherwise approved by the department, provided proof of such participation shall be furnished to the commissioner upon request and be in accordance with the prescribed schedule set forth within regulations adopted in accordance with Sections 23-65f to 23-65o; and
  - (2) Other information the commissioner deems necessary.





## Agency Legislative Proposal - 2019 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): [Click here to enter text.](#)

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

State Agency: Department of Energy and Environmental Protection

**Liaison:** Lee Sawyer

**Phone:** 860-471-4509

**E-mail:** lee.sawyer@ct.gov

Lead agency division requesting this proposal: Bureau of Natural Resources (BNR)

Agency Analyst/Drafter of Proposal: William Hyatt

**Title of Proposal:** Modernization and Streamlining of Fisheries and Wildlife Notice and Report Requirements

**Statutory Reference:** 26-113, 26-159c, 26-107h

**Proposal Summary:**

**Sections 1 & 2.** Modernizes noticing requirements for public hearings concerning proposed fisheries regulations by replacing requirement to post notice of hearings in newspapers with requirement to post on the agency's website and at least one of its social media accounts, and on the eRegulations System.

**Section 3.** Increases operational efficiencies during an era of reduced financial resources by repealing the requirement to produce an annual report for the unfunded nonharvested wildlife program.

### 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.** These two sections require notice of public hearings on inland regulations (26-113) and marine regulations (26-159c) to be posted in newspapers prior to the public hearing (at least 14 days prior for inland regulations, and between 14 and 30 days for marine



regulations). These requirements are both outdated and costly (\$1,000 - \$2,000 per hearing notice). Small legal ads published in newspapers are ineffective in reaching the intended audience for fisheries regulations. Replacing the requirement to post regulation hearing notices in newspapers with a requirement to post hearing notices on the eRegulations System and on DEEP's internet website and at least one of its social media accounts (Facebook, Twitter, etc.) will more effectively inform interested constituents, and will reduce costs and staff time.

**Section 3.** Section 26-107h of the general statutes is one of a collection of sections (26-107f through 26-107i) related to creating a nonharvested wildlife program, a possible method of funding through the sale of various wildlife related print items (stamps, prints, calendars, etc.) and the requirement to produce an annual report. Since its inception, program specific funding has been withdrawn, rendering the requirements concerning reporting on progress moot. Repealing section 26-107h removes a mandate that no longer serves its intended purpose.

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?*

[Click here to enter text.](#)

### PROPOSAL IMPACT

**AGENCIES AFFECTED** *(please list for each affected agency)*

**Agency Name:** NONE

**Agency Contact (name, title, phone):** [Click here to enter text.](#)

**Date Contacted:** [Click here to enter text.](#)

Approve of Proposal       YES       NO       Talks Ongoing

**Summary of Affected Agency's Comments**

[Click here to enter text.](#)

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)*

<b>Municipal</b> <i>(please include any municipal mandate that can be found within legislation)</i> NONE.
<b>State</b> Small staff time and cost (\$1,000 - \$2,000 per hearing notice) savings.
<b>Federal</b> NONE.
<b>Additional notes on fiscal impact</b> Click here to enter text.

◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

Click here to enter text.
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**Insert fully drafted bill here**

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

**Section 1.** Section 26-113 of the general statutes is repealed and the following is substituted in lieu thereof *(Effective from passage)*:

Notice of such hearing shall be [advertised in one or more newspapers having a general circulation in each of the counties of the state or in the locality where such waters are situated.] posted on the eRegulations System and the Department of Energy and Environmental Protection’s internet web site and one or more of its social media accounts. Such notice shall specify the time, not less than fourteen days thereafter, the agenda and the place designated by the commissioner at which such hearing shall be held, and at which persons having an interest therein will have an opportunity to be heard. The commissioner or his designated representative shall conduct such hearing and cause a record thereof to be made. After such notice and hearing the commissioner shall issue his regulations based upon standards of sound fisheries management including the following: (a) Scientific and factual findings of a biological nature; (b) the availability of the species involved; (c) unusual weather



conditions and special hazards; (d) the available supply of food and natural cover; (e) the general condition of the waters; (f) the control of the species; (g) the number of permits issued; (h) the area available; (i) the rights and privileges of sportsmen, landowners and the general public; (j) the problem of providing and perpetuating a sound program of fisheries management and a sound recreational program consistent with the availability of the species.

**Section 2.** Section 26-159c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Prior to the adoption of any regulation under subsection (g) of section 26-142a or section 26-159a, the commissioner or his designated representative shall conduct a public hearing or hearings in those coastal areas where persons substantially affected by such regulation and having an interest therein may be heard. The commissioner shall ~~cause~~ post notice of such hearing or hearings posted on the eRegulations System and the Department of Energy and Environmental Protection's internet web site and one or more of its social media accounts [to be published at least once] not [more than thirty days and not] fewer than [ten] fourteen days before the date set for such hearing or hearings [in a newspaper or newspapers having general circulation in those areas which may be affected by such regulation].

**Section 3.** Section 26-107h of the general statutes is repealed (*Effective from passage*).



## Agency Legislative Proposal - 2019 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): **090518\_DEEP\_Feeding Dangerous Animals**

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

State Agency: Department of Energy and Environmental Protection

**Liaison:** Lee Sawyer

**Phone:** 860.424.3332

**E-mail:** lee.sawyer@ct.gov

Lead agency division requesting this proposal: Wildlife Division

Agency Analyst/Drafter of Proposal: Rick Jacobson

**Title of Proposal: AAC Prevention of the Habituation of Dangerous Wild Animals on Property Not Owned by the State**

**Statutory Reference:** 26-25a

**Proposal Summary:**

This proposal would expand authority under the existing statute concerning the feeding of wild animals to restrict the intentional feeding of wild canids (coyotes and foxes), wild felids (bobcats) and ursids (bears), collectively defined as potentially dangerous animals on private land, and enable DEEP to adopt regulations that would prohibit or restrict the unintentional feeding of wild canids (coyotes and foxes), wild felids (bobcats) and ursids (bears) on private land when there is a determination of a public safety threat. This authority is currently limited to prohibiting or restricting the feeding of wildlife on state-owned property. This change would enable DEEP to address public safety issues that arise from the feeding of bears and coyote on private property and would likely reduce the need for more aggressive responses.

### 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?*

Populations of wild animals that pose a threat to humans (especially bear and coyote) are increasing and their ranges are expanding. As a result, interactions (often negative) between the public and these wild animals are increasing. The feeding of such wildlife by the public, whether intentional or inadvertent



(e.g., unsecured garbage cans), can reduce their fear of humans and lead animals to associate humans with food. Most notably, bears that routinely forage on human-sourced foods often develop bold or aggressive behavior towards humans, leading to home incursions, attacks on pets and livestock, or even direct threats to humans (note reports of black bear killing a human in New Jersey, September 20, 2014, and more recent mauling of a human in Maryland on November 16, 2016, and more recently of 21 home incursions in Connecticut between June 19 and August 31, 2018).

Currently, federal law pursuant to CFR Title 36: Parks, Forests, and Public Property, Section 2.2, Wildlife protection prohibits the feeding of wildlife on properties managed by the National Park Service (NPS) and both the National Park Service and the U.S. Fish and Wildlife Service have extensive, ongoing campaigns warning people of the dangers of feeding wildlife. The Connecticut General Assembly's Office of Legislative Research produced a report in November 2012 (2012-R-0351) specifically addressing *Bear Feeding Laws in the Northeast*. In 2012, New Hampshire, New Jersey, New York, and Rhode Island prohibited the feeding of bears. Since that time Massachusetts, Vermont, and Maine have passed "no feeding of wildlife" laws. Across the rest of the country, California, Montana, Florida, Arizona and Washington State are among the other states that have "no feeding wildlife" laws.

This proposal would prohibit the intentional feeding of potentially dangerous animals on private property, and authorize DEEP to develop regulations concerning the unintentional feeding of potentially dangerous wild animals on private property. The ability to regulate feeding in specific instances on private property would provide the Agency with a much needed tool for use in reducing negative interactions between the public and bear or coyote, and would provide an additional nonlethal response mechanism. This authority would be used judiciously to respond to threats to the public to deescalate issues with dangerous animals.

**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?*

This bill was part of the administration's proposal submitted in 2016 and 2017. It was passed out of the Environment Committee in 2016, but not in 2017, with substitute language (a new and unrelated section concerning snapping turtles was added) as substitute House Bill 5315. This bill was amended and passed by the House, but was not voted on by the Senate. The House amendment removed the snapping turtle language, limited "wild animals" to bears and coyotes, and provided for a lesser penalty for first time minor violations.



## PROPOSAL IMPACT

### ◇ **AGENCIES AFFECTED** *(please list for each affected agency)*

<p><b>Agency Name:</b> NONE</p> <p><b>Agency Contact (name, title, phone):</b> <a href="#">Click here to enter text.</a></p> <p><b>Date Contacted:</b> <a href="#">Click here to enter text.</a></p> <p>Approve of Proposal    <input type="checkbox"/> <b>YES</b>    <input type="checkbox"/> <b>NO</b>    <input type="checkbox"/> <b>Talks Ongoing</b></p>
<p><b>Summary of Affected Agency's Comments</b></p> <p><a href="#">Click here to enter text.</a></p>
<p>Will there need to be further negotiation?    <input type="checkbox"/> <b>YES</b>    <input type="checkbox"/> <b>NO</b></p>

### ◇ **FISCAL IMPACT** *(please include the proposal section that causes the fiscal impact and the anticipated impact)*

<p><b>Municipal</b> <i>(please include any municipal mandate that can be found within legislation)</i></p> <p>No impact</p>
<p><b>State</b></p> <p>No impact, any enforcement would occur within current resources</p>
<p><b>Federal</b></p> <p>No impact</p>
<p><b>Additional notes on fiscal impact</b></p> <p><a href="#">Click here to enter text.</a></p>

### ◇ **POLICY and PROGRAMMATIC IMPACTS** *(Please specify the proposal section associated with the impact)*

<p><a href="#">Click here to enter text.</a></p>
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**Insert fully drafted bill here**

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

Section 1. Section 26-25a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No person shall feed, place, provide, give, expose, deposit, scatter or distribute any edible material or attractant with the purpose of feeding, attracting or enticing potentially dangerous animals, except as provided for in this chapter, on lands not owned by the state.

(b) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, to prohibit or restrict the unintentional feeding of potentially dangerous animals on lands not owned by the state.

[(a)] (c) The Commissioner of Energy and Environmental Protection may adopt regulations in accordance with the provisions of chapter 54 prohibiting or restricting the feeding of wildlife on state-owned property. Such regulations shall include, but not be limited to, procedures for designating areas subject to such prohibitions or restrictions. Any such designation shall be effective after public notice and a public comment period.

[(b)] (d) Any conservation officer appointed pursuant to section 26-5 and any other officer authorized to serve criminal process may enforce the provisions of this section and any regulations adopted pursuant to [subsection (a) of] this section. Any violation of [such regulations] the provisions of this section or of any regulation adopted pursuant to this section shall be an infraction.

(e) For purposes of this section, "potentially dangerous animal" includes any of the following wildlife: (1) The felidae, including, but not limited to, the bobcat; (2) the canidae, including, but not limited to, the coyote and the fox; and (3) the ursidae, including, but not limited to, the black bear.