



## DRAFT Agency Legislative Proposal - 2018 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 111717\_DEEP\_Boating Safety Cert

(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 Certification

**Statutory Reference:** CGS Section 15-140e

**Proposal Summary:**

This proposal establishes a minimum boating safety education requirement for all persons operating a registered vessel on Connecticut waters, opens up water skiing to all those who have a National Association of State Boating Law Administrators (NASBLA) approved safe boating education and a safe water skiing endorsement issued by the Commissioner, and imposes a daylight-operation-only restriction in those cases where a boater is allowed to operate a registered boat without having safe boating education. It also reduces the amount of days a non-certified person can operate a registered vessel without the benefit of safe boating education, where such exemptions exist. In addition, this proposal extends boating privilege reciprocity to those who have received NASBLA-approved boating education who are from any state that extends similar boating rights to persons who hold Connecticut safe boating certification.

### PROPOSAL BACKGROUND

◇ **Reason for Proposal**

As state boating law currently exists, non-residents are allowed to operate motorboats in Connecticut without the benefit of any boating safety education, as long as the motorboat is not a jet ski. Residents, meanwhile, are held to a different standard; they are required to have safe boating education and certification as a prerequisite to boating on state waters. Experience suggests that it is only a matter of time before a non-resident, non-educated boater who is operating on our waters legally becomes involved in an accident that formal safe boating education might have prevented.



The same section of law contains rules for the recently implemented safe water skiing endorsement program. As originally implemented, this law allows only Connecticut residents and residents of New York, New Hampshire, Massachusetts and Rhode Island to water ski in Connecticut. While this was an appropriate limitation for the introduction of this law and the development of a system to issue safe water skiing endorsements, it seems unnecessary at this time to maintain the limitation.

In this proposal the Boating Division sets forth a minimum boating education standard for all recreational boaters who operate motorboats on Connecticut waters, and opens up water skiing to all those who have approved safe boating education. It does so by first recognizing that successful completion of boating education which is endorsed by the National Association of State Boating Law Administrators (NASBLA) is sufficient to provide the minimum education standard the Boating Division wants all motor boat operators to meet. Connecticut's safe boating education is NASBLA-approved, as is the boating education of most states. It then extends the right to boat and water ski in Connecticut to all non-residents whose resident state offers the reciprocal privileges to holders of Connecticut certification.

The Boating Division recognizes that these changes will require residents of the surrounding states, who may have boated in Connecticut for decades without the benefit of formal boating education, to now take such education. To accommodate this change, the Boating Division will offer free boating education as needed near its boundaries for the benefit of those non-residents affected by this law, and will delay its effective date until January 1, 2020.

In addition, this proposal:

- Reduces the amount of time afforded to non-educated boaters taking advantage of the renters exemption from 14 days to 7 days, and restricts such operators to daylight operation;
- Reduces the amount of time afforded to non-certified boaters in the temporary certificate provision from 3 months to 45 days and restricts such operators to daylight operation; and,
- Eliminates the "real property" trigger requiring a person who owns real property in Connecticut to have a Connecticut safe boating certification, put forth because many visitors have seasonal property in CT and the "real property" trigger has led to confusion about how to apply this section of law.
- To be effective beginning January 1, 2020



◇ **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)*

This proposal establishes a minimum boating safety education requirement for all recreational boaters operating a registered vessel on Connecticut waters and opens up water skiing to all those who have NASBLA-approved safe boating education (regardless of where they received their education) and a safe water skiing endorsement issued by the Commissioner.

**Insert fully drafted bill here**

**Section 1.** Section 15-140e of the general statutes is repealed and the following is substituted in lieu thereof:

(a) [No] Subject to the additional requirements of this chapter regarding the operation of personal watercraft, no resident of the state[, person owning real property in the state] or person owning a vessel in the state that is required to be registered or numbered with the state pursuant to this chapter, shall operate on the waters of the state a vessel which is required to be registered or numbered pursuant to this chapter unless such person has a valid vessel operator license issued by the United States Coast Guard or has obtained a safe boating certificate issued by the Commissioner of Energy and Environmental Protection. Subject to the additional requirements of this chapter regarding the operation of personal watercraft, no non-resident shall operate on the waters of the state any vessel that is required to be registered or numbered pursuant to this chapter unless such person has a valid vessel operator license issued by the United States Coast Guard, a boating safety certificate from a state that has a reciprocal agreement with the commissioner, or evidence of successful completion of safe boating education that was approved by the National Association of State Boating Law Administrators (NASBLA) which evidence bears the NASBLA logo or mark. No owner of a vessel shall knowingly authorize or permit a person who is less than sixteen years of age who is required by this section to obtain a safe boating certificate issued by the Commissioner of Energy and Environmental Protection to operate such vessel on the waters of the state without a safe boating certificate, unless such person is under the direct onboard supervision of a person who is at least eighteen years of age who has been issued a safe boating certificate and who has held such certificate for at least two years. A safe boating certificate may be suspended or revoked, pursuant to section 15-132a, 15-133, 15-140l or 15-140n, and shall be valid for the life of the person to whom it is issued unless otherwise suspended or revoked. The provisions of this section shall not apply to any person who, between [one hour before] sunrise and [one hour after] sunset, operates a vessel propelled exclusively by an electric motor that is rated at one hundred six pounds of thrust or less on [the inland waters of this state, upon which motor powered vessels exceeding ten horsepower are prohibited] those inland waters where the use of motors exceeding ten horsepower is prohibited, and provided such vessel is not engaged in



water skiing or is not configured and operated in a manner similar to that of a personal watercraft.

(b) A safe boating certificate shall be issued under subsection (a) of this section to any applicant regardless of age who provides proof that such applicant has: (1) Successfully completed a course in safe boating operation approved by the Commissioner of Energy and Environmental Protection, which courses may include those offered by the United States Power Squadrons, Coast Guard Auxiliary or other organizations, or (2) successfully passed an equivalency examination testing knowledge of safe boating operation administered by the commissioner.

(c) Notwithstanding subsection (a) of this section, any person who purchases a new or used vessel may, upon vessel registration, apply to the Department of Energy and Environmental Protection for a temporary safe boating certificate which shall be valid for [three months] forty five days from the date of registration. No person shall be issued more than one temporary safe boating certificate. Such temporary safe boating certificate shall be valid only between sunrise and sunset.

(d) Any person operating a vessel other than a personal watercraft, as defined in section 15-140j, which is rented for a period of [fourteen] seven days or less from a boat livery need not obtain a certificate during the rental period provided the vessel is operated only between sunrise and sunset. An owner, agent or employee of a boat livery shall furnish to each rental customer literature on safety and rules of navigation as supplied by the commissioner.

(e) Any person enrolled in a course in safe boating operation approved by the Commissioner of Energy and Environmental Protection may operate a vessel without a safe boating certificate when under the direct onboard supervision of a boating instructor holding a valid instructor number issued by the Department of Energy and Environmental Protection.

(f) Notwithstanding the provisions of subsection (a) of this section, on and after October 1, 2015, no person shall operate on the waters of the state a vessel that is required to be registered or numbered pursuant to this chapter and that is engaged in water skiing, as defined in section 15-127, unless such person: (1) Is not less than sixteen years of age, (2) has a valid vessel operator license issued by the United States Coast Guard, has obtained a safe boating certificate or certificate of personal watercraft operation issued by the Commissioner of Energy and Environmental Protection or holds [a boating safety certificate from a state that has a reciprocal agreement with the commissioner pursuant to section 15-140f or 15-140j] evidence of successful completion of safe boating education that was approved by the National Association of State Boating Law Administrators (NASBLA) which evidence bears the NASBLA logo or mark, and (3) has a safe water skiing endorsement issued by the Commissioner of Energy and Environmental Protection on or accompanying such certificate [that was issued by the



Commissioner of Energy and Environmental Protection upon] or evidence of NASBLA-approved safe boating education. [such person's completion of the safe water skiing instruction described in section 15-140f]. No owner of a vessel shall knowingly authorize or permit a person who is less than sixteen years of age to operate such vessel while engaged in water skiing on the waters of the state. The requirements of subdivision (3) of this subsection shall not apply to any resident or person who, on or before October 1, 2015, received a valid vessel operator license issued by the United States Coast Guard[,] or obtained a safe boating certificate or certificate of personal watercraft operation from the [commissioner or] Commissioner of Energy and Environmental Protection. The requirements of subdivision (3) of this subsection shall not apply to any non-resident who, on or before October 1, 2015, held a boating safety certificate from a state that has [such] a reciprocal agreement with the [commissioner] Commissioner of Energy and Environmental Protection or holds [a boating safety certificate from a state that has a reciprocal agreement with the commissioner pursuant to section 15-140f or 15-140j] evidence of successful completion on or before October 1, 2015 of safe boating education that was approved by the National Association of State Boating Law Administrators (NASBLA) which evidence bears the NASBLA logo or mark. For the purposes of this chapter, any state that recognizes a safe boating certificate or certificate of personal watercraft operation issued by the Commissioner of Energy and Environmental Protection as granting the holder corresponding rights to operate a vessel in that state, subject to that state's boating laws and regulations, shall be deemed to have a reciprocal agreement with the commissioner. Nothing in this subsection shall be construed to prohibit the towing of a person or a vessel during the course of an emergency that poses a threat to human life or property.

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

(h) Any course in safe boating operation approved by the Commissioner of Energy and Environmental Protection, as described in subsection (b) of this section, shall include instruction on the proper means of: (1) Inspecting a vessel and trailers used for transporting such vessels for the presence of vegetation and aquatic invasive species, as determined by the commissioner pursuant to subsection (a) of section 15-180; and (2) properly disposing of such vegetation and such aquatic invasive species.



## DRAFT Agency Legislative Proposal - 2018 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 111717\_DEEP\_Drunk Boating

(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 Sections 15-140q and 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

##### Section 1

In Connecticut it is illegal to boat under the influence (BUI) of alcohol. When a person is arrested for BUI, they face two separate potential suspensions of their boating rights; an administrative suspension and a criminal suspension. The primary purpose of this proposal is to lengthen current administrative suspension periods so to provide a more effective deterrent for BUI.

The process for administrative suspension of boating rights following an arrest for BUI closely follows the process for an administrative suspension of a driver's license following an arrest for driving while intoxicated (DWI). In fact, the length of an administrative suspension imposed after a BUI arrest is the same as that of DWI. But the impact of that suspension is markedly different: boating is viewed as a recreational seasonal activity and driving is viewed as an essential year-round activity, and law enforcement has reported that the current BUI administrative suspension period has little effect on a person's decision to drink and boat - this, in spite of the fact that of the 60 boating accident fatalities that occurred in Connecticut between 2006 and 2015, 26 involved alcohol. Consider that a person arrested in October (an active month for boating) will likely serve an inconsequential 90-day administrative suspension of their boating rights in the months of November, December and January. This proposal doubles all current administrative suspension



periods, ensuring that even the shortest suspension period will include some portion of a boating season in order to provide a more effective deterrent to BUI.

Two other changes are offered in this proposal, each concerning the process whereby a person arrested for BUI can challenge an administrative suspension of their boating rights via a per se hearing. First, this proposal lengthens the amount of time - from three days to seven days - between an arrest and the time an arrest report is due to the Commissioner. BUI arrest reports often take more than three days to prepare and have approved, particularly when an arrest takes place around a weekend and the arresting officer is due to go off duty. Finally, under current rules, only the arrestee can request a continuance if a per se hearing is requested. We now propose to allow the Commissioner to request one continuance, and the Hearing Officer to request one continuance, as circumstances have arisen in the past where the ability for the Hearing Officer or the Commissioner to request a continuance would have been beneficial to all parties.

### **Section 2**

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)*

<p><b>Agency Name:</b> Click here to enter text.</p> <p><b>Agency Contact (name, title, phone):</b> Click here to enter text.</p> <p><b>Date Contacted:</b> Click here to enter text.</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>Click here to enter text.</p>
<p>Will there need to be further negotiation?    <input type="checkbox"/> YES    <input 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>No fiscal impact to municipalities is anticipated.</p>
<p><b>State</b></p> <p>No fiscal impact to the state is anticipated.</p>
<p><b>Federal</b></p> <p>No fiscal impact to the federal government is anticipated</p>
<p><b>Additional notes on fiscal impact</b></p> <p>No fiscal impact is anticipated</p>

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

<p>The purpose of Section 1 of the proposed act is to lengthen current suspension periods for those persons who undergo an administrative suspension of their boating rights following an arrest for boating under the influence of drugs or alcohol. The Boating Division is responsible for imposing the suspensions and for restoring those rights at the completion of the suspension period. Lengthening existing suspension periods will strengthen the state's position against boating under the influence, but will not impose any additional burden to the state nor require any more resources than are currently devoted to the program. Section 2 fixes 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.</p>
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**Insert fully drafted bill here**

**Section 1.** Section 15-140q of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Any person who operates a vessel in this state shall be deemed to have consented to a chemical analysis of such person's blood, breath or urine, and if such person is a minor, such person's parent or parents or guardian shall also be deemed to have given their consent for such an analysis of the minor's blood, breath or urine.

(b) If any such person, having been placed under arrest for: (1) Violating subsection (b) of section 53-206d; (2) operating a vessel upon the waters of this state while under the influence of intoxicating liquor or any drug, or both; (3) operating a vessel upon the waters of this state while such person has an elevated blood alcohol content, and thereafter, after being apprised of such person's constitutional rights, having been requested to submit to a blood, breath or urine test at the option of the police officer, having been afforded a reasonable opportunity to telephone an attorney prior to the performance of such test and having been informed that such person's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation issued by the commissioner as a condition of operating a vessel shall be suspended in accordance with the provisions of this section if such person refuses to submit to such test or if such person submits to such test and the results of such test indicate that such person has an elevated blood alcohol content and that evidence of any such refusal shall be admissible in accordance with subsection (d) of section 15-140r, and may be used against such person in any criminal prosecution, refuses to submit to the designated test, the test shall not be given; provided, if such person refuses or is unable to submit to a blood test, the peace officer shall designate the breath or urine test as the test to be taken. The peace officer shall make a notation upon the records of the police department that such officer informed such person that such person's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation would be suspended if such person refused to submit to such test or if such person submitted to such test and the results of such test indicated that such person has an elevated blood alcohol content.

(c) If the person arrested refuses to submit to such test or analysis, or submits to such test or analysis and the results of such test or analysis indicate that at the time of the alleged offense such person had an elevated blood alcohol content, the peace officer shall immediately revoke the safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation, if any, of such person for a twenty-four-hour period. The peace officer shall prepare a written report of the incident and shall mail the report, together with any certificate taken into possession and a copy of the results of any chemical test or analysis, to the commissioner within [three business] seven days. The report



shall be made on a form approved by the commissioner and shall be subscribed and sworn to under penalty of false statement as provided in section 53a-157b by the peace officer before whom such refusal was made or who administered or caused to be administered such test or analysis. If the person arrested refused to submit to such test or analysis, the report shall be endorsed by a third person who witnessed such refusal. The report shall set forth the grounds for the officer's belief that there was probable cause to arrest such person for operating such vessel while under the influence of intoxicating liquor or any drug, or both, or while such person has an elevated blood alcohol content and shall state that such person refused to submit to such test or analysis when requested by such peace officer or that such person submitted to such test or analysis and the results of such test or analysis indicated that such person at the time of the alleged offense had an elevated blood alcohol content.

(d) If the person arrested submits to a blood or urine test at the request of the peace officer, and the specimen requires laboratory analysis in order to obtain the test results, and if the test results indicate that such person has an elevated blood alcohol content, the peace officer, immediately upon receipt of the test results, shall notify and submit to the commissioner the written report required pursuant to subsection (c) of this section.

(e) Upon receipt of such report, the commissioner shall suspend the safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation of such person effective as of a date certain, such date shall be no later than thirty-five days after the date such person received notice of such person's arrest by the peace officer. Any person whose safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation is suspended in accordance with this subsection shall be entitled to a hearing before the commissioner to be held prior to the effective date of the suspension. The commissioner shall send a suspension notice to such person informing such person that such person's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation is suspended and shall specify the date of such suspension and that such person is entitled to a hearing prior to the effective date of the suspension and may schedule such hearing by contacting the commissioner not later than seven days after the date of mailing of such suspension notice.

(f) If such person does not contact the department to schedule a hearing, the commissioner shall affirm the suspension contained in the suspension notice for the appropriate period specified in subsection (i) of this section.

(g) If such person contacts the department to schedule a hearing, the commissioner shall assign a date, time and place for the hearing, which date shall be prior to the effective date of the suspension. At the request of such person, or any party to the proceeding, and upon a showing of good cause, the commissioner may grant one continuance for a period not to exceed thirty



days. The hearing shall be limited to a determination of the following issues: (1) Whether the peace officer had probable cause to arrest the person for operating the vessel while under the influence of intoxicating liquor or drugs, or both, or while such person has an elevated blood alcohol content; (2) whether such person was placed under arrest; (3) whether such person (A) refused to submit to such test or analysis, or (B) submitted to such test or analysis and the results of such test or analysis indicated that at the time of the alleged offense that such person had an elevated blood alcohol content; and (4) whether such person was operating the vessel. At the hearing, the results of the test or analysis shall be sufficient to indicate the ratio of alcohol in the blood of such person at the time of operation, except that if the results of an additional test, administered pursuant to section 15-140r, indicate that the ratio of alcohol in the blood of such person is eight-hundredths of one per cent or less of alcohol, by weight, and is higher than the results of the first test, evidence shall be presented that demonstrates that the test results and analysis thereof accurately indicate the blood alcohol content at the time of operation. The fees of any witness summoned to appear at the hearing shall be the same as provided in section 52-260.

(h) If, after such hearing, the commissioner finds on any one of said issues in the negative, the commissioner shall stay the safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation suspension. If, after such hearing, the commissioner does not find on any one of said issues in the negative or if such person fails to appear at such hearing, the commissioner shall affirm the suspension contained in the suspension notice for the appropriate period specified in subsection (i) of this section. The commissioner shall render a decision at the conclusion of such hearing or send a notice of the decision by certified mail to such person not later than thirty-five days from the date of notice of such person's arrest by the peace officer or, if a continuance is granted, not later than sixty-five days from the date such person received notice of such person's arrest by the peace officer. The notice of such decision sent by certified mail to the address of such person as shown by the records of the commissioner shall be sufficient notice to such person that such person's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation is suspended or the suspension is stayed. Unless a continuance of the hearing is granted pursuant to subsection (g) of this section, if the commissioner fails to render a decision within thirty-five days from the date that such person received notice of such person's arrest by the peace officer, the commissioner shall not suspend such person's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation.

(i) The commissioner shall suspend the operator's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation of a person who does not contact the department to schedule a hearing under subsection (e) of this section, who fails to appear at such hearing, or against whom, after a hearing, the commissioner holds pursuant to subsection (g) of this section. Such suspension



shall be as of the effective date contained in the suspension notice or the date the commissioner renders a decision, whichever is later, for a period of: or the date the commissioner renders a decision, whichever is later, for a period of: (1) (A) Except as provided in subparagraph (B) of this subdivision, [ninety days] six months from the date of arrest if such person submitted to a test or analysis and the results of such test or analysis indicated that at the time of the alleged offense that such person had an elevated blood alcohol content, or (B) [one hundred twenty days] eight months from the date of arrest if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one per cent or more of alcohol, by weight, or (C) [six months] one year if such person refused to submit to such test or analysis; (2) if such person has previously had such person's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation suspended under this section, (A) except as provided in subparagraph (B) of this subdivision, [nine] eighteen months if such person submitted to a test or analysis and the results of such test or analysis indicated that at the time of the alleged offense that such person had an elevated blood alcohol content, (B) [ten] twenty months if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one per cent or more of alcohol, by weight, and (C) [one year] two years if such person refused to submit to such test or analysis; and (3) if such person has two or more times previously had such person's safe boating certificate, right to operate a vessel that requires a safe boating certificate for operation or certificate of personal watercraft operation suspended under this section, [(A) except as provided in subparagraph (B) of this subdivision, two years if such person submitted to a test or analysis and the results of such test or analysis indicated that at the time of the alleged offense that such person had an elevated blood alcohol content, (B) two and one-half years if such person submitted to a test or analysis and the results of such test or analysis indicated that the ratio of alcohol in the blood of such person was sixteen-hundredths of one per cent or more of alcohol, by weight, and (C) three years if such person refused to submit to such test or analysis.] three years.

(j) Notwithstanding the provisions of subsections (b) to (i), inclusive, of this section, any peace officer who obtains the results of a chemical analysis of a blood sample taken from an operator of a vessel involved in an accident who suffered or allegedly suffered physical injury in such accident shall notify the commissioner and submit to the commissioner a written report if such results indicate that at the time of the alleged offense such person had an elevated blood alcohol content, and if such person was arrested for a violation of section 15-132a, subsection (d) of section 15-133 or section 15-140l or 15-140n in connection with such accident. The report shall be made on a form approved by the commissioner containing such information as the commissioner prescribes and shall be subscribed and sworn under penalty of false statement, as provided in section 53a-157b, by the peace officer. The commissioner shall, after notice and an opportunity for hearing, which shall be conducted in accordance with chapter 54, suspend the safe boating certificate, right to operate a vessel that requires a safe boating certificate for



operation or certificate of personal watercraft operation of such person for a period of up to [ninety days] six months, or, if such person has previously had such person's operating privilege suspended under this section, for a period up to [one year] two years. Each hearing conducted under this section shall be limited to a determination of the following issues: (1) Whether the peace officer had probable cause to arrest the person for operating a vessel while under the influence of intoxicating liquor or drugs, or both, or while such person has an elevated blood alcohol content; (2) whether such person was placed under arrest; (3) whether such person was operating the vessel; (4) whether the results of the analysis of the blood of such person indicate that such person had an elevated blood alcohol content; and (5) whether the blood sample was obtained in accordance with conditions for admissibility as set forth in section 15-140s. If, after such hearing, the commissioner finds on any issue in the negative, the commissioner shall not impose a suspension. The fees of any witness summoned to appear at the hearing shall be the same as provided by the general statutes for witnesses in criminal cases.

(k) The provisions of this section shall apply with the same effect to the refusal by any person to submit to an additional chemical test as provided in subdivision (5) of subsection (a) of section 15-140r.

(l) The provisions of this section do not apply to any person whose physical condition is such that, according to competent medical advice, such test would be inadvisable.

(m) The state shall pay the reasonable charges of any physician who, at the request of a municipal police department, takes a blood sample for purposes of a test under the provisions of this section.

(n) For the purposes of this section, "elevated blood alcohol content" means: (1) A ratio of alcohol in the blood of such person that is eight-hundredths of one per cent or more of alcohol, by weight, or (2) if such person is under twenty-one years of age, a ratio of alcohol in the blood of such person that is two-hundredths of one per cent or more of alcohol, by weight.

**Section 2.** Section 15-154 of the general statutes is repealed and the following is substituted in lieu thereof:

(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 - 2018 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 111717\_DEEP\_E-Filing

(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: Water Planning & Management Division

Agency Analyst/Drafter of Proposal: Denise Ruzicka

**Title of Proposal:** Administrative Streamlining through E-Reporting

**Statutory Reference:** 4-60s

**Proposal Summary:**

An agency, as defined in section 4-166, may suspend any requirement established in its regulations for the paper or facsimile submission of documents or data required to be submitted to an agency by federal or state statute, regulation, or permit and establish an electronic, enterprise-based filing system as the sole means of the submission for such documents or data. Prior to the establishment of such a system as the sole means of filing these documents or data, the agency shall provide at least thirty-days' notice on its website and in the Connecticut Law Journal and include with the notice any instructions for the use of such an electronic system to be maintained on the agency's website as long as the electronic filing system is in use.

### 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?*

Click here to enter text.

◇ **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 proposal was received a Joint Favorable from the GEA Committee in 2017 as a part of HB 7277, which died on the House calendar possibly due to other unrelated provisions in the bill. This year's proposal closely tracks the JF language, which is different than DEEP's original 2017 proposal but consistent with the intent and effect.

This proposal allows state agencies, through their own instructions, to transition to the use of online filing for records of all types. It would supersede outdated language in regulations that calls for submission of records by mail and facsimile. This change will have a positive impact on DEEP's ability to implement digital records and e-filing systems, which will provide more efficient service to the public.

Before suspending the regulatory requirements or requiring electronic filing or service, the agency must give 30 days' notice on its website and in the Connecticut Law Journal, including instructions for using the system. The provision requires the agency to maintain the instructions on its website for as long as it requires the electronic filing or service of documents or data. As under existing law, agencies must exempt from electronic filing any person that requests an exemption and provides written notice to the agency of a hardship.

### **PROPOSAL IMPACT**

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

**Agency Name:** Many state agencies could potentially benefit from this administrative streamlining. This is drafted to allow agencies flexibility in implementing e-reporting, but does not mandate that they do so.

**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> Decreases costs and time associated with paper reporting.
<b>State</b> Significant savings to state agencies to adopt and enhance electronic formatting. Avoids onerous and time consuming regulatory and/or statutory amendments related to required state or federal form submittals.
<b>Federal</b> Ease of state compliance with federal e-reporting rules.
<b>Additional notes on fiscal impact</b>

◇ **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**

Section 4-60s of the general statutes is repealed and the following is substituted in lieu thereof:

(a) Each state agency of the Executive Department shall explore the feasibility of converting all applications and forms used by the public to electronic format and create an inventory of all forms used by such agency.

(b) Notwithstanding [the provisions of chapter 54] any provision of the general statutes, an agency, as defined in section 4-166, may (1) suspend any requirements for paper filing or service of documents [requirements] or data contained in any regulation adopted by such agency, [and] or (2) in a manner prescribed by the agency, require the electronic filing or service of any documents or data required to be submitted to such agency by any provision of federal or state law, any regulation adopted by an agency, any order or any license, as such term is defined in section 4-166, or of any documents or data otherwise filed with the agency or served on others in formal and informal agency proceedings. Any agency that determines to suspend such regulatory requirements or to require such electronic filing or service may establish an electronic filing system for the electronic filing or service of such documents. . Such agency, before establishing such a system, shall give at least thirty days' notice by posting on its Internet web site and publishing in the Connecticut Law Journal a notice of its intended action and the instructions for the use of such system. The agency shall maintain



such instructions on its Internet web site as long as the agency requires the electronic filing or service of documents or data in formal and informal agency proceedings in accordance with this subsection. Any agency establishing such a system shall grant a request from a person, as defined in section 4-166, for an exemption from any electronic filing requirements due to a hardship communicated in writing to the agency, including, but not limited to, a lack of access to a device capable of electronic filing or the incompatibility of a specific filing with the electronic filing system.



## DRAFT Agency Legislative Proposal - 2018 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): **111717\_DEEP\_Forestry**

(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 23-65h(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 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.

Northeastern Interstate Forest Fire Protection Compact, Article IX 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 the 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



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?

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. Sections 1 and 3 are new proposals.

### 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

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**

Minimal gain due to increased efficiencies.

**Federal**

NONE

**Additional notes on fiscal impact**

NONE

#### ◇ 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 aide 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**

## **Section 1.**

Article IX of section 23-53 of the general statutes is repealed and the following is substituted in lieu thereof:

### 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 Article IX of this compact which relate to mutual aid in combating, controlling or preventing forest fires shall be operative as between any state party to this compact and any other state which is party to a regional forest fire protection compact in another region provided the legislature of such other state shall have given its assent to such mutual aid provisions of this compact.

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

(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 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 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 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 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) If the commissioner finds that the applicant is competent with respect to the required qualifications, including those provided in section 23-65o, he 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. The commissioner may grant a sixty day extension 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 re-examination pursuant to the provisions of this subsection. Such late applications shall be subject to 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 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 the Society of American Foresters or similar professional organization which provides substantially similar qualifications for certification provided that the person can demonstrate knowledge of the forestry laws of the state of Connecticut to the commissioner.

(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.

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



(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 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; 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; 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 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; and
- (2) Other information the commissioner deems necessary.



## DRAFT Agency Legislative Proposal - 2018 Session

**Document Name** (e.g. OPM1015Budget.doc; OTG1015Policy.doc): 111717\_DEEP\_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:** Revisions to Environmental Statutes

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

**Proposal Summary:**

These straightforward changes improve and/or streamline programs and should not be controversial.

Section 1

Repeals the requirement that Connecticut municipalities obtain approval from the Department of Energy and Environmental Protection (DEEP) prior to the adoption of a municipal noise control ordinance. This simplifies the process for municipalities and eases an administrative burden for DEEP.

Section 2

Provides authority to adopt a program to allow auto manufacturers to meet part of their obligations in the Zero Emission Vehicle (ZEV) Program through advertising or investment efforts in Connecticut. Program will be developed in coordination with automakers.

Section 3

Clarifies the duties of the Nuclear Energy Advisory Council (NEAC) to include discussion of safe decommissioning of nuclear facilities and fuel storage. This allows an avenue for public input on nuclear post-closure issues.

Section 4

Provides a one year grace period for the renewal of lapsed pesticide certification (commercial supervisor, commercial operator and private applicator). This eases an administrative burden and benefits businesses.



**Section 5**

Extends the exemption from solid waste and water discharge permits to leaf composting facilities that also add grass clippings to their leaf compost. This addresses the reality that these materials are often comingled and should not trigger the need for a permit.

**Section 6**

This provision binds existing interest holders – upon their written consent – to proper soil management requirements if they dig/disturb waste left in place, and allows use of Notice of Activity & Use Limitations where there are prior interest holders. This streamlines the process for the owner to place appropriate use limitations on sites being remediated, increasing opportunities for faster remediation and redevelopment.

**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 as S.B. No. 834 in 2017 but failed to pass in House because of an unrelated provision.

**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**



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◇ **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> Sections 1 and 5 ease administrative burdens for towns.
<b>State</b> Sections ease administrative burdens for DEEP and can be implemented without additional resources.
<b>Federal</b> <a href="#">Click here to enter text.</a>
<b>Additional notes on fiscal impact</b> <a href="#">Click here to enter text.</a>

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

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

**Section 1**

Section 22a-73 of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof:

(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 ordinance shall be approved unless it is in conformity with 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.]

## Section 2

Sec. 22a-174g of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof:

California motor vehicle emissions standards. (a) On or before December 31, 2004, the Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, to implement the light duty motor vehicle emission standards of the state of California, and shall amend such regulations from time to time, in accordance with changes in said standards. Such regulations shall be applicable to motor vehicles with a model year 2008 and later. Such regulations may incorporate by reference the California motor vehicle emission standards set forth in final regulations issued by the California Air Resources Board pursuant to Title 13 of the California Code of Regulations and promulgated under the authority of Division 26 of the California Health and Safety Code, as may be amended from time to time. Nothing in this section shall limit the commissioner's authority to regulate motor vehicle emissions for any other class of vehicle.

(b) As part of the state's implementation plan under the federal Clean Air Act, the Commissioner of Energy and Environmental Protection may establish a program to allow the sale, purchase and use of motor vehicles which comply with any regulations adopted by the commissioner which implement the California motor vehicles emissions standards for purposes of generating any emission reduction credits under said act. Nothing in this section shall prohibit the Commissioner of Energy and Environmental Protection from establishing a program to require the sale, purchase and use of motor vehicles which comply with any regulations adopted by the commissioner which implement the California motor vehicle emissions standards.

(c) On or after January 1, 2019, the Commissioner of Energy and Environmental Protection may establish an electric vehicle infrastructure offset program to allow for the award of Zero Emission Vehicle program offset allowances for certain investments by automotive manufacturers made in Connecticut to promote the adoption of electric and fuel cell vehicles, provided such investments are not required by court order or other enforcement action.

## Section 3

Section 16-11a of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof:

Nuclear Energy Advisory Council; composition; duties. (a) There is established a Nuclear Energy Advisory Council which shall (1) hold regular public meetings for the purpose of discussing issues relating to the [safety, and]safe operation and decommissioning of current and former commercial nuclear power generating facilities located in this state and the safe storage and transportation of spent nuclear fuel located in this state and to



advise the Governor, the General Assembly and municipalities within a five-mile radius of any current or former commercial nuclear power generating facility in this state of such issues, (2) work in conjunction with agencies of the federal, state and local governments and with any [electric] company operating or decommissioning a commercial nuclear power generating facility or storing or transporting spent nuclear fuel to ensure the public health and safety, (3) discuss proposed changes in or problems arising from the operation or decommissioning of or the storage and transportation of spent nuclear fuel from any current or former commercial nuclear power generating facility, (4) communicate with any [electric] company operating or decommissioning a commercial nuclear power generating facility or storing or transporting spent nuclear fuel about safety, environmental, or operational concerns at the facility, which communications may include, but not be limited to, receipt of written reports and presentations to the council, [and] (5) review the current status of facilities with the Nuclear Regulatory Commission, (6) provide public information and education on, and encourage community involvement, in matters related to the safe operation and decommissioning of any current or former commercial nuclear generating station in the state at meetings required by subsection, (7) have the authority to request reports of the status of decommissioning funding required pursuant to 10 CFR section 50.75 and 10 CFR section 50.82 for any current or former nuclear power generating station, (8) have the authority to request reports regarding the decommissioning plans for commercial nuclear power generating stations in the state that have filed a "post-shutdown decommissioning activities report" filed pursuant to 10 CFR 50.82(a)(4)(i) or a "license termination plan" filed pursuant to 10 CFR 50.82(a)(9)(i), including any site assessments and post-shutdown decommissioning assessment reports; provide a forum for receiving public comment on these plans and reports; and to provide comment on these plans and reports as the Council may consider appropriate to State agencies and the operator of such nuclear power generating station and in the annual report described in subdivision (f) of this subsection.

(b) The advisory council shall consist of: (1) Two members appointed by the president pro tempore of the Senate and two members appointed by the speaker of the House of Representatives; (2) the Commissioner of Energy and Environmental Protection, or said commissioner's designee; (3) one representative of an operator of a nuclear power generating facility located in the state, appointed by the Governor; (4) two electors from each municipality in which a nuclear power generating facility is located, appointed by the chief executive officers of said municipalities; and (5) four electors each of whom is from a municipality which is adjacent to a municipality in which a nuclear power generating facility is located, one appointed by the majority leader of the House of Representatives, one appointed by the majority leader of the Senate, one appointed by the minority leader of the House of Representatives, and one appointed by the minority leader of the Senate.

(c) All appointments to the advisory council shall be made not more than thirty days after June 6, 1996. Any vacancy shall be filled by the appointing authority.

(d) The council shall elect a chairperson from among its members, except that the speaker of the House of Representatives and the president pro tempore of the Senate shall select the chairpersons for the first meeting of the council. Such chairpersons shall schedule the first meeting of the council, which shall be held within sixty days after June 6, 1996.

(e) The membership of the council shall serve without compensation. The Commissioner of Energy and Environmental Protection shall provide clerical support to the council.



(f) On or before January 1, 1997, and annually thereafter, the advisory council shall report to the General Assembly concerning its activities for the preceding year.

(g) As used in this section the term "decommission" has the same meaning as provided in 10 CFR section 50.2.

#### Section 4

Section 22a-54(f) of the general statutes is repealed and the following is substituted in lieu thereof:

(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 CGS section 22a-54 and regulations promulgated thereunder.

#### Section 5

Section 22a-208i of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof:

Composting of leaves. Regulations. Certain recycling facilities exempt from requirement of permit for solid waste facility. (a) Notwithstanding any provision of this chapter, or chapter 446e or 446k, any facility where the sole business or activity conducted is composting of leaves, or composting of leaves with the addition of grass clippings at a ratio not less than 3:1 of leaves to grass clippings, shall be exempt from the requirements of sections 22a-208a and 22a-430. The commissioner may adopt regulations in accordance with the provisions of chapter 54 concerning facilities for the composting of leaves or leaves with the addition of grass clippings. Such regulations shall, without limitation, provide for the design, operation and monitoring of and reporting from such facilities.

(b) The commissioner may, by regulations adopted in accordance with chapter 54, exempt categories or classes of recycling facilities from the requirements of said section 22a-208a or 22a-430 provided such exemption would not adversely affect the environment and would advance the objectives of the solid waste management plan adopted and revised under sections 22a-228 and 22a-241a and the municipal solid waste recycling plan adopted under section 22a-241. No person or municipality may operate or continue to operate a recycling facility



without permits issued under said section 22a-208a or 22a-430 unless such person or municipality first files with the commissioner a written request for exemption under the regulations adopted under this section.

(c) The provisions of subsection (a) of this section exempting facilities composting leaves, or composting leaves with the addition of grass clippings, and the provisions of subsection (b) of this section exempting recycling facilities from the requirements of section 22a-208a shall not be construed to relieve such facilities from the obligation to comply with any other provision of this chapter or chapter 446e, including, but not limited to, operational requirements and other applicable requirements of regulations adopted under section 22a-209.

### **Section 6**

22a-133o(c) of the Connecticut General Statutes is repealed and the following is substituted in lieu thereof:

(3) A notice of activity and use limitation recorded pursuant to this subsection shall be implemented and adhered to by the owner and subsequent holders of interests in the property, such owner's successors and assigns, [and] any person who has a license to use such property or to conduct remediation on any portion of such property, and any prior holders of interest in the property who sign the notice of activity and use limitation.

(6) A notice of activity and use limitation shall not be used in any area where a prior holder of interest in the property has an interest that allows for the conduct of an activity that interferes with the conditions or purposes described in subparagraphs (A) to (E), inclusive, of subdivision (1) of this subsection [or if such interest allows for intrusion into the polluted soil], except if all such interest holders sign the notice of activity and use limitation.