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2003

Bill Number: 6402

Senate Pages: 3976-3978, 4075-4076

5

(Vol. 46, Pt. 13)

House Pages: 4045-4050

6

(Vol 46, Pt. 12)

Committee: Environment: 141-142, 147-150, 205-212, 258-
262, 411, 431-451

Pt. 7
41

Pt. 2

Page Total:

52

JOINT
STANDING
COMMITTEE
HEARINGS

JOINT
STANDING
COMMITTEE
HEARINGS

1-897
CONNECTICUT
GEN. ASSEMBLY
HOUSE
PROCEEDINGS
2003

S 488
CONNECTICUT
GEN. ASSEMBLY
SENATE
PROCEEDINGS
2003

ENVIRONMENT
PART 1
1-273

ENVIRONMENT
PART 2
274-626

VOL 46
PART 12
3793-4130

VOL 46
PART 13
4236-4530

2003
INDEX

2003

gmh

180 004045

House of Representatives

Thursday, May 22, 2003

Those voting Nay 0

Those absent and not Voting 6

DEPUTY SPEAKER HYSLOP:

The bill, as amended passes.

Clerk, please call Calendar 324.

CLERK:

On page 26, Calendar 324, Substitute for H.B. 6402,
AN ACT CONCERNING REVISIONS TO CERTAIN ENVIRONMENTAL
QUALITY PROGRAMS. Favorable Report of the Committee on
Finance, Revenue and Bonding.

DEPUTY SPEAKER HYSLOP:

Representative Caruso.

REP. CARUSO: (126TH)

Thank you, Mr. Speaker. Mr. Speaker, I move
acceptance of the Joint Committee's Favorable Report and
passage of the bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you
remark?

REP. CARUSO: (126TH)

Yes. Mr. Speaker, this bill deals with revisions to
certain environmental quality programs. Each year the
Legislature makes changes to those programs. This year,
in the summary, what the revisions will be is to change
the funding allotment for various water quality

gmh

004046
181

House of Representatives

Thursday, May 22, 2003

projects; it makes additional polluted property eligible for assessment or remediation under the Urban Site Remedial Action Program; excludes from Transfer Act requirements to conveyance of an establishment through foreclosure of a municipal tax lien on certain property in which no leak of a hazardous substance has occurred.

It requires that all new commercial underground storage tanks, other than residential storage tanks be of double-walled construction. It authorizes the Environmental Protection Commission to incorporate California vehicle emission standards by reference and gives certain utility companies special police officers, conservation officers, special conservation officers, and patrolmen joint jurisdiction over the kelda lands.

Mr. Speaker, I move adoption.

DEPUTY SPEAKER HYSLOP:

Will you remark further on the bill? Will you remark further on the bill?

REP. CARUSO: (126TH)

Yes. Mr. Speaker, the Clerk has in his possession LCO 6357. I ask that he read and I be allowed to summarize.

DEPUTY SPEAKER HYSLOP:

Clerk, please call LCO 6357, designated House "A" and the Representative has asked leave to summarize.

gmh

House of Representatives

Thursday, May 22, 2003

CLERK:

LCO number 6357, House "A" offered by
Representative Wallace.

DEPUTY SPEAKER HYSLOP:

Representative Caruso.

REP. CARUSO: (126TH)

Yes. Mr. Speaker, the amendment before us would provide manufacturers' packaging on the Internet of the manufacturer's website, information pertaining to -- I'm sorry, Mr. Speaker, I ask that that amendment be
withdrawn.

DEPUTY SPEAKER HYSLOP:

The motion is for the amendment to be withdrawn.
Seeing no objection, House "A" is withdrawn.

Will you remark further on the bill?

Representative Chris Stone of the 9th.REP. STONE: (9TH)

Thank you, Mr. Speaker. First of all, I want to commend Representatives Caruso and Widlitz and certainly the ranking members of the committee for offering this bill. This bill was considered by the Judiciary Committee and it was rather late in the session. Although we did not amend the bill in committee, there was a suggested amendment, for the record, and I'd like to have that called.

gmh

004048
183

House of Representatives

Thursday, May 22, 2003

I ask the Clerk to call LCO 5614 and I be allowed to summarize.

DEPUTY SPEAKER HYSLOP:

Clerk, please call LCO 5614, to be designated House "B" and the Representative has asked leave to summarize.

CLERK:

LCO number 5614, House "B" offered by
Representatives Farr and Stone.

DEPUTY SPEAKER HYSLOP:

Representative Stone.

REP. STONE: (9TH)

Thank you, Mr. Speaker. This amendment merely removes the phrase, "or a hazardous substance" from line 203 of the underlying bill. The purpose here is that the term "hazardous substance" has, within Connecticut law, a certain meaning which I think would have unintended consequences as part of this particular bill.

For example, under present law, hazardous substance would include toothpaste, pennies, thermometers in lamps, household cleaners, piping, multi-vitamins, and other similar common household products. I don't think that was the original intent of the drafters of the bill and I believe that they - and we've had an opportunity to discuss that with them. I don't know if they'll be speaking in support of the amendment, but I urge my

gmh

004049
184

House of Representatives

Thursday, May 22, 2003

colleagues to support it and I move its adoption.

DEPUTY SPEAKER HYSLOP:

The question is on adoption of House "B". Will you remark on House "B"? Will you remark on House "B"? If not, we'll try your minds.

All those in favor, signify by saying aye.

REPRESENTATIVES:

Aye.

DEPUTY SPEAKER HYSLOP:

Those opposed. The ayes have it, House "B" is adopted.

Will you remark further on the bill, as amended?

Will you remark further on the bill, as amended?

If not, staff and guests to the Well of the House, the machine will be opened.

CLERK:

The House of Representatives is voting by roll call. Members to the Chamber. The House is voting by roll call. Members to the Chamber, please.

DEPUTY SPEAKER HYSLOP:

Have all members voted? If all members have voted, please check the machine and make sure your vote is properly recorded. The machine will be locked and the Clerk will take a tally.

The Clerk will announce the tally.

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004050
185

House of Representatives

Thursday, May 22, 2003

CLERK:

H.B. 6402, as amended by House Amendment Schedule
"B"

Total Number Voting	138
Necessary for Passage	70
Those voting Yea	136
Those voting Nay	2
Those absent and not Voting	12

DEPUTY SPEAKER HYSLOP:

The bill, as amended passes.

Clerk, please call Calendar 294.

CLERK:

On page 25, Calendar 294, H.B. 6393, AN ACT
CONCERNING THE CONTROL AND SECURITY OF RADIOACTIVE
MATERIAL IN CONNECTICUT. Favorable Report of the
Committee on Finance, Revenue and Bonding.

DEPUTY SPEAKER HYSLOP:

Representative Widlitz.

REP. WIDLITZ: (98TH)

Thank you, Mr. Speaker. I move acceptance of the
Joint Committee's Favorable Report and passage of the
bill.

DEPUTY SPEAKER HYSLOP:

The question is on acceptance and passage. Will you
remark further?

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51

003976

Senate

Tuesday, June 3, 2003

THE CHAIR:

Without objection, so ordered.

THE CHAIR:

Mr. Clerk.

THE CLERK:

Calendar Page 5, Calendar 514, Substitute for H.B. 6402 An Act Concerning Revisions To Certain Environmental Quality Programs, as amended by House Amendment Schedule "A". Favorable Report of the Committees on Environment, Judiciary and Finance, Revenue and Bonding.

THE CHAIR:

Senator Williams.

SEN. WILLIAMS:

Thank you, Mr. President. I move adoption of the Joint Committee's Favorable Report and passage of the bill in concurrence with the House.

THE CHAIR:

Will you remark?

SEN. WILLIAMS:

Thank you, Mr. President. This bill makes a number of minor revisions to our environmental statutes. It amends the state's Clean Water Act to allow distressed municipalities to accept federal grants without losing state grant money.

It also excludes from the Transfer Act which pertains to properties that have hazardous waste or have had hazardous waste generated on the property, excludes from the Transfer Act, requirements that a conveyance of an establishment through foreclosure of a municipal tax lien comply with the Transfer Act.

It requires that all new commercial underground storage tanks other than residential storage tanks be of double walled construction.

It authorizes the Environmental Protection Commissioner to incorporate California vehicle emission standards by reference. Currently, apparently the Commissioner has to spell these out in any Connecticut regulations.

And it also gives utility company police officers who have had peace officer training as well as conservation officers and special conservation officers and others who have received the same training, joint jurisdiction over the Kelda lands including the privately owned Kelda lands and those lands recently acquired by the State of Connecticut.

THE CHAIR:

Will you remark further on the bill? Will you remark further? Senator Williams.

SEN. WILLIAMS:

If there's no objection, I would move this to the
Consent Calendar.

THE CHAIR:

Without objection, so ordered.

THE CLERK:

Calendar 522, File 702 and 780, Substitute for H.B.
6696 an Act Concerning The Reemployment Of Retired
Teachers, The Purchase Of Additional Credited Service
In The Teachers' Retirement System, The Excess Earnings
Account, Credit For Service With Certain Bargaining
Organizations, And Payment For Additional Credited
Service Purchased By Boards Of Education And Making
Changes To The Teachers' Retirement System, as amended
by House Amendment Schedule "A". Favorable Report of
the Committee on Appropriations.

Senator Harp.

SEN. HARP:

Thank you, Mr. President. I move acceptance of the
Joint Committees' Favorable Report and passage of the
bill in concurrence with the House.

THE CHAIR:

Will you remark?

SEN. HARP:

Thank you, Mr. President. The bill makes technical
administrative changes to the statutes governing the

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150

004075

Senate

Tuesday, June 3, 2003

the Second Consent Calendar begin on Calendar Page 4.

Calendar 508, Substitute for H.B. 6427.

Calendar Page 5, Calendar 514, Substitute for H.B. 6402.

Calendar 522, Substitute for H.B. 6696.

Calendar Page 7, Calendar 548, Substitute for H.B. 6038.

Calendar Page 8, Calendar 550, Substitute for H.B. 6417.

Calendar 555, H.B. 6292.

Calendar Page 10, Calendar 562, Substitute for H.B. 6657.

Calendar Page 12, Calendar 337, Substitute for S.B. 1150.

And Calendar Page 15, Calendar 417, Substitute for S.B. 1077.

Madam President, that completes those items previously placed on the Second Consent Calendar.

THE CHAIR:

Thank you, Mr. Clerk. Would you once again announce a roll call vote. The machine will be opened.

THE CLERK:

The Senate is now voting by roll call on the Second Consent Calendar. Will all Senators please return to the Chamber.

The Senate is now voting by roll call on the Second Consent Calendar. Will all Senators please return to the Chamber.

THE CHAIR:

Have all members voted? If all members have voted, the machine will be locked. The Clerk will announce the tally.

THE CLERK:

Motion is adoption of Consent Calendar No. 2.

Total number voting, 36. Necessary for adoption, 19. Those voting yea, 36; those voting nay, 0. Those absent and not voting, 0.

THE CHAIR:

The Consent Calendar is adopted. Senator Looney.
Senator Looney, please.

SEN. LOONEY:

Thank you, Madam President. Madam President, I would move for immediate transmittal to the House of Representatives of all items upon which the Senate has acted that require action in the House.

THE CHAIR:

Without objection, so ordered.

SEN. LOONEY:

And Madam President, I don't know whether any pause for any announcements or points of personal privilege

BAC to the .08. We've seen, of course, in boating, that there are stressors besides alcohol that impact you when you're boating.

You have sun, fatigue, vibration and noise. When you add alcohol to that, it makes a terrible mix and a very deadly mix. So, we support that portion of your bill. In terms of implied consent, you can read my statement at your leisure. It's very necessary that your enforcement or peace officers have the authority, on the water, to remove these people.

It doesn't do us any good to give them a citation for reckless operation, and to let them back on the water. These folks are deadly to other folks who are on the water, and this just isn't right. We're very pleased that today you're going to hopefully move on this legislation, and move it forward.

If not, I guess we'll be back again next year. We very much support this. Currently, 42 states and the District of Columbia have implied consent provisions. We'd like Connecticut to join those 42 and the District of Columbia. With that, if you have any specific questions, I'll be happy answer them. But we look forward, and we do support this legislation, and thank you very much.

SEN. WILLIAMS: Thank you. Are there questions? Thanks very much. Next, officials from the Department of Environmental Protection. I don't know if you want to go separately or as a group. Commissioner Arthur Rocque, Jane Stahl, and David Leff.

COMM. ARTHUR ROCQUE: Thank you, Senator Williams, I think we will go as a group, if we may. Senator Williams, Representative Widlitz, committee members. Thank you for raising these bills, these important bills that the Department has put in as part of their package.

I am joined by my two deputy commissioners, as well as several bureau chiefs and a few division directors and support staff, in case there are questions that I cannot answer. Neither snow nor sleet nor freezing rain -- wait, I guess it hasn't

HB 6393
SB 863
SB 840
SB 851
HB 6402
HB 6394
SB 850
SB 862
HB 6401

started yet. I get carried away. I heard too many school closings this morning, I guess.

I would like to give you a brief summary, rather than go through the excruciating detail of these fairly lengthy and complicated bills, and then I think it would be probably best the time would be served to respond to your direct questions.

You have before you, I believe, prepared by the Department, a four page summary that looks something like this, to which is attached the Department's testimony, and that's actually what I'm going from. At the outset, let me suggest that this legislation -- this legislative package this year is perhaps not flashy.

But it's designed with the intent to get us more efficient, more effective. Some of the statutes that are being amended here, or we're recommending to be amended here, have been in effect for 40 or 50 years, and are frankly quite outdated. There are other ideas that have been here before you in previous sessions, including the implied consent and drunk boating bill, that quite frankly, we feel are critically important.

They may not be flashy, they may not be responding to huge environmental issues, but with the budget and the likely reduction in force and in service in the Department, it's important that we get some of these more modern techniques and modern tools in order to do our job most efficiently and most effectively.

The first bill that I would like to address is RHB6393, AN ACT CONCERNING THE CONTROL AND SECURITY OF RADIOACTIVE MATERIAL IN CONNECTICUT. This has been before you in the past, as I'm sure you recognize, and it provides the Department with the necessary authority to develop and implement a program to enhance both the security and control of radioactive materials in the state.

Simply, it provides the necessary authority for us to achieve agreement state status with the Federal Nuclear Regulatory Commission. DEP would

protocols.

The next bill is HB6402, AN ACT CONCERNING REVISION TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS. It may be that this is virtually all environmental quality programs. There's a whole plethora of things here. It is a very long bill with a dozen or more sections, and they speak to many of the environmental quality programs in the Department.

Sections one and two are designed to encourage the construction of nitrogen removal projects in eligible municipalities. It changes the -- it allows distressed municipalities to obtain planning grants at 100% percent of eligible costs. This is in anticipation that federal grant money will be available in increasing amounts. And we believe we'll be able to do this.

And then design and construction grants would be eligible for a 50% percent rate for distressed municipalities. These are increases over the current amounts that are allowed by statute. We also propose to increase small community grant funding to 25% percent, again, to encourage small communities to be able to participate in nitrogen removal, which as you probably need no reminder, is the single most important thing we do for the health of Long Island Sound.

Also in these sections is revisions in the cap debt calculation, and I would beg you not to ask me to go through that. I actually got a second primer on that on the way over here, and I still don't even have the abbreviation committed to memory. It actually is one of those things that has been very contentious because it is a means of reduction of grant amounts based on the size of the expansion capability in the sewage treatment system, and that result is is we wind up calculating a grant that turns out to be less than the 20% percent that municipalities expect.

They don't understand why it's less than 20% percent of their total. We try to explain because it's 20% of the eligible costs, and then we spend a lot of time arguing back and forth. This would

hopefully cure that particular problem.

Sections three and four speak to our urban site remediation projects, which are often placed on an expedited schedule to meet economic needs. The 6402, sections three and four would allow us to more expeditiously use bond funds to investigate and remediate contaminated sites.

The problem is is that under the current statute, we have to go through a fairly exhaustive process on trying to figure out who the responsible party is before we can begin the cleanup, and this would actually allow us greater latitude in getting the cleanup up front, and seeking cost recovery out the back.

This is particularly important in Connecticut, because we have a lot of contaminated sites for which there are no clear responsible parties. I'm dealing with one currently in Hamden, which has received a fair amount of publicity, for which there is no existing entity for most of the contamination.

The entity that created most of that contamination went bankrupt and was bought out by a surviving entity back in the 1930s. This is contamination that goes back to the turn of the century. Unfortunately not this century, but the previous turn of the previous century.

Section five is a relatively straightforward clarification of the exemption for conveyance of an established (inaudible) as defined by statute by foreclosure. The problem is we didn't anticipate the municipal tax lien foreclosures when the bill was originally drafted, and we discovered they actually do occur.

Section six is a clarification of the definition of form one, so that both parts A and B are consistent with the requirement to investigate the parcel in accordance with the prevailing standards and guidelines. Again, a technical correction, but one that's very useful, in terms of administering the program.

Likewise, section seven changes the deletion of -- an unintentional deletion of form two, regarding the requirement to submit technical documentation relating to the investigation of a parcel, or remediation of an establishment or site upon the Commissioner's written request.

Section eight requires notice of remediation be provided to property owners of record, for property that abuts the parcel undergoing remediation. We think that that's actually a fairly useful provision that's not currently in the statute.

Section nine, again, is a technical correction. It corrects a reference to 22a-134f, which is actually not part of the property transfer law. The correct reference is 22a-134e. Section 10 provides the authority -- switching quickly to the air area, the authority to incorporate, by reference, California tail pipe emissions standards.

This is actually a more modern way of dealing with some of the new change and standards on vehicular emissions. It's something that California has done all of the heavy lifting on, and we propose to adopt that process here. It's again an area for which there's a significant amount of technical change.

Not seemingly terribly important in and of itself, each individual to change, but unfortunately without this, we wind up having to either go through an exhaustive rule making process, or a statutory provision, which is somewhat cumbersome, and I need not tell you, burdensome.

Section 11 makes modifications to the existing statute regarding the sale and use of sewage systems additives in Connecticut. Again, not a particularly intriguing or sexy idea perhaps, but necessary. We actually have small amounts of things in those additives, which in and of themselves, and in the amounts in which they are packaged and used are not toxic, but unfortunately, because of the current language, are viewed as toxic.

So, we're proposing to make some changes so that more of those additives that meet the spirit and intent of their use, are available. Section 12, switching from the environmental quality side to the environmental conservation side, is a clarification and the authority of the Department and the Bridgeport Hydraulic Company police officers on the Kelder Bridgeport Hydraulic Company lands.

It just simply clarifies that they can enforce areas -- they still have the authority to enforce in areas on which they hold an easement, and it also allows our officers to enforce on lands where we have an easement. A lot of that property, as you will recall, was transferred by easement less than fee simple title.

And this clarification will make it more efficient both for them and for us in maintaining the appropriate level of conservation law enforcement. And back to environmental quality, section 13 requires that all new non-residential underground storage tank systems be double walled in construction.

We think that this is critically important. If it had been in place of the statute, for example, a decade or so ago, our MTBE problems would be miniscule compared to what they are. The costs are relatively low, especially when you advertise them over the full 30 year design life of these types of tanks. It literally turns out to be a matter of a couple hundred dollars a year or less.

So, we think that that is a fairly useful change, in terms of protecting us from the future and God knows what additives will replace MTBE, that will cause problems in the future.

The next bill is RHB6394, which is AN ACT CONCERNING ENDANGERED SPECIES PROGRAMS OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION. Section one is important regrettably necessary. It would increase the fine for disturbing endangered bald eagle or bald eagle nest sites.

SEN. MCKINNEY: How long ago was that?

STEVE GUYEVAN: 2000.

SEN. MCKINNEY: Alright, because you say \$2.29, and that's a scary number, but yesterday, I filled up and it was for the super unleaded it was \$2.09, I think. So, let's say, and I don't know, but if there's a ten cent higher gas tax in Chicago or St. Louis, you're talking about a ten cent difference, which does not seem to be the huge price spike.

STEVE GUYEVAN: The difference is that right now, the price is rough, because the underlying price of the crude oil product is as high as it is. I mean, we're \$35.00 dollars a barrel. Whereas back then, it was a lot less. So, the prices, where you're right, I mean, you can try to compare them that way.

The differential is, or the point is that today, the prices are high because the crude is very expensive. Back then, it wasn't. So, if we were to get a price like what they had in cents per gallon, on top of what we've got in crude right now, I wouldn't hold to \$2.29 or \$2.39 or \$2.49 a gallon, to be honest with you.

SEN. MCKINNEY: Thank you.

STEVE GUYEVAN: Thank you.

Rep. Widlitz: (Mike not on).

STEVE GUYEVAN: Thank you.

REP. WIDLITZ: Greg Dana, followed by Bruce LePage.

GREGORY DANA: Good afternoon, Madam Chair, members of the committee. My name is Gregory Dana. I am vice president of the Environmental Affairs for the Alliance of Automobile Manufacturers. You can read the rest of my intro if not written testimony in the interest of time. I'm here to talk about section ten of HB6402, AN ACT CONCERNING REVISION TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS.

I've worked for many years with the Connecticut DEP very closely and very well. I've talked to Tom Tyler today, and with Paul Farrell earlier last week, about this section, and I understand what they're trying to do.

However, you have to understand from my industry, red flags get raised whenever California emission standards are brought up, something we are opposed to. Not because we don't want to go clean cars, because we think it's unnecessary, and a burden for the state.

The DEP Commissioner today said that California is under heavy listing. Well, let's put that in the past tense, because California has had a more stringent program for many years in the federal government.

But when (inaudible) was developed against (inaudible) federal emission standards for the 2004 model year, the auto industry asked EPA to set those standards as stringent as California, because we're tired of the patchwork quilt of states having California federal standards, and the problems it gives us in distribution, and the problems it gives our dealer body for selling the right car in the right state.

Now, if you look at what -- the fourth page of my testimony, you'll see a chart that looks like this. This is a writing of the mobile model that EPA uses, and all the states use to model motor vehicle emissions. If you look at the bottom line, that line -- well, all three lines pretty much overlay. It's a comparison of the California program and the federal program, with the new standards that take effect in 2004.

The differences there are within the noise of this model. This is an attempt to prove our point that the federal program is now as stringent as the California is for motor vehicle emissions. If you look at the next two pages, there are two pie charts that show that as these standards phase in over the time until 2020, you'll see that the motor

vehicle emissions surprisingly enough become a very small part of the whole pollution pie because of the stringency of these standards. They're extremely effective on what happens.

The other thing that should be of interest to you is that many manufacturers now are looking at producing what we refer to as 50 state cars, simply because California and federal are so close these days, it makes economic sense for manufacturers to have one car that satisfies all those needs.

So, you would be putting, essentially, a burden on the state of Connecticut to run a program which has no air quality benefit. Now, some people would say that these standards take effect over time until 2020, which is a long time to wait. If you look at the last page of my testimony, one of the other things that tier two does, and the new federal standards do, is reduces the sulphur in gasoline.

Sulphur is a poison to the catalytic converters on cars. If you were going to get an immediate and a significant reduction in tons of VOCs, NOX, carbon monoxide and PM2.5, like a light switch going on and off, in 2004, when this lower sulphur fuel comes in to the marketplace, that's because every car on the road that has a catalyst, and that's since 1975, will get cleaner immediately.

So, the good news is the federal program not only brings you immediate reductions because of sulphur control, but much better long term emissions because of the benefits of the new emissions standards over time.

I would just close by hoping that the DEP will continue to work with us on the modeling results we've shown here, before any consideration is given to adopting California's standards. Thank you very much.

REP. WIDLITZ: Thank you for your testimony. Do you know if other states around us have adopted the California standards, or are in the process of considering it?

GREG DANA: Massachusetts and New York have adopted California. They did it back in the early '90s when the California program was much more stringent than the federal program was at the time. During the time that New York was considering adoption of the new California standards that take effect in 2004, we worked with EPA.

EPA's modeler and our modeler told the state of New York your model is wrong. You're assuming too much -- too many benefits for the California program. New York ignored the advice of EPA and our modeler, and just went ahead anyhow. Vermont has California standards in effect.

And Maine has them, but without the California ZEV mandate, which is (inaudible) in electrical vehicles. I should (inaudible) also that EPA sent letters to Texas, which was considering adoption of California standards, in the year 2000, and to New Jersey which has been considering it, and said that the federal standards are as robust as you need for the states.

And in fact, Texas decided not to adopt California standards because they were shown by the modeler that they would get better benefit from the federal standards.

REP. WIDLITZ: Okay. I guess my reason for asking that is you mentioned distribution, and the difficulty with distribution, it would seem to me that if we form a block of states that are all having common requirements, that it would address the distribution problem, and actually would make more sense for all of us to be doing the same thing.

GREG DANA: Well, it does, but as I said in my testimony, some manufacturers, because we asked EPA to set the federal standards as tight as California's are, are now making the cars as 50 state cars. So, you will get, essentially, the same air quality benefit with out any need to put state resources in to running a program. I mean, if you adopt the California standards, you have to run a program, administer it with people, and deal with all of us crazy manufacturers who have

questions all the time. I'm serious. That does happen.

And what you're going to get from the federal program, and by virtue of the fact that some manufacturers are making 50 state cars, you would get the same air quality benefit you would get otherwise, with no state resources spent on the issue.

REP. WIDLITZ: Okay, so actually, you're trying to save us money by not doing a program, and you'll provide a product anyway that will achieve the same results. Is that -- is that --

GREG DANA: We're trying to overcome the long standing belief -- and it was true, in fact, that California had tighter standards for 30 years. That has all changed, and it's very hard for people to overcome that notion, that the federal standards are now just as good as the California standards for air quality.

REP. WIDLITZ: Questions? Senator McKinney.

SEN. MCKINNEY: Thank you. Putting aside the benefits to the state of not having to operate our own regulatory scheme if we adopt the California emissions, and putting aside the additional federal benefits of NOX and PM emission reductions, what are the major differences then between the California LED program and the federal regulations?

GREG DANA: I could spend a few days explaining the differences to you, because there are many, but they're not all that significant. The best way to look at it is the modeling I showed you, which shows the benefits. Both standards require light duty trucks to be the same emission standards as cars, which is a huge difference from today's standards.

So, all light trucks, up to big, big, big pickups and SUVs, will have to meet the same emission standards as cars. That's the major -- one of the major changes of both sets of standards. Both sets of standards also reduce what we refer to as

evaporative emissions. Emissions from gasoline evaporating when the car is sitting.

Both standards do the same thing there. There are subtle differences in the standards. EPA has a different cold seal -- cold carbon monoxide requirement than California does. EPA has a high altitude standard that California does not have. There are subtle differences, but like I said, it's very difficult to explain point by point going through the standards, in terms of their impact.

We believe the best way to show it is by the modeling data that says that these standards are essentially equivalent, in terms of air quality benefit.

SEN. MCKINNEY: (Mike not on) and I appreciate that, but obviously there's something about the California emissions program which you don't favor, perhaps because it's more expensive or more costly, and I'm just trying to find out what the -- and that's a very legitimate position. I'm not trying to trap you. I'm just trying to understand what the --

GREG DANA: Well, the one that we particularly dislike about the California program, in 1990, they adopted what we refer to is the zero emission vehicle mandate, where they essentially told us to go ten percent of the fleet, by 1998, as zero emission.

The only vehicles we could build that would meet that requirement were battery electric cars. (Inaudible) persisted in this pursuit even though their own analysis in January of 2001 said that a battery electric vehicle would be \$21,000.00 dollars more expensive than a comparable car.

That it takes four to six hours to recharge it, compared to the five or ten minutes to refuel a car today. And the range on that charge is about 90 miles, compared to the 300 miles we get on a tank of fuel on a car today. We don't know how to market a car that has that many disadvantages. They have continued, even this year -- I'm sorry, last year, in another review of the program. They have a hearing in February, late this month, in

fact.

I forget which month it is. To review more changes, where they are going to force a mandate, again, in the outer years, of more battery (inaudible) vehicles and fuel cell vehicles. It's our belief, and we're working very hard to bring fuel cell vehicles in to the marketplace, which will emit zero emissions.

We don't need any push. We don't need a mandate. All mandates do is sap our energy and our costs, and put it in places where they don't belong. We have wasted a lot of money trying to build battery electric vehicles for no one's good. And frankly, at the level they're at, they will not have any impact on air quality.

We would like to be able to proceed on our own, and working with California and with the federal government, and with the Department of Energy and EPA, to in fact further the advance of fuel cell vehicles, which we think are the real light at the end of the tunnel, about 15 years from now.

SEN. MCKINNEY: Ten percent of the cars are zero emissions? Have they met that?

GREG DANA: No.

SEN. MCKINNEY: So, if we were to eliminate that piece from the California emissions law from our law, are we then okay?

GREG DANA: It would be certainly better from our perspective, but again, you're putting in place a program you have to run and administer for no air quality benefit, and you're then also giving up your ability to make changes and decisions for yourself, because you have to follow whatever California does.

And California, because of their unique situation, topography will do some pretty strange things which you may not want to follow at some point in time, but you would have to follow them to make yourself identical to California, under federal law.

SEN. MCKINNEY: I appreciate your testimony. I've always assumed that as we look at cleaning up our air, you know, we may do California-like emissions, but not necessarily have to follow exactly what California does --

GREG DANA: Under federal law, you have only two choices. You can either have the federal car or the California car. The federal law prevents any state from doing anything what we refer to as a third car, just because the federal government realized that we can't be making cars for every state. We sell to a national market, and that's what we'd like to be able to do.

SEN. MCKINNEY: That's the first time I heard that. That's an important piece of information. Thank you.

REP. WIDLITZ: (Mike not on).

GREG DANA: Thank you.

REP. WIDLITZ: John LaShane, followed by David Sandler. I'm sorry. I'm sorry. Bruce LePage, followed by John LaShane.

BRUCE LAPAGE: Good afternoon. Thank you very much for the opportunity to be here today. My name is Bruce LaPage. I'm executive director of the Asputuck Land Trust. The Asputuck Land Trust is a non-profit Connecticut corporation dedicated to the preservation of open space in Easton, Weston, Westport, and Fairfield.

We strongly support SB851, AN ACT CONCERNING THE OPERATION OF ALL-TERRAIN VEHICLES, to require snow mobile and all-terrain vehicles to be registered, and to have registration numbers displayed on the vehicle.

The Asputuck Land Trust has had significant damage done to our tropic valley and Honey Hill preserves by all-terrain vehicles. We have signs at all of our entrances that clearly state no motorized vehicles allowed. These people drive right past

going to have to be directed towards this area if we phase it out, according to the old timetable. And it would be my understanding that right now, we're looking at a situation in this country where inflation is virtually non-existent and interest rates are extremely low.

So, that would be an atmosphere where capital investment might be the time to go ahead and push it. So --

WILLIAM COLEMAN: It makes a lot of sense. It makes an enormous amount of sense. And when gasoline prices are as high as they are right now, it also makes an enormous amount of sense.

REP. URBAN: I'd have to agree with you. Thank you very much. Thank you, Madam Chairman.

REP. WIDLITZ: Any other questions? Thank you very much.

WILLIAM COLEMAN: Thank you.

REP. WIDLITZ: Brian Freeman.

BRIAN FREEMAN: Good afternoon Madam Chairman, members of the committee. My name is Brian Freeman. I'm an attorney with the Environmental Practice Group of Robinson and Cole and legal counsel for the independent Connecticut Petroleum Association or ICPA. Our comments this afternoon are in our capacity as ICPA's attorney's, but they're also informed by our extensive experience working with facilities that have regulated underground storage tanks.

This subject matter is very detailed and I'll be brief. But that's actually the focus of my comments, that this is a very detailed area. I'm speaking, by the way of RB6402, AN ACT CONCERNING REVISION TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS, and that concerning revisions to certain environmental quality programs, in particular section 13, that's the final section of that bill.

What that bill does would create new requirements

for underground storage tanks and piping installed after the October 1st of this year. Again, this is -- these are very detailed issues of technical equipment specifications and the like, and our point -- our prime point, is not so much to address the issue of are double walled the best of the several different options out there.

We're not -- it's rather to say that, these are extremely technical issues that have been heavily regulated, and are regulated by not one, not two, but often three sets of different regulations. This bill would come on top of that without any apparent interface or interconnection, and effectively constitutes a third or fourth layer on top of the already existing system that is there.

And again, our intent isn't to get into the substance of the issue of which technology is best, it's rather to point out that there are some very detailed issues that need to be worked through to prevent this -- the intent of this bill from getting frustrated by the wealth of detail and technical specifications that it is treading into.

Our suggestion would be that the best approach, in terms of legislative resources and regulatory effectiveness would be to have the legislature direct DEP to look into this issue and to report to it, if that's the intent of the Committee, to report to it as to how to accomplish that goal and what the existing provisions are, what the best direction to go in and how to build it into the existing regulatory structure. ICPA would be more than happy to participate in discussions with the Committee and DEP, along those lines.

But we are concerned that this bill is coming in without any interplay with existing regulations, and would create confusion, and at times, direct contradictions between what is out there on the books now and what this bill would require. I can give you just one example of those contradictions, there are details in my testimony -- in the written testimony.

There is one example that with regard to certain

types of underground tanks that have historically been carved out of the underground tank program. That's because that experience has shown that these tanks are either rare, they're unusual, or they're already regulated by some other program.

Just because they fit the generic definition of underground tank, it's been determined it's best to keep them out of this program and not to pull them into the program and subject them to another set of regulations that, again, are either going to be redundant, or perhaps inconsistent with the regulations that have been on the books for quite some time now. My time is up. I'd be happy to take any questions, but again, other detailed comments might be of further interest in fleshing out these themes.

REP. WIDLITZ: Thank you for your testimony. We will go through your comments. Are there questions on the part of the Committee members? I'm not sure I understand the implication of your testimony that's -- I guess after listening to DEP's testimony, the whole point is to consolidate it under one jurisdiction. And it sounds to me that you're opposing this idea?

BRIAN FREEMAN: Well, not necessarily the -- we're not necessarily addressing the ends, it's rather the means. The idea of consolidating underground tank regulation into one set of regulations, that would be admirable, but frankly I'm -- I was not here for DEP's testimony, so I can't really speak to that.

But right now, as I said, there are three layers of existing regulations in the state. There are certain -- there are certain regulations for most commercial-industrial tanks. Those are very detailed. Those have been on the books for fifteen odd years.

There's a second set of regulations that picks up additional tanks not addressed by that first layer. Those regulations have been on the books approaching twenty years. And then there's a third regulation -- set of regulations in some cases, adopted by local jurisdictions that sometimes pick

up yet more tanks and subject them to yet more requirements.

Again, the idea of double walled tanks, yes or no, is that the best way to go? Are there other ways that are equally good? We're not trying to get into that. It's rather to say, coming in and just saying all tanks must be double walled created a false sense of simplicity. It actually spawns a lot of complexity for those who will have to try to interface that with the existing regulatory schemes.

REP. WIDLITZ: Senator McKinney.

SEN. MCKINNEY: But don't you have to address that issue, though? I mean, in -- I'm not going to pretend to know all the different various regulations, but in point two on page two you say that Connecticut's existing underground storage tank regulations based on a longstanding federal template, allow for state-of-the-art cathodically protected steel tanks, with sophisticated automated tank gauging systems. I'm assuming that those protected steel tanks are not double walled.

BRIAN FREEMAN: Not necessarily, correct.

SEN. MCKINNEY: But then, my simplistic understanding of one of the things that DEP is trying to do is they're trying to require the best underground storage tanks to prevent leaking and that they currently believe that double walled is the best way to do that. So, if there are other tanks which are equally as good or even better, it seems to me that's something we would want to know.

I mean, an underlying, I think, premise of what DEP is doing is they're saying this is the type of new age technologically advanced tank that is the best tank. So to -- I would think to oppose that, you would then have to get exactly into the issue which you don't want to get into. Which is better?

BRIAN FREEMAN: Well, actually that's a part of our confusion, is that the regulations that this bill would come on top of and change, those were adopted

by the department. So part of our thinking is that if the department believes that its existing regulations can be refined further to eliminate some options that DEP saw fit to require as of a few years ago.

Then, our thought is the proper forum for that to allow all the technical details to be worked out, would be for the DEP to revise its regulations. The rule making process, with its public comment and response periods is a much -- a better suited environment for very detailed issues, like all these issues are.

We're concerned that there's no impediment to having that done, if that's in fact the best goal. We're concerned that that's being assumed to be the best goal without, as a one size fits all solution, without recognition that would come out through the rule making process. That, in some cases, that size will not fit. Or it's not worth fitting.

SEN. MCKINNEY: And I accept that. I just -- you know, we're here with proposed legislation and this is where our regs review are done, right here. This is where people from industries need to come and say hey, wait a minute. You can't do it. Every tank can't be double walled. There are other types of tanks that are just as good.

And I understand that's not -- I know, as a lawyer representing them, that's not what you're going after. But, you know, when there are tank installers or tank manufacture companies here, I take it to believe that maybe they're not -- maybe they don't know about this.

BRIAN FREEMAN: I would heavily guess on that. We only came -- this only came to our attention within the past several days. Sure.

REP. WIDLITZ: Thank you very much for your testimony.

BRIAN FREEMAN: Sure thing.

REP. WIDLITZ: Let's see. Have we already heard from Stephen Biro? Is Steven -- okay, thank you.



STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



Public Hearing – February 10, 2003
Environment Committee

Testimony Submitted by Commissioner Arthur J. Rocque, Jr.
Department of Environment Protection

Raised House Bill No. 6402

An Act Concerning Revisions to Certain Environmental Quality Programs

Thank you for the opportunity to present testimony regarding Raised House Bill No. 6402. We appreciate the Committee's willing to raise this bill at the request of the Department. This proposal, which the Department recommends for enactment, makes a number of changes to various environmental quality programs of the Department. Below is a section by section summary of the provisions in the bill.

Sections 1 and 2:

These sections will have the effect of encouraging the construction of eligible nitrogen removal projects and help improve the water quality of Long Island Sound and its tributaries.

This statutory change would allow "distressed municipalities" to obtain planning grants for nitrogen removal at a rate of 100% of eligible costs provided federal grant money is available. Design and construction grants for nitrogen removal projects for "distressed municipalities" would be eligible for grants at a rate of 50% of eligible costs including federal grants provided federal grant money is available.

Under existing statutes and regulations a municipality may only receive a planning grant in an amount not to exceed 55% of eligible costs. A design and construction grant for nitrogen control projects may not exceed 30% of eligible costs. Thus, by current definitions, federal grant funds must be deducted from eligible costs so that the maximum effective grant amount for a "distressed municipality" would never exceed 55% for planning grants and 30% for design and construction grants.

New grant funding from the federal government to help "distressed communities" clean up Long Island Sound is likely over the next few years. In order to maximize the combination of state and federal funds for distressed municipalities in Connecticut this legislative change is needed. Under the revised statute planning grants could be funded at an effective rate of 100% and design and construction grants could be funded up to 50% of the project cost associated with nitrogen removal.

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"Increase Small Community Grant Funding to 25%"

Under existing law small community water pollution control projects are eligible for a grant in the amount of 20% of the eligible project cost. Raised Bill 6204 would make grants available to fund small community water pollution control projects at a rate of 25% of project costs. For example, a small community project with an eligible cost of \$10 million would receive a grant of \$2.5 million rather than a grant of \$2 million.

The proposed legislation would put small community grants at parity with regional water pollution grants (that currently qualify for a grant of 25% of project cost). Raised Bill 6402 would also make small community projects more affordable. This is important because the average cost per household associated with small community projects is typically higher than the average cost per household for standard projects.

Present information indicates that approximately 17 small community projects can be expected over the next eight to ten years. Overall grant funding should continue at the current trend of between \$2-3 million per year even with the increased grant funding percentage.

"Computer Assisted Procedure for Design and Evaluation of Wastewater Treatment Systems 'CAPDET'"

Currently, both federal and state regulations reduce the level of grant funding for water pollution control treatment facilities by application of the Computer Assisted Procedure for Design and Evaluation of Wastewater Treatment Systems or 'CAPDET'. One of the policy ideas behind the application of CAPDET was to prevent funding of wastewater treatment facilities that were bigger than current need.

Under existing law, an incremental portion of a water pollution control grant, as calculated by CAPDET, must be subtracted from the total grant amount. As a practical matter, modest over-sizing of a wastewater treatment facility can be desirable provided the commissioner maintains the authority to reject a wastewater treatment facility design if: 1) it is excessively oversized or 2) it is not consistent with the State's Plan of Conservation and Development.

Currently, the actual amount of a project grant that a municipality obtains averages between 16% and 18% of eligible project costs (rather than the 20% noted in the statute). These proposed changes would ensure fully funding grants for eligible costs at the statutory rate of 20% for general projects and 30 % for nitrogen removal projects.

By way of fiscal impact, grant recipient municipalities will get more grant dollars per project. The Department estimates the increase to be about 2-3% of total project costs. The fiscal impact would be excessive, however, if the changes included a "look back" provision.

Sections 3 and 4:

Urban Site Remediation projects under Section 22a-133m are often placed on an expedited schedule in order to meet economic development needs. Raised Bill 6402 would allow DEP to more expeditiously use bond funds to investigate and remediate contaminated sites in Connecticut. The current statute requires the Commissioner of Environmental Protection to determine potentially

responsible parties and then issue an administrative order prior to seeking bond funds. This process can delay actual investigation and remediation work.

Raised Bill 6402 would allow the Commissioner of DEP to use bond funds authorized for the Urban Sites program for the investigation and remediation of sites without first issuing orders to the parties responsible for the contamination. Under the proposed legislation, the commissioner would ultimately seek cost recovery from responsible parties after the remediation project is completed.

In addition, the proposed change requires that Department of Economic and Community Development, in consultation with the Commissioner of Environmental Protection, establish a priority of sites for evaluation and remediation that includes a consideration of "whether the site would not otherwise be remediated without the assistance of . . . [the Urban Sites] program."

Sections 5 through 9 are clarifying revisions made in response changes to the Transfer Act enacted in Public Act 01-204.

Section 5:

The proposed change is a clarification of the exemption for a conveyance of an establishment by foreclosure. The change in the language used in Public Act 01-204 was intended to specifically define the term "foreclosure" for the purposes of Section 22a-134 of the General Statutes by incorporating the definition used in Section 22a-452f of the General Statutes. However, this definition does not include municipal tax lien foreclosures. It was not the intent of the Department to exclude foreclosures of municipal tax liens from this exemption.

The proposed change clarifies this exemption by including the requirement that no release of hazardous substances had occurred. This requirement is in addition to the requirements that: 1) no release of hazardous waste had occurred and 2) the portion of the parcel being conveyed was not an "establishment". Section 5 also addresses grammatical changes.

Section 6:

The proposed change is a clarification of the definition of Form I so that parts (A) and (B) are consistent in the requirement to investigate the parcel in accordance with prevailing standards and guidelines.

The proposed change clarifies that the filing of a Form II is appropriate if, from the time that a Licensed Environmental Professional verifies that the required post-remediation or natural attenuation monitoring or the recording of an environmental land use restriction has been completed in accordance with the Form IV, no release of a hazardous waste or a hazardous substance has occurred. As currently written, a Form II could be filed immediately after a Form IV filing provided no release of hazardous waste or a hazardous substance had occurred in the intervening time-frame and without complying with any of the requirements of the Form IV filing. An additional change in this section is proposed as a grammatical correction.

Section 7:

The proposed changes correct the unintentional deletion of "Form II" regarding the requirement to submit technical documentation relating to the investigation of the parcel or remediation of the establishment upon the Commissioner's written request. The correction also deletes the requirement to submit an Environmental Condition Assessment Form with a Form II filing.

Section 8:

The proposed change requires notice of remediation be provided to property owners of record for property that abuts the parcel undergoing remediation. As currently worded, if remediation is occurring at an establishment (e.g., a business operation on that parcel) there is the potential that none of the abutting property owners would be notified of the remediation. The proposed change clarifies that abutting property owners must be notified in this situation.

Section 9:

The proposed change replaces an incorrect reference to 22a-134f with the proper reference to 22a-134e. Section 22a-134f is not part of the Property Transfer law.

Section 10:

Authority to incorporate by reference certain California tailpipe emissions standards will simplify and expedite rulemakings, thereby allowing Connecticut to meet all federal Clean Air Act (CAA) requirements for their adoption while freeing limited staff resources to work on other high priority tasks.

Under the CAA, California has unique status to establish standards, and long ago surpassed the federal government in setting environmental standards relating to heavy-duty diesel engines and low emission vehicle tailpipe standards. Currently, DEP must undergo rulemaking simply to "copy" California's regulations into Connecticut regulations to meet federal requirements (Section 177 of the Clean Air Act (CAA) (42 U.S.C. section 7507)). The rulemaking process for such regulations is particularly burdensome given continued reduction in staff resources and CAA Section 177's "identity" and timing requirements. Section 177 of the CAA allows states to promulgate motor vehicle emissions standards only if they are identical to California's and would not have the effect of creating a motor vehicle or engine different than any certified in California, a so-called "third vehicle." Section 177 also requires that any state replicating California's requirements must propose such requirements two years prior to the first vehicle model year to which the requirements will apply. This equates to a full three calendar year lead-time.

Section 11:

The purpose of this Section is to make modifications to an existing statute regarding the sale and use of sewage system additives in Connecticut. These modifications are not intended to weaken the statute or the prohibitions on certain ingredients in these products, but rather to clarify the intent and to make the statute more practical.

The existing language in Section 22a-461(d) of the General Statutes prohibits the sale or use of sewage system additives as defined in Section 22a-460 the General Statutes, which contain any substance or compound on a certain toxic pollutant list published by EPA. This language prohibits

"any" substance thereby prohibiting even those products to which these toxic pollutants are not purposely added by the manufacturer, but rather are present in minute, environmentally benign concentrations as a result of background impurities in raw materials. An example of this is copper, which is toxic in the environment at certain levels, but which may be present at tiny levels in hundreds of products due to the leaching from copper pipes which transport potable water in the manufacturing process of the product.

The revised language would allow the Department to approve or deny registration of these products after review of the analyses that are already required by this statute, and to allow those that do not pose a threat to the environment.

As drafted, Raised Bill No. 6402 is not clear that the commissioner must approve a registration before a sewage system additive can be used or sold in the State of Connecticut. Thus, I suggest the following change be made: at Line 360, after the word first delete the word [registering] and add the words receiving written approval of a registration for. This change should clarify that the commissioner's written approval of a registration is required before a sewage system additive may be sold or used in the State.

The proposed language would also provide for a fee of \$500.00 for each registration request to pay for staff processing time. At present there is no fee. The proposed modification also eliminates the penalties specified in Section 22a-461(f) CGS because these limit the Department's authority to assess higher penalties which are more consistent with present day penalty amounts. The DEP would rely instead on Section 22a-438 of the General Statutes which is the main statutory reference for most other water pollution control enforcement actions.

Section 12:

This section will clarify the authority of DEP and Bridgeport Hydraulic Company police officers on the Kelda/ BHC lands. The purchase of the Kelda lands was done through a complicated pattern of ownership and easements among the three parties: Kelda, the state and the Nature Conservancy. This proposal would clarify that BHC officers continue to have authority on lands that they hold an easement on, in addition to those lands they continue to own in fee, and that conversely, DEP officers will have authority on lands that the state has purchased by easement. This will allow for seamless, and coordinated conservation law enforcement efforts across all of the Kelda lands.

Section 13:

This section will require that all new non-residential underground storage tank systems will be double-walled in construction. This proposed legislation will reduce the number of releases to the environment, many of which threaten ground water supplies.

Double-walled tank systems (essentially a tank within a tank with a monitored interstitial space) enables releases to be detected before they escape to the environment. This prevents wells from being contaminated as well as decreasing costly clean-ups. Since the December 1998 deadline for upgrading commercial underground storage tanks (USTs) in Connecticut, over 1,200 major releases

from commercial USTs have been reported. New York and all New England states except Connecticut require double walled tanks.

The capital cost of a 10,000 gallon double walled fiberglass reinforced tank is \$12,000 compared to \$7,200 for a similar single walled tank. When averaged over the thirty-year design life of such tank systems, this equates to an annual average cost increase of \$160 for a double-walled system. The installation charge for either is the same - approximately \$40,000.

Thank you for the opportunity to present the DEP's views on this proposal. If you have any questions, or should you require any additional information, please contact Tom Tyler, the DEP legislative liaison, at 424-3001.

(13)

**STATEMENT OF THE ALLIANCE OF AUTOMOBILE
MANUFACTURERS
BEFORE THE CONNECTICUT GENERAL ASSEMBLY
JOINT COMMITTEE ON THE ENVIRONMENT
REGARDING BILL NUMBER 6402**

FEBRUARY 10, 2003

Good Morning. My name is Gregory Dana. I am Vice President, Environmental Affairs for the Alliance of Automobile Manufacturers, Inc. (Alliance). The Alliance is a coalition of 10 car and light-duty truck manufacturers formed in January 1999. Alliance member companies have approximately 620,000 employees in the United States, with more than 250 facilities in 35 states. Alliance members represent more than 90 percent of U.S. vehicle sales. Even though there are no production facilities in Connecticut, the auto industry and the jobs dependent on it has a sizable impact on Connecticut's economy. These facts are outlined on the attached sheet. I welcome the opportunity to provide the Alliance's views on Section 10 of Bill 6402 that would permit the DEP to adopt California emissions program changes by reference.

History of the National Low Emission Vehicle Program

Connecticut DEP was given the authority to adopt the California Low Emission Vehicle (LEV) program in 1993. This authority was provided as a backstop in case the National Low Emission Vehicle (NLEV) program, which was under discussion at that time, failed to be adopted. The NLEV program was successfully adopted in 1999.

The amendment in Section 10 of the bill would facilitate the adoption of the California LEV program by allowing the finalized California regulations to be adopted by reference. We do not believe there is any need to even keep the California program on the books, let alone facilitating an adoption process which makes the state more reliant, and dependent, on California rulemaking.

The reason for this is that the Federal emission program - Tier 2 - begins with the 2004 model year. This program will provide substantial emission reductions in Connecticut as I will explain further.

Comparing the Exhaust Emissions of California and Federal Programs

It is true that for many years, California led the fight to clean up motor vehicle pollution with stricter standards than those mandated by the Federal Government. However, all of that changed first with the adoption of the national low emission vehicle program, and continued with the adoption of the Federal Tier 2 emission standards that take effect in the 2004 model year - this fall. Throughout the rulemaking process, manufacturers worked with EPA to ensure that the provisions of these requirements would be virtually identical to those adopted by California for the same model year. For people who have

long remembered the California program to be more stringent than the Federal program, this may be hard to comprehend. Perhaps the best way to explain this is to look at the attached chart that presents modeling data comparing the two programs. As you can see, both programs represent a significant reduction from the current Federal program in Connecticut, but both programs are very close in their impact on air quality.

These data were developed by Air Improvement Resources (AIR), a company that has considerable expertise in computer modeling, especially air quality modeling. The model used to generate these data was EPA's MOBILE model, which is used by EPA and all the states to generate appropriate credit levels for emission reductions from motor vehicle programs. The output of the model is highly dependent on the various inputs to the model. AIR consults often with EPA's own modeler to ensure appropriate inputs are used.

In fact, EPA is in agreement with the industry that the Federal Tier 2 program is adequate for any state in terms of controlling motor vehicle emissions. EPA has submitted letters to that effect to New Jersey and Texas, both of which had recently considered adoption of the California program.

If you look at the two pie charts attached to my testimony, you will see that that impact of the Tier 2 standards when they are fully phased in is significant for both VOCs and NOx, the two ozone precursors.

As a case in point, Texas, in 2000, considered the adoption of the California LEV II program to deal with its significant air quality problems in the Houston and Dallas/Fort Worth urban areas. Subsequent discussions between AIR and the Texas modelers resulted in the identification of some input errors. The three modelers, EPA, AIR and Texas, agreed to a set of inputs. The end result of this modeling exercise proved that Texas would achieve better air quality, faster, with the Tier 2 program. In fact, it projected that Texas would not have attained the ambient ozone standard in 2007 if it had adopted the California program. As a result of this modeling exercise, Texas determined not to proceed with the LEV II program.

You might ask, then, why New York and Massachusetts adopted the California program. Both states adopted the California program in the early 1990s when the California emission standards were more stringent than the Federal standards. However, when New York was considering the adoption of the California LEV II program for 2004 and later model years, both the industry and EPA told New York that their modeling showing substantial benefit for the California program was in error due to some errant assumptions about light-truck standards phase-in. New York chose to move forward with the California LEV II program anyway.

Fuel Sulfur Content

It is worth noting that some of the biggest air quality gains in California came after the adoption of low sulfur fuel in 1996. Since sulfur poisons catalytic converters, all cars on

the road become cleaner as sulfur is removed from the fuel. As part of the Tier 2 rulemaking, EPA is also adopting low sulfur gasoline requirements – an average of 30 ppm, down from the current Federal average of 340 ppm. In supporting EPA's efforts of fuel sulfur, we had an analysis done by Air Improvement Resources to measure the tons reductions per year of the sulfur control program.

For Connecticut, this analysis concluded that starting in 2004, when the low sulfur fuel begins to phase in, significant reductions in VOC and NOx, as well as PM2.5 and CO take place. See the attached page noting these reductions. This indicates how critical fuel quality is to reducing emissions from motor vehicles. It is also important to note that these emission reductions are immediate and will have a significant impact on the air quality in Connecticut starting next year.

Zero-Emission Vehicle Mandate

The provision of the California program that is of most concern to the industry and should be of concern to Connecticut is the zero-emission vehicle (ZEV) mandate.

The Air Resources Board's own estimate of the incremental cost of a freeway-capable ZEV, compared to a conventional vehicle, is over \$21,000. These vehicles can run about 90 miles on a charge and take 4-6 hours to recharge. This compares to the 300-350 mile driving range that is typical for a conventional car today and the refueling or "recharging" time for this vehicle is only a matter of minutes. Given these attributes, electric vehicles are a tough sell. The electric vehicles (EVs) made available in California under an agreement with the ARB were heavily subsidized by the industry, by incentives from the State of California and various local government agencies, and by Federal tax credits.

At a \$21,000 cost premium, or for that matter, any cost premium, electric vehicles simply don't make economic sense, especially when the long recharge time and short driving range between charges is considered. The problem is compounded by colder temperatures in Connecticut that can reduce battery electric vehicle driving range by over 50%, the biggest factor being the use of electric resistance cabin heating. Additionally, California has invested a sizable amount of money in charging infrastructure to support these vehicles and provides plug-in power for free. This commitment has not been forthcoming in other states.

And if a state is willing to spend money to change or revise its "refueling" infrastructure, it may be best to use that money to invest in a hydrogen infrastructure to fuel vehicles powered by fuel cells that will likely be commercially available in about 10-15 years. The auto industry believes these vehicles have a potential to replace internal combustion engines, unlike battery-electric vehicles.

It should be noted that the CA ZEV program has been in flux since the day it was adopted. By allowing the CT DEP to incorporate the California rules by reference, the state's air quality program will become totally dependent on the conclusions reached by

California politicians who have reached a conclusion that may or may not be optimized for Connecticut.

Heavy-Duty Emission Reductions Are Also Planned

While the Alliance does not represent the heavy-duty engine industry, it is worth noting that Connecticut will also bear the fruit of another EPA rule that will reduce both NOx and PM emissions from heavy-duty engines. This rule takes effect with the 2007 model year. The impact of this rule will be significant. It will reduce PM and NOx emissions from heavy-duty engines by 90% and 95%, respectively. EPA estimates that heavy-duty trucks and buses are responsible for about one third of the mobile source NOx emissions and about one quarter of the PM emissions for this group.¹

In summary, Connecticut will gain tremendous emission reductions over the next decade from the implementation of the Federal Tier 2 program, sulfur control programs and the heavy-duty emissions requirements. Adopting the California program will result in no noticeable additional benefit.

Thank you for the opportunity to speak before you today on Bill 6402 I would be happy to answer any of your questions.

¹ 66 FR 5002, January 18, 2001

HB 6402

The Automobile Industry in Connecticut

America's automobile industry doesn't just manufacture the passenger cars and light trucks that millions of Americans depend on for work, shopping, vacation and other mobility needs. Auto manufacturers, along with their suppliers and dealers, drive the U.S. economy, and that economic engine has more horsepower than many people realize.

In Connecticut, almost 3.7 percent of the state's workforce is employed in either the automobile industry or in a job dependent on the auto industry. Other pertinent facts on the contribution of the automobile industry in Connecticut follow:

Connecticut Auto Industry Employment

- The automotive industry directly employs 9,900 workers in Connecticut, including production workers, engineers, designers, sales and marketing employees and other corporate staff.
- 22,000 jobs are related to the auto industry, including suppliers of parts and components, suppliers of raw materials, and support services such as advertising and engineering consultants.
- When spin-off employment is included, a total of 66,700 Connecticut jobs are dependent on the auto industry.
- The auto industry generates \$2.9 billion in wages and benefits, including spin-off employment, in Connecticut.

Dealerships*

- Connecticut has 341 new-car dealerships.
- These dealerships generate about \$7.9 billion in annual sales.

Connecticut Motor Vehicle Information*

- In 1999, there were 204,562 new passenger car and truck registrations in Connecticut.
- Connecticut had 2,700,633 registered vehicles, including cars, trucks and buses, in 1998.
- Connecticut had 38,200 publicly owned vehicles in 1998.

- The state had 2,349,000 licensed drivers in 1998.
- In 1998, the total vehicle miles of travel were more than 29.3 billion miles.

The Alliance of Automobile Manufacturers is a coalition of 13 car and light truck manufacturers including BMW Group, DaimlerChrysler, Fiat, Ford Motor Company, General Motors, Isuzu, Mazda, Mitsubishi Motors, Nissan, Porsche, Toyota, Volkswagen, and Volvo. Alliance member companies employ more than 620,000 people in 250 facilities in 35 states and represent more than 90 percent of U.S. vehicle sales. For more information, visit the Alliance website at <http://www.autoalliance.org/>.

The landmark study, "Contribution Of The Automotive Industry To The U.S. Economy," was prepared by the University of Michigan and the Center for Automotive Research. In addition to the Alliance of Automobile Manufacturers, the Association of International Automobile Manufacturers also sponsored the study. For more information, including state-by-state economic contribution and employment figures, log on to <http://www.autoalliance.org/>.

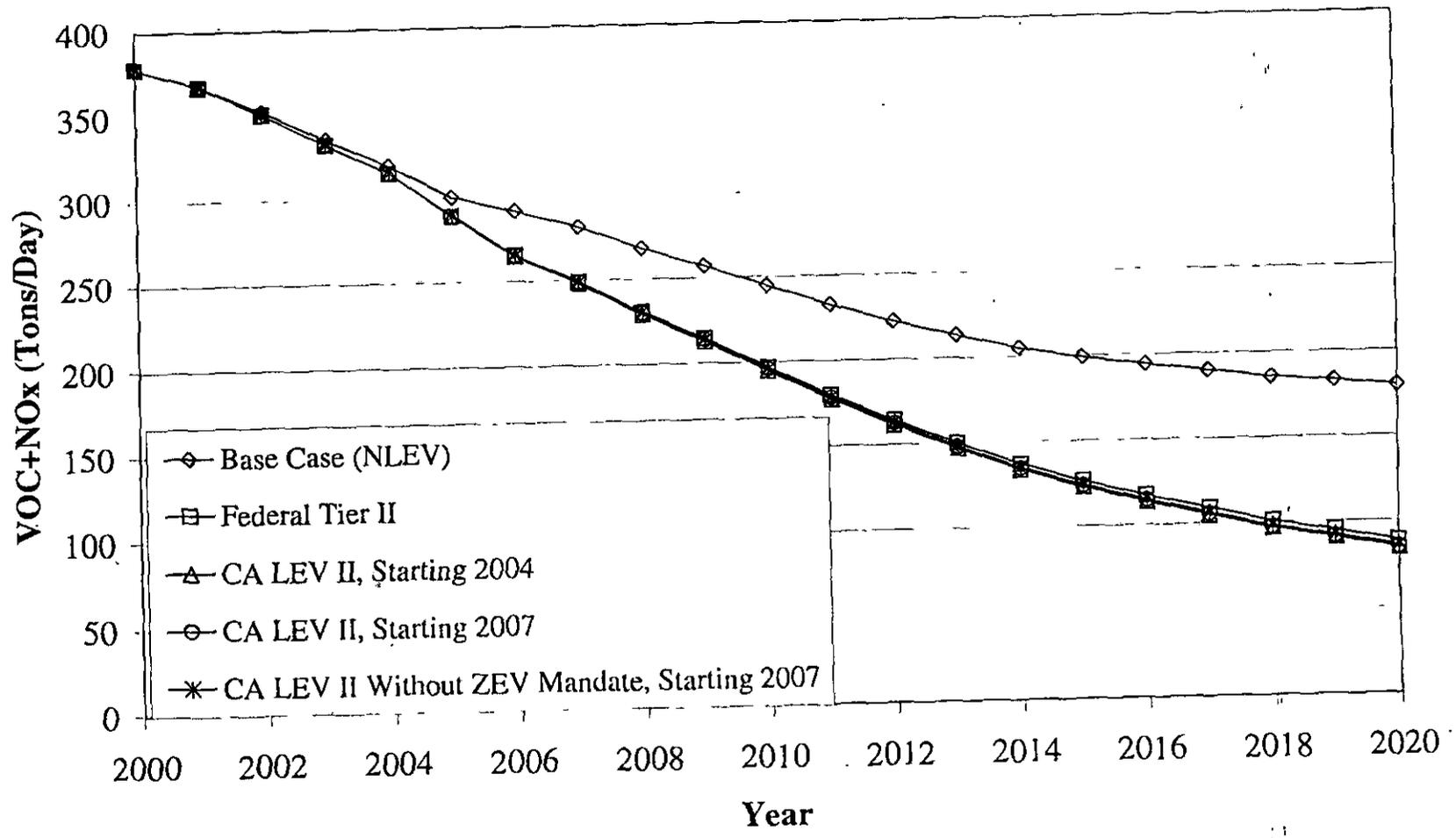
Information denoted with an asterisk is from the 2000 "*Ward's Motor Vehicle Facts & Figures*," which is a reference book documenting the performance and impact of the U.S. auto industry. For more information, contact Ward's at (248) 357-0800 or visit their website at <http://www.wardsauto.com/>.

2/2/01

BMW Group • DaimlerChrysler • Fiat • Ford Motor Company • General Motors • Isuzu • Mazda
Mitsubishi Motors • Nissan • Porsche • Toyota • Volkswagen • Volvo

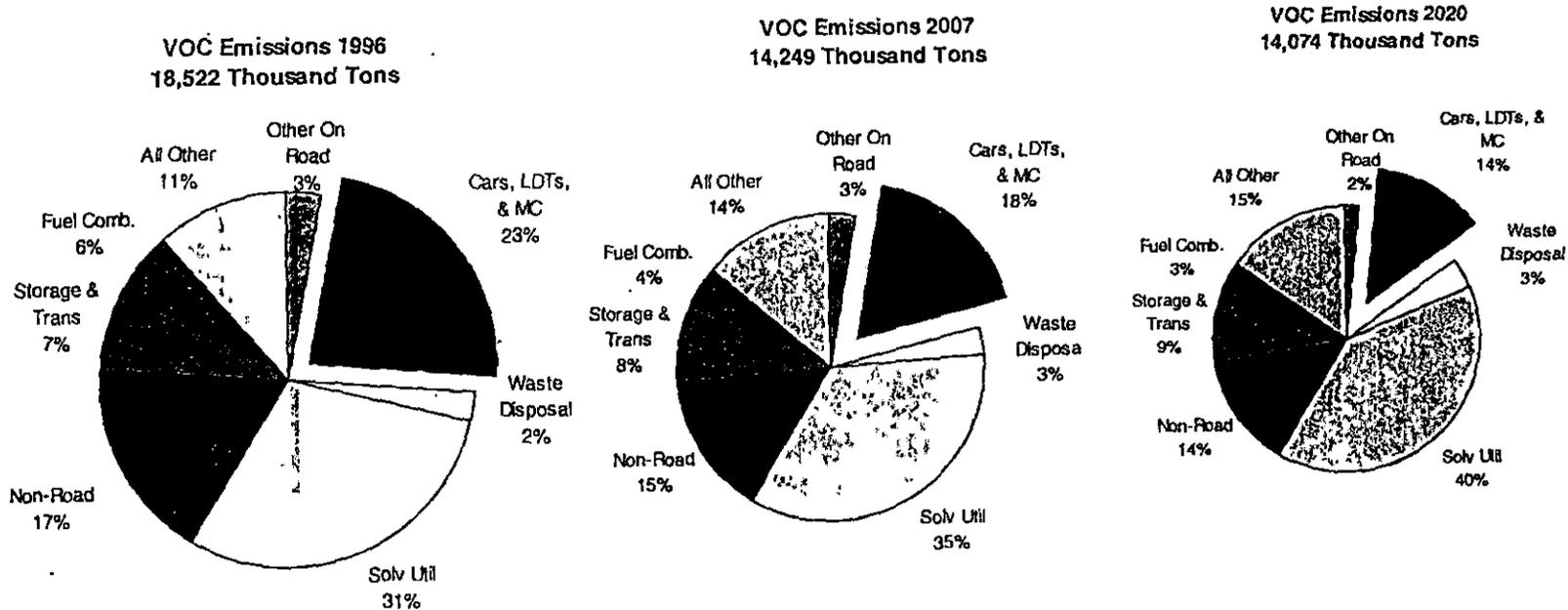
1401 H Street, N.W., Suite 900 • Washington, DC 20005 • Tel. (202) 326-5500 • Fax: (202) 326-5557

Connecticut Summer Season On-Road Inventory VOC+NOx



000443

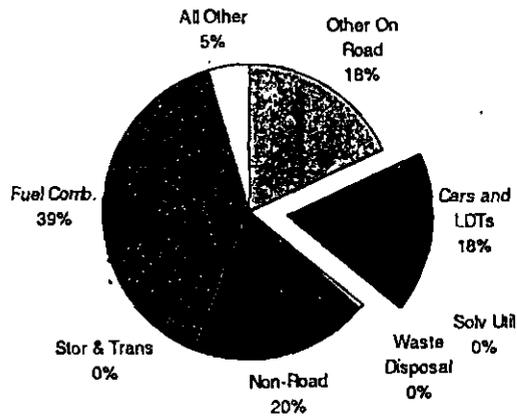
Motor Vehicles Lead the Way to Cleaner Air Nationwide (VOCs)



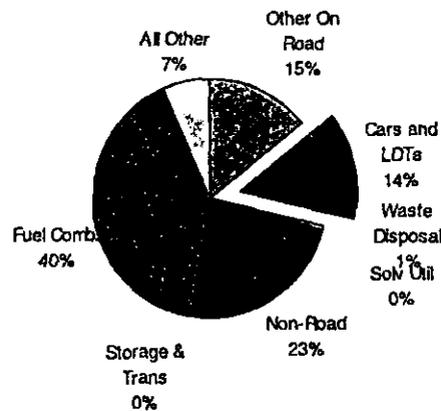
The Cars, light-duty trucks and motorcycles category above is the only category showing consistent and meaningful gains over time. (EPA data from 2007 Heavy Duty Rulemaking)

Motor Vehicles Lead the Way to Cleaner Air Nationwide (NOx)

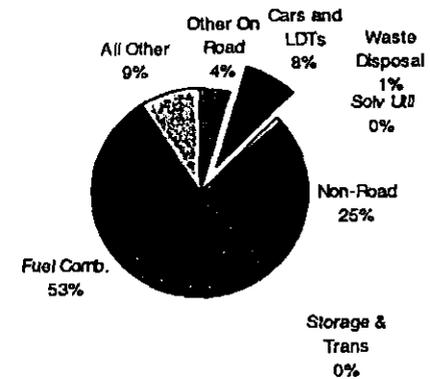
NOx Emissions 1996
26,117 Thousand Tons



NOx Emissions 2007
20,533 Thousand Tons



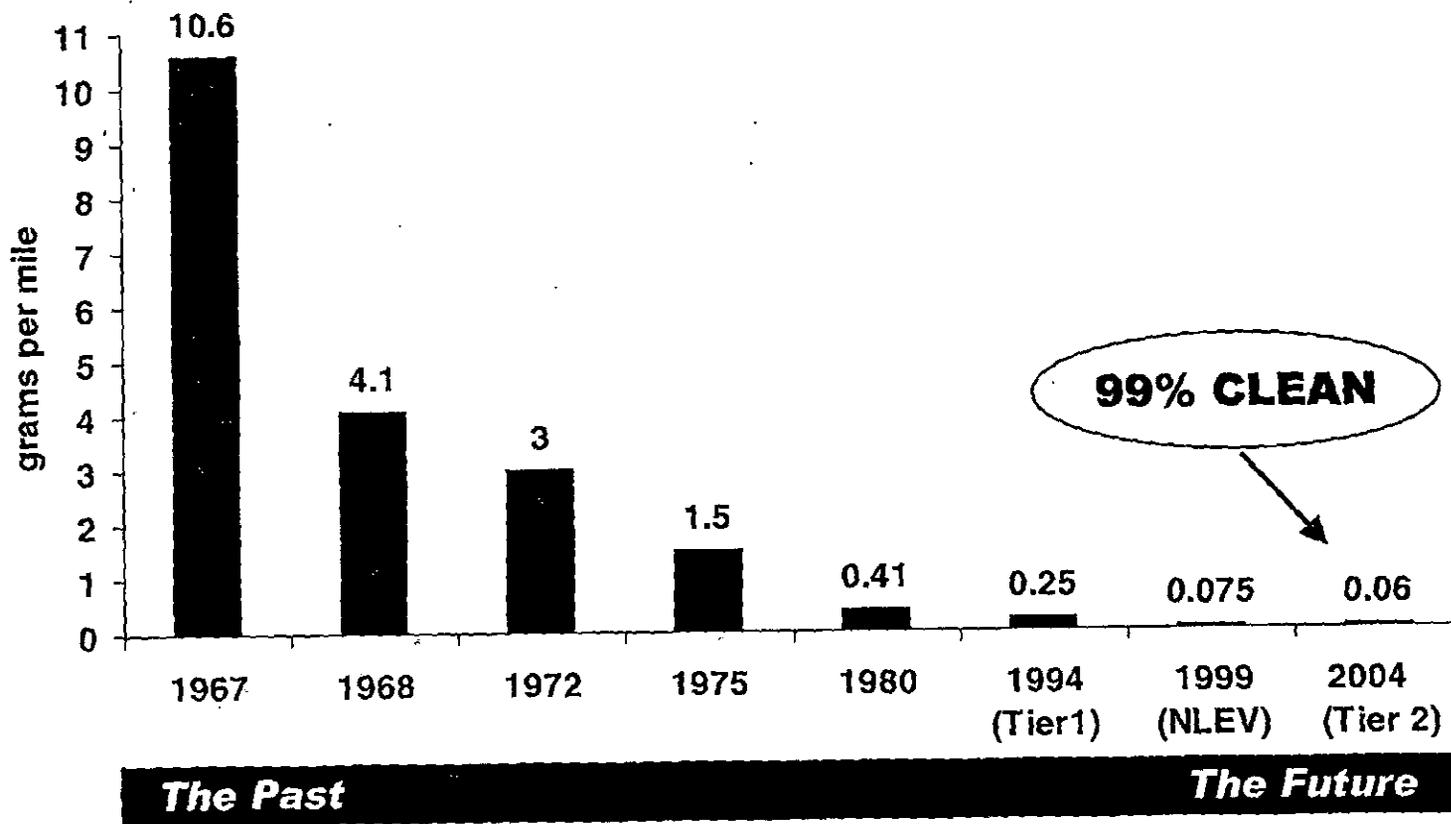
NOx Emissions 2020
16,038 Thousand Tons



The Cars, light-duty trucks and motorcycles category above is the only category showing consistent and meaningful gains over time. (EPA data from 2007 Heavy Duty Rulemaking)

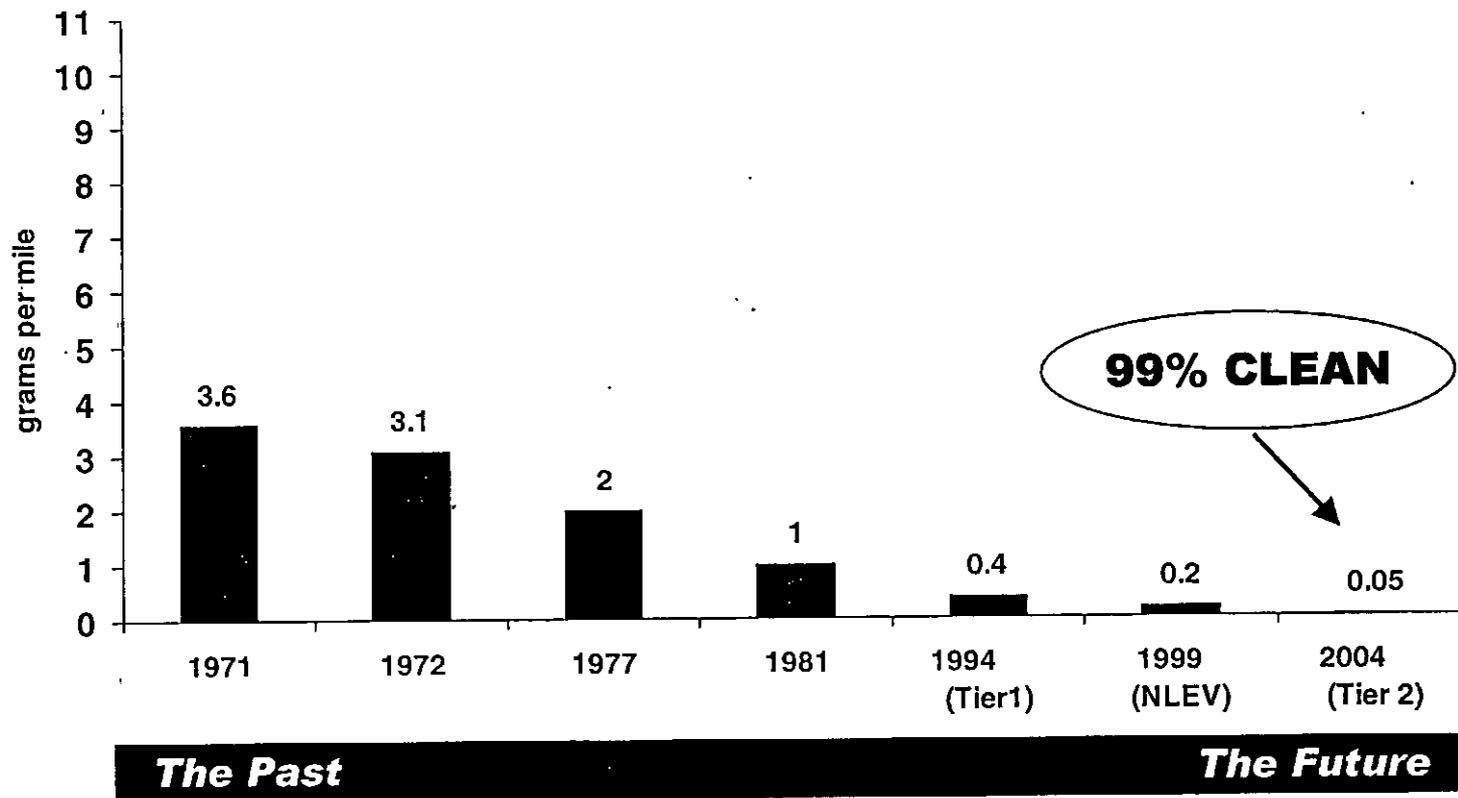
577000

History of Tailpipe Emission Standards - HC (50k)



00046
974000

History of Tailpipe Emission Standards - NO_x (50k)



000447

Reductions Due to Sulfur Control (tons/year in CT)

Pollutant	2004	2005	2006	Trend
VOC	944	906	866	
CO	24,081	23,577	22,829	
NO _x	3,895	4,225	4,453	
PM _{2.5}	649	663	678	

TESTIMONY BY THE INDEPENDENT CONNECTICUT PETROLEUM ASSOCIATION
BEFORE THE
JOINT COMMITTEE ON ENVIRONMENT
REGARDING
RAISED BILL NO. 6402 -
AAC REVISIONS TO CERTAIN ENVIRONMENTAL QUALITY PROGRAMS

presented by
Brian Freeman, Esq.
Robinson & Cole LLP

February 10, 2003

Good afternoon. My name is Brian Freeman. I am an attorney in the Environmental Practice Group at the law firm of Robinson & Cole, and am legal counsel for the independent Connecticut Petroleum Association (ICPA).

Our comments this morning address Raised House Bill 6402, An Act Concerning Revisions to Certain Environmental Quality Programs. These comments are offered not only in our capacity as ICPA's attorneys, but also based on our firm's extensive experience in working with facilities with regulated underground tanks.

Our comments focus on *Section 13* of the bill, which would create new requirements for underground storage tanks (USTs) and piping installed after October 1, 2003.

ICPA supports a strong and effective regulatory system to prevent, contain and remediate releases from UST systems. This seems to be the intended goal of the bill. However, this goal is already provided for by detailed and longstanding regulations adopted and enforced by both the U. S. Environmental Protection Agency and the Connecticut Department of Environmental Protection. The bill makes no reference to any of these existing regulations, or how it would tie into these regulations. In fact, the bill clashes with key portions of these regulations.

The bill also creates new requirements for UST systems, in some cases by attempting to write overly detailed technical specifications in a statute, and in other cases including undefined and confusing standards. In summary, the bill would create a third layer of regulation -- and considerable confusion -- on top of an already complex regulatory regime.

If there is concern that certain portions of the existing regulations need to be revisited, a sounder approach -- in terms of both legislative resources and regulatory clarity -- would be for the legislature to direct DEP to look into the issue and report back as to whether changes to the existing regulations would be appropriate. If so, the legislature could then provide general guidance to DEP as it addresses the technical details.

As a last resort, if the Committee believes that standards must be created by statute, ICFA urges such standards to focus on performance, rather than detailed specifications for a constantly evolving technology.

I'll now briefly address some of the inconsistencies and confusion that the bill would each of these points.

1. The bill creates new definitions of key terms that are already defined more precisely in the UST regulations. The existing UST regulations include a detailed and precise definition of "petroleum" to which the UST regulations apply. This definition is the fruit of years of experience and regulatory policy development, and recognizes that certain types of petroleum are cruder, thicker, and of much less environmental concern. However, the bill would put matters back to "square one", by regulating any and all types of petroleum. This would disregard the lessons of experience and subject Connecticut businesses to unnecessary costs, with no meaningful environmental gain.
2. The bill eliminates numerous and widely-used compliance options under the existing UST regulations. The bill would require "double-walled" UST and piping for all new installations. By contrast, Connecticut's existing UST regulations, based on a longstanding federal template, allow for state-of-the-art cathodically protected steel tanks, with sophisticated automatic tank gauging systems to detect leaks down to very low levels. The bill would apparently do away with that option. The existing regulations also allow a UST to be equipped with "secondary containment", which includes not only double-walled USTs and piping, but also other forms of secondary containment, such as vaults. The bill would apparently do away with those options as well. In fact, the bill apparently would require – for no apparent benefit – that a tank wholly enclosed in an impermeable, monitored vault must now also be double-walled.

In brief, the bill would introduce a host of inconsistencies and anomalies into an already complicated regulatory arena. These types of issues can be identified and worked out much more readily in the regulatory development process, with its public notice, comment and response procedures.

3. The bill would eliminate longstanding exemptions for certain rare or low-risk UST systems, and for structures that meet the technical definition of a "UST system" but are more effectively addressed through other means. The existing state UST regulations carve out several types of unusual or low-risk UST systems that have always been exempt from the full force of the UST regulatory scheme. Many of these tanks are already subject to regulation through other programs. These tanks include flow-through process tanks at industrial facilities, stormwater or wastewater collection system tanks, or tanks located that are technically "underground" but not of concern (e.g., a tank

located in a basement). Again, years of experience and extensive discussion have concluded that these types of structures are not appropriate pulled into the UST regulatory net. However, the bill's definition of "underground storage tank" makes no mention of any of these types of structures. This is re-inventing the wheel, when a tried and true design has been in service for years.

4. The bill invites confusion and arbitrariness by attempting to write detailed technical specifications into statute. The bill includes a definition of "double-walled underground storage tank" that is replete with technical specifics: "listed by Underwriters Laboratories", "constructed using two complete shells", "having a continuous three-hundred-sixty degree interstitial space between the two shells". These extremely precise but terse standards raise a host of questions. For example: why only Underwriters Laboratories listing, and not ASTM (the American Society for Testing & Materials), the American Petroleum Institute (API), or any of the many other recognized technical standard-setting bodies that may be involved, now or in the future? Also, a "continuous three-hundred-sixty degree interstitial space", taken literally, is of course impossible: at various points the inner and outer containments must connect. But how much connection would be too much? The bill does not say.

5. The bill creates a new requirement of "continuous" monitoring of USTs, with no suggestion as to what this standard is to mean in practice. The bill states that the interstitial space of any double-walled tank "shall be continuously monitored". This requirement – which is actually buried in a definition – gives no hint as to what sampling interval will be considered "continuous". By contrast, the standard in the existing regulations calls for monitoring on a fixed interval. The issue of what constitutes "continuous" has long plagued EPA and DEP with regard to air regulations, and spawned considerable wrangling and confusion. Again, if such a standard is warranted, this is a highly technical issue that should be given detailed consideration in a regulatory development process. A terse reference tagged onto an omnibus environmental statute will spawn confusion and non-compliance. These cut against an effective environmental protection program.

Given the detailed issues that the bill attempts to address and the detailed existing regulations, we would be happy to meet with the Committee to discuss these issues further.

In brief, ICPA believes that the issues raised by the UST provisions of Raised Bill 6402 are best addressed through investigation and regulatory discussion and, if shown to be appropriate, rulemaking. This would avoid confusion and inefficiency in an already complex program.

Thank you for your attention. I would be pleased to answer any questions the Committee may have at this point.