



Save the Sound[®]

Action for our region's environment.

**Testimony of Save the Sound
Before the Commerce and Environment Committees**

**Re: Listening Session Transfer Act and the Transition to a Release-Based Property
Remediation Program**

September 16, 2020

Dear Co-Chairs Hartley, Simmons, Cohen, and Demicco, and members of the Commerce and Environment Committees:

We write on behalf of Save the Sound (previously CT Fund for the Environment) to express our strong support for the transition to a release-based system of reporting and remediation of contaminated properties so long as provisions that have been added to address previous environmental concerns with Senate Bill 281 and 293 remain in the new bill. As emphasized in previous testimony submitted on behalf of Save the Sound and multiple environmental stakeholders, there must be a robust system of reporting and auditing, similar to the Massachusetts model, along with transparency and public access to this information. Given that these measures have been added to the latest Draft LCO 3962 pursuant to a series of negotiations, we support the transition as set forth in that draft (though we understand the draft is still being reviewed to ensure that it reflects language that was agreed to by stakeholders and support it with that caveat).

We recognize that the current proposal is part of an ongoing process with DEEP, the regulated community and the environmental community and we appreciate having been part of that process. This is a positive contrast to how the Transfer Act Working Group was initially conducted with no outreach or input from any pro-environment stakeholders. As a result, we believe we have achieved a better and more robust legislative proposal that reflects the public good and will not sacrifice environmental protection.

As emphasized in previous testimony, we support the establishment of a release-based program that will replace the Transfer Act. While the Transfer Act created an important system of liability for the cleanup of contaminated properties, it has not lived up to its intended potential from both an economic development and environmental cleanup perspective. Furthermore, Connecticut is currently the only state in the country that does not have a release-based system and relies solely on transfer-based triggers for remediation at the state level. If Connecticut switches to a release-based system, it will align itself with the rest of the country.

Moreover, transitioning to a release-based program will bring more contamination under Connecticut's jurisdiction. The Transfer Act has enabled property owners to evade cleanup obligations by simply avoiding the transfer of ownership. Consequently, contamination is often left in place where it further pollutes the environment. This results in significant environmental justice concerns, with industrialized sites most often sited in disadvantaged communities, which are then left with barriers to economic development and legacies of contamination. A release-based program would close this loophole by requiring that contamination instead be addressed when it occurs, resulting in more cleanups overall and cleanups immediately after a spill.

For these reasons, we have supported the establishment of a release-based program provided there is:

- 1) A robust and transparent system of reporting and auditing;
- 2) Sufficient DEEP oversight through a specified percentage of cleanup audits;
- 3) Reservation of the right of DEEP to audit all tiers of cleanups or take over management of a cleanup when necessary.

We believe that we have reached consensus in incorporating these measures into the new draft as reflected in the Draft LCO 3962. Provided that language fully reflects the agreements reached, we will support the legislation.

Moreover, while we continue to have issues with what was originally 1(3) of SB 281, that changes the definition of “establishment” to include only the parcel on which a business operated, we no longer actively oppose this provision provided the transition to the release based system moves forward as per the agreement. Rather than slowly repealing the current Transfer Act through a thousand cuts, we must move to a release-based system that will better protect the environment and environmental communities while promoting economic development. We support moving forward to achieve this.

In summary, we support the transition to a release-based system with sufficient transparency and oversight to protect public health and the environment as agreed to among stakeholders and as should be reflected in Draft LCO 3982. We look forward to moving forward and ensuring that the final language remains substantially as agreed to by all of the stakeholders.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Roger Reynolds".

Roger Reynolds
Senior Legal Counsel
Save the Sound