General Assembly

Raised Bill No. 6401

January Session, 2003

LCO No. **2996**

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING REVISIONS TO CERTAIN WASTE MANAGEMENT PROGRAMS.

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

Section 1. Section 22a-207b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2003*):

[No**]** Except as provided in section 22a-208a, no person, firm or corporation may own, operate or maintain a solid waste disposal area or transfer station, as defined in section 22a-207, without a permit issued by the Department of Environmental Protection under section 22a-208a.

Sec. 2. Subsection (a) of section 22a-208a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2003*):

(a) (1) The Commissioner of Environmental Protection may issue, deny, modify, renew, suspend, revoke or transfer a permit, under such conditions as he may prescribe and upon submission of such information as he may require, for the construction, alteration and

operation of solid waste facilities, in accordance with the provisions of this chapter and regulations adopted pursuant to this chapter.

(2) Notwithstanding the provisions of this section, the commissioner shall not issue **[**(1)**]** (A) a permit for a solid waste land disposal facility on former railroad property until July 1, 1989, unless the commissioner makes a written determination that such facility is necessary to meet the solid waste disposal needs of the state and will not result in a substantial excess capacity of solid waste land disposal areas or disrupt the orderly transportation of or disposal of solid waste in the area affected by the facility, or **[**(2)**]** (B) an operational permit for a resources recovery facility unless the applicant has submitted a plan pursuant to section 22a-208g for the disposal or recycling of ash residue expected to be generated at the facility in the first five years of operation.

(3) In making a decision to grant or deny a permit to construct a solid waste land disposal facility, including a vertical or horizontal landfill expansion, the commissioner shall consider the character of the neighborhood in which such facility is located and may impose requirements for hours and routes of truck traffic, security and fencing and for measures to prevent the blowing of dust and debris and to minimize insects, rodents and odors.

(4) Notwithstanding the provisions of this section, section 22a-207b or any regulations adopted pursuant to this chapter, no person shall close a solid waste disposal area unless such closure is undertaken pursuant to an approval, order or permit issued by the commissioner. Any such approval, order, or permit shall include conditions the commissioner deems necessary to protect human health and the environment and shall include requirements for post-closure use, care, monitoring and maintenance. The terms and conditions regarding closure specified in the most recent permit, order, or approval issued by the commissioner shall supercede and take precedence over the closure requirements specified in a permit, order, or approval

47 previously issued by the commissioner.

48 (5) The commissioner shall not authorize under a general permit or
49 issue an individual permit under this section to establish or construct a
50 new volume reduction plant or transfer station located, or proposed to
51 be located, within one-quarter mile of a child day care center, as
52 defined in subdivision (1) of subsection (a) of section 19a-77, in a
53 municipality with a population greater than one hundred thousand
54 persons provided such center is operating as of July 8, 1997. The
55 commissioner may modify or renew a permit for an existing volume
56 reduction plant or transfer station, in accordance with the provisions of
57 this chapter, without regard to its location. In making a decision to
58 grant or deny a permit to construct an ash residue disposal area, the
59 commissioner shall consider any provision which the applicant shall
60 make for a double liner, a leachate collection or detection system and
61 the cost of transportation and disposal of ash residue at the site under
62 consideration.

63 Sec. 3. Subdivision (1) of subsection (i) of section 22a-208a of the
64 general statutes is repealed and the following is substituted in lieu
65 thereof (*Effective October 1, 2003*):

66 (i) (1) The commissioner may issue a general permit for a category
67 of activities which require a permit under this section, except for an
68 activity which is already covered by an individual permit, provided
69 the issuance of the permit is not inconsistent with the requirements of
70 the federal Resource Conservation and Recovery Act. The
71 commissioner's authority to issue a general permit for certain
72 categories of solid waste facilities shall not include the authority to
73 issue a general permit for resources recovery facilities, biomedical
74 waste facilities, solid waste disposal areas or municipal solid waste
75 composting facilities, except that a general permit may be issued for
76 the excavation, disruption, or closure of a solid waste disposal area
77 constructed, built or established prior to July 1, 1971. Any person or
78 municipality conducting an activity for which a general permit has

79 been issued shall not be required to obtain an individual permit under
80 this section, except as provided in subdivision (3) of this subsection.
81 The general permit may regulate a category of activities which (A)
82 involve the same or substantially similar types of operations, (B)
83 involve the transfer, storage, processing or disposal of the same types
84 of substances, (C) require the same operating conditions or standards,
85 and (D) require the same or similar monitoring, and which in the
86 opinion of the commissioner are more appropriately controlled under
87 a general permit than under an individual permit. The general permit
88 may require any person or municipality proposing to conduct any
89 activity under the general permit to register such activity with the
90 commissioner before it is covered by the general permit. Registration
91 shall be on a form prescribed by the commissioner.

92 Sec. 4. Section 22a-208y of the general statutes is repealed and the
93 following is substituted in lieu thereof (*Effective October 1, 2003*):

94 The person holding the permit for a resources recovery facility <u>or a</u>
95 <u>solid waste disposal area permitted for municipal solid waste</u> may
96 submit to the Commissioner of Environmental Protection a plan for the
97 acceptance and disposal of special waste or processed construction and
98 demolition wood at such facility. For purposes of this section, "special
99 waste" shall have the meaning provided in regulations adopted by said
100 commissioner under this chapter. Such plan shall identify special
101 waste or processed construction and demolition wood which can be
102 subject to uniform procedures for screening, testing, acceptance,
103 recordkeeping, handling and disposal and shall include the rate at
104 which such waste shall be processed. The commissioner shall review
105 any plan submitted according to this section and shall approve or deny
106 such plan. If accepted, compliance with such plan may constitute the
107 special waste authorization from said commissioner which would
108 otherwise be required for waste which meets the criteria of the plan

109 Sec. 5. Subdivision (3) of section 22a-134 of the general statutes is
110 repealed and the following is substituted in lieu thereof (*Effective*

111 *October 1, 2003*):

112 (3) "Establishment" means any real property at which or any
113 business operation from which (A) on or after November 19, 1980,
114 there was generated, except as the result of remediation of polluted
115 soil, groundwater or sediment, more than one hundred kilograms of
116 hazardous waste in any one month, (B) hazardous waste generated at a
117 different location was recycled, reclaimed, reused, stored, handled,
118 treated, transported or disposed of, (C) the process of dry cleaning was
119 conducted on or after May 1, 1967, (D) furniture stripping was
120 conducted on or after May 1, 1967, or (E) a vehicle body repair facility
121 was located on or after May 1, 1967, except that any real property or
122 business operation that would qualify as an establishment pursuant to
123 this subdivision solely as a result of the activities of a universal waste
124 handler or activities undertaken at a universal waste transfer facility
125 regarding universal waste shall not be an establishment, provided
126 such activities have not resulted in the discharge, spillage,
127 uncontrolled loss, seepage or filtration of a universal waste.

128 Sec. 6. Section 22a-134 of the general statutes is amended by adding
129 subdivisions (26) to (28), inclusive, as follows (*Effective October 1, 2003*):

130 (NEW) (26) "Universal waste" means the following hazardous
131 wastes: (A) Batteries, as described in 40 CFR 273.2; (B) pesticides, as
132 described in 40 CFR 273.3; (C) thermostats, as described in 40 CFR
133 273.4; (D) lamps, as described in 40 CFR 273.5; and (E) used electronics,
134 as described in subsection (b) of section 22a-449(c)-113 of the
135 regulations of Connecticut state agencies;

136 NEW (27) "Universal waste handler" means any person whose act or
137 process produces a universal waste or whose act first causes a
138 universal waste to become subject to regulation, or the owner or
139 operator of a facility, including all contiguous property, that receives
140 universal waste from other universal waste handler, accumulates
141 universal waste, or sends universal waste to another universal waste

142 handler, to a destination facility, or to a foreign destination, but does
143 not mean a person who treats, except pursuant to the provisions of 40
144 CFR 273.13 (a) or (c), or 40 CFR 273.33 (a) or (c), disposes of, or recycles
145 universal waste, or a person engaged in the off-site transportation of
146 universal waste, including a universal waste transfer facility;

147 (NEW) (28) "Universal waste transfer facility" means any
148 transportation-related facility, including, but not limited to, loading
149 docks, parking areas, storage areas and other similar areas where
150 shipments of universal waste are held during the normal course of
151 transportation for not more than ten days.

152 Sec. 7. Section 23-61b of the general statutes is repealed and the
153 following is substituted in lieu thereof (*Effective October 1, 2003*):

154 (a) No person shall advertise, solicit or contract to do arboriculture
155 within this state at any time without a license issued in accordance
156 with the provisions of this section, except that any person may
157 improve or protect any tree on such person's own premises or on the
158 property of such person's employer without securing such a license
159 provided such activity does not violate the provisions of chapter 441,
160 subsection (a) of section 23-61a or this section. Application <u>for</u>
161 <u>examination</u> for such license shall be made to the Commissioner of
162 Environmental Protection and shall contain such information
163 regarding the applicant's qualifications and proposed operations and
164 other relevant matters as the commissioner may require and shall be
165 accompanied by a fee of twenty-five dollars which shall not be
166 returnable.

167 (b) The commissioner shall require the applicant to show upon
168 examination that the applicant possesses adequate knowledge
169 concerning the proper methods of arboriculture and the dangers
170 involved and the precautions to be taken in connection with these
171 operations, together with knowledge concerning the proper use and
172 application of pesticides and the danger involved and precautions to
173 be taken in connection with their application. If the applicant is other

174 than an individual, the applicant shall designate an officer, member or
175 technician of the organization to take the examination, which designee
176 shall be subject to approval of the commissioner except that any
177 person who uses pesticides in arboriculture shall be licensed to do
178 arboriculture or shall be a licensed commercial applicator under
179 chapter 441. If the extent of the applicant's operations warrant, the
180 commissioner may require more than one such member or technician
181 to be examined. If the commissioner finds the applicant qualified, the
182 commissioner shall issue a license to perform arboriculture within this
183 state. A license shall be valid for a period of five years. The
184 commissioner may issue licenses so that one-fifth of the licenses expire
185 each year. The commissioner may issue licenses for less than five years
186 and prorate the registration fee accordingly. If the commissioner finds
187 that the applicant is not qualified, or if the commissioner refuses to
188 issue a license for any other reason, the commissioner shall so inform
189 the applicant in writing, giving reasons for such refusal.

190 (c) The commissioner may issue a license without examination to
191 any nonresident who is licensed in another state under a law that
192 provides substantially similar qualifications for licensure and which
193 grants similar privileges of licensure without examination to residents
194 of this state licensed under the provisions of this section.

195 (d) Each licensee shall pay a license [renewal] fee of one hundred
196 fifty dollars for each initial license or renewal. All examination and
197 license renewal fees shall be deposited as provided in section 4-32, and
198 any expenses incurred by the commissioner in making examinations,
199 issuing certificates, inspecting tree work or performing any duties of
200 the commissioner shall be charged against appropriations of the
201 General Fund.

202 (e) Each licensee shall maintain and, upon request, furnish such
203 records concerning licensed activities as the commissioner may
204 require.

205 (f) The commissioner may suspend for not more than ten days and,

206 after notice and hearing as provided in any regulations established by
207 the commissioner, may suspend for additional periods, or the
208 commissioner may revoke, any license issued under this section if the
209 commissioner finds that the licensee is no longer qualified or has
210 violated any provision of section 23-61a or this section, or any
211 regulation adopted thereunder.

212 (g) The Commissioner of Environmental Protection, in consultation
213 with the board, shall establish standards for examining applicants and
214 reexamining applicators with respect to the proper use and application
215 of pesticides and **[**agricultural**]** arboriculture methods. Such standards
216 shall provide that in order to be certified, an individual shall be
217 competent with respect to the use and handling of pesticides or the use
218 and handling of the pesticide or class of pesticides covered by such
219 individual's application or certification and in the proper and safe
220 application of recognized arboricultural methods.

221 (h) Any licensed arborist shall be considered to be a certified
222 applicator under section 22a-54 with respect to the use of pesticides.

223 (i) Any person who is a certified applicator, as defined in section
224 22a-54, who is also applying for or renewing a license as an arborist
225 under this section shall not be required to pay a license fee under this
226 section, provided all fees required by section 22a-54 have been paid in
227 full.

228 Sec. 8. (NEW) (*Effective October 1, 2003*) As used in this section and
229 sections 9 to 16, inclusive, of this act:

230 (1) "Arborist business" means any business which wholly or in part
231 holds itself out for hire to perform arboriculture.

232 (2) "Place of business" means any physical location at or through
233 which the functional operations of business regularly occur, including,
234 but not limited to, financial transactions, arrangement of contracts,
235 assignment of contracts, assignment of work and recordkeeping,

236 excluding buildings or locations used solely for storage of equipment
237 or supplies or telephone answering service.

238 (3) "Arboriculture" means any work done for hire to improve the
239 condition of fruit, shade or ornamental trees by feeding or fertilizing,
240 or by pruning, trimming, bracing, treating cavities or other methods of
241 improving tree conditions, or protecting trees from damage from
242 insects or diseases or curing these conditions by spraying or any other
243 method.

244 (4) "Person" means any individual, firm, partnership, association,
245 syndicate, company, trust, corporation, limited liability company,
246 municipality, agency or political or administrative subdivision of the
247 state, or other legal entity of any kind.

248 (5) "Commissioner" means the Commissioner of Environmental
249 Protection or an authorized agent of the commissioner.

250 (6) "Pesticide" means any substance or mixture of substances
251 intended for preventing, destroying, repelling or mitigating any pest,
252 or any substance or mixture of substances intended for use as a plant
253 regulator, defoliant or desiccant.

254 Sec. 9. (NEW) (*Effective October 1, 2003*) (a) No person shall engage
255 in the operation of an arborist business without first obtaining a
256 certificate of registration from the commissioner.

257 (b) Application for a certificate of registration shall be made on such
258 form as the commissioner may prescribe and with such information as
259 the commissioner deems necessary to fulfill the purposes of sections 8
260 to 16, inclusive, of this act. Such information may include, but is not
261 limited to: (1) The name and residential address of the individual
262 submitting an application on behalf of an arborist business; (2) the
263 name, address and telephone number of the arborist business; (3) the
264 name and license number of any licensed arborist employed by the
265 arborist business; (4) the type of business; and (5) the name, address

266 and telephone number of a person who will serve as a point of contact
267 for the commissioner regarding the arborist business. The owner or
268 operator of an arborist business shall notify the commissioner of any
269 change in the information contained in an application or in the status
270 of the business as an arborist business. The notification shall be
271 submitted, in writing, not more than thirty days after the change.

272 (c) An application for a certificate of registration or for renewal of a
273 certificate of registration shall be accompanied by payment of a fee of
274 sixty dollars. An application for a certificate of registration or for
275 renewal of a certificate of registration shall not be deemed to be
276 complete and shall not be acted upon by the commissioner until the
277 required fee, as determined by the commissioner, is paid in full. A
278 certificate of registration issued by the commissioner shall expire on
279 the thirty-first day of August next succeeding its issuance. A person
280 with an arborist business with more than one place of business in the
281 state or who operates under more than one name shall register and
282 pay the application fee for each place of business and for each business
283 name. Funds received by the commissioner in accordance with the
284 provisions of this section shall be deposited in the emergency spill
285 response fund established under section 22a-451 of the general
286 statutes, as amended by this act. The commissioner may expend from
287 the amount collected for such fees any amount necessary to pay the
288 administrative expenses related to registration and collection of fees,
289 provided the amount expended in any fiscal year for such purposes
290 shall not exceed ten per cent of the amount collected in such year.

291 (d) Any arborist business registered under this section shall display
292 the registration number assigned to it by the commissioner on the
293 body of any motor vehicle used by it in the course of business, in any
294 newspaper advertisement for the business, on any billboard
295 advertisement for the business, and in any advertisement for the
296 business placed in the generally circulated telephone directory. Any
297 such arborist business shall further include the number in any written
298 contract it enters regarding the performance of arboriculture.

299 (e) Any person who complies with the arborist business registration
300 requirements of this section shall not be required to register such
301 business under section 22a-66c of the general statutes.

302 Sec. 10. (NEW) *(Effective October 1, 2003)* (a) The commissioner shall,
303 after review of a complete application received pursuant to section 9 of
304 this act, issue, with or without conditions, or deny a certificate of
305 registration for a arborist business. Any denial of a certificate of
306 registration shall briefly state the reasons for such denial. Any person
307 aggrieved by a decision to deny a certificate may, within thirty days
308 from the date such decision is deposited in the mail, request a hearing
309 before the commissioner. Such hearing shall be held in accordance
310 with the provisions of chapter 54 of the general statutes.

311 (b) The commissioner may revoke or suspend a registration in
312 accordance with the provisions of section 4-182 of the general statutes.

313 Sec. 11. (NEW) (*Effective October 1, 2003*) (a) It shall be unlawful for
314 any person to:

315 (1) Violate any provision of sections 9 to 13, inclusive, of this act,
316 chapter 441 of the general statutes, or any regulation, permit,
317 certificate, registration or order adopted, administered or issued
318 pursuant to said chapters;

319 (2) Include false or misleading information in an application or fail
320 to notify the commissioner of a change as required by section 9 of this
321 act;

322 (3) Include false or misleading information in records required to be
323 maintained pursuant to section 13 of this act, fail to maintain such
324 records, or fail to provide the commissioner with the records required
325 by said section;

326 (4) Use a pesticide in a manner inconsistent with the registered
327 labeling or with state or federal restrictions on the use of such
328 pesticide;

329 (5) Apply pesticides generally known in the trade to be ineffective
330 or improper for the intended use;

331 (6) Operate faulty or unsafe equipment which may result in
332 improper pesticide application or harm to the environment, the worker
333 or others;

334 (7) Apply a pesticide or perform arboriculture in a faulty, careless or
335 negligent manner;

336 (8) Aid or abet a licensed or unlicensed person to evade the
337 provisions of sections 9 to 13, inclusive, of this act, chapter 441 of the
338 general statutes, or any regulation, permit, certificate, registration or
339 order adopted, administered or issued pursuant to said chapters;

340 (9) Make a false or misleading statement during an inspection or
341 investigation concerning an infestation of pests, an accident in
342 applying a pesticide, misuse of a pesticide, or violation of a statute,
343 regulation, certificate, registration or order;

344 (10) Perform arboriculture in a manner that does not meet generally
345 accepted industry standards;

346 (11) Perform work, whether or not for compensation, in a category
347 for which the arborist is not certified; and

348 (12) Possess a certificate of registration if such person has been
349 convicted of a felony, as defined in section 53a-25 of the general
350 statutes.

351 (b) The grounds for denial, revocation or suspension of a certificate
352 of registration shall include, but not be limited to, the acts or omissions
353 set forth in subsection (a) of this section. Any arborist business whose
354 certificate of registration is denied, suspended or revoked shall not be
355 eligible for a new certificate of registration until such time has elapsed
356 from the date of denial, suspension or revocation as has been
357 established by the commissioner.

358 (c) A new certificate or renewal of a certificate shall not be issued to
359 an arborist business unless the applicant has submitted the summary
360 required pursuant to subsection (d) of section 22a-58 of the general
361 statutes for the previous calendar year.

362 Sec. 12. (NEW) (*Effective October 1, 2003*) Each arborist business shall
363 employ at each place of business, not less than one arborist licensed
364 pursuant to section 23-61b of the general statutes, as amended by this
365 act.

366 Sec. 13. (NEW) (*Effective October 1, 2003*) (a) An arborist business
367 shall maintain records of pesticide applications for not less than five
368 years from the date such record is made or amended, whichever is
369 later. An arborist business shall maintain records of arboriculture, not
370 involving the use of pesticides, for two years from the date such record
371 is made or amended, whichever is later. The records covered by this
372 section shall include:

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

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

382 (3) The names and applicator certification numbers of all certified
383 commercial pesticide applicators, operator or supervisory, who are
384 employees or agents of the business, and a list of the types of
385 applications which each is performing; and

386 (4) For each site where arboriculture not involving the use of
387 pesticides was performed: (A) The type of work performed, including

388 but not limited to, pruning, trimming, cabling, bracing, fertilizing or
389 treating cavities; (B) the date and place of work; (C) the name and
390 license number of the licensed arborist supervising the work; and (D)
391 the names of any unlicensed or licensed persons performing the work
392 under the supervision of the licensed arborist.

393 (b) Information required under subdivision (2) of subsection (a) of
394 this section may be kept separately from the records required by
395 subdivision (1) of said subsection or may be integrated with such
396 records by including on the record of each pesticide application the full
397 name and United States Environmental Protection Agency registration
398 number of the pesticide used.

399 (c) All records and information required to be kept pursuant to this
400 section shall be kept at the registrant's place of business and may be
401 inspected by the commissioner in accordance with section 22a-59 of the
402 general statutes, as amended by this act, and shall be made available
403 upon request by the commissioner. If the registrant's place of business
404 is outside of the state, the records and information shall be made
405 available to the commissioner at a location in the state not more than
406 ten days after receipt of a request for inspection from the
407 commissioner.

408 (d) An arborist business shall, upon written request, provide a
409 customer with a copy of the record which is required to be kept
410 pursuant to this section and which pertains to arboriculture performed
411 for that customer.

412 Sec. 14. (NEW) (*Effective October 1, 2003*) Any person who violates
413 any provision of sections 9 to 13, inclusive, of this act, shall be assessed
414 a civil penalty of not more than five thousand dollars per day for each
415 day a violation continues. The Attorney General, upon complaint of
416 the commissioner, shall institute a civil action in the superior court for
417 the judicial district of Hartford to recover such penalty.

418 Sec. 15. (NEW) (*Effective October 1, 2003*) In any proceeding

419 regarding denial, suspension or revocation of a certificate of
420 registration, and any proceeding pursuant to section 23-61m of the
421 general statutes, the action, omission or failure to act of any officer,
422 agent or other person acting for or employed by the arborist business
423 shall also be deemed to be the action, omission or failure to act of the
424 arborist business as well as that of the person employed.

425 Sec. 16. (NEW) (*Effective October 1, 2003*) The Commissioner of
426 Environmental Protection may adopt regulations, in accordance with
427 the provisions of chapter 54 of the general statutes, that are necessary
428 to carry out the purposes of sections 23-61a of the general statutes, 23-
429 61b of the general statutes, as amended by this act, and sections 8 to 15,
430 inclusive, of this act.

431 Sec. 17. Section 22a-59 of the general statutes is repealed and the
432 following is substituted in lieu thereof (*Effective October 1, 2003*):

433 (a) For purposes of enforcing the provisions of this chapter,
434 subsection (a) of section 23-61a and sections 23-61b, as amended by
435 this act, **[**and**]** 23-61f, and sections 9 to 16, inclusive, of this act, officers
436 or employees duly designated by the commissioner are authorized to
437 enter at reasonable times, any establishment or other place where
438 pesticides or devices are being or have been used, or where pesticides
439 or devices are held for use, distribution or sale in order to: (1) Observe
440 the application of pesticides; (2) determine if the applicator is or
441 should be certified; (3) determine if the applicator has obtained a
442 proper permit to apply restricted use pesticides; (4) inspect equipment
443 or devices used to apply pesticides; (5) inspect or investigate the
444 validity of damage claims; (6) inspect or obtain samples in any place
445 where pesticides or devices have been used or are held for use, storage,
446 distribution or sale; (7) obtain samples of any pesticides or devices
447 packaged, labeled and released for shipment and samples of any
448 containers or labeling for such pesticides or devices, and (8) obtain
449 samples of any pesticides or devices that have been used and obtain
450 samples of any containers or labeling for such pesticides or devices.

451 Before undertaking such inspection, the officers or employees shall
452 present to the owner, operator, or agent in charge of the establishment
453 or other place where pesticides or devices are held for distribution or
454 sale, appropriate credentials and a written statement as to the reason
455 for the inspection, including a statement as to whether a violation of
456 the law is suspected. If no violation is suspected, an alternate and
457 sufficient reason shall be given in writing. Each such inspection shall
458 be commenced and completed with reasonable promptness. If the
459 officer or employee obtains any samples, prior to leaving the premises,
460 he shall give to the owner, operator, or agent in charge a receipt
461 describing the samples obtained and, if requested, a portion of each
462 such sample equal in volume or weight to the portion retained. If an
463 analysis is made of such samples, the laboratories of the Connecticut
464 Agricultural Experiment Station may be used and a copy of the results
465 of such analysis shall be furnished promptly to the owner, operator, or
466 agents in charge and the commissioner.

467 (b) For purposes of enforcing the provisions of this part, subsection
468 (a) of section 23-61a, and sections 23-61b, as amended by this act, **[**and**]**
469 23-61f, and sections 9 to 16, inclusive, of this act, and upon a showing
470 to an officer or court of competent jurisdiction that there is reason to
471 believe that the provisions of this chapter and said sections have been
472 violated, officers or employees duly designated by the commissioner
473 are empowered to obtain and to execute warrants authorizing: (1)
474 Entry for the purpose of this section; (2) inspection and reproduction of
475 all records showing the quantity, date of shipment, and the name of
476 consignor and consignee of any pesticide or device found in the
477 establishment which is adulterated, misbranded, not registered, in the
478 case of a pesticide, or otherwise in violation of this part and said
479 sections and in the event of the inability of any person to produce
480 records containing such information, all other records and information
481 relating to such delivery, movement, or holding of the pesticide or
482 device; and (3) the seizure of any pesticide or device which is in
483 violation of this part and said sections.

484 Sec. 18. Section 22a-66e of the general statutes is repealed and the
485 following is substituted in lieu thereof (*Effective October 1, 2003*):

486 **[**(a) The grounds for denial, revocation or suspension of a
487 registration shall include, but not be limited to**]**

488 (a) The following shall be unlawful:

489 (1) Violation of any provision of this chapter, **[**as amended**]** sections
490 9 to 16, inclusive, of this act, or any regulation, permit, certificate,
491 registration or order adopted, administered or issued pursuant thereto;

492 (2) Inclusion of false or misleading information in an application or
493 failure to notify the commissioner of a change as required by section
494 22a-66c;

495 (3) Inclusion of false or misleading information in records required
496 to be maintained pursuant to section 22a-66g, the failure to maintain
497 such records, or the failure to provide the commissioner with the
498 records required by said section;

499 (4) Use of a pesticide in a manner inconsistent with the registered
500 labeling or with state or federal restrictions on the use of such
501 pesticide;

502 (5) Application of pesticides generally known in the trade to be
503 ineffective or improper for the intended use;

504 (6) Operation of faulty or unsafe equipment which may result in
505 improper application or harm to the environment, the applicator or
506 others from the pesticide;

507 (7) Application of a pesticide in a faulty, careless or negligent
508 manner;

509 (8) Aiding or abetting a certified or uncertified person to evade the
510 provisions of this chapter, as amended, or any regulation, permit,
511 certificate, registration or order adopted, administered or issued

512 pursuant thereto;

513 (9) The making of a false or misleading statement during an
514 inspection or investigation concerning an infestation of pests, an
515 accident in applying a pesticide, misuse of a pesticide, or violation of a
516 statute, regulation, certificate, registration or order;

517 (10) The performance of work, whether or not for compensation, in
518 a category for which the applicator is not certified; and

519 (11) The conviction of the applicant or pesticide application business
520 of a felony as defined in section 53a-25.

521 (b) The grounds for denial, revocation or suspension of a
522 registration shall include, but not be limited to, the prohibited acts or
523 omissions set forth in subsection (a) of this section. Any pesticide
524 application business whose certificate of registration is denied,
525 suspended or revoked shall not be eligible for a new certificate until
526 such time has elapsed from the date of the denial, suspension or
527 revocation as has been established by the commissioner.

528 (c) A new certificate or renewal of a certificate shall not be issued to
529 a commercial applicator unless the applicant has submitted the
530 summary required pursuant to subsection (d) of section 22a-58, for the
531 previous calendar year.

532 Sec. 19. Subsection (d) of section 22a-451 of the general statutes is
533 repealed and the following is substituted in lieu thereof (*Effective*
534 *October 1, 2003*):

535 (d) There is established an account to be known as the emergency
536 spill response account, for the purpose of providing money for (1)
537 costs associated with the implementation of section 22a-449 and
538 chapter 441; (2) the containment and removal or mitigation of the
539 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
540 petroleum or chemical liquids or solid, liquid or gaseous products or
541 hazardous wastes including the state share of payments of the costs of

542 remedial action pursuant to the federal Comprehensive Environmental
543 Response, Compensation, and Liability Act of 1980 (42 USC 9601 et
544 seq.), as amended; (3) provision of potable drinking water pursuant to
545 section 22a-471; (4) completion of the inventory required by section
546 22a-8a; (5) the removal of hazardous wastes that the commissioner
547 deems to be a potential threat to human health or the environment; (6)
548 (A) the provision of short-term potable drinking water pursuant to
549 subdivision (1) of subsection (a) of section 22a-471 and the preparation
550 of an engineering report pursuant to subdivision (2) of subsection (a)
551 of said section when pollution of the groundwaters by pesticides has
552 occurred or can reasonably be expected to occur; (B) the study required
553 by special act 86-44* and (C) as funds allow, education of the public on
554 the proper use and disposal of pesticides and the prevention of
555 pesticide contamination in drinking water supplies; (7) loans and lines
556 of credit made in accordance with the provisions of section 32-23z; (8)
557 the accomplishment of the purposes of sections 22a-133b to 22a-133g,
558 inclusive, and sections 22a-134 to 22a-134d, inclusive, including
559 staffing, and section 22a-133k; (9) development and implementation by
560 the commissioner of a state-wide aquifer protection program pursuant
561 to the provisions of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g
562 to 22a-354bb, inclusive, 25-32d, 25-33h, 25-33n and subsection (a) of
563 section 25-84, including, but not limited to, development of state
564 regulations for land uses in aquifer protection areas, technical
565 assistance and educational programs; (10) research on toxic substance
566 contamination, including research by the Environmental Research
567 Institute and the Institute of Water Resources at The University of
568 Connecticut and by the Connecticut Agricultural Experiment Station;
569 (11) the costs of the commissioner in performing or approving level A
570 mapping of aquifer protection areas pursuant to this title; **[**and**]** (12)
571 inventory and evaluation of the farm resource management
572 requirements of farms in aquifer areas by the eight county soil and
573 water conservation districts<u>; and (13) costs associated with the</u>
574 <u>administrative expenses related to the registration of arborist</u>
575 <u>businesses, as provided by section 9 of this act</u>. The emergency spill

576 response account shall be an account of the Environmental Quality
577 Fund. On July 1, 2001, any balance remaining in said account shall be
578 transferred to the resources of the Environmental Quality Fund. No
579 expenditures shall be made from the amount transferred until on or
580 after July 1, 2001.

581 Sec. 20. Section 22a-463 of the general statutes is repealed and the
582 following is substituted in lieu thereof (*Effective October 1, 2003*):

583 As used in sections 22a-463 to 22a-469, inclusive:

584 **[**(a)**]** (1) "Commissioner" means the Commissioner of Environmental
585 Protection.

586 **[**(b)**]** (2) "PCB" means the class of organic compounds known as
587 polychlorinated biphenyls or terphenyls and includes any of several
588 compounds produced by replacing two or more hydrogen atoms on
589 the biphenyl or terphenyl molecule with chlorine.

590 **[**(c)**]** (3) "Incidental amounts of PCB" means amounts of the
591 compound PCB in an item, product or material which are beyond the
592 control of the person manufacturing, selling for use, or using such
593 item, product or material.

594 (4) "Dispose" means to intentionally or unintentionally discard,
595 throw away or otherwise complete or terminate the useful life of PCBs
596 and items containing PCBs. "Dispose" includes spills, leaks and other
597 uncontrolled discharges of PCBs, as well as actions relating to
598 containing, transporting, destroying, degrading, decontaminating or
599 confining PCBs and items containing PCBs.

600 Sec. 21. Section 22a-467 of the general statutes is repealed and the
601 following is substituted in lieu thereof (*Effective October 1, 2003*):

602 No person shall dispose of the compound PCB or any item, product
603 or material containing the compound PCB except in accordance with a
604 permit issued pursuant to section 22a-208a, 22a-430 or 22a-454.

605 Notwithstanding the provisions of this section, a person or
606 municipality may dispose of the compound PCB, or the item, product
607 or material containing the compound PCB, in accordance with a
608 written approval by the commissioner if such disposal (1) results in
609 destruction of the compound PCB; or (2) is not inconsistent with the
610 provisions of Part 761 of Title 40 of the Code of Federal Regulations.
611 The commissioner may include in any such approval such conditions
612 as he deems appropriate to protect the environment and human
613 health. For purposes of this section, person includes any responsible
614 corporate officer or municipal official. **[**and "dispose" means to
615 incinerate or treat the compound PCB or any item, product or material
616 containing the compound PCB, or to discharge, deposit, inject, dump
617 or place the compound PCB or any item, product or material
618 containing the compound PCB into or on land or water so that such
619 compound, item, product or material enters the environment, is
620 emitted into the air, or is discharged into any waters, including
621 groundwaters.**]**

622 Sec. 22. Subsection (d) of section 22a-220a of the general statutes is
623 repealed and the following is substituted in lieu thereof (*Effective July*
624 *1, 2003*):

625 (d) Any collector hauling solid waste generated by residential,
626 business, commercial or other establishments in a municipality shall
627 register in such municipality and disclose the name of any other
628 municipality in which such collector hauls such solid waste. On or
629 before December 31, 2003, any collector hauling solid waste or
630 recyclables generated by residential, business, commercial or other
631 establishments in a municipality shall report the name of the disposal
632 facility or facilities where such solid waste will be delivered to the
633 municipality quarterly with respect to the calendar quarter beginning
634 on October 1, 2003, and each calendar quarter thereafter, on or before
635 the last day of the month immediately following the end of each
636 quarter. Such report shall be on a form prescribed by the commissioner
637 and shall provide information the commissioner deems necessary,

638 including, but not limited to, the amount of solid waste and
639 recyclables, by weight or other method acceptable to the
640 commissioner, collected within the boundaries of such municipality
641 and delivered to an out-of-state solid waste facility. Such report shall
642 also include for each municipality the total amount of solid waste and
643 recyclables originating from such municipality.

644 Sec. 23. Section 22a-220a of the general statutes is amended by
645 adding subsections (j) and (k) as follows (*Effective July 1, 2003*):

646 (NEW) (j) If a municipality or collector delivers solid waste
647 generated in the state to an out-of-state solid waste facility, such
648 municipality shall submit a report to the Commissioner of
649 Environmental Protection, quarterly, with respect to the calendar
650 quarter beginning on October 1, 2003, and each calendar quarter
651 thereafter, on or before the last day of the month immediately
652 following the end of each quarter. Such report shall be on a form
653 prescribed by the commissioner and shall provide such information
654 the commissioner deems necessary, including, but not limited to, the
655 municipality of origin of such solid waste, the amount of solid waste
656 delivered to such out-of-state facility, by weight or other method
657 acceptable to the commissioner and the name and address of the
658 facility receiving such solid waste.

659 (NEW) (k) Each municipality shall provide the Commissioner of
660 Environmental Protection and specified solid facility with the names
661 and addresses of collectors registered with such municipality
662 beginning on July 1, 2003, and annually thereafter, on a form
663 prescribed by the commissioner and shall provide such information
664 the commissioner deems necessary.

665 Sec. 24. Section 22a-611 of the general statutes is repealed and the
666 following is substituted in lieu thereof (*Effective October 1, 2003*):

667 The owner or operator of a facility required to complete a toxic
668 release form under Section 313 of the Emergency Planning and

669 Community Right-to-Know Act of 1986 shall annually submit such
670 form to the commission on or before the first of July [1, 1990, and
671 annually thereafter] or a date established by the United States
672 Environmental Protection Agency, whichever comes later.

673 Sec. 25. Subsections (1) to (4), inclusive, of section 22a-255h of the
674 general statutes is repealed and the following is substituted in lieu
675 thereof (*Effective October 1, 2003*):

676 As used in sections 22a-255g to 22a-255m, inclusive:

677 (1) "Package" means any container, produced either domestically or
678 in a foreign country, used for the marketing, protecting or handling of
679 a product and includes a unit package, an intermediate package and a
680 shipping container. "Package" also means any unsealed receptacle such
681 as a carrying case, crate, cup, pail, rigid foil or other tray, wrapper or
682 wrapping film, bag or tub. [but shall not include any glass, ceramic or
683 metal receptacle which is intended to be reusable or refillable.]

684 (2) "Distributor" means any person who takes title or delivery from
685 the manufacturer of a package, packaging component or product,
686 produced either domestically or in a foreign country, to use for
687 promotional purposes or to sell.

688 (3) "Packaging component" means any part of a package, produced
689 either domestically or in a foreign country, including, but not limited
690 to, any interior or exterior blocking, bracing, cushioning,
691 weatherproofing, exterior strapping, coating, closure, ink, label, dye,
692 pigment, adhesive, stabilizer or other additive. Tin-plated steel that
693 meets specification A623 of the American Society of Testing and
694 Materials shall be considered as a single packaging component.
695 [Electrolytic galvanized steel that meets specification A879 of the
696 American Society of Testing and Materials and hot-dipped coated
697 galvanized steel that meets specification A525 of the American Society
698 of Testing and Materials shall be treated in the same manner as tin-
699 plated steel] Electro-galvanized coated steel and hot dipped coated

700 galvanized steel that meets the American Society of Testing and
701 Materials specifications A653, A924, A879 and A591 shall be treated in
702 the same manner as tin-plated steel.

703 (4) "Commissioner" means the Commissioner of Environmental
704 Protection or an authorized agent or designee of the commissioner.

705 Sec. 26. Subdivision (12) of section 22a-255h of the general statutes is
706 repealed and the following is substituted in lieu thereof (*Effective*
707 *October 1, 2003*):

708 (12) "Manufacturer" means any person **[**, firm, association,
709 partnership or corporation**]** producing a package or packaging
710 component as defined in subdivision (3) of this section, as amended by
711 this act.

712 Sec. 27. Subdivision (14) of section 22a-255h of the general statutes is
713 repealed and the following is substituted in lieu thereof (*Effective*
714 *October 1, 2003*):

715 (14) "Supplier" means any person, firm, association, partnership or
716 corporation which sells, offers for sale or offers for promotional
717 purposes packages or packaging components which will be used by
718 any other person **[**, firm, association, partnership or corporation**]** to
719 package a product.

720 Sec. 28. Subsection (a) of section 22a-255i of the general statutes is
721 repealed and the following is substituted in lieu thereof (*Effective*
722 *October 1, 2003*):

723 (a) As soon as feasible, but not later than October 1, 1992, no
724 package or packaging component shall be offered for sale or
725 promotional purposes in this state, by its manufacturer or distributor,
726 if it is composed of any lead, cadmium, mercury or hexavalent
727 chromium which has been intentionally introduced during
728 manufacturing or distribution, as opposed to the incidental presence of
729 any of these substances.

730 Sec. 29. Section 22a-255j of the general statutes is repealed and the
731 following is substituted in lieu thereof (*Effective October 1, 2003*):

732 All packages and packaging components shall be subject to sections
733 22a-255g to 22a-255m, inclusive, except the following:

734 (1) A package or packaging component which was manufactured
735 prior to October 1, 1990, and displays a code indicating the date it was
736 manufactured;

737 (2) A package or packaging component that would not exceed any
738 maximum concentration set forth in subsection (c) of section 22a-255i
739 but for the addition or use of recycled materials; provided the
740 provisions of sections 22a-255g to 22a-255m, inclusive, shall apply to
741 such packages on and after January 1, **[**2000**]** 2010;

742 (3) A package or packaging component to which lead, cadmium,
743 mercury or hexavalent chromium have been added in the
744 manufacturing or distribution process in order to comply with health
745 or safety requirements of federal law, provided the manufacturer of
746 such a package or packaging component has demonstrated to the
747 commissioner that such package or packaging component is entitled to
748 an exemption under this subdivision and the commissioner grants
749 such exemption. The exemption shall be effective for up to two years
750 and may be extended if circumstances warrant an extension. An
751 extension may be granted for up to two years;

752 (4) Any alcoholic liquor bottled prior to October 1, 1992;

753 (5) A package or packaging component to which lead, cadmium,
754 mercury or hexavalent chromium have been added in the
755 manufacturing, forming, printing or distribution process for which
756 there is no feasible alternative to the use of lead, cadmium, mercury or
757 hexavalent chromium provided the manufacturer of such a package or
758 packaging component has demonstrated to the commissioner that such
759 package or packaging component is entitled to an exemption under

760 this subdivision and the commissioner grants such exemption. The
761 exemption shall be effective for two years and may be extended if
762 circumstances warrant an extension. An extension may be granted for
763 up to two years. For purposes of this subdivision, a use for which there
764 is no feasible alternative is one which is essential to the protection, safe
765 handling or function of the package's contents and for which **[**there is
766 no substitute**]** technical constraints preclude the substitution of other
767 materials. For purposes of this subdivision, a use for which there is no
768 feasible alternative shall not include the use of any lead, cadmium,
769 mercury or hexavalent chromium for the purpose of marketing;

770 (6) A package or packaging component that is reused but exceeds
771 contaminant levels set forth in subsection (c) of section 22a-255i,
772 provided (A) the product being conveyed by such **[**package or
773 packaging component**]** packaged product is regulated under federal or
774 state health or safety requirements; (B) the transportation of such
775 package or packaging component is regulated under federal or state
776 transportation requirements; (C) the disposal of the package or
777 packaging component is performed according to federal or state
778 radioactive or hazardous waste disposal requirements; and (D) the
779 manufacturer of such package or packaging component has
780 demonstrated to the commissioner that such package or packaging
781 component is entitled to an exemption under this subdivision and the
782 commissioner grants such exemption. Any exemption granted under
783 this subdivision shall expire on January 1, **[**2000**]** 2010;

784 (7) A package or packaging component which is reusable and has a
785 controlled distribution and reuse but which exceeds the contaminant
786 levels set forth in subsection (c) of section 22a-255i, provided the
787 manufacturer or distributor of such package or packaging component
788 petitions the commissioner for an exemption and the commissioner
789 grants such exemption. A manufacturer or distributor petitioning the
790 commissioner for such an exemption shall (A) satisfactorily
791 demonstrate that the environmental benefit of the reusable packaging
792 or packaging component is significantly greater as compared to the

793 same package or packaging component manufactured in compliance
794 with the contaminant levels set forth in subsection (c) of section 22a-
795 255i, and (B) submit a written plan including, at a minimum, the
796 following elements: (i) A means of identifying in a permanent and
797 visible manner those reusable packages or packaging components
798 containing regulated metals for which the exemption is sought; (ii) a
799 method of regulatory and financial accountability such that a specified
800 percentage of such reusable packaging or packaging components
801 manufactured and distributed to other persons are not discarded by
802 those persons after use, but are returned to the manufacturer or his
803 designee; (iii) a system of inventory and record maintenance to
804 account for the reusable packaging or packaging components placed in
805 and removed from service; (iv) a means of transforming returned
806 packaging or packaging components that are no longer reusable into
807 recycled materials for manufacturing or into manufacturing wastes
808 which are subject to existing federal or state laws or regulations to
809 ensure that these wastes do not enter the commercial or municipal
810 waste stream; and (v) a system for annually reporting to the
811 commissioner any changes to the system or changes regarding the
812 manufacturer's designee. Any exemption granted under this
813 subdivision shall expire on January 1, **[**2000**]** 2010.

814 (8) A glass or ceramic package or packaging component that has a
815 vitrified label when tested in accordance with the Toxicity
816 Characteristic Leaching Procedures of the United States Environmental
817 Protection Agency Test Method and Publication SW 846, third edition,
818 "Test Methods for Evaluating Solid Waste", does not exceed one part
819 per million for cadmium, five parts per million for hexavalent
820 chromium and five parts per million for lead. This exemption shall
821 expire on January 1, 2005.

822 Sec. 30. Subsection (a) of section 22a-255m of the general statutes is
823 repealed and the following is substituted in lieu thereof (*Effective*
824 *October 1, 2003*):

825 (a) The [department] commissioner may, in consultation with the
826 [Source Reduction Council of the Council of Northeastern Governors]
827 other member states of the Toxics in Packaging Clearing House,
828 review the effectiveness of sections 22a-255g to 22a-255m, inclusive,
829 and provide a report based on such review to the Governor and the
830 General Assembly. The report may describe substitutes which
831 manufacturers and distributors of packages and packaging
832 components have used in place of lead, mercury, cadmium and
833 hexavalent chromium, and may contain recommendations concerning
834 (1) other toxic substances contained in packaging that should be added
835 to those regulated under the provisions of sections 22a-255g to 22a-
836 255m, inclusive, in order to further reduce the toxicity of packaging
837 waste and (2) the advisability of retaining the exemption provided in
838 subdivision (2) of section 22a-255j.

This act shall take effect as follows:	
Section 1	*October 1, 2003*
Sec. 2	*October 1, 2003*
Sec. 3	*October 1, 2003*
Sec. 4	*October 1, 2003*
Sec. 5	*October 1, 2003*
Sec. 6	*October 1, 2003*
Sec. 7	*October 1, 2003*
Sec. 8	*October 1, 2003*
Sec. 9	*October 1, 2003*
Sec. 10	*October 1, 2003*
Sec. 11	*October 1, 2003*
Sec. 12	*October 1, 2003*
Sec. 13	*October 1, 2003*
Sec. 14	*October 1, 2003*
Sec. 15	*October 1, 2003*
Sec. 16	*October 1, 2003*
Sec. 17	*October 1, 2003*
Sec. 18	*October 1, 2003*
Sec. 19	*October 1, 2003*
Sec. 20	*October 1, 2003*
Sec. 21	*October 1, 2003*

Sec. 22	*July 1, 2003*
Sec. 23	*July 1, 2003*
Sec. 24	*October 1, 2003*
Sec. 25	*October 1, 2003*
Sec. 26	*October 1, 2003*
Sec. 27	*October 1, 2003*
Sec. 28	*October 1, 2003*
Sec. 29	*October 1, 2003*
Sec. 30	*October 1, 2003*

Statement of Purpose:

To establish conditions for closure of a solid waste disposal area which previously were not permitted by law; establish conditions for the use of a general permit for excavation, disruption or closure of a solid waste disposal area; streamline the authorization process for the disposal of municipal solid waste by allowing solid waste disposal areas to develop special waste plans; to create an exemption form the definition of "establishment" in the Transfer Act for small and large quantity handlers of universal waste and to remove any regulatory burdens for facilities that are used to promote the collection of universal waste; to incorporate the arborist licensure fees into the pesticide fees; to establish a registration scheme for arborist businesses; to redefine the term "dispose" as used in the PCB provisions of the water pollution control statutes to make it consistent with the federal definition; to move the definition of "dispose" of PCBs to clarify the statutory authorities available to identify noncompliance and to provide access to and removal of abandoned PCB-containing electrical equipment; to require trash haulers and collectors to quarterly report to municipalities in which they haul solid waste and recyclables on the monthly amounts, types, and destinations of such waste; to adjust state filing deadlines for toxic release forms to maintain consistency with federal filing deadlines; to reinstate specific exemptions that have expired in the Toxics in Packaging legislation; to refine certain definitions to conform with model toxic packaging legislation and to promote consistency among the other member states of the Toxics in Packaging Clearing House.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]