



General Assembly

January Session, 2003

Raised Bill No. 1157

LCO No. 4419

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING MINOR REVISIONS TO THE ENVIRONMENTAL PROTECTION PROVISIONS.

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

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 Section 22a-1b of the general statutes is repealed and the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

3 The General Assembly directs that, to the fullest extent possible:

4 (a) Each state department, institution or agency shall review its
5 policies and practices to insure that they are consistent with the state's
6 environmental policy as set forth in sections 22a-1 and 22a-1a.

7 (b) (1) Each sponsoring agency shall, prior to a decision to [draft]
8 prepare an environmental impact evaluation pursuant to subsection (c)
9 of this section for an action which may significantly affect the
10 environment, conduct an early public scoping process.

11 (2) To initiate an early public scoping process, the sponsoring
12 agency shall provide notice on a form that has been approved by the
13 Council on Environmental Quality, which shall include, but not be
14 limited to, the date, time and location of any proposed public scoping

15 meeting and the duration of the public comment period pursuant to
16 subdivision (3) of this subsection, to the council, the Office of Policy
17 and Management and [to] any other state agency whose activities may
18 reasonably be expected to affect or be affected by the proposed action.

19 (3) Members of the public and any interested state agency
20 representatives may submit comments on the nature and extent of any
21 environmental impacts of the proposed action during the thirty days
22 following the publication of the notice of the early public scoping
23 process pursuant to this section.

24 (4) A public scoping meeting shall be held at the discretion of the
25 sponsoring agency or if twenty-five persons or an association having
26 not less than twenty-five persons requests such a meeting within ten
27 days of the publication of the notice in the Environmental Monitor. A
28 public scoping meeting shall be held not less than ten days following
29 the notice of the [project] proposed action in the Environmental
30 Monitor. The public comment period shall remain open for at least five
31 days following the meeting.

32 (5) A sponsoring agency shall provide the following at a public
33 scoping meeting: (A) A description of the proposed action; (B) a
34 description of the purpose and need of the proposed action; (C) a list of
35 the criteria for a site for the proposed action; (D) a list of potential sites
36 for the proposed action; (E) the resources of any proposed site [of] for
37 the proposed action; (F) the environmental limitations of such sites; (G)
38 potential alternatives to the proposed action; and (H) any [of the]
39 information the sponsoring agency deems necessary.

40 (6) Any agency submitting comments or participating in the public
41 scoping meeting pursuant to this section shall include, to the extent
42 practicable, but not be limited to, information about (A) the resources
43 of any proposed site [of] for the proposed action, (B) any plans of the
44 commenting agency that may affect or be affected by the proposed
45 action, (C) any permits or approvals that may be necessary for the
46 proposed action, and (D) any appropriate measures that would

47 mitigate the impact of the proposed action, including, but not limited
48 to, recommendations as to preferred sites for the proposed action or
49 alternatives for the proposed action that have not been identified by
50 the sponsoring agency.

51 (7) The sponsoring agency shall consider any comments received
52 pursuant to this section or any information obtained during the public
53 scoping meeting in selecting the proposed actions to be addressed in
54 the environmental impact evaluation and shall evaluate in its
55 environmental impact evaluation any substantive issues raised during
56 the early public scoping process that pertain to a proposed action or
57 site or alternative actions or sites.

58 (c) Each state department, institution or agency responsible for the
59 primary recommendation or initiation of actions which may
60 significantly affect the environment shall in the case of each such
61 proposed action make a detailed written evaluation of its
62 environmental impact before deciding whether to undertake or
63 approve such action. All such environmental impact evaluations shall
64 be detailed statements setting forth the following: (1) A description of
65 the proposed action which shall include, but not be limited to, a
66 description of the purpose and need of the proposed action, and, in the
67 case of a proposed facility, a description of the infrastructure needs of
68 such facility, including, but not limited to, parking, water supply,
69 wastewater treatment and the square footage of the facility; (2) the
70 environmental consequences of the proposed action, including
71 cumulative, direct and indirect effects which might result during and
72 subsequent to the proposed action; (3) any adverse environmental
73 effects which cannot be avoided and irreversible and irretrievable
74 commitments of resources should the proposal be implemented; (4)
75 alternatives to the proposed action, including the alternative of not
76 proceeding with the proposed action and, in the case of a proposed
77 facility, a list of all the sites controlled by or reasonably available to the
78 sponsoring agency that would meet the stated purpose of such facility;
79 (5) an evaluation of the proposed action's consistency and each

80 alternative's consistency with the state plan of conservation and
81 development, an evaluation of each alternative including, to the extent
82 practicable, [in terms of] whether it avoids, minimizes or mitigates
83 environmental impacts, and, where appropriate, a description of
84 detailed mitigation measures proposed to minimize environmental
85 impacts, including, but not limited to, where appropriate, a site plan;
86 (6) an analysis of the short term and long term economic, social and
87 environmental costs and benefits of the proposed action; (7) the effect
88 of the proposed action on the use and conservation of energy
89 resources; and (8) a description of the effects of the proposed action on
90 sacred sites or archaeological sites of state or national importance. In
91 the case of an action which affects existing housing, the evaluation
92 shall also contain a detailed statement analyzing (A) housing
93 consequences of the proposed action, including direct and indirect
94 effects which might result during and subsequent to the proposed
95 action by income group as defined in section 8-37aa and by race, and
96 (B) the consistency of the housing consequences with the long-range
97 state housing plan adopted under section 8-37t. As used in this section,
98 "sacred sites" and "archaeological sites" shall have the same meaning as
99 in section 10-381.

100 (d) (1) The Council on Environmental Quality shall publish a
101 document at least once a month to be called the Environmental
102 Monitor which shall include any notices the council receives pursuant
103 to sections 22a-1b to 22a-1i, inclusive, and shall include notice of the
104 opportunity to [petition for] request a public scoping meeting. Filings
105 of such notices received by five o'clock p.m. on the first day of each
106 month shall be published in the Environmental Monitor that is issued
107 not later than ten days thereafter.

108 (2) The Council on Environmental Quality shall post the
109 Environmental Monitor on its Internet site and distribute a
110 subscription or a copy of the Environmental Monitor by electronic mail
111 to any state agency, municipality or person upon request. The council
112 shall also provide the Environmental Monitor to the clerk of each

113 municipality for posting in its town hall.

114 Sec. 2. Subsection (c) of section 22a-1d of the general statutes is
115 repealed and the following is substituted in lieu thereof (*Effective from*
116 *passage*):

117 (c) All comments and responses so forwarded to the Secretary of the
118 Office of Policy and Management shall be available for public
119 inspection.

120 Sec. 3. Subsection (m) of section 22a-261 of the general statutes is
121 repealed and the following is substituted in lieu thereof (*Effective from*
122 *passage*):

123 (m) The authority shall continue as long as it [shall have] has bonds
124 or other obligations outstanding and until its existence [shall be] is
125 terminated by law. Upon the termination of the existence of the
126 authority, all its rights and properties shall pass to and be vested in the
127 state of Connecticut.

128 Sec. 4. Section 22a-614 of the general statutes is repealed and the
129 following is substituted in lieu thereof (*Effective from passage*):

130 The commissioner shall participate in the regional [,] multistate
131 clearinghouse to assist in carrying out the requirements set forth in
132 sections 22a-612 to 22a-625, inclusive, to act as the designated agent of
133 the clearinghouse for the purposes of receiving notifications and
134 submissions of information as required by sections 22a-612 to 22a-625,
135 inclusive, and to help coordinate reviews of the manufacturers'
136 notifications regarding mercury-added products, applications for
137 phase-out exemptions, collection system plans, disclosures of mercury-
138 added content, applications for alternative labeling or notification
139 systems or both, education and outreach activities, and any other
140 functions related to sections 22a-612 to 22a-625, inclusive.

141 Sec. 5. Section 22a-615 of the general statutes is repealed and the
142 following is substituted in lieu thereof (*Effective from passage*):

143 (a) On and after January 1, 2003, no person shall offer any mercury-
144 added product for sale or distribute any such product for promotional
145 purposes in this state unless the manufacturer or its designated
146 industrial trade group gives prior notification in writing to the
147 commissioner or the regional [,] multistate clearinghouse described in
148 section 22a-614, as amended by this act, as provided in this section.
149 Such notification, in a form prescribed by the commissioner, shall at a
150 minimum include (1) a brief description of the product or category of
151 products to be offered for sale or distributed; (2) an identification of
152 each product by its mercury content in one of the following ranges:
153 Less than zero to five milligrams, greater than five milligrams to ten
154 milligrams, greater than ten milligrams to fifty milligrams, greater
155 than fifty milligrams to one hundred milligrams, greater than one
156 hundred milligrams to one thousand milligrams and greater than one
157 thousand milligrams; (3) the actual total amount of mercury in each
158 product; and (4) the name and address of the manufacturer and the
159 position, address and phone number of a contact person at the
160 manufacturer. The manufacturer or its designated industrial trade
161 group shall revise the information in the notification whenever there is
162 significant change in the information or when requested by the
163 commissioner or the regional [,] multistate clearinghouse.

164 (b) Any mercury-added product for which federal law preempts
165 state authority over notice requirements is exempt from the
166 requirements of this section.

167 (c) With the approval of the commissioner, the manufacturer or its
168 designated industrial trade group may supply the information
169 required in subdivisions (1) to (3), inclusive, of subsection (a) of this
170 section for a product category rather than an individual product.

171 (d) Public disclosure of trade secrets submitted to the commissioner
172 pursuant to this section shall be governed by the provisions of chapter
173 14. Notwithstanding the provisions of [said] chapter 14, the
174 commissioner may provide the regional [,] multistate clearinghouse

175 described in section 22a-614, as amended by this act, with copies of
176 such information and the commissioner, in consultation with the
177 clearinghouse, may compile or publish analyses or summaries of such
178 information, provided the analyses or summaries do not identify any
179 manufacturer or reveal any confidential information.

180 Sec. 6. Subsection (a) of section 22a-618 of the general statutes is
181 repealed and the following is substituted in lieu thereof (*Effective from*
182 *passage*):

183 (a) The commissioner shall exempt a mercury-added product from
184 the limits on total mercury content set forth in subsection (a) of section
185 22a-617 if the level of mercury or mercury compounds contained in the
186 product are necessary to comply with federal or state health or safety
187 requirements. In order to obtain such exemption, the manufacturer
188 shall provide the commissioner and notify the regional [,] multistate
189 clearinghouse described in section 22a-614, as amended by this act,
190 with information that demonstrates such necessity.

191 Sec. 7. Subdivision (1) of subsection (h) of section 22a-619 of the
192 general statutes is repealed and the following is substituted in lieu
193 thereof (*Effective from passage*):

194 (h) (1) A manufacturer may apply to the commissioner and the
195 regional [,] multistate clearinghouse described in section 22a-614, as
196 amended by this act, for an alternative to the requirements of
197 subsections (a) to (g), inclusive, of this section if: (A) Compliance with
198 the requirements is not feasible; (B) the proposed alternative would be
199 at least as effective in providing presale notification of mercury content
200 and in providing instructions on proper disposal; or (C) federal law
201 preempts state authority over labeling.

202 Sec. 8. Subsection (c) of section 22a-620 of the general statutes is
203 repealed and the following is substituted in lieu thereof (*Effective from*
204 *passage*):

205 (c) Not later than July 1, 2004, and biennially thereafter, the
206 manufacturer or entity that submitted the plan on behalf of the
207 manufacturer shall submit a report to the commissioner and to the
208 regional [] multistate clearinghouse described in section 22a-614, as
209 amended by this act, on the effectiveness of the collection system. The
210 report shall include an estimate of the amount of mercury that was
211 collected, the capture rate for the mercury-added products or
212 components, the results of the other performance measures included in
213 the manufacturer's collection system plan, and such other information
214 as the commissioner may require. The commissioner shall make such
215 reports available to the public.

216 Sec. 9. Subsection (f) of section 22a-620 of the general statutes is
217 repealed and the following is substituted in lieu thereof (*Effective from*
218 *passage*):

219 (f) The following are exempt from the provisions of this section: (1)
220 Formulated mercury-added products intended to be consumed in use,
221 including, but not limited to, reagents, cosmetics, pharmaceuticals and
222 other laboratory chemicals; (2) fabricated mercury-containing products
223 where the only mercury is contained in a component that cannot
224 feasibly be removed by the purchaser including, but not limited to,
225 electronic products whose only mercury-added component is a
226 mercury-containing lamp used for backlighting provided such
227 manufacturer or trade association maintains a web-based service to
228 provide information on recycling and safe disposal of such products;
229 (3) photographic film and paper; (4) a manufacturer or trade
230 association of mercury-containing lamps that [maintain] maintains a
231 toll-free telephone number and an Internet-based service to provide
232 information on recycling and safe disposal of such lamps and directs
233 consumers to such telephone number and service on any statutorily-
234 required package label; and (5) any other product for which the
235 commissioner determines a collection plan is not feasible.

236 Sec. 10. Subdivision (2) of section 22a-613 of the general statutes is

237 repealed and the following is substituted in lieu thereof (*Effective from*
238 *passage*):

239 (2) "Mercury-added product" means a product, commodity,
240 chemical or component of a product that contains mercury or a
241 mercury compound that is intentionally added for any reason.
242 "Mercury-added product" includes, but is not limited to, formulated
243 mercury-added products and fabricated mercury-added products.
244 "Mercury-added product" does not include any packaging component,
245 as defined in subdivision (3) of section 22a-255h or a button cell
246 battery.

247 Sec. 11. Subsection (g) of section 22a-619 of the general statutes is
248 repealed and the following is substituted in lieu thereof (*Effective from*
249 *passage*):

250 (g) (1) Manufacturers shall meet all the requirements of this section
251 for large appliances, including, but not limited to, washers, dryers,
252 ovens, including microwave ovens, refrigerators, air conditioners,
253 dehumidifiers or portable heaters sold in a store where such appliance
254 is on display, except that no package labeling shall be required; (2)
255 manufacturers shall meet all the requirements of this section for
256 mercury fever thermometers, except that no product labeling shall be
257 required; (3) in the case of vehicles, (A) manufacturers shall meet the
258 product labeling requirements of this section for vehicles by placing a
259 label on the doorpost of the vehicles that lists the mercury-added
260 components that may be present in the vehicle, and (B) manufacturers
261 shall not be required to label the mercury-added components of the
262 vehicle; (4) manufacturers of products that contain a mercury-
263 containing lamp used for backlighting that cannot feasibly be removed
264 by the purchaser shall meet the product labeling requirements of this
265 section by placing the label on the product or its care and use manual;
266 (5) [manufacturers shall meet all the requirements of this section for
267 button cell batteries containing mercury, except that no labeling shall
268 be required; (6)] in the case of products that contain button cell

269 batteries containing mercury as the only mercury components,
270 manufacturers shall meet the packaging requirements of this section
271 by including a label in the product instructions, if any, and on the
272 packaging, and no further product labeling shall be required; [(7)] (6)
273 manufacturers of fluorescent lights shall meet the labeling
274 requirements of this section by labeling the product packaging; and
275 [(8)] (7) manufacturers of medical equipment not intended for use by
276 nonmedical personnel are exempt from this section.

277 Sec. 12. Subdivision (2) of subsection (a) of section 22a-449c of the
278 general statutes is repealed and the following is substituted in lieu
279 thereof (*Effective from passage*):

280 (2) The account shall be used by the Commissioner of
281 Environmental Protection to provide money for reimbursement or
282 payment pursuant to section 22a-449f, as amended by this act, to
283 responsible parties or parties supplying goods or services, or both, to
284 responsible parties for costs, expenses and other obligations paid or
285 incurred, as the case may be, as a result of releases, and suspected
286 releases, costs of investigation of releases and suspected releases, and
287 third party claims for bodily injury, property damage and damage to
288 natural resources. Such costs of investigation shall not include interest
289 or finance charges incurred by the responsible party that accrued
290 during the time period specified for the rendering of a review board
291 decision in subsection (c) of section 22a-449f. Notwithstanding the
292 provisions of this section regarding reimbursements of parties
293 pursuant to section 22a-449f, as amended by this act, the responsible
294 party for a release shall bear all costs of the release that are less than
295 ten thousand dollars or more than one million dollars, except that for
296 any such release which was reported to the department prior to
297 December 31, 1987, and for which more than five hundred thousand
298 dollars has been expended by the responsible party to remediate such
299 release prior to June 19, 1991, the responsible party for the release shall
300 bear all costs of such release which are less than ten thousand dollars
301 or more than five million dollars, provided the portion of any

302 reimbursement or payment in excess of three million dollars may, at
303 the discretion of the commissioner, be made in annual payments for up
304 to a five-year period. There shall be allocated to the department
305 annually, for administrative costs, two million dollars.

306 Sec. 13. Subsection (a) of section 22a-449f of the general statutes is
307 repealed and the following is substituted in lieu thereof (*Effective from*
308 *passage*):

309 (a) A responsible party may apply to the Underground Storage
310 Tank Petroleum Clean-Up Account Review Board established under
311 section 22a-449d, for reimbursement for costs paid and payment of
312 costs incurred or for the preauthorization of costs to be incurred within
313 a period of not more than twelve months as a result of a release, or a
314 suspected release, including costs of investigating a release, or a
315 suspected release, incurred or paid by a responsible party who is
316 determined not to have been liable for any such release. Such costs of
317 investigation shall not include interest or finance charges incurred by
318 the responsible party that accrued during the time period specified for
319 the rendering of a review board decision in subsection (c) of this
320 section. If a person or entity, other than a responsible party, claims to
321 have suffered damage or personal injury from a release, and the
322 responsible party denies there was a release or does not apply to the
323 board for payment of such claim, the person or entity holding such
324 claim may apply to the board for payment for such damage or
325 personal injury. The board shall order reimbursement or payment
326 from the account for any cost paid or incurred, as the case may be, if,
327 (1) such cost is or was incurred after July 5, 1989, (2) the responsible
328 party was or would have been required to demonstrate financial
329 responsibility under 40 CFR Part 280.90 et seq. as said regulation was
330 published in the Federal Register of October 26, 1988, for the
331 underground storage tank or underground storage tank system from
332 which the release emanated, whether or not such owner is required to
333 comply with said requirements on the date any such cost is incurred,
334 provided if the state is the responsible party, the board may order

335 payment from the account without regard to whether the state was or
336 would have been required to demonstrate financial responsibility
337 under said sections 40 CFR Part 280.90 et seq., (3) after the release, if
338 any, the responsible party incurred a cost, expense or obligation for
339 investigation, cleanup or for claims of third parties resulting from a
340 release, provided any third party claim shall be required to be finally
341 adjudicated or settled with the prior written approval of the board
342 before an application for reimbursement or payment is made, (4) the
343 board determines that the cost is for damage that was incurred as a
344 result of the release, and that the grounds for recovery specified in
345 subsection (b) of this section do not exist at the time such
346 determination is made, and (5) the responsible party notified the board
347 as soon as practicable of the release, and of any third party claim
348 resulting from the release, in accordance with the regulations adopted
349 pursuant to section 22a-449e. A responsible party that has received a
350 decision from the review board preauthorizing costs to be incurred
351 may apply, on a monthly basis, to the board for the reimbursement of
352 costs actually incurred. In acting on a request for payment or
353 reimbursement, the board, using funds from the underground storage
354 tank petroleum clean-up account, may contract with experts,
355 including, but not limited to, attorneys and medical professionals, to
356 better evaluate and defend against claims and negotiate third party
357 claims. The costs of the board for experts shall not be charged to the
358 amount allocated to the Department of Environmental Protection
359 pursuant to section 22a-449c.

360 Sec. 14. Subsection (c) of section 22a-449f of the general statutes is
361 repealed and the following is substituted in lieu thereof (*Effective from*
362 *passage*):

363 (c) The review board shall render its decision not more than ninety
364 days after receipt of an application from a responsible party or a third
365 party, [provided,] except that in the case of a second or subsequent
366 application, the board shall render its decision not more than forty-five
367 days after receipt of such application and, in the case of a responsible

368 party that previously received preauthorization for costs to be
 369 incurred, the board shall render its decision not more than thirty days
 370 after receipt of such application. A copy of the decision shall be sent to
 371 the Commissioner of Environmental Protection and the applicant or
 372 responsible party by certified mail, return receipt requested. The
 373 Commissioner of Environmental Protection or any person aggrieved
 374 by the decision of the board may, within twenty days from the date of
 375 issuance of such decision, request a hearing before the board in
 376 accordance with the provisions of chapter 54. After such hearing, the
 377 board shall consider the information submitted to it and affirm or
 378 modify its decision on the application. A copy of the affirmed or
 379 modified decision shall be sent to the applicant or responsible party by
 380 certified mail, return receipt requested.

This act shall take effect as follows:	
Section 1	<i>from passage</i>
Sec. 2	<i>from passage</i>
Sec. 3	<i>from passage</i>
Sec. 4	<i>from passage</i>
Sec. 5	<i>from passage</i>
Sec. 6	<i>from passage</i>
Sec. 7	<i>from passage</i>
Sec. 8	<i>from passage</i>
Sec. 9	<i>from passage</i>
Sec. 10	<i>from passage</i>
Sec. 11	<i>from passage</i>
Sec. 12	<i>from passage</i>
Sec. 13	<i>from passage</i>
Sec. 14	<i>from passage</i>

Statement of Purpose:

To make certain minor revisions to the environmental protection statutes for purposes of clarity, consistency, proper grammar and proper punctuation; to exempt button cell batteries from the provisions of chapter 446m of the general statutes regarding mercury reduction; to prohibit the Department of Environmental Protection from reimbursing a responsible party for interest or finance charges

incurred between the time the party submits its application for reimbursement to the Underground Storage Tank Petroleum Clean-Up Account Review Board relating to a commercial underground storage tank and the time that the review board renders its decision; to allow a responsible party to receive preauthorization for costs to be incurred as a result of a release, or a suspected release of petroleum from a commercial underground storage tank.

[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.]