



# House of Representatives

**File No. 649**

General Assembly

---

February Session, 2004 **(Reprint of File No. 331)**

Substitute House Bill No. 5528  
As Amended by House  
Amendment Schedules "A", "B" and "C"

Approved by the Legislative Commissioner  
April 23, 2004

**AN ACT CONCERNING MINOR REVISIONS TO THE ENVIRONMENTAL PROTECTION STATUTES.**

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

1 Section 1. Section 22a-174 of the general statutes, as amended by  
2 sections 125 and 126 of public act 03-6 of the June 30 special session, is  
3 repealed and the following is substituted in lieu thereof (*Effective from*  
4 *passage*):

5 (a) The commissioner, in the manner provided in subdivision (1) of  
6 section 22a-6, as amended by this act, shall have the power to  
7 formulate, adopt, amend and repeal regulations to control and prohibit  
8 air pollution throughout the state or in such areas of the state as are  
9 affected thereby, which regulations shall be consistent with the federal  
10 Air Pollution Control Act and which qualify the state and its  
11 municipalities for available federal grants. Any person heard at the  
12 public hearing on any such regulation shall be given written notice of  
13 the determination of the commissioner.

14 (b) The commissioner shall have the power to employ technical

15 consultants for special studies, advice and assistance; to consult with  
16 and advise and exchange information with other departments or  
17 agencies of the state.

18 (c) The commissioner shall have the power, in accordance with  
19 regulations adopted by him, (1) to require that a person, before  
20 undertaking the construction, installation, enlargement or  
21 establishment of a new air contaminant source specified in the  
22 regulations adopted under subsection (a) of this section, submit to him  
23 plans, specifications and such information as he deems reasonably  
24 necessary relating to the construction, installation, enlargement, or  
25 establishment of such new air contaminant source; (2) to issue a permit  
26 approving such plans and specifications and permitting the  
27 construction, installation, enlargement or establishment of the new air  
28 contaminant source in accordance with such plans, or to issue an order  
29 requiring that such plans and specifications be modified as a condition  
30 to his approving them and issuing a permit allowing such  
31 construction, installation, enlargement or establishment in accordance  
32 therewith, or to issue an order rejecting such plans and specifications  
33 and prohibiting construction, installation, enlargement or  
34 establishment of a new air contaminant source in accordance with the  
35 plans and specifications submitted; (3) to require periodic inspection  
36 and maintenance of combustion equipment and other sources of air  
37 pollution; (4) to require any person to maintain such records relating to  
38 air pollution or to the operation of facilities designed to abate air  
39 pollution as he deems necessary to carry out the provisions of this  
40 chapter and section 14-164c, as amended; (5) to require that a person in  
41 control of an air contaminant source specified in the regulations  
42 adopted under subsection (a), obtain a permit to operate such source if  
43 the source (A) is subject to any regulations adopted by the  
44 commissioner concerning high risk hazardous air pollutants, (B) burns  
45 waste oil, (C) is allowed by the commissioner, pursuant to regulations  
46 adopted under subsection (a), to exceed emission limits for sulfur  
47 compounds, (D) is issued an order pursuant to section 22a-178, as  
48 amended by this act, or (E) violates any provision of this chapter, or

49 any regulation, order or permit adopted or issued thereunder; (6) to  
50 require that a person in control of an air contaminant source who is not  
51 required to obtain a permit pursuant to this subsection register with  
52 him and provide such information as he deems necessary to maintain  
53 his inventory of air pollution sources and the commissioner may  
54 require renewal of such registration at intervals he deems necessary to  
55 maintain such inventory; (7) to require a permit for any source  
56 regulated under the federal Clean Air Act Amendments of 1990, P.L.  
57 101-549; (8) to refuse to issue a permit if the Environmental Protection  
58 Agency objects to its issuance in a timely manner under Title V of the  
59 federal Clean Air Act Amendments of 1990; and (9) notwithstanding  
60 any regulation adopted under this chapter, to require that any source  
61 permitted under Title V of the federal Clean Air Act Amendments of  
62 1990 shall comply with all applicable standards set forth in the Code of  
63 Federal Regulations, Title 40, Parts 51, 52, 59, 60, 61, 63, 68, 70, 72 to 78,  
64 inclusive, and 82, as amended from time to time.

65 (d) The commissioner shall have all incidental powers necessary to  
66 carry out the purposes of this chapter and section 14-164c, as amended.

67 (e) As used in this subsection, "contiguous" means abutting or  
68 adjoining without consideration of the actual or projected existence of  
69 roadways, walkways, plazas, parks or other minor intervening  
70 features; "indirect source" means any building, structure, facility,  
71 installation or combination thereof, that has or leads to associated  
72 activity as a result of which any air pollutant is or may be emitted. The  
73 commissioner shall not require the submission of plans and  
74 specifications under indirect source regulations adopted pursuant to  
75 subdivisions (1) and (2) of subsection (c) of this section for proposed  
76 construction to be undertaken within a redevelopment area or urban  
77 renewal project, as defined in chapter 130, provided (1) the proposed  
78 construction is pursuant to a plan for such redevelopment area or  
79 urban renewal project adopted pursuant to section 8-127 prior to  
80 October 1, 1974, or to a modification of such plan, (2) the proposed  
81 construction is part of a contiguous, single purpose or multipurpose  
82 development or developments and (3) site clearance or construction

83 had commenced on a portion of the site of such development or  
84 developments prior to October 1, 1974, nor shall the commissioner  
85 issue any order pursuant to subdivision (1) of subsection (c) of this  
86 section pertaining to the enforcement of indirect source regulations  
87 with respect to such proposed construction within such redevelopment  
88 areas and urban renewal projects. In the event that the modification of  
89 any such plan after October 1, 1974, would result in the proposed  
90 construction generating substantially more motor vehicle traffic than  
91 would have been generated prior to such modification, the submission  
92 of plans and specifications shall be required for such proposed  
93 modification. The commissioner shall not require the renewal of an  
94 indirect source operating permit issued in accordance with subsection  
95 (c) of this section unless such indirect source no longer conforms with  
96 plans, specifications or other information submitted to said  
97 commissioner in accordance with said subsection (c).

98 (f) The commissioner shall allow the open burning of brush on  
99 residential property, provided the burning is conducted by the  
100 resident of the property or the agent of the resident and a permit for  
101 such burning is obtained from the local open burning official of the  
102 municipality in which the property is located, and the open burning of  
103 brush in municipal landfills, transfer stations and municipal recycling  
104 centers, provided a permit for such burning is obtained from the fire  
105 marshal of the municipality where the facility is located, except that no  
106 open burning of brush shall occur (1) when national or state ambient  
107 air quality standards may be exceeded; (2) where a hazardous health  
108 condition might be created; (3) when the forest fire danger in the area  
109 is identified by the commissioner as extreme and where woodland or  
110 grass land is within one hundred feet of the proposed burn; (4) where  
111 there is an advisory from the commissioner of any air pollution  
112 episode; (5) where prohibited by an ordinance of the municipality; and  
113 (6) in the case of a municipal landfill, when such landfill is within an  
114 area designated as a hot spot on the open burning map prepared by  
115 the commissioner. A permit for the burning of brush at any municipal  
116 landfill, municipal transfer station or municipal recycling center shall

117 be issued no more than six times in any calendar year. The proposed  
118 permit to burn brush at any municipal landfill, municipal transfer  
119 station or municipal recycling center shall be submitted to the  
120 commissioner by the fire marshal, with the approval of the chief  
121 elected official of the municipality in which the municipal landfill,  
122 municipal transfer station or municipal recycling center is located. The  
123 commissioner shall approve or disapprove the fire marshal's proposed  
124 permitting of burning of brush at a municipal landfill, municipal  
125 transfer station or municipal recycling center within a reasonable time  
126 of the filing of such application. The burning of leaves, demolition  
127 waste or other solid waste deposited in such landfill shall be  
128 prohibited. The burning of nonprocessed wood for campfires and  
129 bonfires is not prohibited if the burning is conducted so as not to create  
130 a nuisance and in accordance with any restrictions imposed on such  
131 burning. Nothing in this subsection or in any regulation adopted  
132 pursuant to this subsection shall affect the power of any municipality  
133 to regulate or ban the open burning of brush within its boundaries for  
134 any purpose. Notwithstanding any other provision of this section, fire  
135 breaks for the purpose of controlling forest fires and controlled fires in  
136 salt water marshes to forestall uncontrolled fires are not prohibited.  
137 Open burning may be engaged in for any of the following purposes if  
138 the open burning official with jurisdiction over the area where the  
139 burning will occur issues an open burning permit: Fire-training  
140 exercises; eradication or control of insect infestations or disease;  
141 agricultural purposes; clearing vegetative debris following a natural  
142 disaster; and vegetative management or enhancement of wildlife  
143 habitat or ecological sustainability on municipal property or on any  
144 privately owned property permanently dedicated as open space. Open  
145 burning for such purposes on state property may be engaged in with  
146 the written approval of the commissioner. Local burning officials  
147 nominated for the purposes of this subsection shall be nominated only  
148 by the chief executive officer of the municipality in which the official  
149 will serve and shall be certified by the commissioner. The chief  
150 executive officer may revoke the nomination. The commissioner may  
151 adopt regulations, in accordance with the provisions of chapter 54,

152 governing open burning and may authorize or prohibit open burning  
153 consistent with this section. The regulations may require the payment  
154 of an application fee and inspection fee and may establish a  
155 certification procedure for local burning officials.

156 (g) The commissioner shall require, by regulations adopted in  
157 accordance with the provisions of chapter 54, the payment of a permit  
158 application fee sufficient to cover the reasonable costs of reviewing  
159 and acting upon an application for, and monitoring compliance with  
160 the terms and conditions of, any state or federal permit, license, order,  
161 certificate or approval required pursuant to this section. Any person  
162 obtaining a permit, pursuant to said regulations, for the construction  
163 or operation of a source of air pollution or for modification to an  
164 existing source of air pollution shall submit a permit fee of twice the  
165 amount of the fee established by regulations in effect on July 1, 1990.  
166 The commissioner shall require the payment of a permit application  
167 fee of two hundred dollars.

168 (h) The commissioner may require, by regulations adopted in  
169 accordance with the provisions of chapter 54, payment of a fee by the  
170 owner or operator of a source of air pollution, sufficient to cover the  
171 reasonable cost of a visual test of an air pollution control device  
172 through the use of a dust compound in the detection of leaks in such  
173 device, or the monitoring of such test, provided such fee may not  
174 exceed the average cost to the department for the conduct or  
175 monitoring of such tests plus ten per cent of such average cost. Except  
176 as specified in section 22a-27g, as amended by this act, all payments  
177 received by the commissioner pursuant to this subsection shall be  
178 deposited in the General Fund and credited to the appropriations of  
179 the Department of Environmental Protection in accordance with the  
180 provisions of section 4-86.

181 (i) Notwithstanding the provisions of subsections (g) and (h) of this  
182 section, no municipality shall be required to pay more than fifty per  
183 cent of any fee established by the commissioner pursuant to said  
184 subsections.

185 [(j) Each source of air pollution shall register with the commissioner  
186 biennially. Such registration shall be accompanied by a fee of one  
187 hundred fifty dollars, provided no premise shall pay a registration fee  
188 exceeding seven thousand five hundred dollars.]

189 [(k)] (j) Fees or increased fees prescribed by this section shall not be  
190 applicable to residential property.

191 [(l)] (k) (1) The commissioner may issue a general permit with  
192 respect to a category of new or existing stationary air pollution  
193 sources, except with respect to a source which is already covered by an  
194 individual permit, provided the general permit is not inconsistent with  
195 the federal Clean Air Act, as amended in 1990, 42 USC, Sections 7401 et  
196 seq., and as it may be further amended from time to time. Any person  
197 conducting an activity for which a general permit has been issued shall  
198 not be required to obtain an individual permit under this section,  
199 except as provided in subdivision (5) of this subsection. The general  
200 permit may regulate a category of sources which, whether or not  
201 requiring a permit under the federal Clean Air Act, (A) involve the  
202 same or substantially similar types of operations or substances, (B)  
203 require the same types of pollution control equipment or other  
204 operating conditions, standards or limitations, and (C) require the  
205 same or similar monitoring, and which, in the opinion of the  
206 commissioner, are more appropriately controlled under a general  
207 permit than under an individual permit. The general permit may  
208 require that any person proposing to conduct any activity under the  
209 general permit register such activity, including obtaining approval  
210 from the commissioner, before the general permit becomes effective as  
211 to such activity, and may include such other conditions as the  
212 commissioner deems appropriate, including, but not limited to,  
213 management practices and verification and reporting requirements.  
214 Any such reports shall be made available to the public by the  
215 commissioner. The commissioner shall grant an application for  
216 approval under a general permit without repeating the notice and  
217 comment procedures provided under subdivision (2) of this  
218 subsection, and such a grant shall not be subject to judicial review

219 under subdivision (4) of this subsection. Registrations and applications  
220 for approval under the general permit shall be submitted on forms  
221 prescribed by the commissioner; application forms concerning  
222 activities regulated under the federal Clean Air Act shall require that  
223 the applicant provide such information as may be required by that act.  
224 The commissioner shall prepare, and annually amend, a list of holders  
225 of general permits under this section, which list shall be made  
226 available to the public.

227 (2) Notwithstanding any other procedures in this chapter, any  
228 regulations adopted thereunder, and chapter 54, the commissioner  
229 may issue a general permit in accordance with the following  
230 procedures: (A) The commissioner shall publish in a newspaper,  
231 having a substantial circulation in the affected area or areas, notice of  
232 (i) intent to issue a general permit, (ii) the right to inspect the proposed  
233 general permit, (iii) the opportunity to submit written comments  
234 thereon, and (iv) the right to a public hearing if, within the comment  
235 period, the commissioner receives a petition signed by at least twenty-  
236 five persons provided the notice shall state that the right to a public  
237 hearing may be exercised upon request of any person if the permit  
238 regulates an activity which is subject to provisions of the federal Clean  
239 Air Act; (B) the administrator of the United States Environmental  
240 Protection Agency and any states affected by the general permit shall  
241 be given notice as may be required by the federal Clean Air Act; (C)  
242 the commissioner shall allow a comment period of thirty days  
243 following publication of notice under subparagraph (A) of this  
244 subdivision during which interested persons may submit written  
245 comments concerning the permit to the commissioner; (D) the  
246 commissioner shall not issue the general permit until after the  
247 comment period and the public hearing, if one is held; (E) the  
248 commissioner shall publish notice of any general permit issued in a  
249 newspaper having a substantial circulation in the affected area or  
250 areas; and (F) summary suspension may be ordered in accordance with  
251 subsection (c) of section 4-182. Any person may request that the  
252 commissioner issue, modify, revoke or suspend a general permit in

253 accordance with this subsection.

254 (3) Any general permit under this subsection shall be issued for a  
255 fixed term. A general permit covering an activity regulated under the  
256 federal Clean Air Act shall be issued for a term of no more than five  
257 years. A general permit covering an activity regulated under the  
258 federal Clean Air Act shall contain such additional conditions as may  
259 be required by that act.

260 (4) Notwithstanding any other provision of this chapter and chapter  
261 54, with respect to a general permit concerning activities regulated  
262 under the federal Clean Air Act, any person who submitted timely  
263 comments thereon may appeal the issuance of such permit to the  
264 superior court in accordance with the provisions of section 4-183. Such  
265 appeal shall have precedence in the order of trial as provided in  
266 section 52-192.

267 (5) Subsequent to the issuance of a general permit, the commissioner  
268 may require a person whose activity is or may be covered by the  
269 general permit to apply for and obtain an individual permit pursuant  
270 to this chapter if he determines that an individual permit would better  
271 protect the land, air and waters of the state from pollution. The  
272 commissioner may require an individual permit under this subdivision  
273 in cases including, but not limited to, the following: (A) The permittee  
274 is not in compliance with the conditions of the general permit; (B) a  
275 change has occurred in the availability of demonstrated technology or  
276 practices for the control or abatement of pollution applicable to the  
277 permitted activity; (C) circumstances have changed since the time the  
278 general permit was issued so that the permitted activity is no longer  
279 appropriately controlled under the general permit, or a temporary or  
280 permanent reduction or elimination of the permitted activity is  
281 necessary; or (D) a relevant change has occurred in the applicability of  
282 the federal Clean Air Act. In making the determination to require an  
283 individual permit, the commissioner may consider the location,  
284 character and size of the source and any other relevant factors. The  
285 commissioner may require an individual permit under this subdivision

286 only if the person whose activity is covered by the general permit has  
287 been notified in writing that an individual permit is required. The  
288 notice shall include a brief statement of the reasons for requiring an  
289 individual permit, an application form, a statement setting a time for  
290 the person to file the application and a statement that the general  
291 permit as it applies to such person shall automatically terminate on the  
292 effective date of the individual permit. Such person shall forthwith  
293 apply for, and use best efforts to obtain, the individual permit. Any  
294 person may petition the commissioner to take action under this  
295 subdivision.

296 (6) The commissioner may adopt regulations, in accordance with the  
297 provisions of chapter 54, to carry out the purposes of this subsection.

298 [(m)] (l) In any proceeding on an application for a permit which is  
299 required under 42 USC 7661a, the applicant, and any other person  
300 entitled under said section to obtain judicial review of the  
301 commissioner's final action on such application may appeal such  
302 action in accordance with the provisions of section 4-183.

303 [(n)] (m) The commissioner shall not issue a permit for an asphalt  
304 batch plant or continuous mix facility under the provisions of this  
305 section until July 1, 2004, unless the commissioner determines that the  
306 issuance of the permit will result in an improvement of environmental  
307 performance of an existing asphalt batch plant or continuous mix  
308 plant. The provisions of this section shall apply to any application  
309 pending on May 5, 1998. Nothing in this section shall apply to  
310 applications for upgrading, replacing, consolidating or otherwise  
311 altering the physical plant of an existing facility provided such  
312 upgrade, replacement, consolidation or alteration results in an  
313 improvement of environmental performance or in reduced total  
314 emissions of air pollutants.

315 Sec. 2. Subsection (g) of section 22a-178 of the general statutes is  
316 repealed and the following is substituted in lieu thereof (*Effective from*  
317 *passage*):

318 (g) When an order issued by the commissioner to any person  
319 pursuant to this chapter becomes final, [the commissioner shall cause]  
320 except for an order to create or use emission reduction credits, the  
321 respondent to such order shall file a certified copy or notice of the final  
322 order [to be filed] on the land records in the town [wherein the land]  
323 where the subject property is located, and such certified copy or notice  
324 shall constitute a notice to the owner's heirs, successors and assigns.  
325 Notwithstanding the provisions of this subsection, where the  
326 respondent to a final order does not own the subject property, the  
327 commissioner shall record notice of such order on the land records in  
328 the town where the subject property is located. When the order has  
329 been fully complied with or revoked, the commissioner shall issue a  
330 certificate showing such compliance or revocation, which certificate  
331 the [commissioner shall cause to be recorded] recipient of such  
332 certificate shall record, on the land records in the town wherein the  
333 order was previously recorded. Notwithstanding the provisions of this  
334 subsection, where the recipient of such certificate does not own the  
335 subject property, the commissioner shall record such certificate on the  
336 land records in the town where the subject property is located. A  
337 person filing a notice, a final order or a certificate pursuant to this  
338 subsection shall submit to the commissioner a certified copy of the  
339 filing indicating the volume and page number upon which the notice,  
340 final order or certificate is filed.

341 Sec. 3. Section 22a-186 of the general statutes is repealed and the  
342 following is substituted in lieu thereof (*Effective from passage*):

343 No person required by the provisions of section 22a-174, as  
344 amended by this act, to obtain a [construction] permit [and an  
345 operating permit] for the construction and operation of an air  
346 contaminant source, including, but not limited to, a fume incinerator,  
347 shall [use a construction permit for the operation of] construct and  
348 operate such source, except as authorized by the Commissioner of  
349 Environmental Protection. Any use or operation of such source not  
350 authorized by the commissioner shall be cause for the commissioner to  
351 [deny the issuance of an operating] revoke the subject permit. [to such

352 person for such source.] The commissioner, as he deems necessary,  
353 may require an emission test of the source [before issuance of an  
354 operating] as a condition of such permit. The results of any such test  
355 shall be sent to the legislative body of the municipality in which the  
356 source is located upon request of such legislative body. The  
357 commissioner may require, by regulations adopted in accordance with  
358 the provisions of chapter 54, payment of a fee by the owner or operator  
359 of an air contaminant source sufficient to cover the reasonable cost to  
360 the Department of Environmental Protection of conducting or  
361 monitoring an emission test required pursuant to this section or  
362 section 22a-174, as amended by this act. [Any] The commissioner may  
363 revoke the permit of any person who violates any regulation adopted  
364 by the commissioner pursuant to section 22a-174, as amended by this  
365 act. [may have his operating permit revoked.]

366 Sec. 4. Section 22a-371 of the general statutes is repealed and the  
367 following is substituted in lieu thereof (*Effective from passage*):

368 (a) Within one hundred [twenty] eighty days of receipt of an  
369 application for a permit, the commissioner shall determine if there is  
370 any additional information that he deems necessary to carry out the  
371 purposes of sections 22a-365 to 22a-378, inclusive. The applicant shall  
372 provide such information to the commissioner upon request. [or may  
373 request that the application be deemed complete as is.]

374 (b) If the applicant does not furnish the requested information, the  
375 commissioner shall publish notice of his tentative determination on the  
376 application in accordance with section 22a-6h and shall hold or waive  
377 a public hearing in accordance with the provisions of subsection (f) of  
378 this section.

379 (c) If the commissioner finds that an application is complete, he shall  
380 notify the applicant by certified mail, return receipt requested. The  
381 commissioner shall also notify the applicant of the time, date and  
382 location of any public hearing to be held on the application.

383 (d) Upon notifying the applicant in accordance with subsection (c)

384 of this section that the application is complete, the commissioner shall  
385 immediately provide notice of the application and a concise  
386 description of the proposed diversion to the Governor, the Attorney  
387 General, the speaker of the House of Representatives, the president pro  
388 tempore of the Senate, the Secretary of the Office of Policy and  
389 Management, the Commissioners of Public Health and Economic and  
390 Community Development, the chairperson of the Public Utility  
391 Control Authority, chief executive officer and chairmen of the  
392 conservation commission and wetlands agency of the municipality or  
393 municipalities in which the proposed diversion will take place or have  
394 effect, and to any person who has requested notice of such activities.

395 (e) As used in this section, "municipality" means a city, town or  
396 borough of the state.

397 (f) The commissioner shall hold a public hearing before approving  
398 or denying an application, except that, when the commissioner  
399 determines that the proposed diversion (1) is necessary, (2) will not  
400 significantly affect long-range water resource management or the  
401 environment, and (3) will not impair proper management and use of  
402 the water resources of the state, he may waive the requirement for a  
403 hearing after publishing notice of his tentative decision regarding the  
404 application and of his intent to waive the requirement for a hearing in  
405 a newspaper having general circulation in the area where the proposed  
406 diversion will take place or have effect; provided the commissioner  
407 shall hold a hearing upon receipt, within thirty days after such notice  
408 is published or mailed, of a petition signed by at least twenty-five  
409 persons. If a hearing is to be held, the commissioner, at the applicant's  
410 expense, shall (A) cause notice of the time, date and location of the  
411 commencement of the hearing, a concise description of the proposed  
412 diversion, and the commissioner's tentative determination regarding  
413 the application to be published [at least twice at intervals of not less  
414 than two days and] not less than [twenty] thirty days prior to the  
415 commencement of the hearing in a newspaper having a general  
416 circulation in the area where the proposed diversion will take place or  
417 have effect, and (B) provide the same notice to the officials listed in

418 subsection (d) of this section not less than [twenty] thirty days prior to  
419 the commencement of the hearing.

420 Sec. 5. Section 22a-374 of the general statutes is repealed and the  
421 following is substituted in lieu thereof (*Effective from passage*):

422 Any person or municipality aggrieved by the decision of the  
423 commissioner made pursuant to section 22a-373 [or the return of an  
424 application by the commissioner as incomplete pursuant to the  
425 provisions of subsection (b) of section 22a-371,] may appeal to the  
426 Superior Court pursuant to the provisions of section 4-183, except that  
427 the appeal shall be instituted by filing a petition in the superior court  
428 for the judicial district of New Britain.

429 Sec. 6. Subsection (f) of section 22a-430 of the general statutes is  
430 repealed and the following is substituted in lieu thereof (*Effective from*  
431 *passage*):

432 (f) The commissioner may, by regulation, establish and define  
433 categories of discharges, including but not limited to, residential  
434 swimming pools, small community sewerage systems, household and  
435 small commercial disposal systems and clean water discharges, for  
436 which he may delegate authority to any other state agency, water  
437 pollution control authority, municipal building official or municipal or  
438 district director of health to issue permits or approvals in accordance  
439 with this section or to issue orders pursuant to sections 22a-428, 22a-  
440 431, 22a-432 and 22a-436. In establishing such categories the  
441 commissioner shall consider (1) whether each discharge in such  
442 category, because of size and character, is likely to cause significant  
443 pollution to the waters of the state; (2) whether knowledge and  
444 training concerning disposal systems for each discharge in such  
445 category is within the expertise of such agency, authority, official or  
446 director; (3) whether the source of each discharge in such category is  
447 likely to be within the jurisdiction of such agency, authority, official or  
448 director for other matters. The commissioner shall establish, by  
449 regulation, minimum requirements for disposal systems for discharges

450 in such categories. Any permit denied or order issued by any such  
451 agency, authority, official or director shall be subject to hearing and  
452 appeal in the manner provided in sections 22a-436 and 22a-437,  
453 provided such agency, authority, official or director has been duly  
454 delegated authority by the commissioner pursuant to this subsection.  
455 Any permit granted by any such agency, authority, official or director  
456 to which the commissioner has delegated authority pursuant to this  
457 subsection shall thereafter be deemed equivalent to a permit issued  
458 under subsection (b) of this section.

459 Sec. 7. Subsection (a) of section 7-247 of the general statutes, as  
460 amended by section 142 of public act 03-6 of the June 30 special  
461 session, is repealed and the following is substituted in lieu thereof  
462 (*Effective from passage*):

463 (a) Any municipality by its water pollution control authority may  
464 acquire, construct and operate a sewerage system or systems; may  
465 enter upon and take and hold by purchase, condemnation or otherwise  
466 the whole or any part of any real property or interest therein which it  
467 determines is necessary or desirable for use in connection with any  
468 sewerage system; may establish and revise rules and regulations for  
469 the supervision, management, control, operation and use of a sewerage  
470 system, including rules and regulations prohibiting or regulating the  
471 discharge into a sewerage system of any sewage or any stormwater  
472 runoff which in the opinion of the water pollution control authority  
473 will adversely affect any part or any process of the sewerage system  
474 except that any such rule or regulation regarding decentralized  
475 systems shall be approved by the local director of health before such  
476 rule or regulation may be effective; may enter into and fulfill contracts,  
477 including contracts for a term of years, with any person or any other  
478 municipality or municipalities to provide or obtain sewerage system  
479 service for any sewage, and may make arrangements for the provision  
480 or exchange of staff services and equipment with any person or any  
481 other municipality or municipalities, or for any other lawful services.  
482 The water pollution control authority of any municipality planning to  
483 acquire, construct or operate a new or additional sewerage system

484 shall consider the feasibility of using the sewage collected by such  
485 system as an energy source for the generation of electricity or the  
486 production of other energy sources. The water pollution control  
487 authority may establish rules for the transaction of its business. It shall  
488 keep a record of its proceedings and shall designate an officer or  
489 employee to be the custodian of its books, papers and documents. No  
490 person shall have a right to a hearing or an appeal in the manner  
491 provided in sections 22a-436 and 22a-437 from a decision of a water  
492 pollution control authority to deny a permit or issue an order unless  
493 such water pollution control authority was delegated authority by the  
494 commissioner pursuant to section 22a-430, as amended by this act, to  
495 make the decision that is the subject of such hearing or appeal.

496 Sec. 8. Subdivision (2) of subsection (c) of section 22a-524 of the  
497 general statutes is repealed and the following is substituted in lieu  
498 thereof (*Effective from passage*):

499 (2) Not later than July thirty-first, annually, each publicly-owned  
500 treatment works shall purchase equivalent nitrogen credits necessary  
501 to meet its nitrogen limits. Such purchase shall be paid by [certified  
502 bank] check, or money order or other form of payment acceptable to  
503 the Treasurer made payable to the "nitrogen credit exchange program".  
504 The check, or money order or other such form of payment shall state  
505 on its face "nitrogen credit purchase".

506 Sec. 9. Subsection (c) of section 22a-315 of the general statutes is  
507 repealed and the following is substituted in lieu thereof (*Effective from*  
508 *passage*):

509 (c) The commissioner may, by regulation, adopted pursuant to  
510 chapter 54, establish a council to coordinate the activities of such  
511 boards of such districts with the activities of the Department of  
512 Environmental Protection and other state, regional and local agencies  
513 and propose regulations to said department in matters of soil and  
514 water erosion [control] conservation and to advise and assist the  
515 commissioner in conserving and protecting the land, water and other

516 natural resources of the state. The council shall be within the  
517 Department of Environmental Protection for administrative purposes  
518 only. Such council shall consist of nine members, five representing the  
519 soil and water conservation districts to be selected by [the boards of  
520 said district, one representing the state Agricultural Stabilization and  
521 Conservation Committee, one representing the state Extension  
522 Advisory Council, and the Commissioners of Environmental  
523 Protection and Agriculture or their designees. One of the  
524 representatives of the soil and water conservation districts shall be a  
525 full-time farmer. The following shall be ex-officio members of the  
526 council: The State Conservationist of the Soil Conservation Service, the  
527 director of the State Extension Service, the executive director of the  
528 Agricultural Stabilization and Conservation Service, the Director of the  
529 Farmers' Home Administration, the director of the Connecticut  
530 Agricultural Experiment Station, the director of the Storrs Agricultural  
531 Experiment Station and the area director of the United States Forest  
532 Service] each of the five districts' boards, the Commissioner of  
533 Environmental protection or a designee, the Commissioner of  
534 Agriculture, or a designee, a representative of a nongovernmental  
535 organization appointed by the Governor and a representative of The  
536 University of Connecticut's cooperative extension system. In addition,  
537 the council shall include, but not be limited to, the following at-large  
538 nonvoting members: The State Conservationist or designee of the  
539 Natural Resource Conservation Service, the director of the Connecticut  
540 Agricultural Experiment Station or a designee, the director of the  
541 Storrs Agricultural Experiment Station or a designee, municipal staff  
542 representatives responsible for erosion and sedimentation control, the  
543 State Committee Chairman of the Farm Services Agency and a council  
544 member of a Resource Conservation and Development area. The  
545 commissioner shall have the authority to receive funds from any  
546 source on behalf of the council and shall expend such funds with the  
547 advice and consent of the council for equipment, supplies, and such  
548 full-time and part-time staff and consultants as may be necessary to  
549 carry out the council's duties and any other at-large, nonvoting  
550 members who have expertise to support the duties of the council.

551 Sec. 10. Subsection (b) of section 22a-617 of the general statutes is  
552 repealed and the following is substituted in lieu thereof (*Effective from*  
553 *passage*):

554 (b) Not later than July 1, 2003, the commissioner shall convene a  
555 working group which shall include, but not be limited to, government  
556 representatives from other northeastern states to (1) evaluate advances  
557 in technology and make recommendations regarding the regulation of  
558 mercury-added products that have a mercury content in excess of ten  
559 milligrams or ten parts per million but less than one hundred  
560 milligrams or fifty parts per million and specialized lighting used in  
561 the entertainment industry such as metal halide lights, and (2) evaluate  
562 the uses of lamps that have a mercury content of not less than one  
563 hundred milligrams and not more than one gram and alternatives to  
564 such lamps and make recommendations regarding the regulation of  
565 lamps that have a mercury content of not less than one hundred  
566 milligrams and not more than one gram. Within such working group,  
567 the commissioner shall convene a subgroup which shall include, but  
568 not be limited to, industry trade groups for mercury-containing lamps  
569 to develop a plan in accordance with section 22a-620, as amended, to  
570 provide for the collection of such lamps. The working group shall  
571 finalize [such] its recommendations regarding subdivision (1) of this  
572 subsection and the subgroup shall make its recommendations not later  
573 than July 1, 2004. The working group shall make its recommendations  
574 regarding subdivision (2) of this subsection not later than January 1,  
575 2005.

576 Sec. 11. Subsection (a) of section 14-49b of the general statutes, as  
577 amended by section 150 of public act 03-6 of the June 30 special  
578 session, is repealed and the following is substituted in lieu thereof  
579 (*Effective from passage*):

580 (a) For each new registration or renewal of registration of any motor  
581 vehicle with the Commissioner of Motor Vehicles pursuant to this  
582 chapter, the person registering such vehicle shall pay to the  
583 commissioner a fee of ten dollars for registration for a biennial period

584 and five dollars for registration for an annual period, except that any  
585 individual who is sixty-five years of age or older on or after January 1,  
586 1994, may, at the discretion of such individual, pay the fee for either a  
587 one-year or two-year period. The provisions of this section shall not  
588 apply with respect to any motor vehicle which is not self-propelled,  
589 which is electrically powered, or which is exempted from payment of a  
590 registration fee. This fee may be identified as the "federal Clean Air Act  
591 fee" on any registration form provided by the commissioner. Payments  
592 collected pursuant to the provisions of this section shall be deposited  
593 as follows: (1) Fifty-seven and one-half per cent of such payments  
594 collected shall be deposited into the Special Transportation Fund  
595 established pursuant to section 13b-68, as amended, and (2) forty-two  
596 and one-half per cent of such payments collected shall be deposited in  
597 a treasurer's account and credited to a separate, nonlapsing federal  
598 Clean Air Act account which shall be established by the Comptroller  
599 within the General Fund. The federal Clean Air Act account may be  
600 used to pay any costs to state agencies of implementing the  
601 requirements of the federal Clean Air Act Amendments of 1990 that  
602 are not otherwise met by the fees collected pursuant to section [22a-  
603 174a] 22a-174, as amended by this act, and any funds transferred to the  
604 account pursuant to section 22a-27m, as amended, may additionally be  
605 used by the Commissioner of Environmental Protection to carry out  
606 the provisions of chapter 446c. All moneys deposited in this account  
607 are deemed to be appropriated for this purpose. The fee required by  
608 this section is in addition to any other fees prescribed by any other  
609 provision of this title for the registration of a motor vehicle.

610 Sec. 12. Subsection (a) of section 22a-6 of the general statutes, as  
611 amended by section 151 of public act 03-6 of the June 30 special  
612 session, is repealed and the following is substituted in lieu thereof  
613 (*Effective from passage*):

614 (a) The commissioner may: (1) Adopt, amend or repeal, in  
615 accordance with the provisions of chapter 54, such environmental  
616 standards, criteria and regulations, and such procedural regulations as  
617 are necessary and proper to carry out his functions, powers and duties;

618 (2) enter into contracts with any person, firm, corporation or  
619 association to do all things necessary or convenient to carry out the  
620 functions, powers and duties of the department; (3) initiate and receive  
621 complaints as to any actual or suspected violation of any statute,  
622 regulation, permit or order administered, adopted or issued by him.  
623 The commissioner shall have the power to hold hearings, administer  
624 oaths, take testimony and subpoena witnesses and evidence, enter  
625 orders and institute legal proceedings including, but not limited to,  
626 suits for injunctions, for the enforcement of any statute, regulation,  
627 order or permit administered, adopted or issued by him; (4) in  
628 accordance with regulations adopted by him, require, issue, renew,  
629 revoke, modify or deny permits, under such conditions as he may  
630 prescribe, governing all sources of pollution in Connecticut within his  
631 jurisdiction; (5) in accordance with constitutional limitations, enter at  
632 all reasonable times, without liability, upon any public or private  
633 property, except a private residence, for the purpose of inspection and  
634 investigation to ascertain possible violations of any statute, regulation,  
635 order or permit administered, adopted or issued by him and the  
636 owner, managing agent or occupant of any such property shall permit  
637 such entry, and no action for trespass shall lie against the  
638 commissioner for such entry, or he may apply to any court having  
639 criminal jurisdiction for a warrant to inspect such premises to  
640 determine compliance with any statute, regulation, order or permit  
641 administered, adopted or enforced by him, provided any information  
642 relating to secret processes or methods of manufacture or production  
643 ascertained by the commissioner during, or as a result of, any  
644 inspection, investigation, hearing or otherwise shall be kept  
645 confidential and shall not be disclosed except that, notwithstanding the  
646 provisions of subdivision (5) of subsection (b) of section 1-210, as  
647 amended, such information may be disclosed by the commissioner to  
648 the United States Environmental Protection Agency pursuant to the  
649 federal Freedom of Information Act of 1976, (5 USC 552) and  
650 regulations adopted thereunder or, if such information is submitted  
651 after June 4, 1986, to any person pursuant to the federal Clean Water  
652 Act (33 USC 1251 et seq.); (6) undertake any studies, inquiries, surveys

653 or analyses he may deem relevant, through the personnel of the  
654 department or in cooperation with any public or private agency, to  
655 accomplish the functions, powers and duties of the commissioner; (7)  
656 require the posting of sufficient performance bond or other security to  
657 assure compliance with any permit or order; (8) provide by notice  
658 printed on any form that any false statement made thereon or  
659 pursuant thereto is punishable as a criminal offense under section 53a-  
660 157b; (9) construct or repair or contract for the construction or repair of  
661 any dam or flood and erosion control system under his control and  
662 management, make or contract for the making of any alteration, repair  
663 or addition to any other real asset under his control and management,  
664 including rented or leased premises, involving an expenditure of five  
665 hundred thousand dollars or less, and, with prior approval of the  
666 Commissioner of Public Works, make or contract for the making of  
667 any alteration, repair or addition to such other real asset under his  
668 control and management involving an expenditure of more than five  
669 hundred thousand dollars but not more than one million dollars; (10)  
670 by regulations adopted in accordance with the provisions of chapter 54  
671 require the payment of a fee sufficient to cover the reasonable cost of  
672 the search, duplication and review of records requested under the  
673 Freedom of Information Act, as defined in section 1-200, and the  
674 reasonable cost of reviewing and acting upon an application for and  
675 monitoring compliance with the terms and conditions of any state or  
676 federal permit, license, registration, order, certificate or approval  
677 required pursuant to subsection (i) of section 22a-39, subsections (c)  
678 and (d) of section 22a-96, subsections (h), (i) and (k) of section 22a-424,  
679 and sections 22a-6d, 22a-32, 22a-134a, as amended, 22a-134e, as  
680 amended, 22a-135, as amended, 22a-148, as amended, 22a-150, as  
681 amended, 22a-174, as amended by this act, [22a-174a,] 22a-208, 22a-  
682 208a, 22a-209, 22a-342, as amended, 22a-345, 22a-354i, 22a-361, as  
683 amended, 22a-363c, as amended, 22a-368, 22a-372, as amended by this  
684 act, 22a-379, as amended, 22a-403, 22a-409, as amended, 22a-416, 22a-  
685 428 to 22a-432, inclusive, 22a-449, as amended, and 22a-454 to 22a-  
686 454c, inclusive, as amended, and Section 401 of the federal Clean Water  
687 Act, (33 USC 1341). Such costs may include, but are not limited to the

688 costs of (A) public notice, (B) reviews, inspections and testing  
689 incidental to the issuance of and monitoring of compliance with such  
690 permits, licenses, orders, certificates and approvals, and (C) surveying  
691 and staking boundary lines. The applicant shall pay the fee established  
692 in accordance with the provisions of this section prior to the final  
693 decision of the commissioner on the application. The commissioner  
694 may postpone review of an application until receipt of the payment.  
695 Payment of a fee for monitoring compliance with the terms or  
696 conditions of a permit shall be at such time as the commissioner deems  
697 necessary and is required for an approval to remain valid; and (11) by  
698 regulations adopted in accordance with the provisions of chapter 54,  
699 require the payment of a fee sufficient to cover the reasonable cost of  
700 responding to requests for information concerning the status of real  
701 estate with regard to compliance with environmental statutes,  
702 regulations, permits or orders. Such fee shall be paid by the person  
703 requesting such information at the time of the request. Funds not  
704 exceeding two hundred thousand dollars received by the  
705 commissioner pursuant to subsection (g) of section 22a-174, as  
706 amended by this act, during the fiscal year ending June 30, 1985, shall  
707 be deposited in the General Fund and credited to the appropriations of  
708 the Department of Environmental Protection in accordance with the  
709 provisions of section 4-86, and such funds shall not lapse until June 30,  
710 1986. In any action brought against any employee of the department  
711 acting within his scope of delegated authority in performing any of the  
712 above-listed duties, the employee shall be represented by the Attorney  
713 General.

714 Sec. 13. Subsection (b) of section 22a-27g of the general statutes is  
715 repealed and the following is substituted in lieu thereof (*Effective from*  
716 *passage*):

717 (b) Notwithstanding any provision of the general statutes, [to the  
718 contrary,] on and after July 1, 1990, the amount of any fee received by  
719 the Department of Environmental Protection which is attributable to  
720 the provisions of sections 22a-6, as amended by this act, 22a-6d, 22a-  
721 27i, as amended by this act, 22a-134e, as amended, 22a-135, as

722 amended, 22a-148, as amended, 22a-150, as amended, 22a-174, as  
723 amended by this act, [22a-174a,] 22a-208a, 22a-342, as amended, 22a-  
724 363c, as amended, 22a-372, as amended by this act, 22a-379, as  
725 amended, 22a-409, as amended, 22a-430, as amended, 22a-449, as  
726 amended, 22a-454 to 22a-454c, inclusive, as amended, and 22a-361, as  
727 amended, or any regulation adopted or amended pursuant to section  
728 22a-6, as amended by this act, or pursuant to any other provision of  
729 this title, shall be deposited directly into the Environmental Quality  
730 Fund established by subsection (a) of this section and credited to the  
731 environmental quality account. The Commissioner of Environmental  
732 Protection shall annually certify to the Treasurer, with respect to each  
733 such fee received on and after July 1, 1990, the amount of such fee  
734 which shall be credited to the General Fund.

735 Sec. 14. Section 22a-27i of the general statutes is repealed and the  
736 following is substituted in lieu thereof (*Effective from passage*):

737 Notwithstanding the provisions of sections 22a-6, as amended by  
738 this act, 22a-6d, 22a-26g, 22a-26h, 22a-134e, as amended, 22a-135, as  
739 amended, 22a-148, as amended, 22a-150, as amended, 22a-174, as  
740 amended by this act, [22a-174a,] 22a-208a, 22a-342, as amended, 22a-  
741 363c, as amended, 22a-372, as amended by this act, 22a-379, as  
742 amended, 22a-409, as amended, 22a-430, as amended, 22a-449, as  
743 amended, 22a-454 to 22a-454c, inclusive, as amended, and 22a-361, as  
744 amended, for the period beginning July 1, 1990, and ending June 30,  
745 1991, any fee to be charged to a municipality in accordance with said  
746 sections shall be the fee in effect on June 30, 1990.

747 Sec. 15. Subsection (a) of section 22a-27m of the general statutes, as  
748 amended by section 149 of public act 03-6 of the June 30 special  
749 session, is repealed and the following is substituted in lieu thereof  
750 (*Effective from passage*):

751 (a) There is established within the Environmental Quality Fund  
752 established under section 22a-27g, as amended by this act, an account  
753 to be known as the "air emissions permit operating fee account".

754 Notwithstanding the provisions of section 22a-27g, as amended by this  
755 act, any moneys collected in accordance with section [22a-174a] 22a-  
756 174, as amended by this act, shall be deposited in the Environmental  
757 Quality Fund and credited to the air emissions permit operating fee  
758 account. Any balance remaining in the account at the end of any fiscal  
759 year shall be carried forward in the account for the fiscal year next  
760 succeeding. The account shall be used by the Commissioner of  
761 Environmental Protection for the purpose of covering the direct and  
762 indirect costs of administering the program set forth in Title V of the  
763 federal Clean Air Act Amendments of 1990.

764 Sec. 16. Section 22a-450a of the general statutes, as amended by  
765 section 1 of public act 03-122, is amended by adding subsection (e) as  
766 follows (*Effective from passage*):

767 (NEW) (e) Notwithstanding the provisions of this section, any  
768 marina or recreational or commercial boating facility may sell or  
769 provide gasoline that contains MTBE for use by watercraft, including,  
770 but not limited to, a boat, ship, vessel, barge or other floating craft,  
771 provided such gasoline was purchased and stored on site by the  
772 subject marina or boating facility prior to January 1, 2004.

773 Sec. 17. Section 22a-209d of the general statutes is repealed and the  
774 following is substituted in lieu thereof (*Effective October 1, 2004*):

775 The Commissioner of Environmental Protection may establish, by  
776 regulations adopted in accordance with the provisions of chapter 54,  
777 categories of materials which, if used in accordance with standards  
778 adopted by the commissioner to protect the environment and public  
779 health, shall not be considered solid waste under section 22a-207, as  
780 amended, or subject to a permit under this chapter or chapter 446k.  
781 [On or before November 1, 1996, the commissioner shall adopt such  
782 regulations to facilitate the disposal of solids which are by-products of  
783 water treatment processes which regulations shall provide for the  
784 approval of uses for such solids without further regulation under this  
785 chapter.] Notwithstanding the provisions of the regulations adopted

786 under this section or section 22a-209, the Commissioner of  
 787 Environmental Protection shall not prohibit the use of waste sand from  
 788 the casting of metals as cover, road base, fill or other purposes at a  
 789 solid waste disposal area permitted under section 22a-208a, provided  
 790 the concentration of toxic materials in the sand is below the level of  
 791 hazardous waste under the federal Resource Conservation and  
 792 Recovery Act of 1976, as amended, and any regulations promulgated  
 793 to carry out said act and further provided any person who disposes of  
 794 such sand under this section shall provide certification, to the  
 795 satisfaction of the Commissioner of Environmental Protection, that  
 796 such sand is not hazardous. Notwithstanding the provisions of section  
 797 22a-209, a public water supply company may, by itself or in  
 798 conjunction with any person or municipality, use solids that are the  
 799 by-products of water treatment processes provided such use conforms  
 800 to best management practices and controls described in an operations  
 801 plan approved in writing by the commissioner. A public water supply  
 802 company may, by itself or in conjunction with any person or  
 803 municipality, use such solids in accordance with such plan until the  
 804 commissioner issues a general permit to such company for the use of  
 805 such solids pursuant to section 22a-209f.

806 Sec. 18. (*Effective from passage*) Section 22a-174a of the general  
 807 statutes, as amended, is repealed.

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>
Sec. 15	<i>from passage</i>
Sec. 16	<i>from passage</i>
Sec. 17	<i>October 1, 2004</i>
Sec. 18	<i>from passage</i>

**Statement of Legislative Commissioners:**

Due to the changes made in section 4 by House Amendment "A", corresponding technical changes were made to two other sections of the bill which reverted those sections to their existing wording and those sections were therefore deleted.

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

---

### **OFA Fiscal Note**

#### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 05 \$</b>	<b>FY 06 \$</b>
Department of Environmental Protection	Environmental Quality/GF - Savings/Cost	Minimal	Minimal

**Municipal Impact:** None

#### **Explanation**

Provisions of the bill repeal an outdated Department of Environmental Protection (DEP) air pollution source registration fee and has no fiscal impact.

Modifying filing requirements for certain DEP air pollution orders will result in a minimal administrative workload savings due to less required recordings.

Combining the construction and operating permits for air pollution sources into a single permit is not anticipated to result in a change in net revenue.

Any additional evaluations and recommendations required of the working group on mercury products will be handled by the resources of the group.

The bill allows for the use of solid by-products by a water supply company, which conform to an operations plan approved by the DEP. This would minimally increase the workload of the DEP, within resources.

Other changes clarify current practice and/or are technical and have

no fiscal impact.

House "A" restores a requirement that would have eliminated a public hearing requirement on incomplete applications, eliminating a minimal administrative savings to DEP.

House "B" eliminates section 19 which would have allowed municipalities to use land acquired for preservation with state funding for recreational purposes, if the municipality replaced the land and has no net impact.

House "C" allows the use of certain solids by public water supply companies resulting in a minimal workload increase to the DEP.

---

**OLR Bill Analysis**

sHB 5528 (as amended by House "A," "B," and "C")\*

**AN ACT CONCERNING MINOR REVISIONS TO THE ENVIRONMENTAL PROTECTION STATUTES**

**SUMMARY:**

This bill:

1. requires a study of, and recommendations regarding, the regulation of mercury-containing lamps scheduled to be banned starting July 1, 2006;
2. extends from 120 to 180 days the length of the time the DEP commissioner has to determine if an application for a water diversion permit is complete, and makes other changes in the application hearing and appeal process;
3. requires DEP to hold hearings on certain decisions by municipal water pollution control authorities and other agencies only when the commissioner has delegated authority for those decisions to those agencies, and restricts appeals to Superior Court;
4. modifies filing requirements for certain DEP air pollution orders, and exempts orders to create or use emission reduction credits from these filing requirements;
5. allows marinas and recreational or commercial boating facilities to sell gasoline containing methyl tertiary butyl ether (MTBE) to boats, ships, vessels, barges, and other floating craft as long as the seller bought and stored the gasoline on site before January 1, 2004, when the state banned the use of MTBE in gasoline;
6. expands the methods of paying for nitrogen credits;
7. allows public water supply companies to use solid by-products of water treatment processes according to best management

practices and controls under a plan the DEP commissioner approves in writing;

8. changes the composition and expands the responsibilities of a council concerned with soil conservation and water erosion control;
9. combines separate construction and operating permits for air pollution sources into a single permit; and
10. repeals outdated air pollution source registration and annual fees.

\*House Amendment A extends the deadline for the DEP commissioner to review water diversion permit for completeness, and restores a requirement that he hold or waive a hearing when he makes a tentative determination on an application he regards as incomplete.

\*House Amendment B eliminates a provision allowing towns to use open space land for intensive recreational use in certain instances.

\*House Amendment C adds the provision on solid by-products of water treatment processes.

EFFECTIVE DATE: Upon passage, except for the provision on solid by-products of water treatment processes, which takes effect October 1, 2004.

### **STUDY OF MERCURY-CONTAINING LAMPS**

The law bans the sale of most products containing more than one gram of mercury starting July 1, 2004. It bans most products containing more than 100 milligrams of mercury starting July 1, 2006. Current law requires a working group convened by the commissioner to make recommendations by July 1, 2004 regarding the regulation of products that contain between 10 and 100 milligrams of mercury and for specialized lighting, such as metal halide lamps. The bill requires the working group, which includes representatives of other northeastern states, to evaluate the uses of and alternatives to lamps with a mercury content of between 100 milligrams and one gram and make recommendations regarding the regulation of such lamps by January 1, 2005.

## **WATER DIVERSION PERMIT HEARING PROCESS**

Current law authorizes the commissioner to seek additional information from an applicant for a water diversion permit within 120 days of its receipt. The applicant may either provide the information or ask the commissioner to regard the application as complete. In the latter case, the commissioner may make a tentative determination based on the information before him, and may hold or waive a hearing according to law. An applicant aggrieved either by the commissioner's decision or the return of an incomplete application may appeal to Superior Court.

The bill extends from 120 to 180 days, the amount of time the commissioner has to determine if he needs additional information. Under the bill, an applicant who submits an incomplete application must provide the additional information the commissioner requests. He may no longer ask the commissioner to deem it complete nor may he appeal the return of an incomplete application to the courts. If the applicant does not furnish the information, the commissioner, as under current law, must publish notice of his tentative determination based on the information before him, and hold or waive a public hearing according to law. But the bill eliminates a requirement that notice of any hearing on a water diversion permit application and of the commissioner's tentative determination on it be published twice, at least two days apart. Instead, it requires the commissioner to publish notice 30, rather than 20, days before the hearing date, and also increases from 20 to 30 days the amount of notice the commissioner must provide various state and local officials.

## **DELEGATION OF AUTHORITY TO WATER POLLUTION CONTROL AUTHORITIES**

Current law allows the commissioner to delegate authority to state and municipal agencies for the regulation of various water discharges. It authorizes parties aggrieved by municipal agency decisions to seek a hearing before the commissioner and to appeal to Superior Court. The bill specifies that such hearings and appeals can only occur if the commissioner has duly delegated authority to the agency according to law. It specifically eliminates the right to a hearing or appeal from a decision of a water pollution control authority (WPCA) to deny a permit or issue an order unless the commissioner delegated the WPCA

authority to make the decision being appealed. However, state zoning law still allows appeals of certain WPCA decisions to Superior Court.

### **FILING OF DEP AIR POLLUTION ORDERS**

Current law requires the commissioner to cause certified copies of his final orders to correct air pollution violations to be filed on the land records of the town where the violation occurred. The bill instead requires the order's recipient to file the certified copy of those final orders. It also requires the recipient, rather than the commissioner, to file on the land records notice that the order has been fully complied with or revoked. But the commissioner must still file the certified copy or notice if the recipient is not the owner of the property where the violation occurred. The bill requires the person filing the notice, final order, or certificate to submit a certified copy of it to the commissioner, indicating the volume and page number of the land records where it was filed. The bill apparently exempts from filing requirements an order to create or use emission reduction credits. It is not clear whether such orders need not be filed, or if the commissioner must still file them.

### **AIR POLLUTION SOURCE FEES**

The bill makes a technical change by repealing obsolete laws setting biennial registration fees and annual fees for air pollution sources, and authorizing the commissioner to adopt regulations. However, the commissioner retains broad authority to adopt regulations necessary and proper to carry out his functions, powers, and duties. More specifically, he has authority to adopt regulations requiring the payment of fees sufficient to cover the reasonable cost of reviewing and acting upon an application for, and monitoring compliance with, the terms and conditions of any state or federal permit, license, registration, order, certificate, or approval required to control air pollution. The law specifically authorizes him to require permits for any source regulated under Title V of the federal Clean Air Act Amendments of 1990, and to require that such sources comply with federal regulations.

### **NITROGEN CREDIT PAYMENTS**

By law, municipal sewage treatment plants must buy nitrogen credits to meet their nitrogen limits under the nitrogen credit exchange

program established by PA 01-180. By law, they must pay for the credits with certified bank checks or money orders. The bill also authorizes payment by other methods acceptable to the treasurer, made payable to the nitrogen credit exchange program” as long as the form of payment states “nitrogen credit purchase on its face.

### **SOLID BY-PRODUCTS OF WATER TREATMENT PROCESSES**

By law, the DEP commissioner may adopt regulations that exempt certain categories of material from consideration as solid waste if they are used according to standards he sets that protect the environment and public health. The bill eliminates an obsolete provision requiring the DEP commissioner to adopt regulations to facilitate the disposal of solid by-products of water treatment processes. Instead, regardless of the law concerning such regulations, it authorizes public water supply companies, alone or with any person or municipality, to use such solids in ways that conform to best management practices and controls described in an operations plan the commissioner approves in writing. A public water supply company may, alone or with any person or municipality, use these solids according to the plan until the commissioner issues the company a general permit for their use. By law, water companies are defined either as companies providing water to (1) at least two consumers or 25 people, or (2) at least 50 consumers. It is not clear which, if either, definition applies to public water supply companies under the bill.

### **SOIL AND WATER EROSION CONTROL COUNCIL**

Under current law, a nine-member council coordinates DEP activities and proposes regulations in matters of soil and water erosion control. The bill expands its duties to include matters of soil and water erosion conservation, rather than control, and also requires it to advise and assist the commissioner in conserving and protecting the land, water, and other state natural resources.

It replaces representatives of the Agricultural Stabilization and Conservation committee and Extension Advisory Council with a representative of a nongovernmental organization appointed by the governor and a representative of the University of Connecticut Cooperative Extension System. It retains as members representation of the five soil and water conservation district boards and the commissioners of agriculture and environmental protection or their

designees.

The council now has seven ex-officio members: (1) the state conservationist, (2) Connecticut Agricultural Experiment Station director, (3) Storrs Agricultural station director, (4) state extension service director; (5) Agricultural Stabilization and Conservation Service executive director; (6) Farmer's Home Administration director and (7) U.S. Forest Service director. The bill replaces these ex-officio members with at-large, nonvoting members. It retains the first three and replaces the remaining four with the following new members: municipal staff representatives responsible for erosion and sedimentation control, the state committee chairman of the Farm Services Agency, and a council member of a resource conservation and development area. The bill does not specify the number of municipal staff representatives responsible for erosion and sedimentation control that the council must have.

By law, the commissioner may spend money he receives on behalf of the council on equipment, supplies, staff, and consultants. The bill authorizes him to also spend it as needed for other at-large, nonvoting members with expertise to support the duties of the council.

## **CONSTRUCTION AND OPERATION PERMITS**

The bill eliminates the requirement that anyone seeking to build and operate an air pollution source obtain separate permits for construction and for operation, instead requiring a single permit for both construction and operation. It authorizes the commissioner to require an emission test as a condition of the combined permit, rather than the operating permit, and authorizes him to revoke the construction and operation permit of anyone who violates any air pollution regulation or operates the source in an unauthorized manner.

## **BACKGROUND**

### ***Legislative History***

On April 7 the House referred the bill (File 331) to the Legislative Management Committee, which reported it favorably on April 13.

## **COMMITTEE ACTION**

Environment Committee

Joint Favorable Substitute

Yea 27    Nay 0

Legislative Management Committee

Joint Favorable Report

Yea 23    Nay 0