



General Assembly

Substitute Bill No. 5528

February Session, 2004

* HB05528ENV 031604 *

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3 repealed and the following is substituted in lieu thereof (*Effective from*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 days of] After 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)] (b) If the commissioner finds that an application is complete, he
380 shall notify the applicant by certified mail, return receipt requested.
381 The 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)] (c) Upon notifying the applicant in accordance with subsection
384 [(c)] (b) of this section that the application is complete, the
385 commissioner shall immediately provide notice of the application and
386 a concise description of the proposed diversion to the Governor, the
387 Attorney General, the speaker of the House of Representatives, the
388 president pro tempore of the Senate, the Secretary of the Office of

389 Policy and Management, the Commissioners of Public Health and
390 Economic and Community Development, the chairperson of the Public
391 Utility 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)] (d) As used in this section, "municipality" means a city, town or
396 borough of the state.

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

420 Sec. 5. Subsection (a) of section 22a-372 of the general statutes is
421 repealed and the following is substituted in lieu thereof (*Effective from*

422 *passage*):

423 (a) The commissioner or the commissioner's designated hearing
424 officer shall commence a hearing on the application at the time, date
425 and location specified in the notification required by subsection [(c)] b
426 of section 22a-371, as amended by this act, and may continue the
427 hearing on such additional dates as may be necessary. Notice of the
428 continuance shall be by announcement by the commissioner or the
429 commissioner's designated hearing officer prior to the close of a
430 scheduled session.

431 Sec. 6. Subsection (c) of section 22a-372 of the general statutes is
432 repealed and the following is substituted in lieu thereof (*Effective from*
433 *passage*):

434 (c) The parties to the proceedings shall include: (1) The applicant; (2)
435 each person receiving notice pursuant to subsection [(d)] (c) of section
436 22a-371, as amended by this act; and (3) such other persons or
437 municipalities as the commissioner or the commissioner's designated
438 hearing officer may deem appropriate at any time prior to the close of
439 the hearing.

440 Sec. 7. Section 22a-374 of the general statutes is repealed and the
441 following is substituted in lieu thereof (*Effective from passage*):

442 Any person or municipality aggrieved by the decision of the
443 commissioner made pursuant to section 22a-373 [or the return of an
444 application by the commissioner as incomplete pursuant to the
445 provisions of subsection (b) of section 22a-371,] may appeal to the
446 Superior Court pursuant to the provisions of section 4-183, except that
447 the appeal shall be instituted by filing a petition in the superior court
448 for the judicial district of New Britain.

449 Sec. 8. Subsection (f) of section 22a-430 of the general statutes is
450 repealed and the following is substituted in lieu thereof (*Effective from*
451 *passage*):

452 (f) The commissioner may, by regulation, establish and define
453 categories of discharges, including but not limited to, residential
454 swimming pools, small community sewerage systems, household and
455 small commercial disposal systems and clean water discharges, for
456 which he may delegate authority to any other state agency, water
457 pollution control authority, municipal building official or municipal or
458 district director of health to issue permits or approvals in accordance
459 with this section or to issue orders pursuant to sections 22a-428, 22a-
460 431, 22a-432 and 22a-436. In establishing such categories the
461 commissioner shall consider (1) whether each discharge in such
462 category, because of size and character, is likely to cause significant
463 pollution to the waters of the state; (2) whether knowledge and
464 training concerning disposal systems for each discharge in such
465 category is within the expertise of such agency, authority, official or
466 director; (3) whether the source of each discharge in such category is
467 likely to be within the jurisdiction of such agency, authority, official or
468 director for other matters. The commissioner shall establish, by
469 regulation, minimum requirements for disposal systems for discharges
470 in such categories. Any permit denied or order issued by any such
471 agency, authority, official or director shall be subject to hearing and
472 appeal in the manner provided in sections 22a-436 and 22a-437,
473 provided such agency, authority, official or director has been duly
474 delegated authority by the commissioner pursuant to this subsection.
475 Any permit granted by any such agency, authority, official or director
476 to which the commissioner has delegated authority pursuant to this
477 subsection shall thereafter be deemed equivalent to a permit issued
478 under subsection (b) of this section.

479 Sec. 9. Subsection (a) of section 7-247 of the general statutes, as
480 amended by section 142 of public act 03-6 of the June 30 special
481 session, is repealed and the following is substituted in lieu thereof
482 (*Effective from passage*):

483 (a) Any municipality by its water pollution control authority may
484 acquire, construct and operate a sewerage system or systems; may
485 enter upon and take and hold by purchase, condemnation or otherwise

486 the whole or any part of any real property or interest therein which it
487 determines is necessary or desirable for use in connection with any
488 sewerage system; may establish and revise rules and regulations for
489 the supervision, management, control, operation and use of a sewerage
490 system, including rules and regulations prohibiting or regulating the
491 discharge into a sewerage system of any sewage or any stormwater
492 runoff which in the opinion of the water pollution control authority
493 will adversely affect any part or any process of the sewerage system
494 except that any such rule or regulation regarding decentralized
495 systems shall be approved by the local director of health before such
496 rule or regulation may be effective; may enter into and fulfill contracts,
497 including contracts for a term of years, with any person or any other
498 municipality or municipalities to provide or obtain sewerage system
499 service for any sewage, and may make arrangements for the provision
500 or exchange of staff services and equipment with any person or any
501 other municipality or municipalities, or for any other lawful services.
502 The water pollution control authority of any municipality planning to
503 acquire, construct or operate a new or additional sewerage system
504 shall consider the feasibility of using the sewage collected by such
505 system as an energy source for the generation of electricity or the
506 production of other energy sources. The water pollution control
507 authority may establish rules for the transaction of its business. It shall
508 keep a record of its proceedings and shall designate an officer or
509 employee to be the custodian of its books, papers and documents. No
510 person shall have a right to a hearing or an appeal in the manner
511 provided in sections 22a-436 and 22a-437 from a decision of a water
512 pollution control authority to deny a permit or issue an order unless
513 such water pollution control authority was delegated authority by the
514 commissioner pursuant to section 22a-430, as amended by this act, to
515 make the decision that is the subject of such hearing or appeal.

516 Sec. 10. Subdivision (2) of subsection (c) of section 22a-524 of the
517 general statutes is repealed and the following is substituted in lieu
518 thereof (*Effective from passage*):

519 (2) Not later than July thirty-first, annually, each publicly-owned

520 treatment works shall purchase equivalent nitrogen credits necessary
521 to meet its nitrogen limits. Such purchase shall be paid by [certified
522 bank] check, or money order or other form of payment acceptable to
523 the Treasurer made payable to the "nitrogen credit exchange program".
524 The check, or money order or other such form of payment shall state
525 on its face "nitrogen credit purchase".

526 Sec. 11. Subsection (c) of section 22a-315 of the general statutes is
527 repealed and the following is substituted in lieu thereof (*Effective from*
528 *passage*):

529 (c) The commissioner may, by regulation, adopted pursuant to
530 chapter 54, establish a council to coordinate the activities of such
531 boards of such districts with the activities of the Department of
532 Environmental Protection and other state, regional and local agencies
533 and propose regulations to said department in matters of soil and
534 water erosion [control] conservation and to advise and assist the
535 commissioner in conserving and protecting the land, water and other
536 natural resources of the state. The council shall be within the
537 Department of Environmental Protection for administrative purposes
538 only. Such council shall consist of nine members, five representing the
539 soil and water conservation districts to be selected by [the boards of
540 said district, one representing the state Agricultural Stabilization and
541 Conservation Committee, one representing the state Extension
542 Advisory Council, and the Commissioners of Environmental
543 Protection and Agriculture or their designees. One of the
544 representatives of the soil and water conservation districts shall be a
545 full-time farmer. The following shall be ex-officio members of the
546 council: The State Conservationist of the Soil Conservation Service, the
547 director of the State Extension Service, the executive director of the
548 Agricultural Stabilization and Conservation Service, the Director of the
549 Farmers' Home Administration, the director of the Connecticut
550 Agricultural Experiment Station, the director of the Storrs Agricultural
551 Experiment Station and the area director of the United States Forest
552 Service] each of the five districts' boards, the Commissioner of
553 Environmental protection or a designee, the Commissioner of

554 Agriculture, or a designee, a representative of a nongovernmental
555 organization appointed by the Governor and a representative of The
556 University of Connecticut's cooperative extension system. In addition,
557 the council shall include, but not be limited to, the following at-large
558 nonvoting members: The State Conservationist or designee of the
559 Natural Resource Conservation Service, the director of the Connecticut
560 Agricultural Experiment Station or a designee, the director of the
561 Storrs Agricultural Experiment Station or a designee, municipal staff
562 representatives responsible for erosion and sedimentation control, the
563 State Committee Chairman of the Farm Services Agency and a council
564 member of a Resource Conservation and Development area. The
565 commissioner shall have the authority to receive funds from any
566 source on behalf of the council and shall expend such funds with the
567 advice and consent of the council for equipment, supplies, and such
568 full-time and part-time staff and consultants as may be necessary to
569 carry out the council's duties and any other at-large, nonvoting
570 members who have expertise to support the duties of the council.

571 Sec. 12. Subsection (b) of section 22a-617 of the general statutes is
572 repealed and the following is substituted in lieu thereof (*Effective from*
573 *passage*):

574 (b) Not later than July 1, 2003, the commissioner shall convene a
575 working group which shall include, but not be limited to, government
576 representatives from other northeastern states to (1) evaluate advances
577 in technology and make recommendations regarding the regulation of
578 mercury-added products that have a mercury content in excess of ten
579 milligrams or ten parts per million but less than one hundred
580 milligrams or fifty parts per million and specialized lighting used in
581 the entertainment industry such as metal halide lights, and (2) evaluate
582 the uses of lamps that have a mercury content of not less than one
583 hundred milligrams and not more than one gram and alternatives to
584 such lamps and make recommendations regarding the regulation of
585 lamps that have a mercury content of not less than one hundred
586 milligrams and not more than one gram. Within such working group,
587 the commissioner shall convene a subgroup which shall include, but

588 not be limited to, industry trade groups for mercury-containing lamps
589 to develop a plan in accordance with section 22a-620, as amended, to
590 provide for the collection of such lamps. The working group shall
591 finalize [such] its recommendations regarding subdivision (1) of this
592 subsection and the subgroup shall make its recommendations not later
593 than July 1, 2004. The working group shall make its recommendations
594 regarding subdivision (2) of this subsection not later than January 1,
595 2005.

596 Sec. 13. Subsection (a) of section 14-49b of the general statutes, as
597 amended by section 150 of public act 03-6 of the June 30 special
598 session, is repealed and the following is substituted in lieu thereof
599 (*Effective from passage*):

600 (a) For each new registration or renewal of registration of any motor
601 vehicle with the Commissioner of Motor Vehicles pursuant to this
602 chapter, the person registering such vehicle shall pay to the
603 commissioner a fee of ten dollars for registration for a biennial period
604 and five dollars for registration for an annual period, except that any
605 individual who is sixty-five years of age or older on or after January 1,
606 1994, may, at the discretion of such individual, pay the fee for either a
607 one-year or two-year period. The provisions of this section shall not
608 apply with respect to any motor vehicle which is not self-propelled,
609 which is electrically powered, or which is exempted from payment of a
610 registration fee. This fee may be identified as the "federal Clean Air Act
611 fee" on any registration form provided by the commissioner. Payments
612 collected pursuant to the provisions of this section shall be deposited
613 as follows: (1) Fifty-seven and one-half per cent of such payments
614 collected shall be deposited into the Special Transportation Fund
615 established pursuant to section 13b-68, as amended, and (2) forty-two
616 and one-half per cent of such payments collected shall be deposited in
617 a treasurer's account and credited to a separate, nonlapsing federal
618 Clean Air Act account which shall be established by the Comptroller
619 within the General Fund. The federal Clean Air Act account may be
620 used to pay any costs to state agencies of implementing the
621 requirements of the federal Clean Air Act Amendments of 1990 that

622 are not otherwise met by the fees collected pursuant to section [22a-
623 174a] 22a-174, as amended by this act, and any funds transferred to the
624 account pursuant to section 22a-27m, as amended, may additionally be
625 used by the Commissioner of Environmental Protection to carry out
626 the provisions of chapter 446c. All moneys deposited in this account
627 are deemed to be appropriated for this purpose. The fee required by
628 this section is in addition to any other fees prescribed by any other
629 provision of this title for the registration of a motor vehicle.

630 Sec. 14. Subsection (a) of section 22a-6 of the general statutes, as
631 amended by section 151 of public act 03-6 of the June 30 special
632 session, is repealed and the following is substituted in lieu thereof
633 (*Effective from passage*):

634 (a) The commissioner may: (1) Adopt, amend or repeal, in
635 accordance with the provisions of chapter 54, such environmental
636 standards, criteria and regulations, and such procedural regulations as
637 are necessary and proper to carry out his functions, powers and duties;
638 (2) enter into contracts with any person, firm, corporation or
639 association to do all things necessary or convenient to carry out the
640 functions, powers and duties of the department; (3) initiate and receive
641 complaints as to any actual or suspected violation of any statute,
642 regulation, permit or order administered, adopted or issued by him.
643 The commissioner shall have the power to hold hearings, administer
644 oaths, take testimony and subpoena witnesses and evidence, enter
645 orders and institute legal proceedings including, but not limited to,
646 suits for injunctions, for the enforcement of any statute, regulation,
647 order or permit administered, adopted or issued by him; (4) in
648 accordance with regulations adopted by him, require, issue, renew,
649 revoke, modify or deny permits, under such conditions as he may
650 prescribe, governing all sources of pollution in Connecticut within his
651 jurisdiction; (5) in accordance with constitutional limitations, enter at
652 all reasonable times, without liability, upon any public or private
653 property, except a private residence, for the purpose of inspection and
654 investigation to ascertain possible violations of any statute, regulation,
655 order or permit administered, adopted or issued by him and the

656 owner, managing agent or occupant of any such property shall permit
657 such entry, and no action for trespass shall lie against the
658 commissioner for such entry, or he may apply to any court having
659 criminal jurisdiction for a warrant to inspect such premises to
660 determine compliance with any statute, regulation, order or permit
661 administered, adopted or enforced by him, provided any information
662 relating to secret processes or methods of manufacture or production
663 ascertained by the commissioner during, or as a result of, any
664 inspection, investigation, hearing or otherwise shall be kept
665 confidential and shall not be disclosed except that, notwithstanding the
666 provisions of subdivision (5) of subsection (b) of section 1-210, as
667 amended, such information may be disclosed by the commissioner to
668 the United States Environmental Protection Agency pursuant to the
669 federal Freedom of Information Act of 1976, (5 USC 552) and
670 regulations adopted thereunder or, if such information is submitted
671 after June 4, 1986, to any person pursuant to the federal Clean Water
672 Act (33 USC 1251 et seq.); (6) undertake any studies, inquiries, surveys
673 or analyses he may deem relevant, through the personnel of the
674 department or in cooperation with any public or private agency, to
675 accomplish the functions, powers and duties of the commissioner; (7)
676 require the posting of sufficient performance bond or other security to
677 assure compliance with any permit or order; (8) provide by notice
678 printed on any form that any false statement made thereon or
679 pursuant thereto is punishable as a criminal offense under section 53a-
680 157b; (9) construct or repair or contract for the construction or repair of
681 any dam or flood and erosion control system under his control and
682 management, make or contract for the making of any alteration, repair
683 or addition to any other real asset under his control and management,
684 including rented or leased premises, involving an expenditure of five
685 hundred thousand dollars or less, and, with prior approval of the
686 Commissioner of Public Works, make or contract for the making of
687 any alteration, repair or addition to such other real asset under his
688 control and management involving an expenditure of more than five
689 hundred thousand dollars but not more than one million dollars; (10)
690 by regulations adopted in accordance with the provisions of chapter 54

691 require the payment of a fee sufficient to cover the reasonable cost of
692 the search, duplication and review of records requested under the
693 Freedom of Information Act, as defined in section 1-200, and the
694 reasonable cost of reviewing and acting upon an application for and
695 monitoring compliance with the terms and conditions of any state or
696 federal permit, license, registration, order, certificate or approval
697 required pursuant to subsection (i) of section 22a-39, subsections (c)
698 and (d) of section 22a-96, subsections (h), (i) and (k) of section 22a-424,
699 and sections 22a-6d, 22a-32, 22a-134a, as amended, 22a-134e, as
700 amended, 22a-135, as amended, 22a-148, as amended, 22a-150, as
701 amended, 22a-174, as amended by this act, [22a-174a,] 22a-208, 22a-
702 208a, 22a-209, 22a-342, as amended, 22a-345, 22a-354i, 22a-361, as
703 amended, 22a-363c, as amended, 22a-368, 22a-372, as amended by this
704 act, 22a-379, as amended, 22a-403, 22a-409, as amended, 22a-416, 22a-
705 428 to 22a-432, inclusive, 22a-449, as amended, and 22a-454 to 22a-
706 454c, inclusive, as amended, and Section 401 of the federal Clean Water
707 Act, (33 USC 1341). Such costs may include, but are not limited to the
708 costs of (A) public notice, (B) reviews, inspections and testing
709 incidental to the issuance of and monitoring of compliance with such
710 permits, licenses, orders, certificates and approvals, and (C) surveying
711 and staking boundary lines. The applicant shall pay the fee established
712 in accordance with the provisions of this section prior to the final
713 decision of the commissioner on the application. The commissioner
714 may postpone review of an application until receipt of the payment.
715 Payment of a fee for monitoring compliance with the terms or
716 conditions of a permit shall be at such time as the commissioner deems
717 necessary and is required for an approval to remain valid; and (11) by
718 regulations adopted in accordance with the provisions of chapter 54,
719 require the payment of a fee sufficient to cover the reasonable cost of
720 responding to requests for information concerning the status of real
721 estate with regard to compliance with environmental statutes,
722 regulations, permits or orders. Such fee shall be paid by the person
723 requesting such information at the time of the request. Funds not
724 exceeding two hundred thousand dollars received by the
725 commissioner pursuant to subsection (g) of section 22a-174, as

726 amended by this act, during the fiscal year ending June 30, 1985, shall
727 be deposited in the General Fund and credited to the appropriations of
728 the Department of Environmental Protection in accordance with the
729 provisions of section 4-86, and such funds shall not lapse until June 30,
730 1986. In any action brought against any employee of the department
731 acting within his scope of delegated authority in performing any of the
732 above-listed duties, the employee shall be represented by the Attorney
733 General.

734 Sec. 15. Subsection (b) of section 22a-27g of the general statutes is
735 repealed and the following is substituted in lieu thereof (*Effective from*
736 *passage*):

737 (b) Notwithstanding any provision of the general statutes, [to the
738 contrary,] on and after July 1, 1990, the amount of any fee received by
739 the Department of Environmental Protection which is attributable to
740 the provisions of sections 22a-6, as amended by this act, 22a-6d, 22a-
741 27i, 22a-134e, as amended, 22a-135, as amended, 22a-148, as amended,
742 22a-150, as amended, 22a-174, as amended by this act, [22a-174a,] 22a-
743 208a, 22a-342, as amended, 22a-363c, as amended, 22a-372, as amended
744 by this act, 22a-379, as amended, 22a-409, as amended, 22a-430, as
745 amended, 22a-449, as amended, 22a-454 to 22a-454c, inclusive, as
746 amended, and 22a-361, as amended, or any regulation adopted or
747 amended pursuant to section 22a-6, as amended by this act, or
748 pursuant to any other provision of this title, shall be deposited directly
749 into the Environmental Quality Fund established by subsection (a) of
750 this section and credited to the environmental quality account. The
751 Commissioner of Environmental Protection shall annually certify to
752 the Treasurer, with respect to each such fee received on and after July
753 1, 1990, the amount of such fee which shall be credited to the General
754 Fund.

755 Sec. 16. Section 22a-27i of the general statutes is repealed and the
756 following is substituted in lieu thereof (*Effective from passage*):

757 Notwithstanding the provisions of sections 22a-6, as amended by

758 this act, 22a-6d, 22a-26g, 22a-26h, 22a-134e, as amended, 22a-135, as
759 amended, 22a-148, as amended, 22a-150, as amended, 22a-174, as
760 amended by this act, [22a-174a,] 22a-208a, 22a-342, as amended, 22a-
761 363c, as amended, 22a-372, as amended by this act, 22a-379, as
762 amended, 22a-409, as amended, 22a-430, as amended, 22a-449, as
763 amended, 22a-454 to 22a-454c, inclusive, as amended, and 22a-361, as
764 amended, for the period beginning July 1, 1990, and ending June 30,
765 1991, any fee to be charged to a municipality in accordance with said
766 sections shall be the fee in effect on June 30, 1990.

767 Sec. 17. Subsection (a) of section 22a-27m of the general statutes, as
768 amended by section 149 of public act 03-6 of the June 30 special
769 session, is repealed and the following is substituted in lieu thereof
770 (*Effective from passage*):

771 (a) There is established within the Environmental Quality Fund
772 established under section 22a-27g an account to be known as the "air
773 emissions permit operating fee account". Notwithstanding the
774 provisions of section 22a-27g any moneys collected in accordance with
775 section [22a-174a] 22a-174, as amended by this act, shall be deposited
776 in the Environmental Quality Fund and credited to the air emissions
777 permit operating fee account. Any balance remaining in the account at
778 the end of any fiscal year shall be carried forward in the account for
779 the fiscal year next succeeding. The account shall be used by the
780 Commissioner of Environmental Protection for the purpose of
781 covering the direct and indirect costs of administering the program set
782 forth in Title V of the federal Clean Air Act Amendments of 1990.

783 Sec. 18. Section 22a-450a of the general statutes, as amended by
784 section 1 of public act 03-122, is amended by adding subsection (e) as
785 follows (*Effective from passage*):

786 (NEW) (e) Notwithstanding the provisions of this section, any
787 marina or recreational or commercial boating facility may sell or
788 provide gasoline that contains MTBE for use by watercraft, including,
789 but not limited to, a boat, ship, vessel, barge or other floating craft,

790 provided such gasoline was purchased and stored on site by the
791 subject marina or boating facility prior to January 1, 2004.

792 Sec. 19. Section 7-131d of the general statutes is amended by adding
793 subsection (f) as follows (*Effective from passage*):

794 (NEW) (f) Upon approval by the Commissioner of Environmental
795 Protection, land acquired by a municipality under the protected open
796 space and watershed land acquisition grant program established under
797 subsection (a) of this section or under the Charter Oak open space
798 grant program established under section 7-131t may be wholly or
799 partially converted into land used for recreational purposes requiring
800 intense development, including, but not limited to, golf courses,
801 driving ranges, tennis courts, ballfields, swimming pools and uses by
802 motorized vehicles other than vehicles needed by water companies to
803 carry out their purposes, provided the municipality provides
804 replacement land in accordance with this subsection. The subject
805 municipality shall apply to the commissioner for approval to convert
806 the protected open space, which application shall (1) provide evidence
807 that alternative lands were considered and an explanation of why such
808 alternatives were not acceptable; (2) provide appraisals acceptable to
809 the commissioner for the protected open space and the replacement
810 land; and (3) provide maps acceptable to the commissioner of the
811 protected open space and the replacement land. The commissioner
812 may not approve an application pursuant to this section unless the
813 commissioner determines that the replacement land is of equal or
814 greater monetary, recreational and natural resource conservation value
815 as the protected open space. Upon approval, a permanent conservation
816 easement shall be executed for the replacement land in accordance
817 with subsection (e) of this section and the conservation easement for
818 the original protected land shall be modified to allow the recreational
819 purposes requiring intense development.

820 Sec. 20. (*Effective from passage*) Section 22a-174a of the general
821 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>from passage</i>
Sec. 18	<i>from passage</i>
Sec. 19	<i>from passage</i>
Sec. 20	<i>from passage</i>

ENV *Joint Favorable Subst.*