



General Assembly

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Amendment

LCO No. 3305

HB0561103305HDO

Offered by:

REP. AMANN, 118th Dist.

SEN. SMITH, 14th Dist.

REP. ROY, 119th Dist.

REP. COLLINS, 117th Dist.

REP. WIDLITZ, 98th Dist.

To: Subst. House Bill No. 5611

File No. 351

Cal. No. 245

**"AN ACT CONCERNING NOTIFICATION TO MUNICIPALITIES OF
CONTAMINATION."**

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 22a-6u of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective October 1, 2004*):

5 (a) For the purposes of this section:

6 (1) "Commissioner" means the Commissioner of Environmental
7 Protection, or his designee;

8 (2) "Parcel" means a piece, tract or lot of land, together with
9 buildings and other improvements situated thereon, a legal description
10 of which piece, parcel, tract or lot is contained in a deed or other

11 instrument of conveyance and which piece, tract or lot is not the
12 subject of an order or consent order of the commissioner which
13 involves requirements for investigation or reporting regarding
14 environmental contamination;

15 (3) "Person" means person, as defined in section 22a-2;

16 (4) "Pollution" means pollution, as defined in section 22a-423;

17 (5) "Release" means any discharge, uncontrolled loss, seepage,
18 filtration, leakage, injection, escape, dumping, pumping, pouring,
19 emitting, emptying or disposal of oil or petroleum or chemical liquids
20 or solids, liquid or gaseous products or hazardous wastes;

21 (6) "Residential activity" means any activity related to (A) a
22 residence or dwelling, including, but not limited to, a house,
23 apartment, or condominium, or (B) a school, hospital, day care center,
24 playground or outdoor recreational area;

25 (7) "Substance" means an element, compound or material which,
26 when added to air, water, soil or sediment, may alter the physical,
27 chemical, biological or other characteristics of such air, water, soil or
28 sediment;

29 (8) "Upgradient direction" means in the direction of an increase in
30 hydraulic head; and

31 (9) "Technical environmental professional" means an individual,
32 including, but not limited to, an environmental professional licensed
33 pursuant to section 22a-133v, as amended, who collects soil, water,
34 vapor or air samples for purposes of investigating and remediating
35 sources of pollution to soil or waters of the state and who may be
36 directly employed by, or retained as a consultant by, a public or
37 private employer.

38 (b) (1) If a technical environmental professional determines in the
39 course of investigating or remediating pollution after October 1, 1998,
40 which pollution is on or emanating from a parcel, that such pollution is

41 causing or has caused contamination of a public or private drinking
42 water well with a substance for which the Commissioner of
43 Environmental Protection has established a ground water protection
44 criterion in regulations adopted pursuant to section 22a-133k at a
45 concentration above the ground water protection criterion for such
46 substance, such professional shall notify his client and the owner of the
47 parcel, if the owner can reasonably be identified, not later than twenty-
48 four hours after determining that the contamination exists. If, seven
49 days after such determination, the owner of the subject parcel has not
50 notified the commissioner, the client of the professional shall notify the
51 commissioner. If the owner notifies the commissioner, the owner shall
52 provide documentation to the client of the professional which verifies
53 that the owner has notified the commissioner.

54 (2) The owner of a parcel on which exists a source of contamination
55 to soil or waters of the state shall notify the commissioner if such
56 owner becomes aware that such pollution is causing or has caused
57 contamination of a private or public drinking water well with a
58 substance for which the commissioner has established a ground water
59 protection criterion in regulations adopted pursuant to section 22a-
60 133k at a concentration at or above the ground water protection
61 criterion for such substance. Notice under this section shall be given to
62 the commissioner (A) orally, not later than one business day after such
63 person becomes aware that the contamination exists, and (B) in
64 writing, not later than five days after such oral notice.

65 (c) (1) If a technical environmental professional determines in the
66 course of investigating or remediating pollution after October 1, 1998,
67 which pollution is on or emanating from a parcel, that such pollution is
68 causing or has caused contamination of a public or private drinking
69 water well with: (A) A substance for which the commissioner has
70 established a ground water protection criterion in regulations adopted
71 pursuant to section 22a-133k at a concentration less than such ground
72 water protection criterion for such substance; or (B) any other
73 substance resulting from the release which is the subject of the
74 investigation or remediation, such professional shall notify his client

75 and the owner of the parcel, if the owner can reasonably be identified,
76 not later than seven days after determining that the contamination
77 exists.

78 (2) The owner of a parcel on which exists a source of pollution to
79 soil or the waters of the state shall notify the commissioner if such
80 owner becomes aware that such pollution is causing or has caused
81 contamination of a private or public drinking water well with: (A) A
82 substance for which the commissioner has established a ground water
83 protection criterion in regulations adopted pursuant to section 22a-
84 133k at a concentration less than such ground water protection
85 criterion for such substance; or (B) any other substance which was part
86 of the release which caused such pollution. Notice under this
87 subdivision shall be given in writing not later than seven days after the
88 time such person becomes aware that the contamination exists.

89 (d) (1) If a technical environmental professional determines in the
90 course of investigating or remediating pollution after October 1, 1998,
91 which pollution is on or emanating from a parcel, that such pollution
92 of soil within two feet of the ground surface contains a substance,
93 except for total petroleum hydrocarbon, at a concentration at or above
94 thirty times the industrial/commercial direct exposure criterion for
95 such substance if the parcel is in industrial or commercial use, or the
96 residential direct exposure criterion if the parcel is in residential use,
97 which criteria are specified in regulations adopted pursuant to section
98 22a-133k, such professional shall notify his client and the owner of the
99 parcel, if such owner is reasonably identified, not later than seven days
100 after determining that the contamination exists, except that notice will
101 not be required if the land-use of such parcel is not residential activity
102 and the substance is one of the following: Acetone, 2-butanone,
103 chlorobenzene, 1,2-dichlorobenzene, 1,3-dichlorobenzene, 1,1-
104 dichloroethane, cis-1,2-dichloroethylene, trans-1,2-dichloroethylene,
105 ethylbenzene, methyl-tert-butyl-ether, methyl isobutyl ketone, styrene,
106 toluene, 1,1,1-trichloroethane, xylenes, acenaphthylene, anthracene,
107 butyl benzyl phthalate, 2-chlorophenol, di-n-butyl phthalate, di-n-octyl
108 phthalate, 2,4-dichlorophenol, fluoranthene, fluorene, naphthalene,

109 phenanthrene, phenol and pyrene.

110 (2) The owner of the subject parcel, shall notify the commissioner in
111 writing not later than ninety days after the time such owner becomes
112 aware that the contamination exists except that notification will not be
113 required if not later than ninety days: (A) The contaminated soil is
114 remediated in accordance with regulations adopted pursuant to
115 section 22a-133k; (B) the contaminated soil is inaccessible soil as that
116 term is defined in regulations adopted pursuant to section 22a-133k; or
117 (C) the contaminated soil which exceeds thirty times such criterion is
118 treated or disposed of in accordance with all applicable laws and
119 regulations.

120 (e) (1) If a technical environmental professional determines in the
121 course of investigating or remediating pollution after October 1, 1998,
122 which pollution is on or emanating from a parcel, that such pollution is
123 causing or has caused ground water within fifteen feet beneath an
124 industrial or commercial building to be contaminated with a volatile
125 organic substance at a concentration at or above thirty times the
126 industrial/commercial volatilization criterion for ground water for
127 such substance or, if such contamination is beneath a residential
128 building, at a concentration at or above thirty times the residential
129 volatilization criterion, which criteria are specified in regulations
130 adopted pursuant to section 22a-133k, such professional shall, not later
131 than seven days after determining that the contamination exists, notify
132 his client and the owner of the subject parcel, if such owner can
133 reasonably be identified.

134 (2) The owner of such parcel shall notify the commissioner in
135 writing not later than thirty days after such person becomes aware that
136 the contamination exists except that notification is not required if: (A)
137 The concentration of such substance in the soil vapor beneath such
138 building is at or below thirty times the soil vapor volatilization
139 criterion, appropriate for the land-use for the parcel, for such
140 substance as specified in regulations adopted pursuant to section 22a-
141 133k; (B) the concentration of such substance in groundwater is below

142 thirty times a site-specific volatilization criterion for ground water for
143 such substance calculated in accordance with regulations adopted
144 pursuant to section 22a-133k; (C) ground water volatilization criterion,
145 appropriate for the land-use of the parcel, for such substance specified
146 in regulations adopted pursuant to section 22a-133k is fifty thousand
147 parts per billion; or (D) not later than thirty days after the time such
148 person becomes aware that the contamination exists, an indoor air
149 monitoring program is initiated in accordance with subdivision (3) of
150 this subsection.

151 (3) An indoor air quality monitoring program for the purposes of
152 this subsection shall consist of sampling of indoor air once every two
153 months for a duration of not less than one year, sampling of indoor air
154 immediately overlying such contaminated ground water, and analysis
155 of air samples for any volatile organic substance which exceeded thirty
156 times the volatilization criterion as specified in or calculated in
157 accordance with regulations adopted pursuant to section 22a-133k. The
158 owner of the subject parcel shall notify the commissioner if: (A) The
159 concentration in any indoor air sample exceeds thirty times the target
160 indoor air concentration, appropriate for the land-use of the parcel, as
161 specified in regulations adopted pursuant to section 22a-133k; or (B)
162 the indoor air monitoring program is not conducted in accordance
163 with this subdivision. Notice shall be given to the commissioner in
164 writing not later than seven days after the time such person becomes
165 aware that such a condition exists.

166 (f) (1) If a technical environmental professional determines in the
167 course of investigating or remediating pollution after October 1, 1998,
168 which pollution is on or emanating from a parcel, that such pollution is
169 causing or has caused contamination of ground water which is
170 discharging to surface water and such ground water is contaminated
171 with a substance for which an acute aquatic life criterion is listed in
172 appendix D of the most recent water quality standards adopted by the
173 commissioner at a concentration which exceeds ten times (A) such
174 criterion for such substance in said appendix D, or (B) such criterion
175 for such substance times a site specific dilution factor calculated in

176 accordance with regulations adopted pursuant to section 22a-133k,
177 such professional shall notify his client and the owner of such parcel, if
178 such owner can reasonably be identified, not later than seven days
179 after determining that the contamination exists.

180 (2) The owner of such parcel shall notify the commissioner in
181 writing not later than seven days after the time such person becomes
182 aware that the contamination exists except that notice shall not be
183 required if such person knows that the polluted discharge at that
184 concentration has been reported to the commissioner in writing within
185 the preceding year.

186 (g) (1) If a technical environmental professional determines in the
187 course of investigating or remediating pollution after October 1, 1998,
188 which pollution is on or emanating from a parcel, that such pollution is
189 causing or has caused contamination of ground water within five
190 hundred feet in an upgradient direction of a private or public drinking
191 water well which ground water is contaminated with a substance
192 resulting from a release for which the commissioner has established a
193 ground water protection criterion in regulations adopted pursuant to
194 section 22a-133k at a concentration at or above the ground water
195 protection criterion for such substance, such technical environmental
196 professional shall notify his client and the owner of the subject parcel,
197 if such owner can reasonably be identified, not later than seven days
198 after determining that the contamination exists.

199 (2) The owner of the subject parcel shall notify the commissioner in
200 writing not later than seven days after the time such owner becomes
201 aware that the contamination exists.

202 (h) (1) If a technical environmental professional determines in the
203 course of investigating or remediating pollution after October 1, 1998,
204 which pollution is on or emanating from a parcel, that such pollution is
205 causing or has caused polluted vapors emanating from polluted soil,
206 groundwater or free product which vapors are migrating into
207 structures or utility conduits and which vapors pose an explosion

208 hazard, such technical environmental professional shall immediately
209 notify his client and the owner of the subject parcel, if such owner can
210 reasonably be identified, not later than twenty-four hours after
211 determining that the vapor condition exists. If the owner of such parcel
212 fails to notify the commissioner in accordance with this subsection,
213 such client shall notify the commissioner. If the owner notifies the
214 commissioner, the owner shall provide documentation to the client of
215 the professional which verifies that the owner has notified the
216 commissioner.

217 (2) The owner of such parcel shall orally notify the commissioner
218 and the local fire department immediately and under all circumstances
219 not later than two hours after the time a technical environmental
220 professional notifies the owner that the vapor condition exists, and
221 shall notify the commissioner in writing not later than five days after
222 such oral notice.

223 (i) All notices, oral or written, provided under this section shall
224 include the nature of the contamination or condition, the address of the
225 property where the contamination or condition is located, the location
226 of such contamination or condition, any property known to be affected
227 by such contamination or condition, any steps being taken to abate,
228 remediate or monitor such contamination or condition, and the name
229 and address of the person making such notification. Written
230 notification shall be clearly marked as notification required by this
231 section and shall be either personally delivered to the Water
232 Management Bureau of the Department of Environmental Protection
233 or sent certified mail, return receipt requested, to the Water
234 Management Bureau of the Department of Environmental Protection.

235 (j) The commissioner shall provide written acknowledgment of
236 receipt of a written notice pursuant to this section not later than ten
237 days of receipt of such notice. Such acknowledgment shall be
238 accompanied by (1) a statement that the owner of the parcel has up to
239 ninety days within which to submit to the commissioner a plan to
240 remediate or abate the contamination or condition. If such plan is not

241 submitted or is not approved by the commissioner, the commissioner
242 shall prescribe the action to be taken, or (2) a directive as to action
243 required to remediate or abate the contamination or condition. If a
244 plan is submitted which details actions to be taken, or a report is
245 submitted which details actions taken, to mitigate the contamination or
246 conditions such that notice under this section would not be required,
247 and such plan or report is acceptable to the commissioner, the
248 commissioner shall approve such plan or report in writing. When
249 actions implementing an approved plan are completed, the
250 commissioner shall issue a certificate of compliance.

251 (k) Not later than five days after an owner submits any written
252 notice to the commissioner under this section, such owner shall post
253 such notice in a conspicuous place on the subject property, and, in the
254 case of a place of business, in a conspicuous place inside the place of
255 business. An owner who violates this subsection shall pay a civil
256 penalty of one hundred dollars for each offense. Each violation shall be
257 a separate and distinct offense and, in the case of a continuing
258 violation, each day's continuance thereof shall be deemed to be a
259 separate and distinct offense. The Attorney General, upon complaint of
260 the commissioner, shall institute an action in superior court for the
261 judicial district of Hartford to recover such penalty.

262 (l) Not later than five days after receipt of any written notice
263 received under this section, the commissioner shall forward a copy of
264 such notice to (1) the chief elected official of the municipality in which
265 the subject pollution was discovered by the technical environmental
266 professional, (2) the state senator and state representative representing
267 the area in which the subject pollution was discovered by the technical
268 environmental professional, and (3) in the case of a place of business,
269 the Labor Commissioner, who shall make such information available
270 to collective bargaining representatives of workers at the subject
271 property.

272 [(k)] (m) Nothing in this section and no action taken by any person
273 pursuant to this section shall affect the commissioner's authority under

274 any other statute or regulation.

275 [(l)] (n) Nothing in this section shall excuse a person from
276 complying with the requirements of any statute or regulation except
277 the commissioner may waive the requirements of the regulations
278 adopted under section 22a-133k if he determines that it is necessary to
279 ensure that timely and appropriate action is taken to mitigate or
280 minimize any of the conditions described in subsections (b) to (h),
281 inclusive, of this section."

This act shall take effect as follows:	
Section 1	October 1, 2004