



General Assembly

January Session, 2005

Raised Bill No. 6803

LCO No. 3949

03949_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

**AN ACT CONCERNING REVISIONS TO CERTAIN WASTE
MANAGEMENT PROGRAMS.**

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

1 Section 1. Subdivision (1) of section 22a-134 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2005*):

4 (1) "Transfer of establishment" means any transaction or proceeding
5 through which an establishment undergoes a change in ownership, but
6 does not mean:

7 (A) [conveyance] Conveyance or extinguishment of an easement; [✓]

8 (B) [conveyance] Conveyance of an establishment through a
9 foreclosure, as defined in subsection (b) of section 22a-452f or
10 foreclosure of a municipal tax lien; [✓]

11 (C) [conveyance] Conveyance of a deed in lieu of foreclosure to a
12 lender, as defined in and that qualifies for the secured lender
13 exemption pursuant to subsection (b) of section 22a-452f; [✓]

14 (D) [conveyance] Conveyance of a security interest, as defined in
15 subdivision (7) of subsection (b) of section 22a-452f; [L]

16 (E) [termination] Termination of a lease and conveyance,
17 assignment or execution of a lease for a period less than ninety-nine
18 years including conveyance, assignment or execution of a lease with
19 options or similar terms that will extend the period of the leasehold to
20 ninety-nine years, or from the commencement of the leasehold, ninety-
21 nine years, including conveyance, assignment or execution of a lease
22 with options or similar terms that will extend the period of the
23 leasehold to ninety-nine years, or from the commencement of the
24 leasehold; [L]

25 (F) [any] Any change in ownership approved by the Probate Court;
26 [L]

27 (G) [devolution] Devolution of title to a surviving joint tenant, or to
28 a trustee, executor or administrator under the terms of a testamentary
29 trust or will, or by intestate succession; [L]

30 (H) [corporate] Corporate reorganization not substantially affecting
31 the ownership of the establishment; [L]

32 (I) [the] The issuance of stock or other securities of an entity which
33 owns or operates an establishment; [L]

34 (J) [the] The transfer of stock, securities or other ownership interests
35 representing less than forty per cent of the ownership of the entity that
36 owns or operates the establishment; [L]

37 (K) [any] Any conveyance of an interest in an establishment where
38 the transferor is the sibling, spouse, child, parent, grandparent, child of
39 a sibling or sibling of a parent of the transferee; [L]

40 (L) [conveyance] Conveyance of an interest in an establishment to a
41 trustee of an inter vivos trust created by the transferor solely for the
42 benefit of one or more sibling, spouse, child, parent, grandchild, child

43 of a sibling or sibling of a parent of the transferor; **[L]**

44 (M) [any] Any conveyance of a portion of a parcel upon which
45 portion no establishment is or has been located and upon which there
46 has not occurred a discharge, spillage, uncontrolled loss, seepage or
47 filtration of hazardous waste, provided either the area of such portion
48 is not greater than fifty per cent of the area of such parcel or written
49 notice of such proposed conveyance and an environmental condition
50 assessment form for such parcel is provided to the commissioner sixty
51 days prior to such conveyance; **[L]**

52 (N) [conveyance] Conveyance of a service station, as defined in
53 subdivision (5) of this section; **[L]**

54 (O) [any] Any conveyance of an establishment which, prior to July
55 1, 1997, had been developed solely for residential use and such use has
56 not changed; **[L]**

57 (P) [any] Any conveyance of an establishment to any entity created
58 or operating under chapter 130 or 132, or to an urban rehabilitation
59 agency, as defined in section 8-292, or to a municipality under section
60 32-224, or to the Connecticut Development Authority or any
61 subsidiary of the authority; **[L]**

62 (Q) [any] Any conveyance of a parcel in connection with the
63 acquisition of properties to effectuate the development of the overall
64 project, as defined in section 32-651; **[L]**

65 (R) [the] The conversion of a general or limited partnership to a
66 limited liability company under section 34-199; **[L]**

67 (S) [the] The transfer of general partnership property held in the
68 names of all of its general partners to a general partnership which
69 includes as general partners immediately after the transfer all of the
70 same persons as were general partners immediately prior to the
71 transfer; **[L]**

72 (T) ~~[the] The~~ transfer of general partnership property held in the
73 names of all of its general partners to a limited liability company
74 which includes as members immediately after the transfer all of the
75 same persons as were general partners immediately prior to the
76 transfer; ~~or~~

77 (U) ~~[acquisition]~~ Acquisition of an establishment by any
78 governmental or quasi-governmental condemning authority; ~~or~~

79 (V) Conveyance of any real property or business operation that
80 would qualify as an establishment solely as a result of (i) the
81 generation of more than one hundred kilograms of universal waste in
82 a calendar month, (ii) the storage, handling or transportation of
83 universal waste generated at a different location, or (iii) activities
84 undertaken at a universal waste transfer facility, provided any such
85 real property or business operation does not otherwise qualify as an
86 establishment, that there has been no discharge, spillage, uncontrolled
87 loss, seepage or filtration of a universal waste or a constituent of
88 universal waste that is a hazardous substance at or from such real
89 property or business operation and that universal waste is not also
90 recycled, treated, except for treatment of a universal waste pursuant to
91 40 CFR 271.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or
92 disposed of at such real property or business operation.

93 Sec. 2. Subdivisions (10) and (11) of section 22a-134 of the general
94 statutes are repealed and the following is substituted in lieu thereof
95 (*Effective October 1, 2005*):

96 (10) "Form I" means a written certification by the transferor of an
97 establishment on a form prescribed and provided by the commissioner
98 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration
99 of hazardous waste or a hazardous substance has occurred at the
100 establishment which certification is based on an investigation of the
101 parcel in accordance with prevailing standards and guidelines, or (B)
102 no discharge spillage, uncontrolled loss, seepage or filtration of
103 hazardous waste has occurred at the establishment based upon an

104 investigation of the parcel in accordance with the prevailing standards
105 and guidelines and the commissioner has determined, in writing, or a
106 licensed environmental professional has verified, in writing, that any
107 discharge, spillage, uncontrolled loss, seepage or filtration of a
108 hazardous substance has been remediated in accordance with the
109 remediation standards and that since any such written approval or
110 verification, including any approval or verification for a portion of an
111 establishment, no discharge, spillage, uncontrolled loss, seepage or
112 filtration of hazardous waste or hazardous substances has occurred at
113 any portion of the establishment;

114 (11) "Form II" means a written certification by the transferor of an
115 establishment on a form prescribed and provided by the commissioner
116 that the parcel has been investigated in accordance with prevailing
117 standards and guidelines and that (A) any pollution caused by a
118 discharge, spillage, uncontrolled loss, seepage or filtration of
119 hazardous waste or a hazardous substance which has occurred from
120 the establishment has been remediated in accordance with the
121 remediation standards and that the remediation has been approved in
122 writing by the commissioner or has been verified pursuant to section
123 22a-133x or section 22a-134a in writing attached to such form by a
124 licensed environmental professional to have been performed in
125 accordance with the remediation standards and that since any such
126 written approval or verification, including any approval or verification
127 for a portion of an establishment, no discharge, spillage, uncontrolled
128 loss, seepage or filtration of hazardous waste or hazardous substances
129 has occurred at any portion of the establishment,(B) the commissioner
130 has determined in writing or a licensed environmental professional has
131 verified pursuant to section 22a-133x or section 22a-134a, as amended
132 by this act, in writing, attached to the form that no remediation is
133 necessary to achieve compliance with the remediation standards, or
134 (C) a Form IV verification was previously submitted to the
135 commissioner and, since the date of the submission of the Form IV, no
136 discharge, spillage, uncontrolled loss, seepage or filtration of
137 hazardous waste or a hazardous substance has occurred at the

138 establishment, which certification is based on an investigation of the
139 parcel in accordance with prevailing standards and guidelines.

140 Sec. 3. Section 22a-134 of the general statutes is amended by adding
141 subdivisions (26) and (27) as follows (*Effective October 1, 2005*):

142 (NEW) (26) "Universal waste" means batteries, pesticides,
143 thermostats, lamps and used electronics regulated as a universal waste
144 under regulations adopted pursuant to subsection (c) of section 22a-
145 449. "Universal waste" does not mean (A) batteries, pesticides,
146 thermostats and lamps that are not covered under 40 CFR Part 273, or
147 (B) used electronics that are not regulated as a universal waste under
148 regulations adopted pursuant to subsection (c) of section 22a-449.

149 (NEW) (27) "Universal waste transfer facility" means any facility
150 related to transportation, including loading docks, parking areas,
151 storage areas and other similar areas where shipments of universal
152 waste are held during the normal course of transportation for ten days
153 or less.

154 Sec. 4. Subsections (g) and (h) of section 22a-134a of the general
155 statutes are repealed and the following is substituted in lieu thereof
156 (*Effective October 1, 2005*):

157 (g) (1) If the commissioner notifies the certifying party to a Form III
158 or Form IV that a licensed environmental professional may verify the
159 remediation, such certifying party shall, on or before thirty days of the
160 receipt of such notice or such later date as may be approved in writing
161 by the commissioner, submit a schedule for [investigating and
162 remediating the establishment] the investigation of the parcel and
163 remediation of the establishment. Such schedule shall, unless a later
164 date is specified in writing by the commissioner, provide that the
165 investigation shall be completed within two years of the date of receipt
166 of such notice and that remediation shall be initiated within three years
167 of the date of receipt of such notice. The schedule shall also include a
168 schedule for providing public notice of the remediation prior to the

169 initiation of such remediation in accordance with subsection (i) of this
170 section. The commissioner shall notify such certifying party if the
171 commissioner determines that the commissioner's review and written
172 approval is necessary. Such certifying party shall investigate the parcel
173 and remediate the establishment in accordance with the proposed
174 schedule or the schedule specified by the commissioner. [Such
175 certifying party shall submit to the commissioner an independent
176 verification by a licensed environmental professional that the
177 establishment has been remediated in accordance with the remediation
178 standards, and as applicable, a Form IV verification.] When
179 remediation of the entire establishment is complete, the certifying
180 party shall submit to the commissioner a final verification by a licensed
181 environmental professional. Any such final verification may include
182 and rely upon a verification for a portion of the establishment
183 submitted pursuant to subdivision (2) of this subsection.

184 (2) If a certifying party completes the remediation for a portion of an
185 establishment, such party may submit a verification by a licensed
186 environmental professional for any such portion of an establishment.
187 The certifying party shall be deemed to have satisfied the requirements
188 of this subsection for that portion of the establishment covered by any
189 such verification, but shall be responsible for investigation and
190 remediation of the remainder of the establishment not covered by such
191 verification. If any portion of an establishment for which a verification
192 is submitted pursuant to this subdivision is transferred, conveyed or
193 undergoes a change in ownership before remediation of the entire
194 establishment is complete, the certifying party shall provide notice to
195 the commissioner of such transfer, conveyance or change in
196 ownership. Such notice shall be provided to the commissioner within
197 thirty days of any such transfer, conveyance or change in ownership.

198 (h) (1) If the commissioner notifies the certifying party to a Form III
199 or Form IV that the commissioner's review and written approval of the
200 investigation of the parcel and remediation of the establishment is
201 required, such certifying party shall, on or before thirty days of the

202 receipt of such notice or such later date as may be approved in writing
203 by the commissioner, submit for the commissioner's review and
204 written approval a proposed schedule for: [(1)] (A) Investigating the
205 parcel and remediating the establishment; [(2)] (B) submitting to the
206 commissioner scopes of work, technical plans, technical reports and
207 progress reports related to such investigation and remediation; and
208 [(3)] (C) providing public notice of the remediation prior to the
209 initiation of such remediation in accordance with subsection (i) of this
210 section. Upon the commissioner's approval of such schedule, such
211 certifying party shall, in accordance with the approved schedule,
212 submit scopes of work, technical plans, technical reports and progress
213 reports to the commissioner for the commissioner's review and written
214 approval. Such certifying party shall perform all actions identified in
215 the approved scopes of work, technical plans, technical reports and
216 progress reports in accordance with the approved schedule. The
217 commissioner may approve in writing any modification proposed in
218 writing by such certifying party to such schedule or investigation and
219 remediation. The commissioner may, at any time, notify such
220 certifying party in writing that the commissioner's review and written
221 approval is not required and that a licensed environmental
222 professional may verify that the remediation has been performed in
223 accordance with the remediation standards.

224 (2) A certifying party may complete the remediation of a portion of
225 an establishment and request that the commissioner determine that the
226 requirements of this subsection have been satisfied for any such
227 portion of the establishment. If the commissioner determines that any
228 such remediation is complete, the certifying party shall be deemed to
229 have satisfied the requirements of this subsection for any such portion
230 of an establishment. Any determination by the commissioner that
231 remediation at the entire establishment has been completed may
232 include and rely upon any determination made pursuant to this
233 subdivision that remedation is complete at a portion of an
234 establishment. If any portion of an establishment for which the
235 commissioner determines that remediation is complete pursuant to

236 this subdivision is transferred, conveyed or undergoes a change in
237 ownership before remediation of the entire establishment is complete,
238 the certifying party shall provide notice to the commissioner of such
239 transfer, conveyance or change in ownership. Such notice shall be
240 provided to the commissioner within thirty days of any such transfer,
241 conveyance or change in ownership.

242 Sec. 5. Subsection (l) of section 22a-134a of the general statutes is
243 repealed and the following is substituted in lieu thereof (*Effective*
244 *October 1, 2005*):

245 (l) Notwithstanding any other provisions of this section, no person
246 shall be required to comply with the provisions of sections 22a-134 to
247 22a-134e, inclusive, as amended by; this act, when transferring real
248 property (1) (A) for which a Form I or Form II has been filed for the
249 transfer of the parcel on or after October 1, 1995, and for which no
250 discharge, spillage, uncontrolled loss, seepage or filtration of
251 hazardous waste or hazardous substances has occurred at any portion
252 of the establishment since the Form I or Form II was filed, or (B) for
253 which parcel a Form III or Form IV has been filed and which has been
254 remediated and such remediation has been approved, in writing, by
255 the commissioner or has been verified in writing in accordance with
256 this section by a licensed environmental professional that an
257 investigation has been performed in accordance with prevailing
258 standards and guidelines and that the remediation has been performed
259 in accordance with the remediation standards, and that since any such
260 written or approval or verification, including any approval or
261 verification for a portion of an establishment, until any subsequent
262 transfer, no discharge, spillage, uncontrolled loss, seepage or filtration
263 of hazardous waste or hazardous substances has occurred at any
264 portion of the establishment, and (2) at which no activities described in
265 subdivision (3) of section 22a-134 have been conducted since the date
266 of such approval or verification or the date on which the Form I or
267 Form II was filed.

268 Sec. 6. Subsections (e) and (f) of section 22a-133v of the general
269 statutes, as amended by section 117 of public act 03-6 of the June 30
270 special session, are repealed and the following is substituted in lieu
271 thereof (*Effective October 1, 2005*):

272 (e) The board shall authorize the commissioner to issue a license
273 under subsection (d) of section 22a-133m, sections 22a-184 to 22a-184e,
274 inclusive, this section and section 22a-133w to any person who
275 demonstrates to the satisfaction of the board that such person: (1) (A)
276 Has for a minimum of eight years engaged in the investigation and
277 remediation of releases of hazardous waste or petroleum products into
278 soil or groundwater, including a minimum of four years in responsible
279 charge of investigation and remediation of the release of hazardous
280 waste or petroleum products into soil or groundwater, and holds a
281 bachelor's or advanced degree from an accredited college or university
282 in a related science or related engineering field or is a professional
283 engineer licensed in accordance with chapter 391, or (B) has for a
284 minimum of fourteen years engaged in the investigation and
285 remediation of releases of hazardous waste or petroleum products into
286 soil or groundwater, including a minimum of seven years in
287 responsible charge of investigation and remediation of hazardous
288 waste or petroleum products into soil or groundwater; (2) has
289 successfully passed a written examination, or a written and oral
290 examination, prescribed by the board and approved by the
291 commissioner, which shall test the applicant's knowledge of the
292 physical and environmental sciences applicable to an investigation of a
293 polluted site and remediation conducted in accordance with
294 regulations adopted by the commissioner under section 22a-133k and
295 any other applicable guidelines or regulations as may be adopted by
296 the commissioner; and (3) has paid an examination fee of one hundred
297 eighty-eight dollars to the commissioner. In considering whether a
298 degree held by an applicant for such license qualifies for the
299 educational requirements under this section, the board may consider
300 all undergraduate, graduate, postgraduate and other courses
301 completed by the applicant.

302 (f) The board shall authorize the commissioner to issue a license to
303 any applicant who, in the opinion of the board, has satisfactorily met
304 the requirements of this section. The issuance of a license by the
305 commissioner shall be evidence that the person named therein is
306 entitled to all the rights and privileges of a licensed environmental
307 professional while such license remains unrevoked or unexpired. A
308 licensed environmental professional shall pay to the commissioner an
309 annual fee of three hundred thirty-eight dollars, due and payable on
310 July first of every year beginning with July first of the calendar year
311 immediately following the year of license issuance. The commissioner,
312 with the advice and assistance of the board, may adopt regulations in
313 accordance with the provisions of chapter 54, pertaining to the design
314 and use of seals by licensees under this section and governing the
315 license issuance and renewal process, including, but not limited to,
316 procedures for allowing the renewal of licenses when an application is
317 submitted not later than six months after the expiration of the license
318 without the applicant having to take the examination required under
319 subsection (e) of this section.

320 Sec. 7. Section 22a-463 of the general statutes is repealed and the
321 following is substituted in lieu thereof (*Effective October 1, 2005*):

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

323 [(a)] (1) "Commissioner" means the Commissioner of Environmental
324 Protection.

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

329 [(c)] (3) "Incidental amounts of PCB" means amounts of the
330 compound PCB in an item, product or material which are beyond the
331 control of the person manufacturing, selling for use, or using such
332 item, product or material.

333 (4) "Dispose" means to intentionally or unintentionally discard,
334 throw away or otherwise complete or terminate the useful life of PCBs
335 and items containing PCBs. "Dispose" includes spills, leaks and other
336 uncontrolled discharges of PCBs, as well as actions relating to
337 containing, transporting, destroying, degrading, decontaminating or
338 confining PCBs and items containing PCBs.

339 Sec. 8. Section 22a-467 of the general statutes is repealed and the
340 following is substituted in lieu thereof (*Effective October 1, 2005*):

341 No person shall dispose of the compound PCB or any item, product
342 or material containing the compound PCB except in accordance with a
343 permit issued pursuant to section 22a-208a, 22a-430 or 22a-454.
344 Notwithstanding the provisions of this section, a person or
345 municipality may dispose of the compound PCB, or the item, product
346 or material containing the compound PCB, in accordance with a
347 written approval by the commissioner if such disposal (1) results in
348 destruction of the compound PCB; or (2) is not inconsistent with the
349 provisions of Part 761 of Title 40 of the Code of Federal Regulations.
350 The commissioner may include in any such approval such conditions
351 as he deems appropriate to protect the environment and human
352 health. For purposes of this section, person includes any responsible
353 corporate officer or municipal official. [and "dispose" means to
354 incinerate or treat the compound PCB or any item, product or material
355 containing the compound PCB, or to discharge, deposit, inject, dump
356 or place the compound PCB or any item, product or material
357 containing the compound PCB into or on land or water so that such
358 compound, item, product or material enters the environment, is
359 emitted into the air, or is discharged into any waters, including
360 groundwaters.]

361 Sec. 9. Subdivisions (1) to (4), inclusive, of section 22a-255h of the
362 general statutes are repealed and the following is substituted in lieu
363 thereof (*Effective October 1, 2005*):

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

365 (1) "Package" means any container, produced either domestically or
366 in a foreign country, used for the marketing, protecting or handling of
367 a product and includes a unit package, an intermediate package and a
368 shipping container, as defined in the American Society of Testing and
369 Materials specification D966. "Package" also means any unsealed
370 receptacle such as a carrying case, crate, cup, pail, rigid foil or other
371 tray, wrapper or wrapping film, bag or tub. [but shall not include any
372 glass, ceramic or metal receptacle which is intended to be reusable or
373 refillable.]

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

378 (3) "Packaging component" means any part of a package, produced
379 either domestically or in a foreign country, including, but not limited
380 to, any interior or exterior blocking, bracing, cushioning,
381 weatherproofing, exterior strapping, coating, closure, ink, label, dye,
382 pigment, adhesive, stabilizer or other additive. Tin-plated steel that
383 meets specification A623 of the American Society of Testing and
384 Materials shall be considered as a single packaging component.
385 [Electrolytic galvanized steel that meets specification A879 of the
386 American Society of Testing and Materials and hot-dipped coated
387 galvanized steel that meets specification A525 of the American Society
388 of Testing and Materials shall be treated in the same manner as tin-
389 plated steel] Electro-galvanized coated steel and hot dipped coated
390 galvanized steel that meets the American Society of Testing and
391 Materials specifications A653, A924, A879 and A591 shall be treated in
392 the same manner as tin-plated steel.

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

395 Sec. 10. Subdivisions (12) to (14), inclusive, of section 22a-255h of the
396 general statutes are repealed and the following is substituted in lieu

397 thereof (*Effective October 1, 2005*):

398 (12) "Manufacturer" means any person [, firm, association,
399 partnership or corporation] producing a package or packaging
400 component as defined in subdivision (3) of this section, as amended by
401 this act.

402 (13) "Manufacturing" means the physical or chemical modification
403 of a material to produce packaging or packaging components.

404 (14) "Supplier" means any person, firm, association, partnership or
405 corporation which sells, offers for sale or offers for promotional
406 purposes packages or packaging components which will be used by
407 any other person [, firm, association, partnership or corporation] to
408 package a product.

409 Sec. 11. Subsection (a) of section 22a-255i of the general statutes is
410 repealed and the following is substituted in lieu thereof (*Effective*
411 *October 1, 2005*):

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

419 Sec. 12. Section 22a-255j of the general statutes is repealed and the
420 following is substituted in lieu thereof (*Effective October 1, 2005*):

421 All packages and packaging components shall be subject to sections
422 22a-255g to 22a-255m, inclusive, as amended by this act, except the
423 following:

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

426 manufactured;

427 (2) A package or packaging component that would not exceed any
428 maximum concentration set forth in subsection (c) of section 22a-255i
429 but for the addition or use of recycled materials; provided the
430 provisions of sections 22a-255g to 22a-255m, inclusive, as amended by
431 this act, shall apply to such packages on and after January 1, [2000]
432 2010;

433 (3) A package or packaging component to which lead, cadmium,
434 mercury or hexavalent chromium have been added in the
435 manufacturing or distribution process in order to comply with health
436 or safety requirements of federal law, provided the manufacturer of
437 such a package or packaging component has demonstrated to the
438 commissioner that such package or packaging component is entitled to
439 an exemption under this subdivision and the commissioner grants
440 such exemption. The exemption shall be effective for up to two years
441 and may be extended if circumstances warrant an extension. An
442 extension may be granted for up to two years;

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

444 (5) A package or packaging component to which lead, cadmium,
445 mercury or hexavalent chromium have been added in the
446 manufacturing, forming, printing or distribution process for which
447 there is no feasible alternative to the use of lead, cadmium, mercury or
448 hexavalent chromium provided the manufacturer of such a package or
449 packaging component has demonstrated to the commissioner that such
450 package or packaging component is entitled to an exemption under
451 this subdivision and the commissioner grants such exemption. The
452 exemption shall be effective for two years and may be extended if
453 circumstances warrant an extension. An extension may be granted for
454 up to two years. For purposes of this subdivision, a use for which there
455 is no feasible alternative is one which is essential to the protection, safe
456 handling or function of the package's contents and for which [there is
457 no substitute] technical constraints preclude the substitution of other

458 materials. For purposes of this subdivision, a use for which there is no
459 feasible alternative shall not include the use of any lead, cadmium,
460 mercury or hexavalent chromium for the purpose of marketing;

461 (6) A package or packaging component that is reused but exceeds
462 contaminant levels set forth in subsection (c) of section 22a-255i,
463 provided (A) the product being conveyed by such package or
464 packaging component is regulated under federal or state health or
465 safety requirements; (B) the transportation of such package or
466 packaging component is regulated under federal or state
467 transportation requirements; (C) the disposal of the package or
468 packaging component is performed according to federal or state
469 radioactive or hazardous waste disposal requirements; and (D) the
470 manufacturer of such package or packaging component has
471 demonstrated to the commissioner that such package or packaging
472 component is entitled to an exemption under this subdivision and the
473 commissioner grants such exemption. Any exemption granted under
474 this subdivision shall expire on January 1, [2000] 2010;

475 (7) A package or packaging component which is reusable and has a
476 controlled distribution and reuse but which exceeds the contaminant
477 levels set forth in subsection (c) of section 22a-255i, provided the
478 manufacturer or distributor of such package or packaging component
479 petitions the commissioner for an exemption and the commissioner
480 grants such exemption. A manufacturer or distributor petitioning the
481 commissioner for such an exemption shall (A) satisfactorily
482 demonstrate that the environmental benefit of the reusable packaging
483 or packaging component is significantly greater as compared to the
484 same package or packaging component manufactured in compliance
485 with the contaminant levels set forth in subsection (c) of section 22a-
486 255i, and (B) submit a written plan including, at a minimum, the
487 following elements: (i) A means of identifying in a permanent and
488 visible manner those reusable packages or packaging components
489 containing regulated metals for which the exemption is sought; (ii) a
490 method of regulatory and financial accountability such that a specified

491 percentage of such reusable packaging or packaging components
492 manufactured and distributed to other persons are not discarded by
493 those persons after use, but are returned to the manufacturer or his
494 designee; (iii) a system of inventory and record maintenance to
495 account for the reusable packaging or packaging components placed in
496 and removed from service; (iv) a means of transforming returned
497 packaging or packaging components that are no longer reusable into
498 recycled materials for manufacturing or into manufacturing wastes
499 which are subject to existing federal or state laws or regulations to
500 ensure that these wastes do not enter the commercial or municipal
501 waste stream; and (v) a system for annually reporting to the
502 commissioner any changes to the system or changes regarding the
503 manufacturer's designee. Any exemption granted under this
504 subdivision shall expire on January 1, [2000] 2010;

505 (8) A glass or ceramic package or packaging component that has a
506 vitrified label which, when prepared according to the American
507 Society for Testing and Materials specification C1606-04 and when
508 tested in accordance with the Toxicity Characteristic Leaching
509 Procedures of the United States Environmental Protection Agency Test
510 Method and Publication SW 846, third edition, "Test Methods for
511 Evaluating Solid Waste", does not exceed one part per million for
512 cadmium, five parts per million for hexavalent chromium and five
513 parts per million for lead.

514 Sec. 13. Subsection (a) of section 22a-255m of the general statutes is
515 repealed and the following is substituted in lieu thereof (*Effective*
516 *October 1, 2005*):

517 (a) The [department] commissioner may, in consultation with the
518 [Source Reduction Council of the Council of Northeastern Governors]
519 other member states of the Toxics in Packaging Clearing House,
520 review the effectiveness of sections 22a-255g to 22a-255m, inclusive, as
521 amended by this act, and provide a report based on such review to the
522 Governor and the General Assembly. The report may describe

523 substitutes which manufacturers and distributors of packages and
524 packaging components have used in place of lead, mercury, cadmium
525 and hexavalent chromium, and may contain recommendations
526 concerning (1) other toxic substances contained in packaging that
527 should be added to those regulated under the provisions of sections
528 22a-255g to 22a-255m, inclusive, as amended by this act, in order to
529 further reduce the toxicity of packaging waste and (2) the advisability
530 of retaining the exemption provided in subdivision (2) of section 22a-
531 255j.

532 Sec. 14. Subsection (b) of section 22a-449 of the general statutes is
533 repealed and the following is substituted in lieu thereof (*Effective*
534 *October 1, 2005*):

535 (b) The commissioner may: (1) License terminals in the state for the
536 loading or unloading of oil or petroleum or chemical liquids or solid,
537 liquid or gaseous products or hazardous wastes and shall adopt, in
538 accordance with chapter 54, reasonable regulations in connection
539 therewith for the purposes of identifying terminals subject to licensure
540 and protecting the public health and safety and for preventing the
541 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
542 petroleum or chemical liquids or solid, liquid or gaseous products or
543 hazardous wastes. Each license issued under this section shall be valid
544 for a period of not more than [three years commencing July first] ten
545 years from the date of issuance, unless sooner revoked by the
546 commissioner, and there shall be charged for each such license or
547 renewal thereof fees established by regulation sufficient to cover the
548 reasonable cost to the state of inspecting and licensing such terminals;
549 (2) provide by regulations for the establishment and maintenance in
550 operating condition and position of suitable equipment to contain as
551 far as possible the discharge, spillage, uncontrolled loss, seepage or
552 filtration of any oil or petroleum or chemical liquids or solid, liquid or
553 gaseous products or hazardous wastes; (3) inspect periodically all
554 hoses, gaskets, tanks, pipelines and other equipment used in
555 connection with the transfer, transportation or storage of oil or

556 petroleum or chemical liquids or solid, liquid or gaseous products or
557 hazardous wastes to make certain that they are in good operating
558 condition, and order the renewal of any such equipment found unfit
559 for further use. No person shall commence operation of any such
560 terminal in this state on or after July 1, 1993, without a license issued
561 by the commissioner. Any person who operates any such terminal
562 without a license issued by the commissioner shall be fined not more
563 than five thousand dollars per day during any period of unlicensed
564 operation.

565 Sec. 15. Section 22a-611 of the general statutes is repealed and the
566 following is substituted in lieu thereof (*Effective October 1, 2005*):

567 The owner or operator of a facility required to complete a toxic
568 release form under Section 313 of the Emergency Planning and
569 Community Right-to-Know Act of 1986 shall annually submit such
570 form to the commission on or before the first of July [1, 1990, and
571 annually thereafter] or a date established by the United States
572 Environmental Protection Agency, whichever comes later.

573 Sec. 16. Subsections (a) to (d), inclusive, of section 22a-208a of the
574 general statutes are repealed and the following is substituted in lieu
575 thereof (*Effective October 1, 2005*):

576 (a) The Commissioner of Environmental Protection may issue, deny,
577 modify, renew, suspend, revoke or transfer a permit, under such
578 conditions as he may prescribe and upon submission of such
579 information as he may require, for the construction, alteration and
580 operation of solid waste facilities, in accordance with the provisions of
581 this chapter and regulations adopted pursuant to this chapter.
582 Notwithstanding the provisions of this section, the commissioner shall
583 not issue (1) a permit for a solid waste land disposal facility on former
584 railroad property until July 1, 1989, unless the commissioner makes a
585 written determination that such facility is necessary to meet the solid
586 waste disposal needs of the state and will not result in a substantial
587 excess capacity of solid waste land disposal areas or disrupt the

588 orderly transportation of or disposal of solid waste in the area affected
589 by the facility, or (2) an operational permit for a resources recovery
590 facility unless the applicant has submitted a plan pursuant to section
591 22a-208g for the disposal or recycling of ash residue expected to be
592 generated at the facility in the first five years of operation. In making a
593 decision to grant or deny a permit to construct a solid waste land
594 disposal facility, including a vertical or horizontal landfill expansion,
595 the commissioner shall consider the character of the neighborhood in
596 which such facility is located and may impose requirements for hours
597 and routes of truck traffic, security and fencing and for measures to
598 prevent the blowing of dust and debris and to minimize insects,
599 rodents and odors. In making a decision to grant or deny a permit to
600 construct or operate a new transfer station, the commissioner shall
601 consider whether such transfer station will result in disproportionately
602 high adverse human health or environmental effects. [The
603 commissioner shall not authorize under a general permit or issue an
604 individual permit under this section to establish or construct a new
605 volume reduction plant or transfer station located, or proposed to be
606 located, within one-quarter mile of a child day care center, as defined
607 in subdivision (1) of subsection (a) of section 19a-77, in a municipality
608 with a population greater than one hundred thousand persons
609 provided such center is operating as of July 8, 1997. The commissioner
610 may modify or renew a permit for an existing volume reduction plant
611 or transfer station, in accordance with the provisions of this chapter,
612 without regard to its location.] In making a decision to grant or deny a
613 permit to construct an ash residue disposal area, the commissioner
614 shall consider any provision which the applicant shall make for a
615 double liner, a leachate collection or detection system and the cost of
616 transportation and disposal of ash residue at the site under
617 consideration.

618 [(b) No solid waste facility shall be built or established and no solid
619 waste facility without a permit to construct shall be altered after July 1,
620 1971, until the plan, design and method of operation of such facility
621 have been filed with the department and approved by the

622 commissioner by the issuance of a permit to construct, provided,
623 nothing in this chapter or chapter 446e shall be construed to limit the
624 right of any local governing body to regulate, through zoning, land
625 usage for solid waste disposal.]

626 (b) No person or municipality shall establish, construct or operate a
627 solid waste facility without a permit issued by the commissioner under
628 this section. An application for such permit shall be submitted on a
629 form prescribed by the commissioner, include such information as the
630 commissioner may require, including, but not limited to, a closure plan
631 for such facility, and be accompanied by a fee prescribed in regulations
632 adopted in accordance with chapter 54. Notwithstanding any
633 provision, references to a permit to construct or a permit to operate in
634 a regulation adopted pursuant to section 22a-209 shall be deemed to
635 mean a permit as required by this subsection. The [commissioner]
636 applicant shall send a written notification of any application for [a]
637 such permit [to construct] to the chief elected official of each
638 municipality in which the proposed facility is to be located, within five
639 business days of the date on which any such application is filed.

640 [(c) No solid waste facility for which a permit to construct is
641 required shall be operated on and after June 16, 1985, except for
642 performance testing approved by the commissioner, unless such
643 facility has been issued a permit to operate. The commissioner may
644 issue such permit upon determination that the facility (1) will be
645 operated in accordance with applicable laws or regulations, (2) has
646 been constructed in accordance with a permit issued pursuant to
647 subsection (b) of this section, and (3) has satisfactorily completed any
648 performance tests required by the commissioner. All operating
649 facilities holding a valid permit to construct on or before June 16, 1985,
650 shall be issued a permit to operate and shall be allowed to continue
651 operations prior to the issuance of such permit to operate. The
652 commissioner shall allow any person who is lawfully disposing of ash
653 residue within a solid waste disposal area on April 1, 1994, to continue
654 disposing of such residue within such area until March 1, 1997, or until

655 the issuance of a final permit to operate a new lined ash landfill in
656 Hartford.]

657 (c) Upon written notice from the commissioner and in accordance
658 with a schedule specified by the commissioner in such written notice,
659 any person or municipality who owns an unpermitted solid waste
660 disposal area shall (1) submit a closure plan for the commissioner's
661 review and written approval, provide public notice of such proposed
662 plan in a manner prescribed by regulations adopted pursuant to
663 section 22a-133k and close and maintain such area after closure in
664 accordance with the approved closure plan, or (2) remediate such
665 disposal area in accordance with a remediation plan approved by the
666 commissioner or verified by a licensed environmental professional
667 pursuant to section 22a-134a, 22a-134x or 22a-133y or pursuant to an
668 order of the commissioner. A fee of three thousand dollars shall
669 accompany any closure plan submitted pursuant to this subsection.
670 The commissioner may require the owner of a solid waste disposal
671 area to post sufficient performance bond or other security to ensure
672 compliance with the approved closure plan. The commissioner may
673 approve a modification to a closure plan for a solid waste disposal
674 area. A fee of five hundred dollars shall accompany the request for
675 such modification. The commissioner may reduce or waive the fees
676 required by this subsection in cases of financial hardship and may
677 modify such fees in regulations adopted in accordance with chapter 54.
678 The commissioner may require a person or municipality to provide
679 public notice of a proposed modification of a closure plan if the
680 modification involves any activity that would disrupt the solid waste
681 or change the use of the solid waste disposal area. Notwithstanding
682 the provisions of this subsection, the commissioner may order a person
683 or municipality who establishes or constructs a solid waste disposal
684 area without first obtaining a permit as required by subsection (b) of
685 this section to remove any solid waste disposed at such area, to
686 remediate any pollution caused by such waste, and to properly
687 dispose of such waste at a lawfully operated solid waste facility.

688 (d) (1) [Except as provided in subdivision (2) of this subsection, no
689 solid waste facility which] No person or municipality who holds a
690 permit [to construct shall be altered on and after June 16, 1985, until
691 the proposed plan, design and] issued under this section shall alter the
692 design or method of operation of the [altered facility have been filed
693 with the commissioner and approved by him by issuance of a modified
694 permit] permitted facility without first obtaining a modified permit.
695 For the purposes of this section and sections 22a-208, 22a-208b, 22a-
696 220a, 22a-225 and 22a-226, "alter" means [(A)] to change to any
697 substantive degree the [approved] design, capacity, volume process or
698 operation of a solid waste facility [holding a permit to construct,] and
699 includes, but is not limited to, changes in the approved capacity or
700 composition of solid waste disposed of, processed, reduced, stored or
701 recycled at the facility. [, or (B) to change to any substantive degree the
702 existing design, capacity, volume, process or operation of a solid waste
703 facility not holding a permit to construct and includes, but is not
704 limited to, changes in the volume or composition of solid waste
705 disposed, stored, processed, reduced or recycled at the facility.] The
706 commissioner may approve, in writing, a modification of a closure
707 plan for a closed permitted solid waste disposal area without
708 modifying the permit for such area. The commissioner may require a
709 person who, or a municipality that, requests such modification to
710 provide public notice of a proposed modification of a closure plan if
711 the modification involves any activity that would disrupt the solid
712 waste or change the use of the solid waste disposal area. A fee of five
713 hundred dollars shall accompany any request for such modification of
714 a closure plan. The commissioner may reduce or waive such fee in
715 cases of financial hardship and may modify such fee in accordance
716 with regulations adopted in accordance with chapter 54.

717 (2) Changes in design, processes or operations, including the
718 addition of thermal oxidizers or other air pollution control equipment,
719 made to mitigate, correct or abate odors from a solid waste facility that
720 is owned or operated by the Connecticut Resources Recovery
721 Authority and that contracts with more than fifty municipalities, shall

722 not be considered an alteration requiring a modified permit or minor
723 permit amendment under this chapter. In addition, notwithstanding
724 any provision of the general statutes or regulation adopted pursuant to
725 said statutes, any such change shall not be considered a modification
726 or new stationary source requiring a permit to construct or operate
727 under chapter 446c or under any regulation adopted pursuant to
728 chapter 446c, unless such change is a major modification or a major
729 stationary source requiring a permit under the federal Clean Air Act
730 Amendments of 1990. Any person making any such change to an odor
731 control system at such a facility shall, not more than thirty days after
732 making such change, submit a written report to the commissioner fully
733 describing the changes made and the reason for such changes for the
734 commissioner's review and comment. Nothing in this subdivision shall
735 affect the commissioner's authority to take any other action to enforce
736 the requirements of this title.

737 Sec. 17. Section 22a-207 of the general statutes is amended by adding
738 subdivision (25) as follows (*Effective October 1, 2005*):

739 (NEW) (25) "Person" means any individual, partnership, association,
740 firm, limited liability company, corporation or other entity, except a
741 municipality, and includes the federal government, the state or
742 instrumentality of the state, and any officer or governing or managing
743 body of any partnership, association, firm, or corporation, or any
744 member or manager of a limited liability company.

745 Sec. 18. (NEW) (*Effective October 1, 2005*) (a) The commissioner may
746 issue, modify or revoke orders to correct or abate violations of chapter
747 446m of the general statutes, including, but not limited to, any
748 regulation adopted pursuant to said chapter 446m. Any such order
749 may include remedial measures necessary to correct or abate such
750 violations. Such orders may be issued to any person who violates any
751 provision of chapter 446d of the general statutes or any regulation
752 adopted pursuant to said chapter 446m.

753 (b) Each order issued under chapter 446m of the general statutes

754 shall be served by certified mail, return receipt requested, or by a state
755 marshal or indifferent person. If a state marshal or indifferent person
756 serves the order, a true copy of the order shall be served, and the
757 original, with a return of such service endorsed thereon, shall be filed
758 with the commissioner. The order shall be deemed to be issued upon
759 service or upon deposit in the mail. Any order issued pursuant to
760 chapter 446d of the general statutes shall state the basis on which it is
761 issued.

762 (c) Unless a person aggrieved by an order files a written request for
763 a hearing before the commissioner not later than thirty days after the
764 date of issuance, such order shall become final. If requested, the
765 commissioner shall hold a hearing as soon thereafter as practicable. A
766 request for a hearing shall be a condition precedent to any appeal. The
767 commissioner may, after the hearing or at any time after the issuance
768 of the order, modify such order by agreement or extend the time
769 schedule therefor if the commissioner deems such modification or
770 extension advisable or necessary, and any such modification or
771 extension shall be deemed to be a revision of an existing order and
772 shall not constitute a new order. There shall be no hearing subsequent
773 to or any appeal from any such modification or extension.

774 (d) After hearing, the commissioner shall consider all supporting
775 and rebutting evidence and affirm, modify or revoke such order in the
776 commissioner's discretion and shall so notify the recipient of the order
777 by certified mail, return receipt requested.

778 (e) The final order of the commissioner shall be subject to appeal as
779 set forth in sections 4-183 and 4-184 of the general statutes, except that
780 any such appeal shall be taken to the superior court for the judicial
781 district of New Britain.

782 Sec. 19. (NEW) (*Effective October 1, 2005*) (a) Whenever, in the
783 judgment of the commissioner, any person has engaged in or is about
784 to engage in any acts, practices or omission which constitute, or will
785 constitute, a violation of any provision of chapter 446m of the general

786 statutes, or any regulation adopted or order issued pursuant to said
787 chapter 446m, at the request of the Commissioner of Environmental
788 Protection, the Attorney General may bring an action in the superior
789 court for the judicial district of New Britain for an order enjoining such
790 acts or practices, to order remedial measures, or for an order directing
791 compliance and, upon a showing by the commissioner that such
792 person has engaged in or is about to engage in any such acts, practices
793 or omissions, a permanent or temporary injunction, restraining order
794 or other order may be granted.

795 (b) Any person who violates any provision of chapter 446m of the
796 general statutes, including, but not limited to, any regulation adopted
797 or order issued pursuant to said chapter 446m, shall be assessed a civil
798 penalty not to exceed twenty-five thousand dollars per day, to be fixed
799 by the court, for each offense. Each violation shall be a separate and
800 distinct offense and, in the case of a continuing violation, each day's
801 continuance thereof shall be deemed to be a separate and distinct
802 offense. The Attorney General, upon request of the commissioner, shall
803 institute a civil action in the superior court for the judicial district of
804 New Britain to recover such penalty.

805 (c) If two or more persons are responsible for a violation of any
806 provision of chapter 446m of the general statutes, including, but not
807 limited to, any regulation adopted or order issued pursuant to said
808 chapter 446m, such persons shall be jointly and severally liable under
809 this section.

810 (d) Any action brought by the Attorney General pursuant to this
811 section shall have precedence in the order of trial as provided in
812 section 52-191 of the general statutes.

813 Sec. 20. (NEW) (*Effective October 1, 2005*) (a) Any person who, with
814 criminal negligence, violates any provision of chapter 446m of the
815 general statutes, including, but not limited to, any regulation adopted
816 or order issued pursuant to said chapter 446m, or who makes any false
817 statement, representation, certification in any application, notification,

818 request for exemption, record, plan, report or other document filed or
 819 required to be maintained under said chapter 446m, shall be fined not
 820 more than twenty-five thousand dollars per day for each day of
 821 violation or be imprisoned not more than one year, or both. A
 822 subsequent conviction for any such violation shall carry a fine of not
 823 more than fifty thousand dollars per day for each day of violation or
 824 imprisonment for not more than two years, or both.

825 (b) Any person who knowingly violates any provision of chapter
 826 446m of the general statutes, including, but not limited to, any
 827 regulation adopted or order issued pursuant to said chapter 446m, or
 828 who makes any false statement, representation, or certification in any
 829 application, notification, request for exemption, record, plan, report or
 830 other document filed or required to be maintained under said chapter
 831 446m, shall be fined not more than fifty thousand dollars per day for
 832 each day of violation or be imprisoned not more than three years, or
 833 both. A subsequent conviction for any such violation shall carry a fine
 834 of not more than fifty thousand dollars per day for each day of
 835 violation or imprisonment for not more than ten years, or both.

836 Sec. 21. Section 22a-207b of the general statutes is repealed. (*Effective*
 837 *October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2005</i>	22a-134(1)
Sec. 2	<i>October 1, 2005</i>	22a-134(10) and (11)
Sec. 3	<i>October 1, 2005</i>	22a-134
Sec. 4	<i>October 1, 2005</i>	22a-134a(g) and (h)
Sec. 5	<i>October 1, 2005</i>	22a-134a(l)
Sec. 6	<i>October 1, 2005</i>	22a-133v(e) and (f)
Sec. 7	<i>October 1, 2005</i>	22a-463
Sec. 8	<i>October 1, 2005</i>	22a-467
Sec. 9	<i>October 1, 2005</i>	22a-255h(1) to (4)
Sec. 10	<i>October 1, 2005</i>	22a-255h(12) to (14)
Sec. 11	<i>October 1, 2005</i>	22a-255i(a)

Sec. 12	<i>October 1, 2005</i>	22a-255j
Sec. 13	<i>October 1, 2005</i>	22a-255m(a)
Sec. 14	<i>October 1, 2005</i>	22a-449(b)
Sec. 15	<i>October 1, 2005</i>	22a-611
Sec. 16	<i>October 1, 2005</i>	22a-208a(a) to (d)
Sec. 17	<i>October 1, 2005</i>	22a-207
Sec. 18	<i>October 1, 2005</i>	New section
Sec. 19	<i>October 1, 2005</i>	New section
Sec. 20	<i>October 1, 2005</i>	New section
Sec. 21	<i>October 1, 2005</i>	22a-207b repealed

Statement of Purpose:

To exclude from the definition of "establishment" in the Transfer Act those facilities that generate hazardous waste solely because of the generation of "universal waste" such as florescent light bulbs; to allow a certifying party to verify that a portion of an establishment is remediated; to allow the Commissioner of Environmental Protection to consider all undergraduate, graduate and postgraduate courses in determining if a degree is fundamentally equivalent to degrees allowed as education requirements for becoming a Licensed Environmental Professional; to allow a renewal of a license for a Licensed Environmental Professional without the applicant having to take the full exam if the applicant seeks renewal within six months after the license expires; to change the definition of the term "dispose" as it relates to PCB handling and disposal; to clarify requirements for toxic packaging material; to extend the duration of the license of terminals for loading or unloading of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes from three years to ten years; to clarify the timing of the requirement to submit toxic release inventory forms; to streamline the process of permitting solid waste facilities; to streamline the process to close historic unpermitted solid waste disposal areas; to ensure that a person who or municipality that is required to remediate a solid waste disposal area in accordance with the remediation standards are not also required to obtain a permit for such activities under the solid waste statutes; and to add penalty provisions to the state's mercury reduction requirements.

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

