



House of Representatives

General Assembly

File No. 395

February Session, 2006

Substitute House Bill No. 5564

House of Representatives, April 5, 2006

The Committee on Environment reported through REP. ROY of the 119th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

AN ACT CONCERNING REVISIONS TO ENVIRONMENTAL PROTECTION PROVISIONS.

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

1 Section 1. Subsection (g) of section 22a-178 of the 2006 supplement
2 to the general statutes is repealed and the following is substituted in
3 lieu thereof (*Effective October 1, 2006*):

4 (g) When an order issued by the commissioner to any person
5 pursuant to this chapter becomes final, except for an order to create or
6 use emission reduction credits, the [respondent to such order shall file]
7 commissioner shall cause a certified copy or notice of the final order to
8 be filed on the land records in the town where the subject property is
9 located, and such certified copy or notice shall constitute a notice to the
10 owner's heirs, successors and assigns. [Notwithstanding the provisions
11 of this subsection, where the respondent to a final order does not own
12 the subject property, the commissioner shall record notice of such
13 order on the land records in the town where the subject property is
14 located.] When the order has been fully complied with or revoked, the
15 commissioner shall issue a [certificate] notice showing such

16 compliance or revocation, which [certificate the recipient of such
17 certificate shall record] the commissioner shall cause to be recorded on
18 the land records in the town wherein the order was previously
19 recorded. [Notwithstanding the provisions of this subsection, where
20 the recipient of such certificate does not own the subject property, the
21 commissioner shall record such certificate on the land records in the
22 town where the subject property is located. A person filing a notice, a
23 final order or a certificate pursuant to this subsection shall submit to
24 the commissioner a certified copy of the filing indicating the volume
25 and page number upon which the notice, final order or certificate is
26 filed.]

27 Sec. 2. Section 22a-403 of the general statutes is amended by adding
28 subsection (c) as follows (*Effective October 1, 2006*):

29 (NEW) (c) Notwithstanding the provisions of this section, the
30 commissioner may construct, alter, rebuild, substantially repair, add
31 to, replace or remove any dam, dike, reservoir or other similar
32 structure, with their appurtenances, that are owned by the state and
33 that are under the commissioner's control without issuance of a permit
34 pursuant to this chapter, and without a permit, certification or
35 approval pursuant to part I of chapter 439, or chapters 440, 444, 446i
36 and 476a, provided such action is consistent with the policies
37 contained in part I of chapter 439 and chapters 440, 444, 446i and 476a.
38 Nothing in this subsection shall preclude an action under section 22a-
39 16.

40 Sec. 3. Subsection (l) of section 1-79 of the 2006 supplement to the
41 general statutes is repealed and the following is substituted in lieu
42 thereof (*Effective October 1, 2006*):

43 (l) "Quasi-public agency" means the Connecticut Development
44 Authority, Connecticut Innovations, Incorporated, Connecticut Health
45 and Education Facilities Authority, Connecticut Higher Education
46 Supplemental Loan Authority, Connecticut Housing Finance
47 Authority, Connecticut Housing Authority, Connecticut Resources
48 Recovery Authority, [Connecticut Hazardous Waste Management

49 Service,] Lower Fairfield County Convention Center Authority, Capital
50 City Economic Development Authority and Connecticut Lottery
51 Corporation.

52 Sec. 4. Subdivision (1) of section 1-120 of the general statutes is
53 repealed and the following is substituted in lieu thereof (*Effective*
54 *October 1, 2006*):

55 (1) "Quasi-public agency" means the Connecticut Development
56 Authority, Connecticut Innovations, Incorporated, Connecticut Health
57 and Educational Facilities Authority, Connecticut Higher Education
58 Supplemental Loan Authority, Connecticut Housing Finance
59 Authority, Connecticut Housing Authority, Connecticut Resources
60 Recovery Authority, [Connecticut Hazardous Waste Management
61 Service,] Capital City Economic Development Authority and
62 Connecticut Lottery Corporation.

63 Sec. 5. Subsections (b) and (c) of section 16-50j of the general statutes
64 are repealed and the following is substituted in lieu thereof (*Effective*
65 *October 1, 2006*):

66 (b) Except for proceedings under chapter 445, this subsection and
67 subsection (c) of this section, [and sections 22a-134cc, 22a-134ff and
68 22a-163 to 22a-163u, inclusive,] the council shall consist of: (1) The
69 Commissioner of Environmental Protection, or his designee; (2) the
70 chairman, or his designee, of the Public Utilities Control Authority; (3)
71 one designee of the speaker of the House and one designee of the
72 president pro tempore of the Senate; and (4) five members of the
73 public, to be appointed by the Governor, at least two of whom shall be
74 experienced in the field of ecology, and not more than one of whom
75 shall have affiliation, past or present, with any utility or governmental
76 utility regulatory agency, or with any person owning, operating,
77 controlling, or presently contracting with respect to a facility, a
78 hazardous waste facility as defined in section 22a-115 [, a regional low-
79 level radioactive waste facility as defined in section 22a-163a] or ash
80 residue disposal area.

81 (c) For proceedings under chapter 445, subsection (b) of this section
82 [] and this subsection, [and sections 22a-134cc, 22a-134ff and 22a-163
83 to 22a-163u, inclusive,] the council shall consist of (1) the
84 Commissioners of Public Health and Public Safety or their designated
85 representatives; (2) the designees of the speaker of the House of
86 Representatives and the president pro tempore of the Senate as
87 provided in subsection (b) of this section; (3) the five members of the
88 public as provided in subsection (b) of this section; and (4) four ad hoc
89 members, three of whom shall be electors from the municipality in
90 which the proposed facility is to be located and one of whom shall be
91 an elector from a neighboring municipality likely to be most affected
92 by the proposed facility. The municipality most affected by the
93 proposed facility shall be determined by the permanent members of
94 the council. If any one of the five members of the public or of the
95 designees of the speaker of the House of Representatives or the
96 president pro tempore of the Senate resides [(1)] (A) in the
97 municipality in which a hazardous waste facility is proposed to be
98 located for a proceeding concerning a hazardous waste facility or in
99 which a low-level radioactive waste facility is proposed to be located
100 for a proceeding concerning a low-level radioactive waste facility, or
101 [(2)] (B) in the neighboring municipality likely to be most affected by
102 the proposed facility, the appointing authority shall appoint a
103 substitute member for the proceedings on such proposal. If any
104 appointee is unable to perform his duties on the council due to illness,
105 or has a substantial financial or employment interest which is in
106 conflict with the proper discharge of his duties under this chapter, the
107 appointing authority shall appoint a substitute member for
108 proceedings on such proposal. An appointee shall report any
109 substantial financial or employment interest which might conflict with
110 the proper discharge of his duties under this chapter to the appointing
111 authority who shall determine if such conflict exists. If any state
112 agency is the applicant, an appointee shall not be deemed to have a
113 substantial employment conflict of interest because of employment
114 with the state unless such appointee is directly employed by the state
115 agency making the application. Ad hoc members shall be appointed by

116 the chief elected official of the municipality they represent and shall
117 continue their membership until the council issues a letter of
118 completion of the development and management plan to the applicant.

119 Sec. 6. Subdivision (10) of section 25-201 of the general statutes is
120 repealed and the following is substituted in lieu thereof (*Effective*
121 *October 1, 2006*):

122 (10) "Major state plan" means the master transportation plan
123 adopted pursuant to section 13b-15, the plan for development of
124 outdoor recreation adopted pursuant to section 22a-21, the solid waste
125 management plan adopted pursuant to section 22a-211, the state-wide
126 plan for the management of water resources adopted pursuant to
127 section 22a-352, the state-wide environmental plan adopted pursuant
128 to section 22a-8, the plan for the disposal of dredged material for Long
129 Island Sound, the historic preservation plan adopted under the
130 National Historic Preservation Act, as amended, the state-wide facility
131 and capital plan adopted pursuant to section 4b-23, as amended, the
132 water quality management plan adopted under the federal Clean
133 Water Act, the marine resources management plan, [the Connecticut
134 hazardous waste management plan adopted pursuant to section 22a-
135 134cc,] the plan for managing forest resources, the wildlife
136 management plans and the salmon restoration plan.

137 Sec. 7. Subdivision (4) of section 25-231 of the general statutes is
138 repealed and the following is substituted in lieu thereof (*Effective*
139 *October 1, 2006*):

140 (4) "Major state plan" means any of the following: The master
141 transportation plan adopted pursuant to section 13b-15, the plan for
142 development of outdoor recreation adopted pursuant to section 22a-21,
143 the solid waste management plan adopted pursuant to section 22a-211,
144 the state-wide plan for the management of water resources adopted
145 pursuant to section 22a-352, the state-wide environmental plan
146 adopted pursuant to section 22a-8, the historic preservation plan
147 adopted under the National Historic Preservation Act, 16 USC 470 et
148 seq., the state-wide facility and capital plan adopted pursuant to

149 section 4b-23, as amended, the long-range state housing plan adopted
150 pursuant to section 8-37t, the comprehensive energy plan adopted
151 pursuant to section 16a-7a, the water quality management plan
152 adopted under the federal Clean Water Act, 33 USC 1251 et seq., [the
153 Connecticut hazardous waste management plan adopted pursuant to
154 section 22a-134cc,] any plans for managing forest resources adopted
155 pursuant to section 23-20 and the Connecticut River Atlantic Salmon
156 Compact adopted pursuant to section 26-302.

157 Sec. 8. Section 22a-161d of the general statutes is repealed and the
158 following is substituted in lieu thereof (*Effective October 1, 2006*):

159 The Connecticut commissioner of the Northeast Interstate Low-
160 Level Radioactive Waste Compact shall not take any action which
161 accepts for disposal any low-level radioactive waste [, as defined in
162 section 22a-163a,] which was generated outside the Northeast
163 Interstate Low-Level Radioactive Waste Compact unless approval for
164 such disposal is granted, in writing, by the chief elected official of the
165 municipality in which a low-level radioactive waste disposal facility is
166 located.

167 Sec. 9. Subsection (a) of section 51-344a of the 2006 supplement to
168 the general statutes is repealed and the following is substituted in lieu
169 thereof (*Effective October 1, 2006*):

170 (a) Whenever the term "judicial district of Hartford-New Britain" or
171 "judicial district of Hartford-New Britain at Hartford" is used or
172 referred to in the following sections of the general statutes, it shall be
173 deemed to mean or refer to the judicial district of Hartford on and after
174 September 1, 1998: Sections 1-205, 1-206, 2-48, 3-21a, 3-62d, 3-70a, 3-
175 71a, 4-61, 4-160, as amended, 4-164, 4-177b, 4-180, 4-183, 4-197, 5-202, 5-
176 276a, as amended, 8-30g, as amended, 9-7a, 9-7b, as amended, 9-369b,
177 10-153e, 12-208, 12-237, 12-268l, 12-312, 12-330m, 12-405k, 12-422, 12-
178 448, 12-454, 12-456, 12-463, 12-489, 12-522, 12-554, 12-565, 12-572, 12-
179 586f, 12-597, 12-730, 13b-34, as amended, 13b-235, 13b-315, 13b-375, 14-
180 57, 14-66, as amended, 14-67u, 14-110, 14-195, 14-311, 14-311c, 14-324,
181 14-331, 15-125, 15-126, 16-41, as amended, 16a-5, 17b-60, 17b-100, 17b-

182 238, 17b-531, 19a-85, 19a-86, 19a-123d, 19a-425, 19a-498, 19a-517, 19a-
183 526, 19a-633, 20-12f, 20-13e, as amended, 20-29, 20-40, 20-45, 20-59, 20-
184 73a, 20-86f, 20-99, 20-114, as amended, 20-133, 20-154, 20-156, 20-162p,
185 20-192, 20-195p, 20-202, 20-206c, 20-227, 20-238, 20-247, 20-263, 20-271,
186 20-307, 20-341f, 20-363, 20-373, 20-404, 20-414, 21a-55, 21a-190i, 21a-196,
187 22-7, 22-64, 22-228, 22-248, 22-254, 22-320d, 22-326a, 22-344b, 22-386,
188 22a-6b, as amended, 22a-7, 22a-16, 22a-30, 22a-34, 22a-53, 22a-60, 22a-
189 62, 22a-63, 22a-66h, 22a-106a, 22a-119, [22a-163m,] 22a-167, 22a-180,
190 22a-182a, 22a-184, 22a-220a, 22a-220d, 22a-225, 22a-226, 22a-226c, 22a-
191 227, 22a-250, as amended, 22a-255l, 22a-276, 22a-285a, 22a-285g, 22a-
192 285j, 22a-310, 22a-342a, 22a-344, 22a-361a, 22a-374, 22a-376, 22a-408,
193 22a-430, as amended, 22a-432, 22a-438, 22a-449f, as amended, 22a-449g,
194 22a-459, 23-5e, 23-65m, 25-32e, 25-36, 28-5, as amended, 29-158, as
195 amended, 29-161z, 29-317, 29-323, 29-329, 29-334, 29-340, 29-369, 30-8,
196 31-109, 31-249b, 31-266, 31-266a, 31-270, 31-273, as amended, 31-284,
197 31-285, 31-339, 31-355a, 31-379, 35-3c, 35-42, 36a-186, 36a-187, 36a-471a,
198 36a-494, as amended, 36a-517, as amended, 36a-587, as amended, 36a-
199 647, 36a-684, 36a-718, 36a-807, 36b-26, as amended, 36b-27, as
200 amended, 36b-30, 36b-50, 36b-71, 36b-72, 36b-74, 36b-76, 38a-41, 38a-52,
201 38a-134, 38a-139, 38a-140, 38a-147, 38a-150, 38a-185, 38a-209, 38a-225,
202 38a-226b, 38a-241, 38a-337, 38a-470, 38a-620, 38a-657, 38a-687, 38a-774,
203 38a-776, 38a-817, 38a-843, 38a-868, 38a-906, 38a-994, 42-103c, as
204 amended, 42-110d, 42-110k, 42-110p, 42-182, 46a-5, 46a-56, 46a-100,
205 47a-21, as amended, 49-73, 51-44a, as amended, 51-81b, 51-194, 52-146j,
206 53-392d and 54-211a.

207 Sec. 10. Subsection (f) of section 22a-137 of the general statutes is
208 repealed and the following is substituted in lieu thereof (*Effective*
209 *October 1, 2006*):

210 (f) The provisions of this section shall not apply to the disposal of
211 low-level radioactive waste in accordance with the provisions of
212 sections 22a-161 to [22a-165f] 22a-162a, inclusive.

213 Sec. 11. Subdivision (1) of section 22a-134 of the general statutes is
214 repealed and the following is substituted in lieu thereof (*Effective*

215 October 1, 2006):

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

219 (A) [conveyance] Conveyance or extinguishment of an easement; [,]

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

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

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

228 (E) [termination] Termination of a lease and conveyance,
229 assignment or execution of a lease for a period less than ninety-nine
230 years including conveyance, assignment or execution of a lease with
231 options or similar terms that will extend the period of the leasehold to
232 ninety-nine years, or from the commencement of the leasehold, ninety-
233 nine years, including conveyance, assignment or execution of a lease
234 with options or similar terms that will extend the period of the
235 leasehold to ninety-nine years, or from the commencement of the
236 leasehold; [,]

237 (F) [any] Any change in ownership approved by the Probate Court;
238 [,]

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

242 (H) [corporate] Corporate reorganization not substantially affecting
243 the ownership of the establishment; [,]

244 (I) [the] The issuance of stock or other securities of an entity which
245 owns or operates an establishment; [.]

246 (J) [the] The transfer of stock, securities or other ownership interests
247 representing less than forty per cent of the ownership of the entity that
248 owns or operates the establishment; [.]

249 (K) [any] Any conveyance of an interest in an establishment where
250 the transferor is the sibling, spouse, child, parent, grandparent, child of
251 a sibling or sibling of a parent of the transferee; [.]

252 (L) [conveyance] Conveyance of an interest in an establishment to a
253 trustee of an inter vivos trust created by the transferor solely for the
254 benefit of one or more sibling, spouse, child, parent, grandchild, child
255 of a sibling or sibling of a parent of the transferor; [.]

256 (M) [any] Any conveyance of a portion of a parcel upon which
257 portion no establishment is or has been located and upon which there
258 has not occurred a discharge, spillage, uncontrolled loss, seepage or
259 filtration of hazardous waste, provided either the area of such portion
260 is not greater than fifty per cent of the area of such parcel or written
261 notice of such proposed conveyance and an environmental condition
262 assessment form for such parcel is provided to the commissioner sixty
263 days prior to such conveyance; [.]

264 (N) [conveyance] Conveyance of a service station, as defined in
265 subdivision (5) of this section; [.]

266 (O) [any] Any conveyance of an establishment which, prior to July
267 1, 1997, had been developed solely for residential use and such use has
268 not changed; [.]

269 (P) [any] Any conveyance of an establishment to any entity created
270 or operating under chapter 130 or 132, or to an urban rehabilitation
271 agency, as defined in section 8-292, or to a municipality under section
272 32-224, or to the Connecticut Development Authority or any
273 subsidiary of the authority; [.]

274 (Q) [any] Any conveyance of a parcel in connection with the
275 acquisition of properties to effectuate the development of the overall
276 project, as defined in section 32-651; [,]

277 (R) [the] The conversion of a general or limited partnership to a
278 limited liability company under section 34-199; [,]

279 (S) [the] The transfer of general partnership property held in the
280 names of all of its general partners to a general partnership which
281 includes as general partners immediately after the transfer all of the
282 same persons as were general partners immediately prior to the
283 transfer; [,]

284 (T) [the] The transfer of general partnership property held in the
285 names of all of its general partners to a limited liability company
286 which includes as members immediately after the transfer all of the
287 same persons as were general partners immediately prior to the
288 transfer; [, or]

289 (U) [acquisition] Acquisition of an establishment by any
290 governmental or quasi-governmental condemning authority;

291 (V) Conveyance of any real property or business operation that
292 would qualify as an establishment solely as a result of (i) the
293 generation of more than one hundred kilograms of universal waste in
294 a calendar month, (ii) the storage, handling or transportation of
295 universal waste generated at a different location, or (iii) activities
296 undertaken at a universal waste transfer facility, provided any such
297 real property or business operation does not otherwise qualify as an
298 establishment, that there has been no discharge, spillage, uncontrolled
299 loss, seepage or filtration of a universal waste or a constituent of
300 universal waste that is a hazardous substance at or from such real
301 property or business operation and that universal waste is not also
302 recycled, treated, except for treatment of a universal waste pursuant to
303 40 CFR 273.13(a)(2) or (c)(2) or 40 CFR 273.33 (a)(2) or (c)(2), or
304 disposed of at such real property or business operation; or

305 (W) Conveyance of a unit in a residential common interest
306 community in accordance with section 12 of this act.

307 Sec. 12. (NEW) (*Effective October 1, 2006*) (a) Notwithstanding the
308 provisions of chapter 445 of the general statutes, a conveyance of a unit
309 in a residential common interest community shall not be subject to the
310 requirements of sections 22a-134 to 22a-133e, inclusive, of the general
311 statutes, as amended by this act, provided the declarant for the
312 residential common interest community of which the unit is a part is a
313 certifying party, as defined in section 22a-134 of the general statutes, as
314 amended by this act, for purposes of remediation of any establishment,
315 as defined in section 22a-134 of the general statutes, as amended by
316 this act, within such community and provides to the Commissioner of
317 Environmental Protection a surety bond or other form of financial
318 assurance acceptable to the commissioner.

319 (b) The surety bond or other form of financial assurance required
320 pursuant to subsection (a) of this section shall (1) identify both the
321 Department of Environmental Protection and the unit owners
322 association for the common interest community as beneficiaries, and
323 (2) be in an amount and in a form approved by the commissioner that
324 is, at all times when the real property comprising the common interest
325 community is an establishment, equal to the cost of remediation of the
326 contaminants on the subject property. In calculating such remediation
327 costs, the amount of the bond or other form of financial assurance may
328 be reduced from time to time as work covered by the bond is
329 completed, may exclude the costs of any improvements to the real
330 estate not required to remediate the contamination, and may exclude
331 the costs of remediation work already completed or on parcels of real
332 estate that may be added to the common interest community by the
333 exercise of development rights pursuant to section 47-229 of the
334 general statutes.

335 (c) Each time a seller conveys to a purchaser a unit in common
336 interest community that is an establishment, the seller shall provide a
337 notice to the purchaser that summarizes (1) the status of the

338 environmental condition of the common interest community, (2) any
339 investigation or remediation activities, and (3) any environmental land
340 use restrictions. Such notice requirement applies to all such
341 conveyances, including those conveyances otherwise excepted from
342 the requirement for delivery of a public offering statement or of a
343 resale certificate under subsection (b) of section 47-262 of the general
344 statutes and section 47-270 of the 2006 supplement to the general
345 statutes.

346 Sec. 13. Subdivisions (10) and (11) of section 22a-134 of the general
347 statutes are repealed and the following is substituted in lieu thereof
348 (*Effective October 1, 2006*):

349 (10) "Form I" means a written certification by the transferor of an
350 establishment on a form prescribed and provided by the commissioner
351 that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration
352 of hazardous waste or a hazardous substance has occurred at the
353 establishment which certification is based on an investigation of the
354 parcel in accordance with prevailing standards and guidelines, or (B)
355 no discharge spillage, uncontrolled loss, seepage or filtration of
356 hazardous waste has occurred at the establishment based upon an
357 investigation of the parcel in accordance with the prevailing standards
358 and guidelines and the commissioner has determined, in writing, or a
359 licensed environmental professional has verified, in writing, that any
360 discharge, spillage, uncontrolled loss, seepage or filtration of a
361 hazardous substance has been remediated in accordance with the
362 remediation standards and that since any such written approval or
363 verification, including any approval or verification for a portion of an
364 establishment, no discharge, spillage, uncontrolled loss, seepage or
365 filtration of hazardous waste or hazardous substances has occurred at
366 any portion of the establishment;

367 (11) "Form II" means a written certification by the transferor of an
368 establishment on a form prescribed and provided by the commissioner
369 that the parcel has been investigated in accordance with prevailing
370 standards and guidelines and that (A) any pollution caused by a

371 discharge, spillage, uncontrolled loss, seepage or filtration of
372 hazardous waste or a hazardous substance which has occurred from
373 the establishment has been remediated in accordance with the
374 remediation standards and that the remediation has been approved in
375 writing by the commissioner or has been verified pursuant to section
376 22a-133x or section 22a-134a, as amended by this act, in writing
377 attached to such form by a licensed environmental professional to have
378 been performed in accordance with the remediation standards and that
379 since any such written approval or verification, including any
380 approval or verification for a portion of an establishment, no
381 discharge, spillage, uncontrolled loss, seepage or filtration of
382 hazardous waste or hazardous substances has occurred at any portion
383 of the establishment, (B) the commissioner has determined in writing
384 or a licensed environmental professional has verified pursuant to
385 section 22a-133x or section 22a-134a, as amended by this act, in
386 writing, attached to the form that no remediation is necessary to
387 achieve compliance with the remediation standards, or (C) a Form IV
388 verification was previously submitted to the commissioner and, since
389 the date of the submission of the Form IV, no discharge, spillage,
390 uncontrolled loss, seepage or filtration of hazardous waste or a
391 hazardous substance has occurred at the establishment, which
392 certification is based on an investigation of the parcel in accordance
393 with prevailing standards and guidelines.

394 Sec. 14. Section 22a-134 of the general statutes is amended by adding
395 subdivisions (26) and (27) as follows (*Effective October 1, 2006*):

396 (NEW) (26) "Universal waste" means batteries, pesticides,
397 thermostats, lamps and used electronics regulated as a universal waste
398 under regulations adopted pursuant to subsection (c) of section 22a-
399 449. "Universal waste" does not mean (A) batteries, pesticides,
400 thermostats and lamps that are not covered under 40 CFR Part 273, or
401 (B) used electronics that are not regulated as a universal waste under
402 regulations adopted pursuant to subsection (c) of section 22a-449.

403 (NEW) (27) "Universal waste transfer facility" means any facility

404 related to transportation, including loading docks, parking areas,
405 storage areas and other similar areas where shipments of universal
406 waste are held during the normal course of transportation for ten days
407 or less.

408 Sec. 15. Subsections (g) and (h) of section 22a-134a of the general
409 statutes are repealed and the following is substituted in lieu thereof
410 (*Effective October 1, 2006*):

411 (g) (1) If the commissioner notifies the certifying party to a Form III
412 or Form IV that a licensed environmental professional may verify the
413 remediation, such certifying party shall, on or before thirty days of the
414 receipt of such notice or such later date as may be approved in writing
415 by the commissioner, submit a schedule for [investigating and
416 remediating the establishment] the investigation of the parcel and
417 remediation of the establishment. Such schedule shall, unless a later
418 date is specified in writing by the commissioner, provide that the
419 investigation shall be completed within two years of the date of receipt
420 of such notice and that remediation shall be initiated within three years
421 of the date of receipt of such notice. The schedule shall also include a
422 schedule for providing public notice of the remediation prior to the
423 initiation of such remediation in accordance with subsection (i) of this
424 section. The commissioner shall notify such certifying party if the
425 commissioner determines that the commissioner's review and written
426 approval is necessary. Such certifying party shall investigate the parcel
427 and remediate the establishment in accordance with the proposed
428 schedule or the schedule specified by the commissioner. [Such
429 certifying party shall submit to the commissioner an independent
430 verification by a licensed environmental professional that the
431 establishment has been remediated in accordance with the remediation
432 standards, and as applicable, a Form IV verification.] When
433 remediation of the entire establishment is complete, the certifying
434 party shall submit to the commissioner a final verification by a licensed
435 environmental professional. Any such final verification may include
436 and rely upon a verification for a portion of the establishment
437 submitted pursuant to subdivision (2) of this subsection.

438 (2) If a certifying party completes the remediation for a portion of an
439 establishment, such party may submit a verification by a licensed
440 environmental professional for any such portion of an establishment.
441 The certifying party shall be deemed to have satisfied the requirements
442 of this subsection for that portion of the establishment covered by any
443 such verification. If any portion of an establishment for which a
444 verification is submitted pursuant to this subdivision is transferred,
445 conveyed or undergoes a change in ownership before remediation of
446 the entire establishment is complete that would not otherwise be
447 subject to the provisions of sections 22a-134 to 22a-134e, inclusive, as
448 amended by this act, then the certifying party shall provide notice to
449 the commissioner of such transfer, conveyance or change in ownership
450 not later than thirty days of any such transfer, conveyance or change in
451 ownership.

452 (h) (1) If the commissioner notifies the certifying party to a Form III
453 or Form IV that the commissioner's review and written approval of the
454 investigation of the parcel and remediation of the establishment is
455 required, such certifying party shall, on or before thirty days of the
456 receipt of such notice or such later date as may be approved in writing
457 by the commissioner, submit for the commissioner's review and
458 written approval a proposed schedule for: [(1)] (A) Investigating the
459 parcel and remediating the establishment; [(2)] (B) submitting to the
460 commissioner scopes of work, technical plans, technical reports and
461 progress reports related to such investigation and remediation; and
462 [(3)] (C) providing public notice of the remediation prior to the
463 initiation of such remediation in accordance with subsection (i) of this
464 section. Upon the commissioner's approval of such schedule, such
465 certifying party shall, in accordance with the approved schedule,
466 submit scopes of work, technical plans, technical reports and progress
467 reports to the commissioner for the commissioner's review and written
468 approval. Such certifying party shall perform all actions identified in
469 the approved scopes of work, technical plans, technical reports and
470 progress reports in accordance with the approved schedule. The
471 commissioner may approve in writing any modification proposed in
472 writing by such certifying party to such schedule or investigation and

473 remediation. The commissioner may, at any time, notify such
474 certifying party in writing that the commissioner's review and written
475 approval is not required and that a licensed environmental
476 professional may verify that the remediation has been performed in
477 accordance with the remediation standards.

478 (2) A certifying party may complete the remediation of a portion of
479 an establishment and request that the commissioner determine that the
480 requirements of this subsection have been satisfied for any such
481 portion of the establishment. If the commissioner determines that any
482 such remediation is complete, the certifying party shall be deemed to
483 have satisfied the requirements of this subsection for any such portion
484 of an establishment. Any determination by the commissioner that
485 remediation at the entire establishment has been completed may
486 include and rely upon any determination made pursuant to this
487 subdivision that remediation is complete at a portion of an
488 establishment. If any portion of an establishment for which the
489 commissioner determines that remediation is complete pursuant to
490 this subdivision is transferred, conveyed or undergoes a change in
491 ownership before remediation of the entire establishment is complete
492 that would not otherwise be subject to the provisions of sections 22a-
493 134 to 22a-134e, inclusive, as amended by this act, then the certifying
494 party shall provide notice to the commissioner of such transfer,
495 conveyance or change in ownership not later than thirty days of any
496 such transfer, conveyance or change in ownership.

497 Sec. 16. Subsections (e) and (f) of section 22a-133v of the general
498 statutes are repealed and the following is substituted in lieu thereof
499 (*Effective October 1, 2006*):

500 (e) The board shall authorize the commissioner to issue a license
501 under subsection (d) of section 22a-133m, sections 22a-184 to 22a-184e,
502 inclusive, this section and section 22a-133w to any person who
503 demonstrates to the satisfaction of the board that such person: (1) (A)
504 Has for a minimum of eight years engaged in the investigation and
505 remediation of releases of hazardous waste or petroleum products into

506 soil or groundwater, including a minimum of four years in responsible
507 charge of investigation and remediation of the release of hazardous
508 waste or petroleum products into soil or groundwater, and holds a
509 bachelor's or advanced degree from an accredited college or university
510 in a related science or related engineering field or is a professional
511 engineer licensed in accordance with chapter 391, or (B) has for a
512 minimum of fourteen years engaged in the investigation and
513 remediation of releases of hazardous waste or petroleum products into
514 soil or groundwater, including a minimum of seven years in
515 responsible charge of investigation and remediation of hazardous
516 waste or petroleum products into soil or groundwater; (2) has
517 successfully passed a written examination, or a written and oral
518 examination, prescribed by the board and approved by the
519 commissioner, which shall test the applicant's knowledge of the
520 physical and environmental sciences applicable to an investigation of a
521 polluted site and remediation conducted in accordance with
522 regulations adopted by the commissioner under section 22a-133k and
523 any other applicable guidelines or regulations as may be adopted by
524 the commissioner; and (3) has paid an examination fee of one hundred
525 eighty-eight dollars to the commissioner. In considering whether a
526 degree held by an applicant for such license qualifies for the
527 educational requirements under this section, the board may consider
528 all undergraduate, graduate, postgraduate and other courses
529 completed by the applicant.

530 (f) The board shall authorize the commissioner to issue a license to
531 any applicant who, in the opinion of the board, has satisfactorily met
532 the requirements of this section. The issuance of a license by the
533 commissioner shall be evidence that the person named therein is
534 entitled to all the rights and privileges of a licensed environmental
535 professional while such license remains unrevoked or unexpired. A
536 licensed environmental professional shall pay to the commissioner an
537 annual fee of three hundred thirty-eight dollars, due and payable on
538 July first of every year beginning with July first of the calendar year
539 immediately following the year of license issuance. The commissioner,
540 with the advice and assistance of the board, may adopt regulations in

541 accordance with the provisions of chapter 54, pertaining to the design
542 and use of seals by licensees under this section and governing the
543 license issuance and renewal process, including, but not limited to,
544 procedures for allowing the renewal of licenses when an application is
545 submitted not later than six months after the expiration of the license
546 without the applicant having to take the examination required under
547 subsection (e) of this section.

548 Sec. 17. Subdivisions (1) to (4), inclusive, of section 22a-255h of the
549 general statutes are repealed and the following is substituted in lieu
550 thereof (*Effective October 1, 2006*):

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

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

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

565 (3) "Packaging component" means any part of a package, produced
566 either domestically or in a foreign country, including, but not limited
567 to, any interior or exterior blocking, bracing, cushioning,
568 weatherproofing, exterior strapping, coating, closure, ink, label, dye,
569 pigment, adhesive, stabilizer or other additive. Tin-plated steel that
570 meets specification A623 of the American Society of Testing and
571 Materials shall be considered as a single packaging component.
572 [Electrolytic galvanized steel that meets specification A879 of the

573 American Society of Testing and Materials and hot-dipped coated
574 galvanized steel that meets specification A525 of the American Society
575 of Testing and Materials shall be treated in the same manner as tin-
576 plated steel] Electro-galvanized coated steel and hot dipped coated
577 galvanized steel that meets the American Society of Testing and
578 Materials specifications A653, A924, A879 and A591 shall be treated in
579 the same manner as tin-plated steel.

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

582 Sec. 18. Subdivisions (12) to (14), inclusive, of section 22a-255h of the
583 general statutes are repealed and the following is substituted in lieu
584 thereof (*Effective October 1, 2006*):

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

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

591 (14) "Supplier" means any person, firm, association, partnership or
592 corporation which sells, offers for sale or offers for promotional
593 purposes packages or packaging components which will be used by
594 any other person [, firm, association, partnership or corporation] to
595 package a product.

596 Sec. 19. Subsection (a) of section 22a-255i of the general statutes is
597 repealed and the following is substituted in lieu thereof (*Effective*
598 *October 1, 2006*):

599 (a) As soon as feasible, but not later than October 1, 1992, no
600 package or packaging component shall be offered for sale or
601 promotional purposes in this state, by its manufacturer or distributor,
602 if it is composed of any lead, cadmium, mercury or hexavalent
603 chromium which has been intentionally introduced during

604 manufacturing or distribution, as opposed to the incidental presence of
605 any of these substances.

606 Sec. 20. Section 22a-255j of the general statutes is repealed and the
607 following is substituted in lieu thereof (*Effective October 1, 2006*):

608 All packages and packaging components shall be subject to sections
609 22a-255g to 22a-255m, inclusive, as amended by this act, except the
610 following:

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

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

620 (3) A package or packaging component to which lead, cadmium,
621 mercury or hexavalent chromium have been added in the
622 manufacturing or distribution process in order to comply with health
623 or safety requirements of federal law, provided the manufacturer of
624 such a package or packaging component has demonstrated to the
625 commissioner that such package or packaging component is entitled to
626 an exemption under this subdivision and the commissioner grants
627 such exemption. The exemption shall be effective for up to two years
628 and may be extended if circumstances warrant an extension. An
629 extension may be granted for up to two years;

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

631 (5) A package or packaging component to which lead, cadmium,
632 mercury or hexavalent chromium have been added in the
633 manufacturing, forming, printing or distribution process for which
634 there is no feasible alternative to the use of lead, cadmium, mercury or

635 hexavalent chromium provided the manufacturer of such a package or
636 packaging component has demonstrated to the commissioner that such
637 package or packaging component is entitled to an exemption under
638 this subdivision and the commissioner grants such exemption. The
639 exemption shall be effective for two years and may be extended if
640 circumstances warrant an extension. An extension may be granted for
641 up to two years. For purposes of this subdivision, a use for which there
642 is no feasible alternative is one which is essential to the protection, safe
643 handling or function of the package's contents and for which [there is
644 no substitute] technical constraints preclude the substitution of other
645 materials. For purposes of this subdivision, a use for which there is no
646 feasible alternative shall not include the use of any lead, cadmium,
647 mercury or hexavalent chromium for the purpose of marketing;

648 (6) A package or packaging component that is reused but exceeds
649 contaminant levels set forth in subsection (c) of section 22a-255i, as
650 amended by this act, provided (A) the product being conveyed by such
651 package or packaging component is regulated under federal or state
652 health or safety requirements; (B) the transportation of such package or
653 packaging component is regulated under federal or state
654 transportation requirements; (C) the disposal of the package or
655 packaging component is performed according to federal or state
656 radioactive or hazardous waste disposal requirements; and (D) the
657 manufacturer of such package or packaging component has
658 demonstrated to the commissioner that such package or packaging
659 component is entitled to an exemption under this subdivision and the
660 commissioner grants such exemption. Any exemption granted under
661 this subdivision shall expire on January 1, [2000] 2010;

662 (7) A package or packaging component which is reusable and has a
663 controlled distribution and reuse but which exceeds the contaminant
664 levels set forth in subsection (c) of section 22a-255i, as amended by this
665 act, provided the manufacturer or distributor of such package or
666 packaging component petitions the commissioner for an exemption
667 and the commissioner grants such exemption. A manufacturer or
668 distributor petitioning the commissioner for such an exemption shall

669 (A) satisfactorily demonstrate that the environmental benefit of the
670 reusable packaging or packaging component is significantly greater as
671 compared to the same package or packaging component manufactured
672 in compliance with the contaminant levels set forth in subsection (c) of
673 section 22a-255i, as amended by this act, and (B) submit a written plan
674 including, at a minimum, the following elements: (i) A means of
675 identifying in a permanent and visible manner those reusable packages
676 or packaging components containing regulated metals for which the
677 exemption is sought; (ii) a method of regulatory and financial
678 accountability such that a specified percentage of such reusable
679 packaging or packaging components manufactured and distributed to
680 other persons are not discarded by those persons after use, but are
681 returned to the manufacturer or his designee; (iii) a system of
682 inventory and record maintenance to account for the reusable
683 packaging or packaging components placed in and removed from
684 service; (iv) a means of transforming returned packaging or packaging
685 components that are no longer reusable into recycled materials for
686 manufacturing or into manufacturing wastes which are subject to
687 existing federal or state laws or regulations to ensure that these wastes
688 do not enter the commercial or municipal waste stream; and (v) a
689 system for annually reporting to the commissioner any changes to the
690 system or changes regarding the manufacturer's designee. Any
691 exemption granted under this subdivision shall expire on January 1,
692 [2000] 2010;

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

702 Sec. 21. Subsection (a) of section 22a-255m of the general statutes is

703 repealed and the following is substituted in lieu thereof (*Effective*
704 *October 1, 2006*):

705 (a) The [department] commissioner may, in consultation with the
706 [Source Reduction Council of the Council of Northeastern Governors]
707 other member states of the Toxics in Packaging Clearing House,
708 review the effectiveness of sections 22a-255g to 22a-255m, inclusive, as
709 amended by this act, and provide a report based on such review to the
710 Governor and the General Assembly. The report may describe
711 substitutes which manufacturers and distributors of packages and
712 packaging components have used in place of lead, mercury, cadmium
713 and hexavalent chromium, and may contain recommendations
714 concerning (1) other toxic substances contained in packaging that
715 should be added to those regulated under the provisions of sections
716 22a-255g to 22a-255m, inclusive, as amended by this act, in order to
717 further reduce the toxicity of packaging waste, and (2) the advisability
718 of retaining the exemption provided in subdivision (2) of section 22a-
719 255j, as amended by this act.

720 Sec. 22. Subsection (b) of section 22a-449 of the 2006 supplement to
721 the general statutes is repealed and the following is substituted in lieu
722 thereof (*Effective October 1, 2006*):

723 (b) The commissioner may: (1) License terminals in the state for the
724 loading or unloading of oil or petroleum or chemical liquids or solid,
725 liquid or gaseous products or hazardous wastes and shall adopt, in
726 accordance with chapter 54, reasonable regulations in connection
727 therewith for the purposes of identifying terminals subject to licensure
728 and protecting the public health and safety and for preventing the
729 discharge, spillage, uncontrolled loss, seepage or filtration of oil or
730 petroleum or chemical liquids or solid, liquid or gaseous products or
731 hazardous wastes. Each license issued under this section shall be valid
732 for a period of not more than [three years commencing July first] ten
733 years from the date of issuance, unless sooner revoked by the
734 commissioner, and there shall be charged for each such license or
735 renewal thereof fees established by regulation sufficient to cover the

736 reasonable cost to the state of inspecting and licensing such terminals;
737 (2) provide by regulations for the establishment and maintenance in
738 operating condition and position of suitable equipment to contain as
739 far as possible the discharge, spillage, uncontrolled loss, seepage or
740 filtration of any oil or petroleum or chemical liquids or solid, liquid or
741 gaseous products or hazardous wastes; (3) inspect periodically all
742 hoses, gaskets, tanks, pipelines and other equipment used in
743 connection with the transfer, transportation or storage of oil or
744 petroleum or chemical liquids or solid, liquid or gaseous products or
745 hazardous wastes to make certain that they are in good operating
746 condition, and order the renewal of any such equipment found unfit
747 for further use. No person shall commence operation of any such
748 terminal in this state on or after July 1, 1993, without a license issued
749 by the commissioner. Any person who operates any such terminal
750 without a license issued by the commissioner shall be fined not more
751 than five thousand dollars per day during any period of unlicensed
752 operation.

753 Sec. 23. Section 22a-611 of the general statutes is repealed and the
754 following is substituted in lieu thereof (*Effective October 1, 2006*):

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

761 Sec. 24. Subsections (a) to (d), inclusive, of section 22a-208a of the
762 general statutes are repealed and the following is substituted in lieu
763 thereof (*Effective October 1, 2006*):

764 (a) The Commissioner of Environmental Protection may issue, deny,
765 modify, renew, suspend, revoke or transfer a permit, under such
766 conditions as he may prescribe and upon submission of such
767 information as he may require, for the construction, alteration and
768 operation of solid waste facilities, in accordance with the provisions of

769 this chapter and regulations adopted pursuant to this chapter.
770 Notwithstanding the provisions of this section, the commissioner shall
771 not issue (1) a permit for a solid waste land disposal facility on former
772 railroad property until July 1, 1989, unless the commissioner makes a
773 written determination that such facility is necessary to meet the solid
774 waste disposal needs of the state and will not result in a substantial
775 excess capacity of solid waste land disposal areas or disrupt the
776 orderly transportation of or disposal of solid waste in the area affected
777 by the facility, or (2) an operational permit for a resources recovery
778 facility unless the applicant has submitted a plan pursuant to section
779 22a-208g for the disposal or recycling of ash residue expected to be
780 generated at the facility in the first five years of operation. In making a
781 decision to grant or deny a permit to construct a solid waste land
782 disposal facility, including a vertical or horizontal landfill expansion,
783 the commissioner shall consider the character of the neighborhood in
784 which such facility is located and may impose requirements for hours
785 and routes of truck traffic, security and fencing and for measures to
786 prevent the blowing of dust and debris and to minimize insects,
787 rodents and odors. In making a decision to grant or deny a permit to
788 construct or operate a new transfer station, the commissioner shall
789 consider whether such transfer station will result in disproportionately
790 high adverse human health or environmental effects. [The
791 commissioner shall not authorize under a general permit or issue an
792 individual permit under this section to establish or construct a new
793 volume reduction plant or transfer station located, or proposed to be
794 located, within one-quarter mile of a child day care center, as defined
795 in subdivision (1) of subsection (a) of section 19a-77, in a municipality
796 with a population greater than one hundred thousand persons
797 provided such center is operating as of July 8, 1997. The commissioner
798 may modify or renew a permit for an existing volume reduction plant
799 or transfer station, in accordance with the provisions of this chapter,
800 without regard to its location.] In making a decision to grant or deny a
801 permit to construct an ash residue disposal area, the commissioner
802 shall consider any provision which the applicant shall make for a
803 double liner, a leachate collection or detection system and the cost of

804 transportation and disposal of ash residue at the site under
805 consideration.

806 [(b) No solid waste facility shall be built or established and no solid
807 waste facility without a permit to construct shall be altered after July 1,
808 1971, until the plan, design and method of operation of such facility
809 have been filed with the department and approved by the
810 commissioner by the issuance of a permit to construct, provided,
811 nothing in this chapter or chapter 446e shall be construed to limit the
812 right of any local governing body to regulate, through zoning, land
813 usage for solid waste disposal.]

814 (b) No person or municipality shall establish, construct or operate a
815 solid waste facility without a permit issued by the commissioner under
816 this section. An application for such permit shall be submitted on a
817 form prescribed by the commissioner, include such information as the
818 commissioner may require, including, but not limited to, a closure plan
819 for such facility, and be accompanied by a fee prescribed in regulations
820 adopted in accordance with chapter 54. Notwithstanding any
821 provision, references to a permit to construct or a permit to operate in
822 a regulation adopted pursuant to section 22a-209 shall be deemed to
823 mean a permit as required by this subsection. The [commissioner]
824 applicant shall send a written notification of any application for [a]
825 such permit [to construct] to the chief elected official of each
826 municipality in which the proposed facility is to be located, within five
827 business days of the date on which any such application is filed.

828 [(c) No solid waste facility for which a permit to construct is
829 required shall be operated on and after June 16, 1985, except for
830 performance testing approved by the commissioner, unless such
831 facility has been issued a permit to operate. The commissioner may
832 issue such permit upon determination that the facility (1) will be
833 operated in accordance with applicable laws or regulations, (2) has
834 been constructed in accordance with a permit issued pursuant to
835 subsection (b) of this section, and (3) has satisfactorily completed any
836 performance tests required by the commissioner. All operating

837 facilities holding a valid permit to construct on or before June 16, 1985,
838 shall be issued a permit to operate and shall be allowed to continue
839 operations prior to the issuance of such permit to operate. The
840 commissioner shall allow any person who is lawfully disposing of ash
841 residue within a solid waste disposal area on April 1, 1994, to continue
842 disposing of such residue within such area until March 1, 1997, or until
843 the issuance of a final permit to operate a new lined ash landfill in
844 Hartford.]

845 (c) Upon written notice from the commissioner and in accordance
846 with a schedule specified by the commissioner in such written notice,
847 any person or municipality who owns an unpermitted solid waste
848 disposal area shall (1) submit a closure plan for the commissioner's
849 review and written approval, provide public notice of such proposed
850 plan in a manner prescribed by regulations adopted pursuant to
851 section 22a-133k and close and maintain such area after closure in
852 accordance with the approved closure plan, or (2) remediate such
853 disposal area in accordance with a remediation plan approved by the
854 commissioner or verified by a licensed environmental professional
855 pursuant to section 22a-134a, as amended by this act, 22a-134x or 22a-
856 133y or pursuant to an order of the commissioner. A fee of three
857 thousand dollars shall accompany any closure plan submitted
858 pursuant to this subsection. The commissioner may require the owner
859 of a solid waste disposal area to post sufficient performance bond or
860 other security to ensure compliance with the approved closure plan.
861 The commissioner may approve a modification to a closure plan for a
862 solid waste disposal area. A fee of five hundred dollars shall
863 accompany the request for such modification. The commissioner may
864 reduce or waive the fees required by this subsection in cases of
865 financial hardship and may modify such fees in regulations adopted in
866 accordance with chapter 54. The commissioner may require a person
867 or municipality to provide public notice of a proposed modification of
868 a closure plan if the modification involves any activity that would
869 disrupt the solid waste or change the use of the solid waste disposal
870 area. Notwithstanding the provisions of this subsection, the
871 commissioner may order a person or municipality who establishes or

872 constructs a solid waste disposal area without first obtaining a permit
873 as required by subsection (b) of this section to remove any solid waste
874 disposed at such area, to remediate any pollution caused by such
875 waste, and to properly dispose of such waste at a lawfully operated
876 solid waste facility.

877 (d) (1) [Except as provided in subdivision (2) of this subsection, no
878 solid waste facility which] No person or municipality who holds a
879 permit [to construct shall be altered on and after June 16, 1985, until
880 the proposed plan, design and] issued under this section shall alter the
881 design or method of operation of the [altered facility have been filed
882 with the commissioner and approved by him by issuance of a modified
883 permit] permitted facility without first obtaining a modified permit.
884 For the purposes of this section and sections 22a-208, 22a-208b, 22a-
885 220a, 22a-225 and 22a-226, "alter" means [(A)] to change to any
886 substantive degree the [approved] design, capacity, volume process or
887 operation of a solid waste facility [holding a permit to construct,] and
888 includes, but is not limited to, changes in the approved capacity or
889 composition of solid waste disposed of, processed, reduced, stored or
890 recycled at the facility. [, or (B) to change to any substantive degree the
891 existing design, capacity, volume, process or operation of a solid waste
892 facility not holding a permit to construct and includes, but is not
893 limited to, changes in the volume or composition of solid waste
894 disposed, stored, processed, reduced or recycled at the facility.] The
895 commissioner may approve, in writing, a modification of a closure
896 plan for a closed permitted solid waste disposal area without
897 modifying the permit for such area. The commissioner may require a
898 person who, or a municipality that, requests such modification to
899 provide public notice of a proposed modification of a closure plan if
900 the modification involves any activity that would disrupt the solid
901 waste or change the use of the solid waste disposal area. A fee of five
902 hundred dollars shall accompany any request for such modification of
903 a closure plan. The commissioner may reduce or waive such fee in
904 cases of financial hardship and may modify such fee in accordance
905 with regulations adopted in accordance with chapter 54.

906 (2) Changes in design, processes or operations, including the
907 addition of thermal oxidizers or other air pollution control equipment,
908 made to mitigate, correct or abate odors from a solid waste facility that
909 is owned or operated by the Connecticut Resources Recovery
910 Authority and that contracts with more than fifty municipalities, shall
911 not be considered an alteration requiring a modified permit or minor
912 permit amendment under this chapter. In addition, notwithstanding
913 any provision of the general statutes or regulation adopted pursuant to
914 said statutes, any such change shall not be considered a modification
915 or new stationary source requiring a permit to construct or operate
916 under chapter 446c or under any regulation adopted pursuant to
917 chapter 446c, unless such change is a major modification or a major
918 stationary source requiring a permit under the federal Clean Air Act
919 Amendments of 1990. Any person making any such change to an odor
920 control system at such a facility shall, not more than thirty days after
921 making such change, submit a written report to the commissioner fully
922 describing the changes made and the reason for such changes for the
923 commissioner's review and comment. Nothing in this subdivision shall
924 affect the commissioner's authority to take any other action to enforce
925 the requirements of this title.

926 Sec. 25. Section 22a-207 of the general statutes is amended by adding
927 subdivisions (25) and (26) as follows (*Effective October 1, 2006*):

928 (NEW) (25) "Person" has the same meaning as in subsection (c) of
929 section 22a-2.

930 (NEW) (26) "Closure plan" means a comprehensive written plan,
931 including maps, prepared by a professional engineer licensed by the
932 state that details the closure of a solid waste disposal area and that
933 addresses final cover design, stormwater controls, landfill gas controls,
934 water quality monitoring, leachate controls, postclosure maintenance
935 and monitoring, financial assurance for closure and postclosure
936 activities, postclosure use and any other information that the
937 commissioner determines is necessary to protect human health and the
938 environment from the effects of the solid waste disposal areas.

939 Sec. 26. Subsection (a) of section 22a-430b of the general statutes is
940 repealed and the following is substituted in lieu thereof (*Effective*
941 *October 1, 2006*):

942 (a) The Commissioner of Environmental Protection may issue a
943 general permit for a category or categories of discharges regulated
944 pursuant to section 22a-430, as amended, [except for process
945 wastewater discharges from the following industrial categories as
946 defined pursuant to the federal Water Pollution Control Act: Timber
947 products processing; electroplating; iron and steel manufacturing;
948 inorganic chemicals manufacturing (I and II); textile mills; petroleum
949 refining; pulp, paper and paperboard; steam electric power plants;
950 leather tanning and finishing; porcelain enameling; coil coating I; coil
951 coating (can making); electrical and electronic components (I and II);
952 metal finishing; copper forming; aluminum forming; pharmaceuticals
953 and manufacturing; nonferrous metals manufacturing (I and II);
954 battery manufacturing; plastics molding and forming; nonferrous
955 metals forming; pesticides; metal molding and casting; organic
956 chemicals, plastics and synthetic fibers manufacturing; and] except for
957 a discharge covered by an individual permit. The general permit may
958 regulate, within a geographical area, (1) A category of discharges
959 which: Involve the same or substantially similar types of operations,
960 involve the same type of wastes, require the same effluent limitations,
961 operating conditions or standards, and require the same or similar
962 monitoring and which in the opinion of the commissioner are more
963 appropriately controlled under a general permit; (2) stormwater
964 discharges; or (3) a category of discharges not requiring a permit under
965 the federal Water Pollution Control Act. Any person or municipality
966 conducting an activity covered by a general permit shall not be
967 required to apply for or obtain an individual permit pursuant to
968 section 22a-430, as amended, except as provided in subsection (c) of
969 this section. The general permit may require that any person or
970 municipality initiating, creating, originating or maintaining any
971 discharge into the waters of the state under the general permit shall
972 register such discharge with the commissioner before the general
973 permit becomes effective as to such discharge. Registration shall be on

974 a form prescribed by the commissioner.

975 Sec. 27. (NEW) (*Effective October 1, 2007*) (a) The Commissioner of
976 Environmental Protection may issue, modify or revoke orders to
977 correct or abate violations of chapter 446m of the general statutes,
978 including, but not limited to, any regulation adopted pursuant to
979 chapter 446m of the general statutes. Any such order may include
980 remedial measures necessary to correct or abate such violations. Such
981 orders may be issued to any person who violates any provision of
982 chapter 446d of the general statutes or any regulation adopted
983 pursuant to chapter 446m of the general statutes.

984 (b) Each order issued under chapter 446m of the general statutes
985 shall be served by certified mail, return receipt requested, or by a state
986 marshal or indifferent person. If a state marshal or indifferent person
987 serves the order, a true copy of the order shall be served, and the
988 original, with a return of such service endorsed thereon, shall be filed
989 with the commissioner. The order shall be deemed to be issued upon
990 service or upon deposit in the mail. Any order issued pursuant to
991 chapter 446d of the general statutes shall state the basis on which it is
992 issued.

993 (c) Unless a person aggrieved by an order files a written request for
994 a hearing before the commissioner not later than thirty days after the
995 date of issuance, such order shall become final. If requested, the
996 commissioner shall hold a hearing as soon thereafter as practicable. A
997 request for a hearing shall be a condition precedent to any appeal. The
998 commissioner may, after the hearing or at any time after the issuance
999 of the order, modify such order by agreement or extend the time
1000 schedule therefor if the commissioner deems such modification or
1001 extension advisable or necessary, and any such modification or
1002 extension shall be deemed to be a revision of an existing order and
1003 shall not constitute a new order. There shall be no hearing subsequent
1004 to or any appeal from any such modification or extension.

1005 (d) After hearing, the commissioner shall consider all supporting
1006 and rebutting evidence and affirm, modify or revoke such order in the

1007 commissioner's discretion and shall so notify the recipient of the order
1008 by certified mail, return receipt requested.

1009 (e) The final order of the commissioner shall be subject to appeal as
1010 set forth in sections 4-183 and 4-184 of the general statutes, except that
1011 any such appeal shall be taken to the superior court for the judicial
1012 district of New Britain.

1013 Sec. 28. (NEW) (*Effective October 1, 2007*) (a) Whenever, in the
1014 judgment of the Commissioner of Environmental Protection, any
1015 person has engaged in or is about to engage in any acts, practices or
1016 omission which constitute, or will constitute, a violation of any
1017 provision of chapter 446m of the general statutes, or any regulation
1018 adopted or order issued pursuant to chapter 446m of the general
1019 statutes, at the request of the Commissioner of Environmental
1020 Protection, the Attorney General may bring an action in the superior
1021 court for the judicial district of New Britain for an order enjoining such
1022 acts or practices, to order remedial measures, or for an order directing
1023 compliance and, upon a showing by the commissioner that such
1024 person has engaged in any such acts, practices or omissions, a
1025 permanent or temporary injunction, restraining order or other order
1026 may be granted.

1027 (b) Any person who violates any provision of chapter 446m of the
1028 general statutes, including, but not limited to, any regulation adopted
1029 or order issued pursuant to chapter 446m of the general statutes, shall
1030 be assessed a civil penalty not to exceed twenty-five thousand dollars
1031 per day, to be fixed by the court, for each offense. Each violation shall
1032 be a separate and distinct offense and, in the case of a continuing
1033 violation, each day's continuance thereof shall be deemed to be a
1034 separate and distinct offense. The Attorney General, upon request of
1035 the commissioner, shall institute a civil action in the superior court for
1036 the judicial district of New Britain to recover such penalty.

1037 (c) If two or more persons are responsible for a violation of any
1038 provision of chapter 446m of the general statutes, including, but not
1039 limited to, any regulation adopted or order issued pursuant to said

1040 chapter 446m, such persons shall be jointly and severally liable under
1041 this section.

1042 (d) Any action brought by the Attorney General pursuant to this
1043 section shall have precedence in the order of trial as provided in
1044 section 52-191 of the general statutes.

1045 Sec. 29. (NEW) (*Effective October 1, 2007*) (a) Any person who, with
1046 criminal negligence, violates any provision of chapter 446m of the
1047 general statutes, including, but not limited to, any regulation adopted
1048 or order issued pursuant to chapter 446m of the general statutes, or
1049 who makes any false statement, representation, certification in any
1050 application, notification, request for exemption, record, plan, report or
1051 other document filed or required to be maintained under chapter 446m
1052 of the general statutes, shall be fined not more than twenty-five
1053 thousand dollars per day for each day of violation or be imprisoned
1054 not more than one year, or both. A subsequent conviction for any such
1055 violation shall carry a fine of not more than fifty thousand dollars per
1056 day for each day of violation or imprisonment for not more than two
1057 years, or both.

1058 (b) Any person who knowingly violates any provision of chapter
1059 446m of the general statutes, including, but not limited to, any
1060 regulation adopted or order issued pursuant to chapter 446m of the
1061 general statutes, or who makes any false statement, representation, or
1062 certification in any application, notification, request for exemption,
1063 record, plan, report or other document filed or required to be
1064 maintained under chapter 446m of the general statutes, shall be fined
1065 not more than fifty thousand dollars per day for each day of violation
1066 or be imprisoned not more than three years, or both. A subsequent
1067 conviction for any such violation shall carry a fine of not more than
1068 fifty thousand dollars per day for each day of violation or
1069 imprisonment for not more than ten years, or both.

1070 Sec. 30. Sections 22a-134aa to 22a-134oo, inclusive, 22a-163 to 22a-
1071 163aa, inclusive, 22a-164 and 22a-165 to 22a-165h, inclusive, and
1072 section 22a-207b of the general statutes are repealed. (*Effective October*

1073 1, 2006)

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	22a-178(g)
Sec. 2	October 1, 2006	22a-403
Sec. 3	October 1, 2006	1-79(l)
Sec. 4	October 1, 2006	1-120(1)
Sec. 5	October 1, 2006	16-50j(b) and (c)
Sec. 6	October 1, 2006	25-201(10)
Sec. 7	October 1, 2006	25-231(4)
Sec. 8	October 1, 2006	22a-161d
Sec. 9	October 1, 2006	51-344a(a)
Sec. 10	October 1, 2006	22a-137(f)
Sec. 11	October 1, 2006	22a-134(1)
Sec. 12	October 1, 2006	New section
Sec. 13	October 1, 2006	22a-134(10) and (11)
Sec. 14	October 1, 2006	22a-134
Sec. 15	October 1, 2006	22a-134a(g) and (h)
Sec. 16	October 1, 2006	22a-133v(e) and (f)
Sec. 17	October 1, 2006	22a-255h(1) to (4)
Sec. 18	October 1, 2006	22a-255h(12) to (14)
Sec. 19	October 1, 2006	22a-255i(a)
Sec. 20	October 1, 2006	22a-255j
Sec. 21	October 1, 2006	22a-255m(a)
Sec. 22	October 1, 2006	22a-449(b)
Sec. 23	October 1, 2006	22a-611
Sec. 24	October 1, 2006	22a-208a(a) to (d)
Sec. 25	October 1, 2006	22a-207
Sec. 26	October 1, 2006	22a-430b(a)
Sec. 27	October 1, 2007	New section
Sec. 28	October 1, 2007	New section
Sec. 29	October 1, 2007	New section
Sec. 30	October 1, 2006	Repealer section

ENV Joint Favorable Subst.

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

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 07 \$	FY 08 \$
Department of Environmental Protection	GF/Various - Cost/Savings	See Below	See Below
Attorney General	GF - Revenue Gain	Potential Significant	Potential Significant

Note: GF=General Fund

Municipal Impact:

Municipalities	Effect	FY 07 \$	FY 08 \$
Various Municipalities	STATE MANDATE - Cost	Potential Minimal	Potential Minimal

Explanation

Exempting from the Transfer Act requirements any real property or business operation that deals with universal waste as long as their activities have not caused any discharge, spill, uncontrolled loss, seepage or filtration of universal waste, will have no fiscal impact. No change in the current workload or fees is anticipated for the Department of Environmental Protection (DEP). Additional Transfer Act changes made in the bill concerning verification requirements and clarifying various Form submittals from certifying parties also have no fiscal impact.

The changes made in the definitions relating to PCB's by more broadly defining disposal will enable the DEP to take action before an actual leak, spill or uncontrolled discharge occurs. This could potentially reduce future costs, since action would be taken before an expensive cleanup would be needed.

The bill makes minor changes in the application, licensing and

renewal process for licensed environmental professionals (LEP), which are not anticipated to have a fiscal impact.

Changes made in the toxics in packaging law are mostly technical and have no fiscal impact.

Extending the license period from 3 to 10 years of terminals for loading or unloading of petroleum, chemicals and hazardous wastes allows for the issuance of a general permit. When a general permit is issued, it will offset any revenue decrease to the Environmental Quality (EQ) fund due to the 3 year license going to 10.

The change made in the timing of the submittal of the toxic release form by the owner or operator of a facility will streamline the submittal process and has no fiscal impact.

Changes made in the permitting process for solid waste facilities will not increase the workload of the department from the existing procedure. Any increase in revenue to the EQ Fund due to the fees that are required to accompany a closure plan are anticipated to be offset by the increase in workload. Any municipal applicant would have to submit a closure plan and pay 50% (unless modified due to hardship) of the required fee. The exact impact would vary depending upon the municipality involved and is not known at this time.

Requiring the filing of environmental protection orders on land records by the Department of Environmental Protection (DEP) can be handled with existing resources of DEP and the impacted municipality.

The bill exempts the DEP from obtaining a DEP permit for building or making changes to dams, dikes, reservoirs if the state owns the structure or the structure is under the department's control. This is anticipated to result in a decrease in costs and commensurate workload to DEP and increase agency efficiency.

The elimination of the Connecticut Hazardous Waste management Service and the associated laws relating to low-level radioactive waste

facilities will have no impact since these provisions are obsolete.

The Office of the Attorney General could accommodate potential enforcement measures under the bill within budgeted resources. Any potential revenue resulting from the bill could be significant, given the fine of up to \$25,000 a day for each violation of law, regulation or order governing mercury.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to inflation.

OLR Bill Analysis
sHB 5564

AN ACT CONCERNING REVISIONS TO ENVIRONMENTAL PROTECTION PROVISIONS.

SUMMARY:

This bill makes several changes to the Hazardous Waste Transfer Act, and other environmental laws. Specifically, it

1. exempts from the Transfer Act (a) certain properties or businesses that deal solely with universal waste, such as batteries and pesticides; and (b) transfers of condominiums and similar residential communities that meet certain conditions;
2. authorizes the Department of Environmental Protection (DEP) to approve remediation of a portion of land subject to the Transfer Act, which regulates conveyances of businesses that handle hazardous waste, before the entire site is cleaned up;
3. revises the permitting process for solid waste facilities and requires un-permitted solid waste disposal area owners to either submit closure plans to DEP or remediate the area;
4. imposes criminal penalties for certain violations of laws governing the sale, labeling, and collection of mercury and products containing mercury;
5. reestablishes exemptions for certain packaging containing toxic material and makes other changes affecting toxics in packaging;
6. authorizes DEP to issue general permits for certain industrial wastewater discharges;
7. exempts the DEP commissioner from a number of environmental laws when she builds, repairs, replaces or

- removes dams, dikes, reservoirs, or similar structures on state-owned lands under her control;
8. eliminates the Connecticut Hazardous Waste Management Service (CHWMS), which has not met for 10 years, and laws relating to low-level radioactive waste facilities, the Low Level Radioactive Waste Facility Trust Fund, Low Level Radioactive Waste Advisory Committee, and Low Level Radioactive Waste Management Fund;
 9. removes the siting of low-level radioactive waste facilities and consultation on the preparation of a hazardous waste management plan from the duties of the Connecticut Siting Council;
 10. modifies filing requirements for certain DEP air pollution orders; and
 11. changes renewal procedures for general permits regulated under the federal Clean Air Act.

By law, the DEP commissioner may license terminals that load or unload petroleum, chemicals, and hazardous waste for up to three years, beginning annually on July 1. The bill extends the maximum license period to 10 years from the date the license is issued (§22).

The bill also makes changes in other solid waste laws.

EFFECTIVE DATE: October 1, 2006, except for the penalties for violating the mercury reduction laws, which take effect October 1, 2007.

§§ 11 - 15 — THE HAZARDOUS WASTE TRANSFER ACT

§§ 11 & 14 Universal Waste Exemption

The Transfer Act governs the sale or other conveyance of certain property where hazardous waste was generated, used, or stored. It requires such property to be investigated and pollution properly remediated. The act regulates “establishments,” which include certain

businesses, and property where (1) more than 100 kilograms (220 pounds) of hazardous waste was generated in a calendar month or (2) hazardous waste was recycled, reclaimed, reused, stored, handled, treated, transported, or disposed of.

The bill exempts from the act, under certain conditions, real property or business operations that (1) generate more than 100 kilograms of universal waste in a calendar month; (2) store, handle, or transport universal waste generated elsewhere; or (3) undertake activities at a universal waste transfer facility. Under the bill, universal waste includes batteries, pesticides, thermostats, lamps, and used electronics as defined by state regulation and federal law. Universal waste transfer facilities include loading docks and parking and storage areas where universal waste shipments are held in the normal course of transport for up to 10 days.

To be exempt, (1) this property or business must not generate, store, handle, or transport any hazardous waste other than universal waste or otherwise be subject to the Transfer Act; (2) there must not have been a discharge or spill of universal waste or a hazardous substance; and (3) the business or property must not recycle, treat, or dispose of universal waste, except as federal law allows for batteries and thermostats.

§12 — Condominium Exemption

The bill exempts from the Transfer Act the conveyance of units in condominiums, cooperatives, and other planned communities (“residential common interest communities”) that meet certain conditions. To be exempt, the declarant for the community of which the unit is a part must (1) be a certifying party for the purposes of remediating an establishment within the community and (2) provide the commissioner with a surety bond or other form of financial assurance she finds acceptable. (A declarant, typically a project developer, is the person who creates and records the documents for a common interest community.)

The surety bond or other form of financial assurance must (1) identify both the DEP and unit owners association as beneficiaries; (2) be in an amount and form the commissioner approves; and (3) be sufficient, at all times when the property comprising the common interest community is an establishment, to remediate the subject property. The amount of the bond or other form of financial assurance may be reduced as remediation work progresses. It may exclude: (1) costs of improvement not related to remediation and (2) costs of (a) remediation already completed and (b) of parcels that may be added to the community through the exercise of development rights.

To be exempt, the seller of a unit in a residential common interest community that qualifies as an establishment also must provide the buyer with notice that summarizes (1) the community's environmental condition, (2) investigation or remediation activities, and (3) environmental land use restrictions. The notice requirement applies to all conveyances, including those exempt from public offering statement or resale certificate requirements.

§15 — TRANSFER ACT FORMS AND REMEDIATING AND TRANSFERRING A PORTION OF AN ESTABLISHMENT

The law requires anyone transferring an establishment to complete one or more of four different forms, depending on the presence of hazardous waste or hazardous substances and the status of investigations and remediation.

Generally speaking, a transferor files a Form I if (1) there has not been a release of a hazardous waste or a hazardous substance or (2) a hazardous substance spill has been properly cleaned up and the remediation was approved in writing by the DEP commissioner or verified by a licensed environmental professional (LEP).

A transferor files a Form II when, among other things, if clean-up of a hazardous waste or hazardous substance spill has been completed and either the DEP commissioner has approved it in writing or an LEP has verified in writing that it has been properly performed.

By law, a certifying party files a Form III when (1) a hazardous waste or hazardous substance leak has occurred and has not been fully remediated, or (2) he does not know the environmental conditions at the establishment. The certifying party agrees to properly investigate and remediate the parcel. A certifying party files a Form IV when there has been a leak, and all remediation actions have been completed except for post-remediation monitoring or the recording of an environmental land use restriction.

Changes in Forms I and II

The bill requires, for a Form I, that an LEP's verification be in writing. It requires, for both a Form I and a Form II, that the transferor certify that there has not been a leak of a hazardous waste or hazardous substance at any portion of the establishment since the commissioner determined or the LEP verified that the establishment, or any portion of it, was properly remediated.

Certifying Parties and Forms III and IV

By law, a certifying party is, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who agrees to investigate a parcel (a tract of land that is an establishment, or where there is a business that is an establishment) according to prevailing standards, and to properly remediate pollution. The commissioner may (1) review and approve the remediation or (2) accept an LEP's verification that the remediation has been properly performed.

Under current law, if the commissioner informs a certifying party that an LEP may verify the remediation, the certifying party must submit a schedule for investigating and remediating the establishment. The bill (1) specifies that this schedule is for investigating the parcel and remediating the establishment and (2) requires the certifying party to investigate and remediate the parcel according to the proposed schedule or a schedule the commissioner specifies. Under current law, the certifying party must submit to the commissioner an LEP's independent verification that the establishment has been properly remediated, and as applicable, a Form IV verification. The bill instead

requires the certifying party to submit to the commissioner a final LEP verification when the entire site has been remediated. Such a final verification may include and rely on an LEP's verification that a portion of the establishment had been previously remediated (see below).

Remediating and Transferring a Portion of an Establishment

The bill allows the commissioner or an LEP to approve the remediation of a portion of an establishment before the certifying party completes the clean-up of the entire establishment. It authorizes the commissioner to rely on such an approval when determining if the entire establishment has been properly remediated.

Under the bill, a certifying party may satisfy the requirements of Form III or Form IV by submitting an LEP's verification for any portion of an establishment for which the certifying party has completed remediation. If (1) a certifying party submits such a verification, (2) the balance of the establishment is not otherwise subject to the transfer act, and (3) the verified portion is transferred, conveyed, or changes ownership before the entire establishment is remediated, the certifying party must notify the commissioner of the transfer, conveyance, or change in ownership within 30 days of its occurrence.

When the commissioner must review and approve a site investigation and remediation, the bill allows a certifying party to request that the commissioner find that he has properly cleaned up a portion of the establishment according to plans and schedules the commissioner approved for that portion. It authorizes the commissioner, when determining if the entire site has been properly remediated, to rely on a previous finding for a portion of the establishment. As with LEP verification, the certifying party must notify the commissioner within 30 days of the sale or transfer of a remediated portion of an establishment if the remediated portion is sold or transferred (1) before remediation of the entire establishment is complete and (2) the establishment is not otherwise subject to the

Transfer Act.

§§ 24 & 25 — SOLID WASTE FACILITY PERMITTING

Under current law, the commissioner issues separate permits to construct and operate solid waste facilities. The commissioner may issue a permit to construct after she has approved the facility's plan, design, and method of operation. She may issue a permit to operate after the facility completes performance tests and she has made certain findings. By law, a solid waste facility includes solid waste disposal areas, volume reduction plants, transfer stations, wood-burning facilities, and biomedical waste treatment facilities.

The bill combines these two permits into one, specifies that people and municipalities must obtain one when establishing, building or operating a facility. It requires applicants to submit a closure plan with their permit application. It requires owners of un-permitted solid waste disposal areas, upon written notice from DEP, to (1) submit closure plans with which they must comply or (2) remediate the area. It eliminates the commissioner's authority to permit or site certain waste facilities, and makes conforming changes.

Construction/Operating Permit

The bill prohibits any person or municipality from establishing, building, or operating a solid waste facility without a permit. It requires applicants to apply for such a permit on a form the commissioner prescribes, and to include (1) the information she requires, (2) a closure plan, and (3) a fee set by regulation. It requires the applicant, rather than the commissioner, to notify the chief elected official of the town where the proposed facility will be located. Under the bill, all references in regulation to permits to construct and to operate refer to the new permit the bill creates.

Modified Permits

Under current law, a solid waste facility holding a permit to construct that seeks to alter its plan, design, or method of operation must obtain a modified permit from the commissioner. The bill places

the responsibility on a person or municipality that holds the permit the bill creates, rather than the facility. It eliminates the requirement with regard to plan alterations. Under the bill, altering means making a substantive change to the facility's design, capacity, volume, process or operation, including changes in the approved capacity or composition of solid waste disposed of, processed, reduced, stored, or recycled.

Closure Plan Definition

A closure plan is a comprehensive written plan, including maps, prepared by a professional licensed engineer, that details the closure of a solid waste disposal area and addresses final cover design, stormwater, leachate and landfill gas controls, water quality monitoring, post closure maintenance and monitoring, financial assurance for closure and post closure activities, post closure use, and any other information that the commissioner determines is needed to protect human health and the environment.

Sites Without Permits

Closure Plans/Remediation. Upon written notice from the commissioner and according to a schedule she specifies, a person or town that owns an un-permitted solid waste disposal area must either: (1) (a) submit a closure plan for her review and written approval, (b) notify the public of the closure plan, and (c) close and maintain the solid waste disposal area according to the plan, or (2) remediate the area according to the plan the commissioner approved or an LEP verified.

A \$3,000 fee must accompany a closure plan, and the commissioner may also require the owner to post a performance bond. By law, a solid waste disposal area is a landfill or other location used for the disposal of more than 10 cubic yards of solid waste.

Closure Plan Modification. The commissioner may approve a modification to a solid waste disposal area closure plan. Such a request must be accompanied by a \$500 fee, which the commissioner may reduce or waive in case of financial hardship. She also may modify the

fee by regulation. The commissioner may require that an owner seeking to modify a closure plan notify the public if the proposed modification would disrupt the solid waste, or change the solid waste disposal area's use.

The commissioner may approve, in writing, the modification of a closure plan for a closed, permitted disposal area without requiring the applicant to obtain a modified permit. The applicant must submit a \$500 fee with a request for such modification. As above, the commissioner may require the person or town seeking to modify the closure plan to notify the public of the proposed change if it would disrupt the solid waste or change the use of the solid waste disposal area. The commissioner may reduce or waive the fee in cases of financial hardship, and may modify the fee as provided by regulation.

Removal/Remediation. Under the bill, the commissioner also may order a person or town that establishes or builds a solid waste disposal area without a permit to (1) remove the solid waste from the area, (2) remediate any pollution, and (3) properly dispose of the waste at a lawfully operated facility.

Other Changes

By law, the commissioner, in deciding whether to grant a permit for a solid waste facility, must consider the character of the neighborhood. She may impose traffic, security and fencing requirements and measures to ensure its sanitary operation. In deciding whether to grant or deny a permit to build or operate a transfer station, she must consider whether the transfer station will result in disproportionately high adverse human health or environmental effects. The bill specifically eliminates laws that:

1. bar her from authorizing construction of a volume reduction plant or transfer station within one-quarter mile of a child day care in cities of more than 100,000 people, if the day care center was operating on July 8, 1997; and
2. authorize her to modify or renew a permit for an existing

volume reduction plan or transfer station regardless of its location.

The bill also makes conforming changes.

§§ 27 – 29 — PENALTIES FOR VIOLATING THE MERCURY REDUCTION AND EDUCATION ACT

The bill establishes specific penalties for violations of the laws governing the sale, distribution, labeling, and collection of mercury and products containing mercury. It authorizes the commissioner to issue, modify or revoke orders to correct or abate the violations, including violations of any regulations she adopts. The orders may include any necessary remedial measures. The bill specifies that she may issue the orders to anyone who violates any provisions of the solid waste management laws or any regulation she adopts regarding the laws concerning mercury sale, distribution, labeling, and collection. Under current law, the commissioner has broad authority to initiate and receive complaints about violations of any law she administers, and to enter orders and institute legal proceedings to enforce those laws.

Orders and Hearings

The bill requires that orders the commissioner issues concerning the mercury reduction laws be delivered by certified mail, return receipt requested, or by a state marshal or indifferent person. If a state marshal or indifferent person serves the order, he must serve a true copy, and file the original, with a return of service endorsed on it, with the commissioner. The order is deemed issued upon service or deposit in the mail. Any order issued under the solid waste management laws must state the reason it is issued.

An order is considered final unless a person aggrieved by it asks the commissioner for a hearing within 30 days of the date the order is issued. The request must be in writing. The commissioner must hold a hearing as soon as practicable after such a request. An aggrieved party cannot appeal an order unless he has requested such a hearing.

After a hearing, or after she issues an order, the commissioner may agree to modify an order or extend the deadline if she believes it advisable or necessary. Such a modification or extension is a revision of the existing order from which there can be no hearing or appeal. Following a hearing, the commissioner must consider all the evidence and affirm, modify, or revoke her order. She must notify the person who gets the order of her decision by certified mail, return receipt requested. A final order is subject to appeal, which must be filed in New Britain Superior Court.

Enforcement by Attorney General

Whenever the commissioner believes anyone is engaged in, or about to engage in, any act, practice or omission that violates or would violate the laws or regulations concerning mercury, she may ask the attorney general to file an action in New Britain Superior Court asking the court to (1) enjoin such acts, (2) order remedial measures, or (3) direct compliance. The court may issue a permanent or temporary injunction restraining or other order upon the commissioner's showing that the person is engaged in such acts, practices or omissions.

Penalties

The bill subjects anyone, who violates any law, regulation or order governing mercury to a fine of up to \$25,000 a day for each offense. Each violation is a separate and distinct offense, and each day of a continuing violation is also a separate and distinct offense. If two or more people are responsible for violations of the laws, regulations or orders concerning mercury, they must be held jointly and severally liable. The bill requires the attorney general, at the commissioner's request, to file a civil action in New Britain Superior Court to recover the penalty. It requires any such action to take precedence over other actions in the order of trial.

It subjects anyone who, with criminal negligence, violates those laws, orders, or regulations, or who makes any false statement, representation, certification in any application, notification, request for exemption, record, plan, report or other document filed or required to

be maintained, to a fine of up to \$25,000 a day, up to one year in prison, or both. A subsequent conviction is punishable by up to \$50,000 a day for each day of the violation, up to two years in prison, or both.

By law, anyone who intentionally makes a false written statement under oath or on a form that states false statements are punishable is guilty of a class A misdemeanor, and subject to a \$2,000 fine and up to one year in prison. The bill subjects anyone who knowingly violates the laws, orders or regulations concerning mercury reduction, or who makes any false statement, representation, or certification in any application, notification, request for exemption, record, plan, report or other document filed or required to be maintained, to a fine of up to \$50,000 a day for each day of the violation, up to three years in prison, or both. A subsequent conviction is punishable by a fine of up to \$50,000 a day for each day of violation, up to 10 years in prison, or both.

§§ 17 - 21 — TOXICS IN PACKAGING

The law bars manufacturers and distributors from selling or using for promotional purposes most packages that intentionally contain lead, cadmium, mercury, or hexavalent chromium. Packages and products containing more than specified levels of these metals are also banned even if the material was not introduced intentionally. The law exempts certain packages.

The bill reestablishes exemptions for certain packages and packaging components that expired January 1, 2000. The new exemption, which expires on January 1, 2010, is for a package or packaging that:

1. exceeds maximum concentration levels of lead, cadmium, mercury, or hexavalent chromium only because of the addition or use of recycled material;
2. is reusable and has a controlled distribution and reuse but which exceeds the incidental concentration levels of lead,

cadmium, mercury, or hexavalent chromium, if the manufacturer or distributor petitions the commissioner for an exemption and the commissioner grants it; or

3. exceeds incidental contaminant levels for lead, cadmium, mercury, or hexavalent chromium, if (a) the product, its transportation, or disposal is regulated by specific state or federal regulations, and (b) the commissioner grants an exemption when the packaging manufacturer shows it is warranted.

The bill also permanently exempts a glass or ceramic package or packaging component that has a vitrified label, that does not exceed one part per million (ppm) for cadmium, five ppm for hexavalent chromium, and five ppm for lead, when prepared according to the American Society for Testing and Materials specification C1606-04 and tested according to the EPA's Toxicity Characteristic Leaching Procedures Test Method and Publication SW 846, third edition, "Test Methods for Evaluating Solid Waste." On the other hand, it applies the law to reusable or refillable glass, and ceramic or metal receptacles.

By law, packages or packaging components in which lead, cadmium, mercury, or hexavalent chromium have been added in the manufacturing or distribution process are exempt if (1) there is no feasible alternative, (2) the manufacturer has demonstrated to the commissioner that an exemption is necessary, and (3) the commissioner grants an exemption. The exemption is good for two years and may be extended for another two years. The bill extends this exemption to the addition of the above materials in the forming and printing process. It specifies that by feasible alternative it means, in most cases, that technical constraints preclude the substitution of other material, rather than one for which no substitute exists. The bill does not exempt any lead, cadmium, mercury, or hexavalent chromium used for marketing purposes.

Minor Changes

The bill authorizes the commissioner, in consultation with other member states of the Toxics in Packaging Clearing House, to review the law's effectiveness and report to the governor and legislature. Under current law, he must consult with the Source Reduction Council of the Council of Northeastern Governors.

By law, electrolytic galvanized steel and hot-dipped coated galvanized steel are each considered as a single packaging component when they meet certain specifications. The bill replaces electrolytic galvanized steel with electro-galvanized coated steel, and modifies the specifications that it and hot dipped coated galvanized steel must meet to be considered a single packaging component.

The bill also:

1. specifies that it includes packages produced in a foreign country and defines them according to the American Society of Testing and Materials specification D966,
2. specifies that the laws affect packages and packaging components, and
3. makes technical changes.

§ 16 — LICENSED ENVIRONMENTAL PROFESSIONALS

The bill authorizes the State Board of Examiners of Environmental Professionals, in evaluating whether the degree held by an applicant meets the position's educational requirements, to consider undergraduate, graduate, postgraduate, and other courses he completed. It authorizes the commissioner, with the advice and assistance of the board, to adopt regulations governing the LEP license issuance and renewal process, including procedures that allow for renewal of a license within six months after it expires without requiring the applicant to retake the required test.

§ 1 — FILING REQUIREMENTS

Under current law, recipients of DEP orders to correct certain air

pollution violations must file a certified copy or notice of the final order in the land records of the town where the violation occurred. The bill instead requires the commissioner to cause such a copy or notice to be filed. The bill requires the commissioner to issue a notice, rather than a certificate, showing that such an order has been complied with or revoked. She must cause notice of compliance or revocation to be recorded in the land records in the town where the order was previously recorded.

§ 26 — GENERAL PERMIT EXEMPTIONS FOR CERTAIN WASTEWATER DISCHARGES

The bill authorizes the commissioner to issue general permits for wastewater discharges from the following industrial categories: timber products processing; electroplating; iron and steel manufacturing; inorganic chemicals manufacturing (I and II); textile mills; petroleum refining; pulp, paper, and paperboard; steam electric power plants; leather tanning and finishing; porcelain enameling; coil coating I; coil coating (can making); electrical and electronic components (I and II); metal finishing; copper forming; aluminum forming; pharmaceuticals and manufacturing; nonferrous metals manufacturing (I and II); battery manufacturing; plastics molding and forming; nonferrous metals forming; pesticides; metal molding and casting; organic chemicals; and plastics and synthetic fibers manufacturing.

§ 2 — EXEMPTING THE DEP COMMISSIONER FROM THE DAM PERMIT PROCESS

Under current law, anyone who builds, alters, rebuilds, substantially repairs, adds to, replaces, or removes any dam, dike, reservoir, or similar structure must obtain a DEP permit.

This bill exempts the commissioner from this permit process when she seeks to build or make such changes to a dam, dike, reservoir or similar structure, with its appurtenances, if the structure is state-owned and under the commissioner's control. The bill also exempts the commissioner from the need to obtain any permit, certification, or approval under the Connecticut Environmental Policy Act and laws

governing (1) wetlands and watercourses, (2) coastal management, (3) water resources, and (4) flood management, if her actions are consistent with the policies those laws express. But the bill does not exempt the commissioner from a law authorizing people to sue in Superior Court to protect the public trust in the state's air, water, or other natural resources from unreasonable pollution, impairment, or destruction.

§§ 3 - 10 — CONNECTICUT HAZARDOUS WASTE MANAGEMENT SERVICE

The bill repeals laws:

1. creating the Connecticut Hazardous Waste Management Service (CHWMS) and an Office of Environmental Business Assistance within it;
2. concerning CHWMS's duties to promote the appropriate management of hazardous waste and the siting of low-level radioactive waste disposal facilities; and
3. creating a low-level radioactive waste account and low-level radioactive waste management fund.

It removes the (1) siting of low-level radioactive waste facilities and consultation on a hazardous waste management plan from the duties of the Connecticut Siting Council and (2) Connecticut Hazardous Waste Management Plan from the list of major state plans to be considered under the Multiple Use River and Protected Rivers acts.

The bill repeals one statutory definition of low-level radioactive waste, but does not change another law defining low-level radioactive waste for purposes of the Northeast Interstate Low-Level Radioactive Waste Compact, of which Connecticut is a member (see BACKGROUND). For the purposes of the compact, low-level radioactive waste is defined by federal law, and excludes waste generated by atomic energy defense activities or federal research and development activities.

§ 23 — TOXICS RELEASE FORM

Under current law, the owner or operator of a facility required to complete a toxic release form under the Emergency Planning and Community Right-to-Know Act must submit it to the state Emergency Response Commission annually by July 1. The bill instead requires him to submit the form annually by (1) July 1 or (2) a date established by the EPA, whichever comes later.

BACKGROUND***Universal Wastes***

Universal wastes are a type of hazardous waste (1) generated in a wide variety of settings, (2) from a large number of sources, and (3) present in great volume. When disposed of, they are subject to less stringent requirements than other types of hazardous waste.

Emergency Planning and Community Right to Know Act

This 1986 federal act establishes requirements for federal, state, and local governments and industry regarding emergency planning and reporting on hazardous and toxic chemicals.

Connecticut Environmental Policy Act

The Connecticut Environmental Policy Act identifies and evaluates the impact of proposed state actions that could significantly affect the environment. It requires that certain information be available to decision makers and the public, and that it be considered in deciding whether and how to proceed with the proposed action.

The Connecticut Hazardous Waste Management Service (CHWMS) and Low-Level Radioactive Waste

The General Assembly created CHWMS in 1983 to promote the safe management of hazardous waste. According to DEP, it has not met or been staffed for about 10 years. In 1987 the General Assembly assigned it the task of managing low-level radioactive waste disposal and developing criteria for siting a waste disposal facility in Connecticut. The state does not have such a facility. It instead ships its low-level

radioactive waste to facilities in Barnwell, South Carolina and Clive, Utah. According to officials of the Atlantic Interstate Low-Level Radioactive Waste Management Compact, of which Connecticut is a member (and into which the Northeast Interstate Compact has been incorporated), Connecticut is assured of enough storage space at the South Carolina facility to handle its projected long-term disposal needs.

Related Bills

sSB 414 contains nearly identical provisions as § 2.

HB 5628 imposes certain deadlines in the Transfer Act program.

sHB 5272 contains similar language concerning penalties for violating the laws concerning mercury.

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 27 Nay 0 (03/20/2006)