



House of Representatives

General Assembly

File No. 71

February Session, 2006

House Bill No. 5628

House of Representatives, March 21, 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 bill ought to pass.

AN ACT CONCERNING VERIFICATIONS BY LICENSED ENVIRONMENTAL PROFESSIONALS.

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

1 Section 1. Subsections (a) and (b) of section 22a-133x of the general
2 statutes are repealed and the following is substituted in lieu thereof
3 (*Effective October 1, 2006*):

4 (a) Except as provided in section 22a-133y, a political subdivision of
5 the state, an owner of an establishment, as defined in section 22a-134,
6 an owner of property identified on the inventory of hazardous waste
7 disposal sites maintained pursuant to section 22a-133c on October 1,
8 1995, or an owner of contaminated property located in an area for
9 which the groundwater classification is GA or GAA, may, at any time,
10 submit to the commissioner an environmental condition assessment
11 form for such real property owned by such political subdivision or
12 such owner and an initial review fee in accordance with subsection (e)
13 of this section. [Within] Not later than thirty days [of] after his receipt
14 of such form, the commissioner shall notify the owner, in writing, as to

15 whether or not review and written approval of any remedial action at
16 such establishment or property by the commissioner will be required.
17 After said thirty days, it shall be deemed that review and written
18 approval will not be required. The commissioner shall not process any
19 such form submitted pursuant to this section unless such form is
20 accompanied by the required initial review fee.

21 (b) If the commissioner notifies the owner that he will not formally
22 review and approve, in writing, the investigation and remediation of
23 the parcel, the owner shall, on or before ninety days [of] after the
24 receipt of such notice or the deadline for said notice, submit a
25 statement of proposed actions for investigating and remediating the
26 parcel or a release area, as defined in the regulations adopted by the
27 commissioner pursuant to section 22a-133k, and a schedule for
28 implementing such actions. The commissioner may require the owner
29 to submit to him copies of technical plans and reports related to
30 investigation and remediation of the parcel or release area, and may
31 notify the owner if the commissioner determines that the
32 commissioner's review and written approval is necessary. The
33 commissioner shall require that the certifying party submit to him all
34 technical plans and reports related to the investigation and
35 remediation of the parcel or release area if the commissioner receives a
36 written request from any person for such information. The owner shall
37 advise the commissioner of any modifications to the proposed
38 schedule. Upon receipt of a verification by a licensed environmental
39 professional that the parcel or release area has been remediated in
40 accordance with the remediation standards the owner shall submit a
41 copy of such verification to the commissioner.

42 Sec. 2. Subsections (e) to (g), inclusive, of section 22a-134a of the
43 general statutes are repealed and the following is substituted in lieu
44 thereof (*Effective October 1, 2006*):

45 (e) [No] Not later than thirty days after receipt of a Form III or Form
46 IV, the commissioner shall notify the certifying party whether the form
47 is complete or incomplete. After said thirty days, the Form III or Form

48 IV shall be deemed complete. [Within] Not later than forty-five days
49 [of] after receipt of a complete Form III or IV, the commissioner shall
50 notify the certifying party in writing whether review and approval of
51 the remediation by the commissioner will be required, or whether a
52 licensed environmental professional may verify that the investigation
53 has been performed in accordance with prevailing standards and
54 guidelines and that the remediation has been performed in accordance
55 with the remediation standards. After said forty-five days, it shall be
56 deemed that the licensed environmental professional may verify the
57 remediation. Any person who submitted a Form III to the
58 commissioner prior to October 1, 1995, may submit an environmental
59 condition assessment form to the commissioner. The commissioner
60 shall, [within] not later than forty-five days [of] after receipt of such
61 form, notify the certifying party whether approval of the remediation
62 by the commissioner will be required or whether a licensed
63 environmental professional may verify that the remediation has been
64 performed in accordance with the remediation standards.

65 (f) In determining whether review and approval of the remediation
66 by the commissioner will be required, or whether a licensed
67 environmental professional may verify that the remediation has been
68 performed in accordance with the remediation standards, the
69 commissioner shall consider: (1) The potential risk to human health
70 and the environment posed by any discharge, spillage, uncontrolled
71 loss, seepage or filtration of hazardous waste or a hazardous substance
72 at the establishment; (2) the degree of environmental investigation at
73 the parcel; (3) the proximity of the establishment to significant natural
74 resources; (4) the character of the land uses surrounding the
75 establishment; (5) the complexity of the environmental condition of the
76 establishment; and (6) any other factor the commissioner deems
77 relevant.

78 (g) If the commissioner notifies the certifying party to a Form III or
79 Form IV that a licensed environmental professional may verify the
80 remediation, such certifying party shall, on or before thirty days of the
81 receipt of such notice or the deadline for such notice or such later date

82 as may be approved in writing by the commissioner, submit a
83 schedule for investigating and remediating the establishment. Such
84 schedule shall, unless a later date is specified, in writing, by the
85 commissioner, provide that the investigation shall be completed
86 [within] not later than two years [of] after the date of receipt of such
87 notice and that remediation shall be initiated [within] not later than
88 three years [of] after the date of receipt of such notice. The schedule
89 shall also include a schedule for providing public notice of the
90 remediation prior to the initiation of such remediation in accordance
91 with subsection (i) of this section. The commissioner shall notify such
92 certifying party if the commissioner determines that the
93 commissioner's review and written approval is necessary. Such
94 certifying party shall investigate the parcel and remediate the
95 establishment in accordance with the proposed schedule. Such
96 certifying party shall submit to the commissioner an independent
97 verification by a licensed environmental professional that the
98 establishment has been remediated in accordance with the remediation
99 standards, and as applicable, a Form IV verification.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2006	22a-133x(a) and (b)
Sec. 2	October 1, 2006	22a-134a(e) to (g)

ENV *Joint Favorable*

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/EQ - Savings	Potential Minimal	Potential Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The legislation would provide that certain inaction in a specified time period by the Commissioner of the Department of Environmental Protection (DEP) would deem licensed environmental professionals to be delegated to conduct an investigation or deem a filing complete. This could minimally reduce costs to the DEP associated with a reduction in mailings. DEP would continue to review the environmental review assessment forms regardless of the deadlines.

The Out Years

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

OLR Bill Analysis
HB 5628

AN ACT CONCERNING VERIFICATIONS BY LICENSED ENVIRONMENTAL PROFESSIONALS.

SUMMARY:

The bill imposes certain deadlines on the Department of Environmental Protection (DEP) commissioner in connection with two of its programs for property affected or potentially affected by hazardous waste: the Voluntary Remediation Program and the Property Transfer Program. It does so by triggering the next step in processing certain forms under these programs after deadlines set for DEP action under current law have passed without action by DEP.

Under current law, there do not appear to be any consequences when DEP takes no action within the deadlines.

The bill specifies that the deadlines for the owners submitting the respective forms begins either (1) when the respective deadlines pass without the commissioner's action or (2) after receiving notice from the commissioner, as under current law.

EFFECTIVE DATE: October 1, 2006

Voluntary Remediation Program

The Voluntary Remediation Program allows certain property owners to expedite the voluntary remediation of their property. Under current law, a property owner can submit an Environmental Assessment Condition Form (ECAAF) to the commissioner. The commissioner must notify the owner if she will need to review the form and provide written approval of it within 30 days of receiving it. If the commissioner notifies the owner that review and approval is not required, the owner has 90 days from receipt of that notice to submit a

statement of proposed actions for investigating and remediating the property and a schedule for doing do. After the owner's submission of the required information, the commissioner may then require the owner to submit additional materials, or decide that review and written approval is required.

Under the bill, if the commissioner has not acted on the form within 30 days, it is deemed that review and approval are not required, moving the owner to the 90-day deadline.

Property Transfer Program

Under the Property Transfer Program, contaminated property owners must disclose environmental conditions upon transfer of their properties and businesses. When the property is transferred, one of four transfer forms must be completed and filed with the department. Form III is required (1) when a discharge, spill, uncontrolled loss, seepage, or filtration of hazardous waste or a hazardous substance that occurred at the property has not yet been fully remediated or (2) the environmental conditions of the property are unknown.

Form IV is required when a discharge, spill, uncontrolled loss, seepage, or filtration of hazardous waste or a hazardous substance on a property and all actions to remediate any pollution caused by a release were appropriately completed, except post-remediation monitoring, natural attenuation monitoring, or recording an environmental land use restriction.

Under current law, the commissioner must notify a Form III of Form IV certifying party within 30 days of receiving a form whether or not it is complete. The commissioner has 45 days after receipt of a complete form to notify the certifying party in writing if (1) review and approval are required or (2) a licensed environmental professional (LEP) may verify that the investigation has been performed to meet remediation standards. If the commissioner notifies the party that a LEP may verify the remediation, the party has 30 days from receipt of the notice to submit a schedule for investigating and remediating the property, or a

later deadline approved by the commissioner.

Under the bill, if DEP has not acted (1) 30 days after receiving a Form III or Form IV, the form is deemed complete and (2) 45 days after DEP receives a complete Form III or IV, it is deemed that a LEP may verify remediation.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 25 Nay 0 (03/08/2006)