



General Assembly

Substitute Bill No. 1224

January Session, 2007

* SB01224PD 042307 *

AN ACT CONCERNING LICENSED ENVIRONMENTAL PROFESSIONALS.

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

1 Section 1. Subsection (g) of section 22a-133v of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective*
3 *October 1, 2007*):

4 (g) The board may conduct investigations concerning the conduct of
5 any licensed environmental professional. The commissioner may
6 conduct audits of any actions authorized by law to be performed by a
7 licensed environmental professional. The board shall authorize the
8 commissioner to: (1) revoke [or] the license of any environmental
9 professional; (2) suspend the license of any environmental
10 professional; (3) impose any other sanctions that the board deems
11 appropriate; or [to] (4) deny an application for such licensure if the
12 board, after providing such professional with notice and an
13 opportunity to be heard concerning such revocation, suspension, other
14 sanction or denial, finds that such professional has submitted false or
15 misleading information to the board or has engaged in professional
16 misconduct including, without limitation, knowingly or recklessly
17 making a false verification of a remediation under section 22a-134a, as
18 amended by this act, or violating any provision of this section or
19 regulations adopted [hereunder] under the provisions of this section.

20 Sec. 2. Section 22a-133x of the general statutes is repealed and the
21 following is substituted in lieu thereof (*Effective October 1, 2007*):

22 (a) Except as provided in section 22a-133y, a political subdivision of
23 the state, an owner of an establishment, as defined in section 22a-134,
24 an owner of property identified on the inventory of hazardous waste
25 disposal sites maintained pursuant to section 22a-133c on October 1,
26 1995, or an owner of contaminated property located in an area for
27 which the groundwater classification is GA or GAA, may, at any time,
28 submit to the commissioner an environmental condition assessment
29 form for such real property owned by such political subdivision or
30 such owner and an initial review fee in accordance with subsection (e)
31 of this section. [Within] The owner or political subdivision shall use a
32 licensed environmental professional to verify the investigation and
33 remediation, unless not later than thirty days [of his] after the
34 commissioner's receipt of such form, the commissioner [shall notify]
35 notifies the owner or political subdivision, in writing, [as to whether or
36 not] that review and written approval of any remedial action at such
37 establishment or property by the commissioner will be required. The
38 commissioner shall not process any such form submitted pursuant to
39 this section unless such form is accompanied by the required initial
40 review fee.

41 (b) [If the commissioner notifies the owner that he will not formally
42 review and approve in writing the investigation and remediation of
43 the parcel, the] The owner or political subdivision shall, on or before
44 ninety days [of the receipt of such notice] after the submission of an
45 environmental condition assessment form, submit a statement of
46 proposed actions for investigating and remediating the parcel or a
47 release area, as defined in the regulations adopted by the
48 commissioner pursuant to section 22a-133k, and a schedule for
49 implementing such actions. The commissioner may require the owner
50 or political subdivision to submit to [him] the commissioner copies of
51 technical plans and reports related to investigation and remediation of
52 the parcel or release area, [, and may notify the owner if the
53 commissioner determines] Notwithstanding any other provision of

54 this section, the commissioner may determine that the commissioner's
55 review and written approval is necessary at any time, and in such case
56 the commissioner shall notify the owner or political subdivision of the
57 need for the commissioner's review and written approval. The
58 commissioner shall require that the certifying party submit to [him] the
59 commissioner all technical plans and reports related to the
60 investigation and remediation of the parcel or release area if the
61 commissioner receives a written request from any person for such
62 information. The owner or political subdivision shall advise the
63 commissioner of any modifications to the proposed schedule. Upon
64 receipt of a verification by a licensed environmental professional that
65 the parcel or release area has been investigated in accordance with
66 prevailing standards and guidelines and remediated in accordance
67 with the remediation standards, the owner or political subdivision
68 shall submit [a copy of] such verification to the commissioner on a
69 form prescribed by the commissioner.

70 (c) If the commissioner notifies the owner or political subdivision
71 that [he] the commissioner will formally review and approve in
72 writing the investigation and remediation of the parcel, the owner or
73 political subdivision shall, on or before thirty days of the receipt of
74 such notice, or such later date as may be approved in writing by the
75 commissioner, submit for the commissioner's review and written
76 approval, a proposed schedule for: (1) Investigating and remediating
77 the parcel or release area; and (2) submitting to the commissioner
78 technical plans, technical reports and progress reports related to such
79 investigation and remediation. Upon the commissioner's approval of
80 such schedule, the owner or political subdivision shall, in accordance
81 with the approved schedule, submit technical plans, technical reports
82 and progress reports to the commissioner for [his] the commissioner's
83 review and written approval. The owner or political subdivision shall
84 perform all actions identified in the approved technical plans, technical
85 reports and progress reports in accordance with the approved
86 schedule. The commissioner may approve, in writing, any
87 modification proposed in writing by the owner or political subdivision

88 to such schedule or investigation and remediation and may notify the
89 owner, in writing, if [he] the commissioner determines that it is
90 appropriate to discontinue formal review and approval of the
91 investigation or remediation.

92 (d) If, in accordance with the provisions of this section, the
93 commissioner has approved in writing or, as applicable, a licensed
94 environmental professional has verified, that the parcel or release area
95 has been remediated in accordance with the remediation standards,
96 such approval or verification may be used as the basis for submitting a
97 Form II pursuant to sections 22a-134 to 22a-134e, inclusive, as
98 amended by this act, provided there has been no additional discharge,
99 spillage, uncontrolled loss, seepage or filtration of hazardous waste at
100 or on the parcel subsequent to the date of the commissioner's approval
101 or verification by a licensed environmental professional.

102 (e) The fee for submitting an environmental condition assessment
103 form to the commissioner pursuant to this section shall be three
104 thousand dollars and shall be paid at the time the environmental
105 condition assessment form is submitted. Any fee paid pursuant to this
106 section shall be deducted from any fee required by subsection (m) or
107 (n) of section 22a-134e for the transfer of any parcel for which an
108 environmental condition assessment form has been submitted within
109 three years of such transfer.

110 (f) Nothing in this section shall be construed to affect or impair the
111 voluntary site remediation process provided for in section 22a-133y.

112 (g) Prior to commencement of remedial action taken under this
113 section, the [municipality or] owner or political subdivision shall (1)
114 publish notice of the remediation, in accordance with the schedule
115 submitted pursuant to this section, in a newspaper having a
116 substantial circulation in the area affected by the establishment, (2)
117 notify the director of health of the municipality where the parcel is
118 located of the remediation, and (3) either (A) erect and maintain for at
119 least thirty days in a legible condition a sign not less than six feet by

120 four feet on the parcel, which sign shall be clearly visible from the
121 public highway, and shall include the words "ENVIRONMENTAL
122 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER
123 INFORMATION CONTACT:" and include a telephone number for an
124 office from which any interested person may obtain additional
125 information about the remediation, or (B) mail notice of the
126 remediation to each owner of record of property which abuts the
127 parcel, at the address of such property on the last-completed grand list
128 of the municipality where the parcel is located.

129 Sec. 3. Subdivision (19) of section 22a-134 of the general statutes is
130 repealed and the following is substituted in lieu thereof (*Effective*
131 *October 1, 2007*):

132 (19) "Verification" means the rendering of a written opinion by a
133 licensed environmental professional on a form prescribed by the
134 commissioner that an investigation of the parcel has been performed in
135 accordance with prevailing standards and guidelines and that the
136 establishment has been remediated in accordance with the remediation
137 standards.

138 Sec. 4. Section 22a-134a of the general statutes is repealed and the
139 following is substituted in lieu thereof (*Effective October 1, 2007*):

140 (a) No person shall transfer an establishment except in accordance
141 with the provisions of sections 22a-134 to 22a-134e, inclusive, as
142 amended by this act. Notwithstanding any provision of sections 22a-
143 134 to 22a-134e, inclusive, as amended by this act, a person appointed
144 by the Superior Court or any other court to sell, convey or partition
145 real property or a person appointed as a trustee in bankruptcy shall
146 not be deemed a party associated with the transfer of an establishment
147 and shall not be required to comply with the provisions of sections
148 22a-134 to 22a-134e, inclusive, as amended by this act.

149 (b) The commissioner may adopt regulations, in accordance with
150 the provisions of chapter 54, to implement the provisions of this
151 section.

152 (c) Prior to transferring an establishment, the transferor shall submit
153 to the transferee a complete Form I or a Form II and, no later than ten
154 days after the transfer, shall submit a copy of such Form I or Form II to
155 the commissioner. The commissioner shall notify the transferor no
156 later than ninety days after the submission of such Form I or Form II if
157 the commissioner deems the Form I or Form II incomplete. If the
158 transferor is unable to submit a Form I or a Form II to the transferee,
159 the transferor shall, prior to the transfer, submit a complete Form III or
160 Form IV prepared and signed by a party associated with the transfer to
161 the transferee and, no later than ten days after the transfer, shall
162 submit a copy of such Form III or Form IV to the commissioner. If no
163 other party associated with the transfer of an establishment prepares
164 and signs the proper form as a certifying party, the transferor shall
165 have the obligation for such preparation and signing.

166 (d) The certifying party to a Form I, Form II, Form III or Form IV
167 shall (1) upon receipt of a written request from the commissioner,
168 provide to the commissioner copies of all technical plans, reports and
169 other supporting documentation relating to the investigation of the
170 parcel or remediation of the establishment as specified in the
171 commissioner's written request, and (2) simultaneously submit with
172 the submission of a Form I, Form III or Form IV to the commissioner a
173 complete environmental condition assessment form and shall certify to
174 the commissioner, in writing, that the information contained in such
175 form is correct and accurate to the best of the certifying party's
176 knowledge and belief.

177 (e) ~~[No]~~ Not later than thirty days after receipt of a Form III or Form
178 IV, the commissioner shall notify the certifying party whether the form
179 is complete or incomplete. ~~[Within]~~ The certifying party shall use a
180 licensed environmental professional to verify the investigation and
181 remediation, unless not later than forty-five days ~~[of]~~ after receipt of a
182 complete Form III or IV ~~[,]~~ the commissioner ~~[shall notify]~~ notifies the
183 certifying party, ~~in writing,~~ [whether] that review and approval of the
184 remediation by the commissioner ~~[will]~~ shall be required, ~~[, or whether~~
185 a licensed environmental professional may verify that the investigation

186 has been performed in accordance with prevailing standards and
187 guidelines and that the remediation has been performed in accordance
188 with the remediation standards.] Any person who submitted a Form
189 III to the commissioner prior to October 1, 1995, may submit an
190 environmental condition assessment form to the commissioner. The
191 commissioner shall, [within] not later than forty-five days [of] after
192 receipt of such form, notify the certifying party whether approval of
193 the remediation by the commissioner will be required or whether a
194 licensed environmental professional may verify that the investigation
195 was performed in accordance with prevailing standards and
196 guidelines and the remediation has been performed in accordance with
197 the remediation standards.

198 (f) In determining whether review and approval of the remediation
199 by the commissioner will be required, or whether a licensed
200 environmental professional may verify that the remediation has been
201 performed in accordance with the remediation standards, the
202 commissioner shall consider: (1) The potential risk to human health
203 and the environment posed by any discharge, spillage, uncontrolled
204 loss, seepage or filtration of hazardous waste or a hazardous substance
205 at the establishment; (2) the degree of environmental investigation at
206 the parcel; (3) the proximity of the establishment to significant natural
207 resources; (4) the character of the land uses surrounding the
208 establishment; (5) the complexity of the environmental condition of the
209 establishment; and (6) any other factor the commissioner deems
210 relevant.

211 (g) (1) [If the commissioner notifies] Except as provided in
212 subsection (h) of this section, the certifying party to a Form III or Form
213 IV [that a licensed environmental professional may verify the
214 remediation, such certifying party] shall, on or before [thirty] seventy-
215 five days [of] after the receipt of [such] the notice that such form is
216 complete or such later date as may be approved in writing by the
217 commissioner, submit a schedule for the investigation of the parcel
218 and remediation of the establishment. Such schedule shall, unless a
219 later date is specified in writing by the commissioner, provide that the

220 investigation shall be completed within two years of the date of receipt
221 of such notice and that remediation shall be initiated within three years
222 of the date of receipt of such notice. The schedule shall also include a
223 schedule for providing public notice of the remediation prior to the
224 initiation of such remediation in accordance with subsection (i) of this
225 section. [The commissioner] Not later than two years after the date of
226 the receipt of the notice that the Form III or Form IV is complete,
227 unless the commissioner has specified a later day, in writing, the
228 certifying party shall submit to the commissioner documentation in a
229 form prescribed by the commissioner that the investigation has been
230 completed. Not later than three years after the date of the receipt of the
231 notice that the Form III or Form IV is complete, unless the
232 commissioner has specified a later day in writing, the certifying party
233 shall notify the commissioner in a form prescribed by the
234 commissioner that the remediation has been initiated.
235 Notwithstanding any other provision of this section, the commissioner
236 may determine at any time that the commissioner's review and written
237 approval is necessary and in such case shall notify [such] the certifying
238 party [if the commissioner determines] that the commissioner's review
239 and written approval is necessary. Such certifying party shall
240 investigate the parcel and remediate the establishment in accordance
241 with the proposed schedule or the schedule specified by the
242 commissioner. When remediation of the entire establishment is
243 complete, the certifying party shall submit to the commissioner a final
244 verification by a licensed environmental professional. Any such final
245 verification may include and rely upon a verification for a portion of
246 the establishment submitted pursuant to subdivision (2) of this
247 subsection.

248 (2) If a certifying party completes the remediation for a portion of an
249 establishment, such party may submit a verification by a licensed
250 environmental professional for any such portion of an establishment.
251 The certifying party shall be deemed to have satisfied the requirements
252 of this subsection for that portion of the establishment covered by any
253 such verification. If any portion of an establishment for which a

254 verification is submitted pursuant to this subdivision is transferred,
255 conveyed or undergoes a change in ownership before remediation of
256 the entire establishment is complete that would not otherwise be
257 subject to the provisions of sections 22a-134 to 22a-134e, inclusive, as
258 amended by this act, then the certifying party shall provide notice to
259 the commissioner of such transfer, conveyance or change in ownership
260 not later than thirty days of any such transfer, conveyance or change in
261 ownership.

262 (h) (1) If the commissioner notifies the certifying party to a Form III
263 or Form IV that the commissioner's review and written approval of the
264 investigation of the parcel and remediation of the establishment is
265 required, such certifying party shall, on or before thirty days of the
266 receipt of such notice or such later date as may be approved in writing
267 by the commissioner, submit for the commissioner's review and
268 written approval a proposed schedule for: (A) Investigating the parcel
269 and remediating the establishment; (B) submitting to the commissioner
270 scopes of work, technical plans, technical reports and progress reports
271 related to such investigation and remediation; and (C) providing
272 public notice of the remediation prior to the initiation of such
273 remediation in accordance with subsection (i) of this section. Upon the
274 commissioner's approval of such schedule, such certifying party shall,
275 in accordance with the approved schedule, submit scopes of work,
276 technical plans, technical reports and progress reports to the
277 commissioner for the commissioner's review and written approval.
278 Such certifying party shall perform all actions identified in the
279 approved scopes of work, technical plans, technical reports and
280 progress reports in accordance with the approved schedule. The
281 commissioner may approve in writing any modification proposed in
282 writing by such certifying party to such schedule or investigation and
283 remediation. The commissioner may, at any time, notify such
284 certifying party in writing that the commissioner's review and written
285 approval is not required and that a licensed environmental
286 professional may verify that the remediation has been performed in
287 accordance with the remediation standards.

288 (2) A certifying party may complete the remediation of a portion of
289 an establishment and request that the commissioner determine that the
290 requirements of this subsection have been satisfied for any such
291 portion of the establishment. If the commissioner determines that any
292 such remediation is complete, the certifying party shall be deemed to
293 have satisfied the requirements of this subsection for any such portion
294 of an establishment. Any determination by the commissioner that
295 remediation at the entire establishment has been completed may
296 include and rely upon any determination made pursuant to this
297 subdivision that remediation is complete at a portion of an
298 establishment. If any portion of an establishment for which the
299 commissioner determines that remediation is complete pursuant to
300 this subdivision is transferred, conveyed or undergoes a change in
301 ownership before remediation of the entire establishment is complete
302 that would not otherwise be subject to the provisions of sections 22a-
303 134 to 22a-134e, inclusive, as amended by this act, then the certifying
304 party shall provide notice to the commissioner of such transfer,
305 conveyance or change in ownership not later than thirty days of any
306 such transfer, conveyance or change in ownership.

307 (i) The certifying party to a Form III or Form IV shall (1) publish
308 notice of the remediation, in accordance with the schedule submitted
309 pursuant to this section, in a newspaper having a substantial
310 circulation in the area affected by the establishment, (2) notify the
311 director of health of the municipality where the establishment is
312 located of the remediation, and (3) either (A) erect and maintain for at
313 least thirty days in a legible condition a sign not less than six feet by
314 four feet on the establishment, which sign shall be clearly visible from
315 the public highway, and shall include the words "ENVIRONMENTAL
316 CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER
317 INFORMATION CONTACT:" and include a telephone number for an
318 office from which any interested person may obtain additional
319 information about the remediation, or (B) mail notice of the
320 remediation to each owner of record of property which abuts the
321 parcel, at the address for such property on the last-completed grand

322 list of the municipality where the establishment is located.

323 (j) The commissioner may issue an order to any person who fails to
324 comply with any provision of sections 22a-134 to 22a-134e, inclusive,
325 as amended by this act, including, but not limited to, any person who
326 fails to file a form, or files an incomplete or incorrect form or to any
327 person who fails to carry out any activities to which that person agreed
328 in a Form III or Form IV. If no form is filed or if an incomplete or
329 incorrect form is filed for a transfer of an establishment, the
330 commissioner may issue an order to the transferor, the transferee, or
331 both, requiring a filing. The commissioner may also request that the
332 Attorney General bring an action in the superior court for the judicial
333 district of Hartford to enjoin any person who fails to comply with any
334 provision of sections 22a-134 to 22a-134e, inclusive, as amended by this
335 act, including, but not limited to, any person who fails to file a form,
336 improperly files a Form I, Form II, Form III or Form IV or the certifying
337 party to a Form III or Form IV to take any actions necessary to prevent
338 or abate any pollution at, or emanating from, the subject establishment.
339 Any person to whom such an order is issued may appeal such order in
340 accordance with the procedures set forth in sections 22a-436 and 22a-
341 437.

342 (k) Notwithstanding the exemptions provided in [subsection (a) of
343 section 22a-134] section 22a-134a, as amended by this act, nothing
344 contained in sections 22a-134 to 22a-134e, inclusive, as amended by
345 this act, shall be construed as creating an innocent landowner defense
346 for purposes of section 22a-452d.

347 (l) Notwithstanding any other provisions of this section, no person
348 shall be required to comply with the provisions of sections 22a-134 to
349 22a-134e, inclusive, as amended by this act, when transferring real
350 property (1) (A) for which a Form I or Form II has been filed for the
351 transfer of the parcel on or after October 1, 1995, or (B) for which parcel
352 a Form III or Form IV has been filed and which has been remediated
353 and such remediation has been approved in writing by the
354 commissioner or has been verified in writing in accordance with this

355 section by a licensed environmental professional that an investigation
356 has been performed in accordance with prevailing standards and
357 guidelines and that the remediation has been performed in accordance
358 with the remediation standards, and (2) at which no activities
359 described in subdivision (3) of section 22a-134 have been conducted
360 since the date of such approval or verification or the date on which the
361 Form I or Form II was filed.

362 (m) Failure of the commissioner to notify any party in accordance
363 with the provisions of this section in no way limits the ability of the
364 commissioner to enforce the provisions of sections 22a-134 to 22a-134e,
365 inclusive, as amended by this act.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	22a-133v(g)
Sec. 2	<i>October 1, 2007</i>	22a-133x
Sec. 3	<i>October 1, 2007</i>	22a-134(19)
Sec. 4	<i>October 1, 2007</i>	22a-134a

ENV *Joint Favorable Subst.*

PD *Joint Favorable*