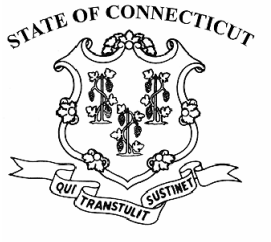

Substitute House Bill No. 6097

Public Act No. 09-235

AN ACT CONCERNING BROWNFIELDS DEVELOPMENT PROJECTS.

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

Section 1. Section 25-68d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) No state agency shall undertake an activity or a critical activity within or affecting the floodplain without first obtaining an approval or approval with conditions from the commissioner of a certification submitted in accordance with subsection (b) of this section or exemption by the commissioner from such approval or approval with conditions in accordance with subsection (d) of this section.

(b) Any state agency proposing an activity or critical activity within or affecting the floodplain shall submit to the commissioner information certifying that:

(1) The proposal will not obstruct flood flows or result in an adverse increase in flood elevations, significantly affect the storage or flood control value of the floodplains, cause an adverse increase in flood velocities, or an adverse flooding impact upon upstream, downstream or abutting properties, or pose a hazard to human life, health or property in the event of a base flood or base flood for a critical activity;

(2) The proposal complies with the provisions of the National Flood Insurance Program (44 CFR 59 et seq.), and any floodplain zoning requirements adopted by a municipality in the area of the proposal and the requirements for stream channel encroachment lines adopted pursuant to the provisions of section 22a-342;

(3) The agency has acquired, through public or private purchase or conveyance, easements and property in floodplains when the base flood or base flood for a critical activity is elevated above the increment authorized by the National Flood Insurance Program or the flood storage loss would cause adverse increases in such base flood flows;

(4) The proposal promotes long-term nonintensive floodplain uses and has utilities located to discourage floodplain development;

(5) The agency has considered and will use to the extent feasible flood-proofing techniques to protect new and existing structures and utility lines, will construct dikes, dams, channel alterations, seawalls, breakwaters or other structures only where there are no practical alternatives and will implement stormwater management practices in accordance with regulations adopted pursuant to section 25-68h; and

(6) The agency has flood forecasting and warning capabilities consistent with the system maintained by the National Weather Service and has a flood preparedness plan.

(c) The commissioner shall make a decision either approving, approving with conditions or rejecting a certification not later than ninety days after receipt of such certification, except that in the case of an exemption any decision shall be made ninety days after the close of the hearing. If a certification is rejected, the agency shall be entitled to a hearing in accordance with the provisions of sections 4-176e, 4-177, 4-177c and 4-180.

(d) Any state agency proposing an activity or critical activity within or affecting the floodplain may apply to the commissioner for exemption from the provisions of subsection (b) of this section. Such application shall include a statement of the reasons why such agency is unable to comply with said subsection and any other information the commissioner deems necessary. The commissioner, at least thirty days before approving, approving with conditions or denying any such application, shall publish once in a newspaper having a substantial circulation in the affected area notice of: (1) The name of the applicant; (2) the location and nature of the requested exemption; (3) the tentative decision on the application; and (4) additional information the commissioner deems necessary to support the decision to approve, approve with conditions or deny the application. There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the commissioner shall make a final determination to either approve the application, approve the application with conditions or deny the application. The commissioner may hold a public hearing prior to approving, approving with conditions or denying any application if in the discretion of the commissioner the public interest will be best served thereby, and the commissioner shall hold a public hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected. The commissioner may approve or approve with conditions such exemption if the commissioner determines that (A) the agency has shown that the activity or critical activity is in the public interest, will not injure persons or damage property in the area of such activity or critical activity, complies with the provisions of the National Flood Insurance Program, and, in the case of a loan or grant, the recipient of the loan or grant has been informed that increased flood insurance premiums may result from the activity or critical activity. An activity shall be

considered to be in the public interest if it is a development subject to environmental remediation regulations adopted pursuant to section 22a-133k and is in or adjacent to an area identified as a regional center, neighborhood conservation area, growth area or rural community center in the State Plan of Conservation and Development pursuant to chapter 297, or (B) in the case of a flood control project, such project meets the criteria of subparagraph (A) of this subdivision and is more cost-effective to the state and municipalities than a project constructed to or above the base flood or base flood for a critical activity. Following approval for exemption for a flood control project, the commissioner shall provide notice of the hazards of a flood greater than the capacity of the project design to each member of the legislature whose district will be affected by the project and to the following agencies and officials in the area to be protected by the project: The planning and zoning commission, the inland wetlands agency, the director of civil defense, the conservation commission, the fire department, the police department, the chief elected official and each member of the legislative body, and the regional planning agency. Notice shall be given to the general public by publication in a newspaper of general circulation in each municipality in the area in which the project is to be located.

(e) The use of a mill that is located on a brownfield, as defined in section 32-9kk, shall be exempt from the certification requirements of subdivision (4) of subsection (b) of this section, provided the agency demonstrates: (1) The activity is subject to the environmental remediation requirements of the regulations adopted pursuant to section 22a-133k, (2) the activity is limited to the areas of the property where historical mill uses occurred, (3) any critical activity is above the five hundred year flood elevation, and (4) the activity complies with the provisions of the National Flood Insurance Program.

[(e)**]** (f) The failure of any agency to comply with the provisions of

this section or any regulations adopted pursuant to section 25-68c shall be grounds for revocation of the approval of the certification.

[(f)**]** (g) The provisions of this section shall not apply to any proposal by the Department of Transportation for a project within a drainage basin of less than one square mile.

Sec. 2. Subdivision (1) of section 22a-134 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

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

(A) Conveyance or extinguishment of an easement;

(B) Conveyance of an establishment through a foreclosure, as defined in subsection (b) of section 22a-452f, **[**or**]** foreclosure of a municipal tax lien or through a tax warrant sale pursuant to section 12-157, **[**or, provided the establishment is within the pilot program established in subsection (c) of section 32-9cc,**]** an exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield as defined in section 32-9kk or a subsequent transfer by such municipality that has foreclosed on the property, foreclosed municipal tax liens or that has acquired title to the property through section 12-157, or is within the pilot program established in subsection (c) of section 32-9cc, or has acquired such property through the exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or a resolution adopted in accordance with this subparagraph, provided (i) the party acquiring

the property from the municipality did not establish, create or contribute to the contamination at the establishment and is not affiliated with any person who established, created or contributed to such contamination or with any person who is or was an owner or certifying party for the establishment, and (ii) on or before the date the party acquires the property from the municipality, such party or municipality enters and subsequently remains in the voluntary remediation program administered by the commissioner pursuant to section 22a-133x, as amended by this act, and remains in compliance with schedules and approvals issued by the commissioner. For purposes of this subparagraph, subsequent transfer by a municipality includes any transfer to, from or between a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132;

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

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

(E) Termination of a lease and conveyance, assignment or execution of a lease for a period less than ninety-nine years including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold, ninety-nine years, including conveyance, assignment or execution of a lease with options

or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold;

(F) Any change in ownership approved by the Probate Court;

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

(H) Corporate reorganization not substantially affecting the ownership of the establishment;

(I) The issuance of stock or other securities of an entity which owns or operates an establishment;

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

(K) Any conveyance of an interest in an establishment where the transferor is the sibling, spouse, child, parent, grandparent, child of a sibling or sibling of a parent of the transferee;

(L) Conveyance of an interest in an establishment to a trustee of an inter vivos trust created by the transferor solely for the benefit of one or more siblings, spouses, children, parents, grandchildren, children of a sibling or siblings of a parent of the transferor;

(M) Any conveyance of a portion of a parcel upon which portion no establishment is or has been located and upon which there has not occurred a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste, provided either the area of such portion is not greater than fifty per cent of the area of such parcel or written notice of such proposed conveyance and an environmental condition assessment form for such parcel is provided to the commissioner sixty

days prior to such conveyance;

(N) Conveyance of a service station, as defined in subdivision (5) of this section;

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

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

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

(R) The conversion of a general or limited partnership to a limited liability company under section 34-199;

(S) The transfer of general partnership property held in the names of all of its general partners to a general partnership which includes as general partners immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(T) The transfer of general partnership property held in the names of all of its general partners to a limited liability company which includes as members immediately after the transfer all of the same persons as were general partners immediately prior to the transfer;

(U) Acquisition of an establishment by any governmental or quasi-governmental condemning authority;

(V) Conveyance of any real property or business operation that

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

(W) Conveyance of a unit in a residential common interest community in accordance with section 22a-134i.

Sec. 3. Section 32-9dd of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

Upon remediation as approved by the Department of Environmental Protection of the brownfield property by the municipality, **[**or**]** economic development agency **[**, the economic development agency or the municipality**]** or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, such entity may transfer the property to any person provided such a person is not otherwise liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act. The person who acquires title **[**from the municipality or

economic development agency**]** pursuant to this section shall not be liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act, provided that such person does not cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material or waste and such person is not a member, officer, manager, director, shareholder, subsidiary, successor of, related to, or affiliated with, directly or indirectly, the person who is otherwise liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act. In addition, the Commissioner of Environmental Protection shall also provide such person with a covenant not to sue pursuant to section 22a-133 and shall not require the prospective purchaser or owner to pay a fee. The municipality, **[**or**]** economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 shall distribute the proceeds from any sale as follows: (1) Twenty per cent shall be retained by the municipality, **[**or**]** economic development agency, nonprofit economic development corporation or nonstock corporation or limited liability company and used for capital improvements for economic development, and (2) eighty per cent shall be transferred to the Office of Brownfield Remediation and Development and deposited in the account established pursuant to section 32-9ff.

Sec. 4. Subsection (a) of section 32-9ee of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2009*):

(a) **[**The**]** Any municipality, **[**or**]** economic development agency or

entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 that receives grants through the Office of Brownfield Remediation and **[**Development's**]** Development or the Department of Economic and Community Development, including those municipalities designated by the Commissioner of Economic and Community Development as part of the pilot program established in subsection (c) of section 32-9cc for the investigation and remediation of a brownfield property shall be considered an innocent party and shall not be liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act, for conditions pre-existing or existing on the brownfield property as of the date of acquisition or control as long as the municipality, **[**or**]** economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution that is subject to remediation under **[**this pilot program**]** section 22a-133k and funded by the Office of Brownfield Remediation and Development or the Department of Economic and Community Development; does not exacerbate the conditions; and complies with reporting of significant environmental hazard requirements in section 22a-6u. To the extent that any conditions are exacerbated, the

municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 shall only be responsible for responding to contamination exacerbated by its negligent or reckless activities.

Sec. 5. Section 22a-134b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Failure of the transferor to comply with any of the provisions of sections 22a-134 to 22a-134e, inclusive, as amended by this act, entitles the transferee to recover damages from the transferor, and renders the transferor of the establishment strictly liable, without regard to fault, for all remediation costs and for all direct and indirect damages.

(b) An action to recover damages pursuant to subsection (a) of this section shall be commenced not later than six years after the later of (1) the due date for the filing of the appropriate transfer form pursuant to section 22a-134a, as amended by this act, or (2) the actual filing date of the appropriate transfer form.

(c) This section shall apply to any action brought for the reimbursement or recovery of costs associated with investigation and remediation, as defined in subsection (n) of section 22a-452, as amended by this act, and all direct and indirect damages, except any action that becomes final and is no longer subject to appeal on or before October 1, 2009.

Sec. 6. Section 22a-133dd of the general statutes is repealed and the

following is substituted in lieu thereof (*Effective from passage*):

(a) Any municipality or any licensed environmental professional employed or retained by a municipality may enter, without liability **[**to any person other than the Commissioner of Environmental Protection,**]** upon any property within such municipality for the purpose of performing an environmental site assessment or investigation on behalf of the municipality if: (1) The owner of such property cannot be located; (2) such property is encumbered by a lien for taxes due such municipality; (3) upon a filing of a notice of eminent domain; (4) the municipality's legislative body finds that such investigation is in the public interest to determine if the property is underutilized or should be included in any undertaking of development, redevelopment or remediation pursuant to this chapter or chapter 130, 132 or 581; or (5) any official of the municipality reasonably finds such investigation necessary to determine if such property presents a risk to the safety, health or welfare of the public or a risk to the environment. The municipality shall give at least forty-five days' notice of such entry before the first such entry by certified mail to the property owner's last known address of record.

(b) A municipality accessing or entering a property to perform an investigation pursuant to this section shall not **[**incur any liability pursuant to section 22a-432 for any preexisting contamination or pollution on such property, provided, however, a municipality may be liable for any pollution or contamination resulting from a negligent or reckless investigation**]** be liable for preexisting conditions pursuant to section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act, or to the property owner or any third party, provided the municipality (1) did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution; (2) does not negligently or recklessly exacerbate the conditions; and (3) complies with reporting of

significant environmental hazard requirements pursuant to section 22a-6u. To the extent that any conditions are negligently or recklessly exacerbated, the municipality shall only be responsible for responding to contamination exacerbated by its activities.

(c) The owner of the property may object to such access and entry by the municipality by filing an action in the Superior Court not later than thirty days after receipt of the notice provided pursuant to subsection (a) of this section, provided any objection be limited to the **[**owner affirmatively representing that it is diligently investigating the site in a timely manner and that any municipal taxes owed will be paid in full**]** issue of whether access is necessary and only upon proof by the owner that the owner has (1) completed or is in the process of completing in a timely manner a comprehensive environmental site assessment or investigation report; (2) provided the party seeking access with a copy of the assessment or report or will do so not later than thirty days after the delivery of such assessment or report to the owner; and (3) paid any delinquent property taxes assessed against the property for which access is being sought.

(d) For purposes of this section, "municipality" includes any municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or nonstock corporation or limited liability company established and controlled by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132.

Sec. 7. (NEW) (*Effective October 1, 2009*) (a) There is established an abandoned brownfield cleanup program. The Commissioner of Economic and Community Development shall determine, in

consultation with the Commissioner of Environmental Protection, properties and persons eligible for said program. For a person and a property to be eligible, the Commissioner of Economic and Community Development shall determine if (1) the property is a brownfield, as defined in section 32-9kk of the general statutes and such property has been unused or significantly underused since October 1, 1999; (2) such person intends to acquire title to such property for the purpose of redeveloping such property; (3) the redevelopment of such property has a regional or municipal economic development benefit; (4) such person did not establish or create a facility or condition at or on such property that can reasonably be expected to create a source of pollution to the waters of the state for the purposes of section 22a-432 of the general statutes and is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than a relationship by which such owner's interest in such property is to be conveyed or financed; (5) such person is not otherwise required by law, an order or consent order issued by the Commissioner of Environmental Protection or a stipulated judgment to remediate pollution on or emanating from such property; (6) the person responsible for pollution on or emanating from the property is indeterminable, is no longer in existence or is otherwise unable to perform necessary remediation of such property; and (7) the property and the person meet any other criteria said commissioner deems necessary.

(b) Upon designation by the Commissioner of Economic and Community Development of an eligible person who holds title to such property, such eligible person shall (1) enter and remain in the voluntary remediation program established in section 22a-133x of the general statutes, as amended by this act, provided such person will not be a certifying party for the property pursuant to section 22a-134 of the general statutes, as amended by this act, when acquiring such

property; (2) investigate pollution on such property in accordance with prevailing standards and guidelines and remediate pollution on such property in accordance with regulations established for remediation adopted by the Commissioner of Environmental Protection and in accordance with applicable schedules; and (3) eliminate further emanation or migration of any pollution from such property. An eligible person who holds title to an eligible property designated to be in the abandoned brownfields cleanup program shall not be responsible for investigating or remediating any pollution or source of pollution that has emanated from such property prior to such person taking title to such property.

(c) Any applicant seeking a designation of eligibility for a person or a property under the abandoned brownfields cleanup program shall apply to the Commissioner of Economic and Community Development at such times and on such forms as the commissioner may prescribe.

(d) Not later than sixty days after receipt of the application, the Commissioner of Economic and Community Development shall determine if the application is complete and shall notify the applicant of such determination.

(e) Not later than ninety days after determining that the application is complete, the Commissioner of Economic and Community Development shall determine whether to include the property and applicant in the abandoned brownfields cleanup program.

(f) Designation of a property in the abandoned brownfields cleanup program by the Commissioner of Economic and Community Development shall not limit the applicant's or any other person's ability to seek funding for such property under any other brownfield grant or loan program administered by the Department of Economic and Community Development, the Connecticut Development

Authority or the Department of Environmental Protection.

Sec. 8. Section 22a-134 of the general statutes is amended by adding subdivision (28) as follows (*Effective October 1, 2009*):

(NEW) (28) "Interim verification" means a written opinion by a licensed environmental professional, on a form prescribed by the commissioner, that (A) the investigation has been performed in accordance with prevailing standards and guidelines, (B) the remediation has been completed in accordance with the remediation standards, except that, for remediation standards for groundwater, the selected remedy is in operation but has not achieved the remediation standards for groundwater, (C) identifies the long-term remedy being implemented to achieve groundwater standards, the estimated duration of such remedy, and the ongoing operation and maintenance requirements for continued operation of such remedy, and (D) there are no current exposure pathways to the groundwater area that have not yet met the remediation standards.

Sec. 9. Subdivision (1) of subsection (g) of section 22a-134a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(g) (1) (A) Except as provided in subsection (h) of this section, the certifying party to a Form III **[**or Form IV**]** shall, not later than seventy-five days after the receipt of the notice that such form is complete or such later date as may be approved in writing by the commissioner, submit a schedule for the investigation of the parcel and remediation of the establishment. Such schedule shall, unless a later date is specified in writing by the commissioner, provide that the investigation shall be completed within two years of the date of receipt of such notice, **[**and that**]** remediation shall be initiated not later than three years after the date of receipt of such notice and remediation shall be completed sufficient to support either a verification or interim

verification within a time frame set forth in subparagraphs (B) and (C) of this subdivision. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Not later than two years after the date of the receipt of the notice that the Form III **[**or Form IV**]** is complete, unless the commissioner has specified a later day, in writing, the certifying party shall submit to the commissioner documentation, approved in writing by a licensed environmental professional and in a form prescribed by the commissioner, that the investigation has been completed in accordance with prevailing standards and guidelines. Not later than three years after the date of the receipt of the notice that the Form III **[**or Form IV**]** is complete, unless the commissioner has specified a later day in writing, the certifying party shall notify the commissioner in a form prescribed by the commissioner that the remediation has been initiated, and shall submit to the commissioner a remedial action plan approved in writing by a licensed environmental professional in a form prescribed by the commissioner. Notwithstanding any other provision of this section, the commissioner may determine at any time that the commissioner's review and written approval is necessary and in such case shall notify the certifying party that the commissioner's review and written approval is necessary. Such certifying party shall investigate the parcel and remediate the establishment in accordance with the **[**proposed**]** schedule or the schedule specified by the commissioner. **[**When**]**

(B) For a certifying party that submitted a Form III or Form IV before October 1, 2009, when remediation of the entire establishment is complete, the certifying party shall achieve the remediation standards for the establishment sufficient to support a final verification and shall submit to the commissioner a final verification by a licensed environmental professional.

(C) For a certifying party that submits a Form III or Form IV after October 1, 2009, not later than eight years after the date of receipt of the notice that the Form III or Form IV is complete, unless the commissioner has specified a later date in writing, the certifying party shall achieve the remediation standards for the establishment sufficient to support a final or interim verification and shall submit to the commissioner such final or interim verification by a licensed environmental professional. Any such final verification may include and rely upon a verification for a portion of the establishment submitted pursuant to subdivision (2) of this subsection. Verifications shall be submitted on a form prescribed by the commissioner. The certifying party may request a verification or interim verification filing extension. The commissioner shall grant a reasonable extension if the certifying party demonstrates to the commissioner's satisfaction that: (i) Such certifying party has made reasonable progress toward investigation and remediation of the establishment; and (ii) despite best efforts, circumstances beyond the control of the certifying party have significantly delayed the remediation of the establishment.

(D) A certifying party who submits an interim verification shall, until the remediation standards for groundwater are achieved, operate and maintain the long-term remedy for groundwater in accordance with the remedial action plan, the interim verification and any approvals by the commissioner, prevent exposure to the groundwater plume and submit annual status reports to the commissioner.

(E) The certifying party to a Form IV shall submit with the Form IV a schedule for the groundwater monitoring and recording of an environmental land use restriction, as applicable.

Sec. 10. Section 22a-133x of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2009*):

(a) For the purposes of this section, "applicant" means the person

who submits the environmental condition assessment form to the commissioner pursuant to this section. Except as provided in section 22a-133y, **[**a political subdivision of the state, an owner of an establishment, as defined in section 22a-134, an owner of property identified on the inventory of hazardous waste disposal sites maintained pursuant to section 22a-133c on October 1, 1995, or an owner of contaminated property located in an area for which the groundwater classification is GA or GAA,**]** any person may, at any time, submit to the commissioner an environmental condition assessment form for **[**such**]** real property **[**owned by such political subdivision or such owner**]** and an initial review fee in accordance with subsection (e) of this section. **[**The owner or political subdivision**]** Such applicant shall use a licensed environmental professional to verify the investigation and remediation, unless not later than thirty days after the commissioner's receipt of such form, the commissioner notifies **[**the owner or political subdivision**]** such applicant, in writing, that review and written approval of any remedial action at such **[**establishment or**]** property by the commissioner will be required. The commissioner shall not process any such form submitted pursuant to this section unless such form is accompanied by the required initial review fee.

(b) The **[**owner or political subdivision**]** applicant shall, on or before ninety days after the submission of an environmental condition assessment form, submit a statement of proposed actions for investigating and remediating the parcel or a release area, as defined in the regulations adopted by the commissioner pursuant to section 22a-133k, and a schedule for implementing such actions. The commissioner may require the **[**owner or political subdivision**]** applicant to submit to the commissioner copies of technical plans and reports related to investigation and remediation of the parcel or release area. Notwithstanding any other provision of this section, the commissioner may determine that the commissioner's review and written approval

of such technical plans and reports is necessary at any time, and in such case the commissioner shall notify the **[**owner or political subdivision**]** applicant of the need for the commissioner's review and written approval. The commissioner shall require that the certifying party submit to the commissioner all technical plans and reports related to the investigation and remediation of the parcel or release area if the commissioner receives a written request from any person for such information. The **[**owner or political subdivision**]** applicant shall advise the commissioner of any modifications to the proposed schedule. Upon receipt of a verification by a licensed environmental professional that the parcel or release area has been investigated in accordance with prevailing standards and guidelines and remediated in accordance with the remediation standards, the **[**owner or political subdivision**]** applicant shall submit such verification to the commissioner on a form prescribed by the commissioner.

(c) If the commissioner notifies the **[**owner or political subdivision**]** applicant that the commissioner will formally review and approve in writing the investigation and remediation of the parcel, the **[**owner or political subdivision**]** applicant shall, on or before thirty days of the receipt of such notice, or such later date as may be approved in writing by the commissioner, submit for the commissioner's review and written approval, a proposed schedule for: (1) Investigating and remediating the parcel or release area; and (2) submitting to the commissioner technical plans, technical reports and progress reports related to such investigation and remediation. Upon the commissioner's approval of such schedule, the **[**owner or political subdivision**]** applicant shall, in accordance with the approved schedule, submit technical plans, technical reports and progress reports to the commissioner for the commissioner's review and written approval. The **[**owner or political subdivision**]** applicant shall perform all actions identified in the approved technical plans, technical reports and progress reports in accordance with the approved schedule. The

commissioner may approve, in writing, any modification proposed in writing by the **[**owner or political subdivision**]** applicant to such schedule or investigation and remediation and may notify the **[**owner**]** applicant, in writing, if the commissioner determines that it is appropriate to discontinue formal review and approval of the investigation or remediation.

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

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

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

(g) Prior to commencement of remedial action taken under this section, the **[**owner or political subdivision**]** applicant shall (1) publish notice of the remediation, in accordance with the schedule submitted pursuant to this section, in a newspaper having a substantial

circulation in the area affected by the establishment, (2) notify the director of health of the municipality where the parcel is located of the remediation, and (3) either (A) erect and maintain for at least thirty days in a legible condition a sign not less than six feet by four feet on the parcel, which sign shall be clearly visible from the public highway, and shall include the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER INFORMATION CONTACT:" and include a telephone number for an office from which any interested person may obtain additional information about the remediation, or (B) mail notice of the remediation to each owner of record of property which abuts the parcel, at the last-known address of such owner on the last-completed grand list of the municipality where the parcel is located.

Sec. 11. (NEW) (*Effective October 1, 2009*) Notwithstanding any other provisions of the general statutes, whenever a state agency or quasi-public agency, as defined in section 1-120 of the general statutes, solicits bids, makes a request for proposals or negotiates a contract for the environmental remediation of a brownfield property, such bid, proposal or contract shall include a provision whereby the employment and utilization of green remediation technologies shall be accorded due consideration.

Approved July 9, 2009