



# House of Representatives

General Assembly

**File No. 487**

January Session, 2009

House Bill No. 6412

*House of Representatives, April 6, 2009*

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

***AN ACT CONCERNING THE REGULATORY AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.***

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

1 Section 1. Section 15-174 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 The Commissioner of Environmental Protection [shall] may adopt  
4 regulations, in accordance with the provisions of chapter 54 to carry  
5 out the provisions of sections 15-170 to 15-173, inclusive. Such  
6 regulations may include: (1) Standards and criteria for the design and  
7 operation of pump-out facilities including, but not limited to, the  
8 specification of reasonable capacities, number of stations, methods of  
9 disposal and standards and criteria for marina sanitation facilities and  
10 (2) provisions for contracts for the use of reasonably proximate pump-  
11 out facilities.

12 Sec. 2. Section 22a-6p of the general statutes is repealed and the  
13 following is substituted in lieu thereof (*Effective October 1, 2009*):

14 The Commissioner of Environmental Protection [shall] may adopt  
15 regulations, [on or before October 1, 1996,] in accordance with the  
16 provisions of chapter 54, establishing schedules for timely action for  
17 each application for a permit for activity regulated under this title.  
18 Such schedules may be based on the lengths of time that the  
19 commissioner deems appropriate for different categories of permit  
20 applications and permits and may address situations when more than  
21 one permit is required for the regulated activity. Each such schedule  
22 [shall] may contain the following:

23 (1) A provision that the schedule shall begin when an application is  
24 received by the Department of Environmental Protection, any public  
25 notice requirements have been fulfilled and the application fee is paid;

26 (2) One or more periods of reasonable length, based on the nature  
27 and complexity of the review required of the department, at the end of  
28 which time the department shall issue a decision to grant or deny the  
29 permit or identify deficiencies in the application, provided the  
30 schedule may also reasonably limit the amount of time in which the  
31 applicant may remedy such deficiencies;

32 (3) A period of reasonable length, based on the nature and  
33 complexity of the review required of the commissioner, beginning  
34 with receipt of materials submitted by the applicant in response to the  
35 commissioner's identification of deficiencies, at the end of which time  
36 the commissioner shall issue a tentative determination to grant or deny  
37 the permit;

38 (4) A period of reasonable length after such tentative determination  
39 and the conclusion of any public hearing held with regard to such  
40 decision;

41 (5) Allowance for applicable state or federal public participation  
42 requirements; and

43 (6) A provision extending the time periods set forth in subdivisions  
44 (2) and (3) of this subsection when action by another state agency or a

45 federal or municipal agency is required before the commissioner may  
46 act, when (A) judicial proceedings affect the ability of the  
47 commissioner or the applicant to proceed with the application, (B) the  
48 commissioner has commenced enforcement proceedings which could  
49 result in revocation of an existing permit for the facility or regulated  
50 activity that is the subject of the application and denial of the  
51 application, or (C) the applicant provides written assent extending any  
52 applicable time period.

53 Sec. 3. Subsection (c) of section 22a-66k of the general statutes is  
54 repealed and the following is substituted in lieu thereof (*Effective*  
55 *October 1, 2009*):

56 (c) The commissioner [shall] may adopt regulations in accordance  
57 with the provisions of chapter 54 setting forth the contents of a  
58 pesticide management plan. Such regulations [shall] may include  
59 provisions for the on-site posting of a notice of a pesticide application.  
60 A notice required by any such regulations may be posted at the time of  
61 or after the application, provided the time of such posting shall be  
62 sufficient to protect persons engaged in a lawful public recreational  
63 use of any unimproved real property in which such application is  
64 made.

65 Sec. 4. Section 22a-97 of the general statutes is repealed and the  
66 following is substituted in lieu thereof (*Effective October 1, 2009*):

67 (a) The commissioner shall provide, within available  
68 appropriations, technical, coordinating and research services to  
69 promote the effective administration of this chapter at the federal, state  
70 and local levels.

71 (b) The commissioner shall have the overall responsibility for  
72 general supervision of the implementation of this chapter and shall  
73 monitor and evaluate the activities of federal and state agencies and  
74 the activities of municipalities to assure continuing, effective,  
75 coordinated and consistent administration of the requirements and  
76 purposes of this chapter.

77 [(c) The commissioner shall prepare and submit to the General  
78 Assembly and the Governor, on or before December first of each year,  
79 a written report summarizing the activities of the department  
80 concerning the development and implementation of this chapter  
81 during the previous year. Such report shall include, but not be limited  
82 to: (1) The department's accomplishments and actions in achieving the  
83 goals and policies of this chapter including, but not limited to,  
84 coordination with other state, regional, federal and municipal  
85 programs established to achieve the purposes of this chapter and  
86 research programs established pursuant to subsection (a) of section  
87 22a-112; (2) recommendations for any statutory or regulatory  
88 amendments necessary to achieve such purposes; (3) a summary of  
89 municipal and federal programs and actions which affect the coast; (4)  
90 recommendations for any programs or plans to achieve such purposes;  
91 (5) any aspects of the program or the chapter which are proving  
92 difficult to accomplish, suggested reasons for such difficulties and  
93 proposed solutions to such difficulties; (6) a summary of the  
94 expenditure of federal and state funds under this chapter; and (7) a  
95 request for an appropriation of funds necessary to match federal funds  
96 and provide continuing financial support for the program. Such report  
97 shall comply with the provisions of section 46a-78. On and after  
98 October 1, 1996, the report shall be submitted to the joint standing  
99 committee of the General Assembly having cognizance of matters  
100 relating to the environment and, upon request, to any member of the  
101 General Assembly. A summary of the report shall be submitted to each  
102 member of the General Assembly if the summary is two pages or less  
103 and a notification of the report shall be submitted to each member if  
104 the summary is more than two pages. Submission shall be by mailing  
105 the report, summary or notification to the legislative address of each  
106 member of the committee or the General Assembly, as applicable.]

107 Sec. 5. Section 22a-135 of the general statutes is repealed and the  
108 following is substituted in lieu thereof (*Effective October 1, 2009*):

109 (a) The Department of Environmental Protection shall: (1) Review  
110 the plans for and operation of safety programs at nuclear plants; (2)

111 make recommendations to the Nuclear Regulatory Commission  
112 concerning third-party inspection of components and construction of  
113 nuclear plants for the purpose of improving quality assurance plans  
114 and programs; (3) require the immediate reporting to the  
115 Commissioner of Environmental Protection or his designee, which  
116 may be another state agency, by licensees of the United States Nuclear  
117 Regulatory Commission which operate nuclear power generating  
118 facilities in this state as soon as the licensee has knowledge or, in the  
119 exercise of reasonable care should have had knowledge of (A) any  
120 release of radiation which is unplanned, unmonitored or which  
121 exceeds design standards and specifications established by the Nuclear  
122 Regulatory Commission, and (B) any occurrence, incident or other  
123 abnormal circumstance, unless it is immediately evident that such  
124 occurrence, incident or circumstance is not required to be reported  
125 within twenty-four hours or sooner to the Nuclear Regulatory  
126 Commission; (4) monitor radiation originating from nuclear plants and  
127 perform tests to detect any buildup of radioactivity in the soil, water,  
128 plants or animals of the state; (5) review the training and education of  
129 workers at nuclear plants to insure awareness of the possible risks of  
130 cancer and future genetic effects; (6) represent the interests of the state  
131 in federal and state regulatory hearings and other administrative  
132 actions concerning nuclear plants which affect the state; (7) intervene  
133 in federal proceedings and petition federal agencies for revision of  
134 existing regulations where appropriate; (8) conduct periodic on-site  
135 evaluations of the effectiveness and enforcement of federal regulations  
136 for the packaging and transportation of radioactive material; (9) study  
137 plans for, and hazards inherent in the decommissioning of Connecticut  
138 nuclear plants including the possible future use of land now in use by  
139 a nuclear power facility; (10) study the storage problems posed by high  
140 level wastes; (11) study and, in cooperation with the state police,  
141 monitor the security of nuclear plants to assure that the dangers from  
142 sabotage and terrorism are minimized; (12) monitor sources of ionizing  
143 radiation [, microwave radiation] and radioactive materials within the  
144 state; (13) review the state emergency plan for radiation safety; and  
145 (14) investigate out-of-state potential radiological hazards which may

146 have a significant adverse effect upon the health or safety of the people  
147 of the state. The commissioner shall charge each of the four nuclear-  
148 powered commercial electric power generating plants an annual fee of  
149 sixty thousand dollars for monitoring radiation released from such  
150 plants. Nuclear fuels radiation facilities shall pay an annual fee of  
151 fifteen thousand dollars for monitoring such plants.

152 (b) In addition to the reporting required of a licensee pursuant to the  
153 provisions of subdivision (3) of subsection (a) of this section, the  
154 department may require the reporting immediately or within such  
155 time period as the department may designate of any additional  
156 occurrence, incident or other abnormal circumstance which is not  
157 required to be reported within twenty-four hours or sooner to the  
158 Nuclear Regulatory Commission. The department shall adopt  
159 regulations, in accordance with chapter 54, to carry out the provisions  
160 of this subsection.

161 (c) Licensees shall post on their web sites all plans for routine and  
162 continuous releases of radiation to the atmosphere, including dates,  
163 times and fissile materials, as soon as such releases are scheduled.

164 Sec. 6. Section 22a-162 of the general statutes is repealed and the  
165 following is substituted in lieu thereof (*Effective October 1, 2009*):

166 (a) For the purpose of preventing possible harmful effects in human  
167 beings from exposure to electromagnetic fields in the radio frequency  
168 range, as defined in ANSI/IEEE C95.1-1992, "IEEE standards for safety  
169 levels with respect to human exposure to radio frequency  
170 electromagnetic fields, 3 kHz to 300 GHz", as amended from time to  
171 time, the Commissioner of Environmental Protection may, by  
172 regulations adopted in accordance with the provisions of chapter 54,  
173 adopt the standards recommended by ANSI/IEEE C95.1-1992, "safety  
174 levels with respect to human exposure to radio frequency  
175 electromagnetic fields, 3 kHz to 300 GHz", as amended from time to  
176 time.

177 (b) Notwithstanding subsection (a) of this section, the following

178 sources of nonionizing radiation shall be exempt from the standards:  
179 (1) Nonfixed sources such as portable, hand-held or mobile sources; (2)  
180 sources marketed as consumer products; (3) scientific or medical  
181 sources operating at frequencies designated for scientific or medical  
182 purposes by the Federal Communications Commission; (4) cell phone  
183 towers regulated by the Federal Communications Commission; (5)  
184 sources which have an effective radiated power of seven watts or less;  
185 and [(5)] (6) sources of nonionizing radiation, as recommended in  
186 ANSI/IEEE C95.1-1992, as amended from time to time. The  
187 Commissioner of Environmental Protection may, by regulations  
188 adopted in accordance with the provisions of chapter 54, exempt  
189 sources of nonionizing radiation from the standards.

190 Sec. 7. Section 22a-174j of the general statutes is repealed and the  
191 following is substituted in lieu thereof (*Effective October 1, 2009*):

192 Not later than May 1, 2006, the Department of Public Utility Control  
193 shall complete an investigation of the potential impact on electric  
194 reliability and electric rates created by promulgation of the regulations  
195 under this section. If such investigation concludes that there is no  
196 negative impact on such reliability and rates, not later than July 1,  
197 2006, the Commissioner of Environmental Protection [shall] may, in  
198 conjunction with the Department of Public Utility Control and by  
199 regulations adopted in accordance with chapter 54, establish uniform  
200 emissions performance standards to regulate emissions to the air from  
201 the generation of electricity supplied to end use customers in this state.  
202 [Such] Any such performance standards: [shall] (1) Shall to the greatest  
203 extent possible, be designed to improve air quality in this state and to  
204 further the attainment of the National Ambient Air Quality Standards  
205 promulgated by the United States Environmental Protection Agency, [.  
206 Such performance standards] (2) shall apply to emissions caused by  
207 electricity generation in any location in North America used to supply  
208 end use customers in this state, (3) shall limit emissions to levels  
209 consistent with those permitted from technically similar generators  
210 located in this state, [and] (4) shall limit the amount of air pollutants,  
211 including, but not limited to, nitrogen oxides, sulfur oxides and carbon

212 dioxide emitted per megawatt hour of electricity produced, [. Such  
213 performance standards] and (5) may provide for a program for  
214 purchase of offsetting reductions in emissions and trading of emission  
215 credits.

216 Sec. 8. Subdivision (1) of section 22a-197 of the general statutes is  
217 repealed and the following is substituted in lieu thereof (*Effective*  
218 *October 1, 2009*):

219 (1) "Affected unit" means [any emissions unit subject to the  
220 provisions of the Post-2002 Nitrogen Oxides Budget Program, as  
221 described in the regulations adopted under section 22a-174] a fossil-  
222 fuel fired: (A) Stationary source that serves a generator with a  
223 nameplate capacity of fifteen megawatts or more, or (B) boiler or  
224 indirect heat exchanger with a maximum heat input capacity of two  
225 hundred fifty MMBtu or more.

226 Sec. 9. Section 22a-208g of the general statutes is repealed and the  
227 following is substituted in lieu thereof (*Effective October 1, 2009*):

228 The owner or operator of each municipal solid waste incinerator or  
229 resources recovery facility shall prepare and submit to the  
230 Commissioner of Environmental Protection for his approval a plan for  
231 the disposal or recycling of ash residue generated at such incinerator  
232 or facility for a period of five years from the date of such plan. The  
233 owner or operator of the incinerator or facility shall commence  
234 implementation of the plan not more than one year after its approval.  
235 As used in this section, "implementation" means negotiation for  
236 landfill space or landfill acquisition, application for any required  
237 permits or negotiation for ash residue recycling. The commissioner  
238 [shall] may adopt regulations, in accordance with the provisions of  
239 chapter 54, to establish the requirements of any plan required to be  
240 submitted under this section.

241 Sec. 10. Section 22a-231 of the general statutes is repealed and the  
242 following is substituted in lieu thereof (*Effective October 1, 2009*):

243 The Commissioner of Environmental Protection, in consultation  
244 with the Commissioner of Public Health, [shall] may establish by  
245 regulations adopted in accordance with the provisions of chapter 54,  
246 [except that notice may be published not later than February 1, 1987,]  
247 operating procedures for resources recovery facilities. [The] Any such  
248 regulations [shall] may include provisions for (1) testing for the  
249 presence of dioxins and furans at the stack of such facilities and in the  
250 ambient air surrounding such facilities, (2) testing of residues, (3) a  
251 policy to cease and desist operations in the case of emissions in excess  
252 of the standards adopted by the commissioner pursuant to section 22a-  
253 191 and (4) qualifications of operators.

254 Sec. 11. Section 22a-255d of the general statutes is repealed and the  
255 following is substituted in lieu thereof (*Effective October 1, 2009*):

256 The Commissioner of Environmental Protection [shall] may adopt  
257 regulations, in accordance with chapter 54, [not earlier than October 1,  
258 1991,] establishing standards and requirements, consistent with the  
259 provisions of the state-wide solid waste management plan adopted  
260 pursuant to section 22a-228, for (1) reducing the volume or weight of  
261 disposable packaging material manufactured for domestic,  
262 commercial, industrial, government, or other use; (2) enhancing the  
263 recyclability of disposable packaging material; and (3) increasing the  
264 proportion of recycled resources used in the manufacture of packaging  
265 material. Regulations adopted under this section may (A) require  
266 labels indicating (i) whether packaging material is recyclable and the  
267 quantity of recycled material in the packaging, if any, and (ii) whether  
268 any toxic substance is present in the packaging; (B) set minimum  
269 standards for recycled content in classes of packaging; (C) establish  
270 guidelines or standards for refillable and reusable packages for certain  
271 types of goods; (D) establish guidelines or standards for packaging  
272 certain products in recyclable packages; (E) prohibit or reduce the use  
273 of substances in packaging material to minimize adverse impacts on  
274 the environment, such as the release of toxic substances from land  
275 disposal or incineration; (F) establish standards for the volume or  
276 weight of classes of packaging; and (G) establish standards to

277 minimize the content of toxic substances in printed materials or  
278 products composed of plastics which are generally disposed of in a  
279 resources recovery facility. [Such] Any such regulations shall not be  
280 inconsistent with preferred packaging guidelines issued by the  
281 Coalition of Northeastern Governors Source Reduction Task Force or  
282 regulations of the United States Food and Drug Administration or any  
283 other federal regulatory agency.

284 Sec. 12. Subsection (d) of section 22a-354m of the general statutes is  
285 repealed and the following is substituted in lieu thereof (*Effective*  
286 *October 1, 2009*):

287 (d) [On or before July 1, 1999, the] The Commissioner of  
288 Environmental Protection, in consultation with the Commissioner of  
289 Agriculture, the United States Soil Conservation Service, the  
290 Cooperative Extension Service at The University of Connecticut and  
291 the Council for Soil and Water Conservation, [shall publish notice of  
292 intent to] may adopt regulations in accordance with chapter 54 for  
293 farm resources management plans. [Such] Any such regulations [shall]  
294 may include [, but not be limited to,] a priority system and procedures  
295 for determining if a farm management plan is required and the priority  
296 that is assigned to the preparation of such a plan, best management  
297 practices, restrictions and prohibitions for manure management,  
298 storage and handling of pesticides, reduced use of pesticides through  
299 pest management practices, integrated pest management, fertilizer  
300 management and underground and above-ground storage tanks and  
301 criteria and procedures for submission and review of farm resources  
302 management plans and amendments of such plans. In adopting such  
303 best management practices, restrictions and prohibitions, the  
304 commissioner shall consider existing state and federal guidelines or  
305 regulations affecting aquifers and agricultural resources management.

306 Sec. 13. Subsection (c) of section 22a-354t of the general statutes is  
307 repealed and the following is substituted in lieu thereof (*Effective*  
308 *October 1, 2009*):

309 (c) The commissioner [shall] may adopt regulations in accordance

310 with the provisions of chapter 54 establishing standards for the  
311 revocation and reinstatement of municipal authority to regulate  
312 aquifers pursuant to section 22a-354o.

313 Sec. 14. Subsection (b) of section 22a-449m of the general statutes is  
314 repealed and the following is substituted in lieu thereof (*Effective*  
315 *October 1, 2009*):

316 (b) The commissioner [shall] may adopt regulations, in accordance  
317 with the provisions of chapter 54, setting forth the standards and  
318 criteria for residential underground heating oil storage tank systems  
319 which may include, but not be limited to, (1) standards for criteria for  
320 the design, installation, operation, maintenance and monitoring of  
321 such facilities, (2) the life expectancy after which such systems must be  
322 removed and replaced, and (3) standards and procedures for the  
323 granting of a waiver for the installation of a new residential  
324 underground heating oil storage tank system or the replacement of an  
325 existing system. The commissioner [shall] may adopt regulations, in  
326 accordance with the provisions of chapter 54, regarding the removal of  
327 all pipes connected to both above ground and underground residential  
328 heating oil storage tank systems, when a storage tank is removed,  
329 regardless of the storage tank's capacity.

330 Sec. 15. Section 22a-474 of the general statutes is repealed and the  
331 following is substituted in lieu thereof (*Effective October 1, 2009*):

332 The Commissioner of Environmental Protection, after consultation  
333 with the Commissioners of Transportation and Public Health, [shall]  
334 may adopt regulations in accordance with the provisions of chapter 54  
335 establishing standards for the storage and application of road salt for  
336 the purpose of minimizing water supply contamination from such  
337 storage and application.

338 Sec. 16. Section 23-11 of the general statutes is repealed and the  
339 following is substituted in lieu thereof (*Effective October 1, 2009*):

340 The Commissioner of Environmental Protection may grant

341 revocable licenses for public purposes to any person for the use of any  
342 portion of any state forest, [or] state park or other lands under the  
343 commissioner's control if said commissioner finds that such purposes  
344 are not in conflict with [park or forest] the purposes of such park,  
345 forest, or other lands.

346 Sec. 17. Section 23-26d of the general statutes is repealed and the  
347 following is substituted in lieu thereof (*Effective October 1, 2009*):

348 The Commissioner of Environmental Protection, in consultation  
349 with the Commissioner of Consumer Protection, [shall] may, by  
350 regulations adopted in accordance with the provisions of chapter 54,  
351 formulate safety education courses for the operation of all-terrain  
352 vehicles. The Commissioner of Environmental Protection may  
353 designate as [his] the commissioner's agent for giving a course any  
354 person or organization [he] the commissioner deems qualified to act in  
355 such capacity.

356 Sec. 18. Section 23-26f of the general statutes is repealed and the  
357 following is substituted in lieu thereof (*Effective October 1, 2009*):

358 The Commissioner of Environmental Protection [shall] may adopt  
359 regulations in accordance with the provisions of chapter 54 (1)  
360 establishing standards and procedures for certification of operators of  
361 all-terrain vehicles and the use of all-terrain vehicles on state land, (2)  
362 setting a fee sufficient to cover the cost of implementing the  
363 certification program required pursuant to section 23-26b and (3)  
364 establishing safety requirements for the operation of all-terrain  
365 vehicles on state land which [shall] may include provisions for noise  
366 levels. Any regulations concerning safety shall be adopted in  
367 consultation with the Commissioner of Consumer Protection.

368 Sec. 19. Subsection (b) of section 23-65 of the general statutes is  
369 repealed and the following is substituted in lieu thereof (*Effective*  
370 *October 1, 2009*):

371 (b) Any person, firm or corporation, other than a tree warden or

372 deputy tree warden, who removes, prunes, injures or defaces any  
373 shrub or ornamental or shade tree, within the limits of a public way or  
374 grounds, without the legal right or written permission of the town tree  
375 warden, the borough tree warden, the city forester, the Commissioner  
376 of Transportation, the Department of Public Utility Control or other  
377 authority having jurisdiction, may be ordered by the court in any  
378 action brought by the property owner or the authority having  
379 jurisdiction affected thereby to restore the land to its condition as it  
380 existed prior to such violation or shall award the landowner the costs  
381 of such restoration, including reasonable management costs necessary  
382 to achieve such restoration, reasonable attorney's fees and costs and  
383 such injunctive or equitable relief as the court deems appropriate. In  
384 addition, the court may award damages of up to five times the cost of  
385 restoration or statutory damages of up to five thousand dollars. In  
386 determining the amount of the award, the court shall consider the  
387 willfulness of the violation, the extent of damage done to natural  
388 resources, if any, the appraised value of the shrub or ornamental or  
389 shade tree, any economic gain realized by the violator and any other  
390 relevant factors. The appraised value shall be determined by the town  
391 tree warden, the borough tree warden, the city forester, the  
392 Commissioner of Transportation, the Department of Public Utility  
393 Control or other authority having jurisdiction and shall be determined  
394 in accordance with regulations adopted by the Commissioner of  
395 Environmental Protection. The commissioner [shall] may adopt  
396 regulations, in accordance with the provisions of chapter 54, to  
397 develop guidelines for such plant appraisal. The regulations may  
398 incorporate by reference the latest revision of The Guide for Plant  
399 Appraisal, as published by the International Society of Arboriculture,  
400 Urbana, Illinois. Until such time as regulations are adopted, appraisals  
401 may be made in accordance with said Guide for Plant Appraisal.

402 Sec. 20. Section 26-316 of the general statutes is repealed and the  
403 following is substituted in lieu thereof (*Effective October 1, 2009*):

404 The Commissioner of Environmental Protection [shall] may adopt  
405 regulations, in accordance with chapter 54, to protect and restore

406 eelgrass, including the protection of existing eelgrass beds from  
 407 degradation, the development of a restoration plan to restore eelgrass  
 408 and the periodic monitoring of the effectiveness of such measures to  
 409 protect and restore eelgrass.

410 Sec. 21. (NEW) (*Effective October 1, 2009*) (a) Any recipient of a  
 411 permit, certificate or other authorization issued pursuant to section  
 412 22a-32 or sections 22a-361 to 22a-363f, inclusive, of the general statutes,  
 413 on or after October 1, 2009, shall file on the land records of the  
 414 municipality in which the regulated activity is located a certified copy  
 415 or notice of such permit, certificate or authorization no later than thirty  
 416 days after the issuance of such permit, certificate or authorization.

417 (b) Prior to transferring any real property on which an activity  
 418 regulated pursuant to section 22a-32 or sections 22a-361 to 22a-363f,  
 419 inclusive, of the general statutes, exists, the owner of such property  
 420 shall file a certified copy or notice of the most recent permit, certificate  
 421 or authorization issued under said sections on the land records of the  
 422 municipality in which such property exists.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2009</i>	15-174
Sec. 2	<i>October 1, 2009</i>	22a-6p
Sec. 3	<i>October 1, 2009</i>	22a-66k(c)
Sec. 4	<i>October 1, 2009</i>	22a-97
Sec. 5	<i>October 1, 2009</i>	22a-135
Sec. 6	<i>October 1, 2009</i>	22a-162
Sec. 7	<i>October 1, 2009</i>	22a-174j
Sec. 8	<i>October 1, 2009</i>	22a-197(1)
Sec. 9	<i>October 1, 2009</i>	22a-208g
Sec. 10	<i>October 1, 2009</i>	22a-231
Sec. 11	<i>October 1, 2009</i>	22a-255d
Sec. 12	<i>October 1, 2009</i>	22a-354m(d)
Sec. 13	<i>October 1, 2009</i>	22a-354t(c)
Sec. 14	<i>October 1, 2009</i>	22a-449m(b)
Sec. 15	<i>October 1, 2009</i>	22a-474
Sec. 16	<i>October 1, 2009</i>	23-11

Sec. 17	<i>October 1, 2009</i>	23-26d
Sec. 18	<i>October 1, 2009</i>	23-26f
Sec. 19	<i>October 1, 2009</i>	23-65(b)
Sec. 20	<i>October 1, 2009</i>	26-316
Sec. 21	<i>October 1, 2009</i>	New section

**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:

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***OFA Fiscal Note******State Impact:*** None***Municipal Impact:*** None***Explanation***

The bill (1) allows rather than requires the Department of Environmental Protection (DEP) adopt certain regulations, (2) requires filing of certified copies of certain permits, certificates or authorizations in municipal land records, and (3) removes a requirement that the Commissioner submit a certain annual report. These provisions do not result in a fiscal impact.

***The Out Years******State Impact:*** None***Municipal Impact:*** None

**OLR Bill Analysis****HB 6412*****AN ACT CONCERNING THE REGULATORY AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION.*****SUMMARY:**

This bill allows, rather than requires, the Department of Environmental Protection (DEP) commissioner to adopt regulations for a number of environmental programs.

By law, certain state power plants must meet specific sulfur dioxide emission standards. Under current law, these are plants subject to DEP's Nitrogen Oxides Budget program, as described in regulation. The bill eliminates the reference to this program and instead requires that the sulfur dioxide emission standards be met by a fossil-fuel fired (1) stationary source serving a generator with a nameplate capacity of 15 or more megawatts and (2) boiler or indirect heat exchanger with a maximum heat input capacity of at least 250 million British Thermal Units (see BACKGROUND).

By law, DEP may adopt regulations on electromagnetic radiation standards. The bill exempts from these standards cell phone towers regulated by the Federal Communications Commission (FCC). It eliminates DEP's responsibility to monitor state microwave radiation sources. Federal law bars state and local regulation of electromagnetic radiation emissions from towers that meet FCC standards.

By law, the DEP commissioner may grant revocable licenses to the public to use a portion of a state forest or park if she finds the public purpose does not conflict with the purpose of the park or forest. The bill allows her to grant these licenses for other lands she controls, if she makes a similar finding.

The bill requires anyone receiving a permit, certificate, or other authorization for (1) a regulated activity in an inland-wetlands area or (2) dredging, erecting a structure, or placing fill or a mooring area, to file a certified copy or notice of the permit, certificate, or authorization in the land records of the town in which the activity is conducted. He or she must do so no later than 30 days after receiving the document. Before transferring property where there is such a regulated activity, dredging, construction, or placement, the property owner must file a certified copy or notice of the most recent permit, certificate, or authorization on the land records of the town where the property is located.

The bill eliminates a requirement that the commissioner submit an annual report to the governor and legislature on the development and implementation of the state Coastal Management Act.

EFFECTIVE DATE: October 1, 2009

#### **MAKING CERTAIN DEP REGULATIONS DISCRETIONARY**

This bill makes discretionary DEP's adoption of regulations for:

1. discharging sewage from boats;
2. schedules for timely action on DEP permits;
3. utilities' pesticide management plans;
4. uniform emissions standards for electric generators who supply end use customers;
5. municipal solid waste incinerators' and resources recovery facilities' ash residue disposal plans;
6. resources recovery facilities' operating procedures, including provisions for testing for the presence of dioxins and furans and of residues; operator qualifications; and a policy to stop operating when emissions exceed DEP regulatory standards;

7. reducing the weight and volume of disposable packaging material, enhancing its recyclability, and increasing the proportion of recycled resources used in its manufacture;
8. farm resource management plans for farms in aquifer protection areas;
9. revoking and reinstating municipal authority to regulate aquifers;
10. residential underground oil tank standards and criteria, and the removal of pipes connected to a residential oil tank when the tank is removed;
11. standards for the storage and application of road salt (after consulting with the transportation and public health commissioners);
12. all-terrain vehicle (ATV) operator safety education courses; certification standards, procedures, and fees for ATV operators; ATV use of state land; and ATV safety requirements and noise levels;
13. plant and tree appraisal guidelines; and
14. protecting and restoring eelgrass.

## **BACKGROUND**

### ***Sulfur Dioxide Emissions Standards***

DEP states it is changing the definition of power plants that must meet the sulfur dioxide standards because its nitrogen oxide program will be replaced by a more stringent program on May 1, 2009. According to DEP, the change in definition does not change the type or number of units that must meet the sulfur dioxide standards.

### ***Related Bill***

HB 5861, reported favorably by the Planning and Development Committee, provides that a municipality's permit application to DEP

be considered complete unless DEP notifies the municipality otherwise within 60 days of receiving it.

**COMMITTEE ACTION**

Environment Committee

Joint Favorable

Yea 29 Nay 3 (03/18/2009)