



# Senate

General Assembly

**File No. 380**

February Session, 2010

Substitute Senate Bill No. 453

*Senate, April 8, 2010*

The Committee on Commerce reported through SEN. LEBEAU of the 3rd Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## ***AN ACT CONCERNING THE STATE'S REGULATORY ENVIRONMENT.***

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

1 Section 1. (*Effective from passage*) The Legislative Program Review  
2 and Investigations Committee shall conduct a study to examine the  
3 state's regulatory environment and its impact on businesses. On or  
4 before February 1, 2012, the Legislative Program Review and  
5 Investigations Committee shall report its findings and  
6 recommendations.

7 Sec. 2. (NEW) (*Effective October 1, 2010*) The Departments of  
8 Environmental Protection, Public Health, Transportation and  
9 Economic and Community Development shall establish, within  
10 available appropriations, an on-line application system to, (1) expedite  
11 the licensing, permitting or approval of regulated activities, including,  
12 but not limited to, identifying the specific application requirements to  
13 make an application complete or acceptable for filing, (2) allow for the  
14 on-line filing of applications for licenses, permits or approvals from

15 each agency, and (3) track the progress of an agency's review of such  
16 license, permit or approval applications.

17 Sec. 3. (*Effective October 1, 2010*) Not later than January 1, 2011, the  
18 Commissioner of Environmental Protection shall submit a plan to the  
19 joint standing committees of the General Assembly having cognizance  
20 of matters relating to the environment and commerce, establishing a  
21 pilot expedited permitting process applicable to a program  
22 administered by the commissioner that affects at least two hundred  
23 fifty manufacturing or other industrial facilities. Such plan shall: (1)  
24 Impose a limited time period for a decision by the commissioner on a  
25 permit application; (2) provide that, upon expiration of such time  
26 period, a permit application shall be deemed approved unless the  
27 commissioner, prior to such expiration, has approved the application,  
28 denied the application for good cause shown or extended such time  
29 period; (3) include standards upon which a denial for good cause may  
30 be based; and (4) list permissible reasons for the commissioner to  
31 extend the time period, with a limit on the number of such extensions  
32 that may be exercised.

33 Sec. 4. (NEW) (*Effective from passage*) Not later than October 1, 2010,  
34 the Commissioner of Environmental Protection shall reallocate existing  
35 resources and adjust existing policies to provide compliance assistance  
36 to regulated entities substantially similar to the consulting services  
37 program administered by the Labor Department's Division of  
38 Occupational Safety and Health, whereby penalties and citations are  
39 not issued as a result of the consultation process, provided (1) such  
40 entity can demonstrate effort in complying with environmental law  
41 and regulations, and (2) instances of noncompliance identified by the  
42 commissioner during the consulting process have not directly and  
43 measurably posed a threat to human health or the environment.

44 Sec. 5. Subdivision (13) of section 4-166 of the general statutes is  
45 repealed and the following is substituted in lieu thereof (*Effective from*  
46 *passage*):

47 (13) "Regulation" means each agency statement of general

48 applicability, without regard to its designation, that implements,  
49 interprets, or prescribes law, [or] policy or standards for issuance of  
50 general permits, or describes the organization, procedure, or practice  
51 requirements of any agency. The term includes the amendment or  
52 repeal of a prior regulation, but does not include (A) statements  
53 concerning only the internal management of any agency and not  
54 affecting private rights or procedures available to the public, (B)  
55 declaratory rulings issued pursuant to section 4-176, or (C) intra-  
56 agency or interagency memoranda;

57 Sec. 6. Subsection (b) of section 4-168a of the 2010 supplement to the  
58 general statutes is repealed and the following is substituted in lieu  
59 thereof (*Effective October 1, 2010*):

60 (b) For purposes of this subsection, "minor or less complex  
61 activities" means activities that do not require a high level of  
62 government oversight, but that may be included unnecessarily in the  
63 requirements imposed by a regulation aimed at a larger and more  
64 complex activity and necessary for the public health and safety. Prior  
65 to the adoption of any proposed regulation, each agency shall prepare  
66 a regulatory flexibility analysis in which the agency shall [consider  
67 utilizing] utilize regulatory methods that will accomplish the  
68 objectives of applicable statutes while minimizing adverse impact on  
69 small businesses or on minor or less complex activities. Such  
70 regulatory methods shall be consistent with public health [,] and  
71 safety. [and welfare.] The agency shall [consider] use, without  
72 limitation, [each] as many of the following methods of reducing the  
73 impact of the proposed regulation on small businesses or on minor or  
74 less complex regulated activities:

75 (1) The establishment of less stringent compliance or reporting  
76 requirements; [for small businesses;]

77 (2) The establishment of less stringent schedules or deadlines for  
78 compliance or reporting requirements; [for small businesses;]

79 (3) The consolidation or simplification of compliance or reporting

80 requirements; [for small businesses;]

81 (4) The establishment of performance standards for small businesses  
82 to replace design or operational standards required in the proposed  
83 regulation; and

84 (5) The exemption of small businesses or minor or less complex  
85 regulated activities from all or any part of the requirements contained  
86 in the proposed regulation.

87 Sec. 7. Subsection (b) of section 4-170 of the 2010 supplement to the  
88 general statutes is repealed and the following is substituted in lieu  
89 thereof (*Effective October 1, 2010, and applicable to proposed regulations*  
90 *submitted to the standing legislative regulation review committee on or after*  
91 *said date*):

92 (b) (1) No adoption, amendment or repeal of any regulation, except  
93 a regulation issued pursuant to subsection (f) of section 4-168, shall be  
94 effective until (A) the original of the proposed regulation approved by  
95 the Attorney General, as provided in section 4-169, the regulatory  
96 flexibility [analyses] analysis as provided in section 4-168a, as  
97 amended by this act, and eighteen copies thereof are submitted to the  
98 standing legislative regulation review committee at the designated  
99 office of the committee, in a manner designated by the committee, by  
100 the agency proposing the regulation, (B) the regulation is approved by  
101 the committee, at a regular meeting or a special meeting called for the  
102 purpose, and (C) the regulation is filed in the office of the Secretary of  
103 the State by the agency, as provided in section 4-172. (2) The date of  
104 submission for purposes of subsection (c) of this section shall be the  
105 first Tuesday of each month. Any regulation received by the committee  
106 on or before the first Tuesday of a month shall be deemed to have been  
107 submitted on the first Tuesday of that month. Any regulation  
108 submitted after the first Tuesday of a month shall be deemed to be  
109 submitted on the first Tuesday of the next succeeding month. (3) The  
110 form of proposed regulations which are submitted to the committee  
111 shall be as follows: New language added to an existing regulation shall  
112 be in capital letters or underlining, as determined by the committee;

113 language to be deleted shall be enclosed in brackets and a new  
114 regulation or new section of a regulation shall be preceded by the  
115 word "(NEW)" in capital letters. Each proposed regulation shall have a  
116 statement of its purpose following the final section of the regulation.  
117 (4) The committee may permit any proposed regulation, including, but  
118 not limited to, a proposed regulation which by reference incorporates  
119 in whole or in part, any other code, rule, regulation, standard or  
120 specification, to be submitted in summary form together with a  
121 statement of purpose for the proposed regulation. On and after  
122 October 1, 1994, if the committee finds that a federal statute requires,  
123 as a condition of the state exercising regulatory authority, that a  
124 Connecticut regulation at all times must be identical to a federal statute  
125 or regulation, then the committee may approve a Connecticut  
126 regulation that by reference specifically incorporates future  
127 amendments to such federal statute or regulation provided the agency  
128 that proposed the Connecticut regulation shall submit for approval  
129 amendments to such Connecticut regulations to the committee not  
130 later than thirty days after the effective date of such amendment, and  
131 provided further the committee may hold a public hearing on such  
132 Connecticut amendments. (5) If the proposed regulation would impose  
133 more stringent regulatory requirements than provided under federal  
134 regulations on the same subject, the agency shall append to the  
135 regulation a notice (A) that such regulatory requirements are more  
136 stringent, and (B) summarizing the differences between the proposed  
137 regulation and such federal regulations. (6) The agency shall append to  
138 the proposed regulation a copy of the fiscal note, prepared pursuant to  
139 subsection (a) of section 4-168, to each copy of the proposed regulation.  
140 At the time of submission to the committee, the agency shall mail or  
141 submit a copy of the proposed regulation and the fiscal note to (A) the  
142 Office of Fiscal Analysis which, within seven days of receipt, shall  
143 submit an analysis of the fiscal note to the committee; and (B) each  
144 joint standing committee of the General Assembly having cognizance  
145 of the subject matter of the proposed regulation. No regulation shall be  
146 found invalid due to the failure of an agency to submit a copy of the  
147 proposed regulation and the fiscal note to each committee of

148 cognizance, provided such regulation and fiscal note has been  
149 submitted to one such committee.

150 Sec. 8. Subdivision (2) of subsection (j) of section 22a-430 of the  
151 general statutes is repealed and the following is substituted in lieu  
152 thereof (*Effective October 1, 2010*):

153 (2) The commissioner [may] shall adopt regulations, in accordance  
154 with the provisions of chapter 54, to establish other categories of  
155 discharges which may be exempted from the requirement to submit  
156 plans and specifications under subsection (b) of this section. Such  
157 regulations [may] shall include, but not be limited to, the following:  
158 (A) Minimum standards for the design and operation of treatment  
159 systems for such discharges; and (B) requirements for submission of  
160 information concerning such discharges.

161 Sec. 9. Section 22a-45a of the general statutes is repealed and the  
162 following is substituted in lieu thereof (*Effective October 1, 2010*):

163 (a) The Commissioner of Environmental Protection may issue a  
164 general permit for any minor activity regulated under sections 22a-36  
165 to 22a-45, inclusive, except for any activity covered by an individual  
166 permit, when such activity is conducted by any department, agency or  
167 instrumentality of the state, other than a regional or local board of  
168 education, if the commissioner determines that such activity would  
169 cause minimal environmental effects when conducted separately and  
170 would cause only minimal cumulative environmental effects. Such  
171 activities may include routine minor maintenance and routine minor  
172 repair of existing structures; replacement of existing culverts;  
173 installation of water monitoring equipment, including but not limited  
174 to staff gauges, water recording and water quality testing devices;  
175 survey activities, including excavation of test pits and core sampling;  
176 maintenance of existing roadway sight lines; removal of sedimentation  
177 and unauthorized solid waste by hand or suction equipment;  
178 placement of erosion and sedimentation controls; extension of existing  
179 culverts and stormwater outfall pipes; and safety improvements with  
180 minimal environmental impacts within existing rights-of-way of

181 existing roadways. Any state department, agency or instrumentality of  
182 the state, other than a regional or local board of education conducting  
183 an activity for which a general permit has been issued shall not be  
184 required to obtain an individual permit under any other provision of  
185 said sections 22a-36 to 22a-45, inclusive, except as provided in  
186 subsection [(c)] (b) of this section. A general permit shall clearly define  
187 the activity covered thereby and may include such conditions and  
188 requirements as the commissioner deems appropriate, including, but  
189 not limited to, management practices and verification and reporting  
190 requirements. The general permit may require any state department,  
191 agency or instrumentality of the state, other than a regional or local  
192 board of education, conducting any activity under the general permit  
193 to report, on a form prescribed by the commissioner, such activity to  
194 the commissioner before it shall be covered by the general permit. The  
195 commissioner shall prepare, and shall annually amend, a list of  
196 holders of general permits under this section, which list shall be made  
197 available to the public.

198 [(b) Notwithstanding any other procedures in said sections 22a-36 to  
199 22a-45, inclusive, any regulations adopted thereunder, and chapter 54,  
200 the commissioner may issue, revoke, suspend or modify a general  
201 permit in accordance with the following procedures: (1) The  
202 commissioner shall publish in a newspaper having a substantial  
203 circulation in the affected area or areas notice of intent to issue a  
204 general permit; (2) the commissioner shall allow a comment period of  
205 thirty days following publication of such notice during which  
206 interested persons may submit written comments concerning the  
207 permit to the commissioner and the commissioner shall hold a public  
208 hearing if, within said comment period, he receives a petition signed  
209 by at least twenty-five persons; (3) the commissioner may not issue the  
210 general permit until after the comment period; and (4) the  
211 commissioner shall publish notice of any permit issued in a newspaper  
212 having substantial circulation in the affected area or areas. Any person  
213 may request that the commissioner issue, modify or revoke a general  
214 permit in accordance with this subsection.]

215 [(c)] (b) Subsequent to the issuance of a general permit, the  
216 commissioner may require any state department, agency or  
217 instrumentality, other than a regional or local board of education, to  
218 apply for an individual permit under the provisions of said sections  
219 22a-36 to 22a-45, inclusive, for all or any portion of the activities  
220 covered by the general permit, if in the commissioner's judgment the  
221 purposes and policies of such sections would be best served by  
222 requiring an application for an individual permit. The commissioner  
223 may require an individual permit under this subsection only if the  
224 affected state department, agency or instrumentality has been notified  
225 in writing that an individual permit is required. The notice shall  
226 include a brief statement of the reasons for the decision and a  
227 statement that upon the date of issuance of such notice the general  
228 permit as it applies to the individual activity will terminate.

229 [(d)] (c) Any general permit issued under this section shall require  
230 that any state agency, department or instrumentality other than a  
231 regional or local board of education, intending to conduct an activity  
232 covered by such general permit shall, at least sixty days before  
233 initiating such activity, give written notice of such intention to the  
234 inland wetlands agency, zoning commission, planning commission or  
235 combined planning and zoning commission and conservation  
236 commission of any municipality which will or may be affected by such  
237 activity and to the department which shall make such notices available  
238 to the public. The general permit shall specify the information which  
239 must be contained in the notice. An inland wetlands agency, planning  
240 and zoning commission, conservation commission or any person may  
241 submit written comments to the commissioner concerning such  
242 activity not later than twenty-five days prior to the date that the  
243 activity is proposed to begin.

244 [(e)] (d) The commissioner [may] shall adopt regulations in  
245 accordance with the provisions of chapter 54 to carry out the purposes  
246 of this section, which shall include standards and procedures for  
247 issuance of general permits.

248 Sec. 10. Subsection (k) of section 22a-174 of the 2010 supplement to  
249 the general statutes is repealed and the following is substituted in lieu  
250 thereof (*Effective October 1, 2010*):

251 (k) (1) The commissioner may issue a general permit with respect to  
252 a category of new or existing stationary air pollution sources, except  
253 with respect to a source which is already covered by an individual  
254 permit, provided the general permit is not inconsistent with the federal  
255 Clean Air Act, as amended in 1990, 42 USC, Sections 7401 et seq., and  
256 as it may be further amended from time to time. Any person  
257 conducting an activity for which a general permit has been issued shall  
258 not be required to obtain an individual permit under this section,  
259 except as provided in subdivision [(5)] (4) of this subsection. The  
260 general permit may regulate a category of sources which, whether or  
261 not requiring a permit under the federal Clean Air Act, (A) involve the  
262 same or substantially similar types of operations or substances, (B)  
263 require the same types of pollution control equipment or other  
264 operating conditions, standards or limitations, and (C) require the  
265 same or similar monitoring, and which, in the opinion of the  
266 commissioner, are more appropriately controlled under a general  
267 permit than under an individual permit. The general permit may  
268 require that any person proposing to conduct any activity under the  
269 general permit register such activity, including obtaining approval  
270 from the commissioner, before the general permit becomes effective as  
271 to such activity, and may include such other conditions as the  
272 commissioner deems appropriate, including, but not limited to,  
273 management practices and verification and reporting requirements.  
274 Any such reports shall be made available to the public by the  
275 commissioner. The commissioner shall grant an application for  
276 approval under a general permit without repeating the notice and  
277 comment procedures provided under subdivision (2) of this  
278 subsection, and such a grant shall not be subject to judicial review  
279 under subdivision [(4)] (3) of this subsection. Registrations and  
280 applications for approval under the general permit shall be submitted  
281 on forms prescribed by the commissioner; application forms  
282 concerning activities regulated under the federal Clean Air Act shall

283 require that the applicant provide such information as may be required  
284 by that act. The commissioner shall prepare, and annually amend, a list  
285 of holders of general permits under this section, which list shall be  
286 made available to the public.

287 [(2) Notwithstanding any other procedures in this chapter, any  
288 regulations adopted thereunder, and chapter 54, the commissioner  
289 may issue a general permit in accordance with the following  
290 procedures: (A) The commissioner shall publish in a newspaper,  
291 having a substantial circulation in the affected area or areas, notice of  
292 (i) intent to issue a general permit, (ii) the right to inspect the proposed  
293 general permit, (iii) the opportunity to submit written comments  
294 thereon, and (iv) the right to a public hearing if, within the comment  
295 period, the commissioner receives a petition signed by at least twenty-  
296 five persons provided the notice shall state that the right to a public  
297 hearing may be exercised upon request of any person if the permit  
298 regulates an activity which is subject to provisions of the federal Clean  
299 Air Act; (B) the administrator of the United States Environmental  
300 Protection Agency and any states affected by the general permit shall  
301 be given notice as may be required by the federal Clean Air Act; (C)  
302 the commissioner shall allow a comment period of thirty days  
303 following publication of notice under subparagraph (A) of this  
304 subdivision during which interested persons may submit written  
305 comments concerning the permit to the commissioner; (D) the  
306 commissioner shall not issue the general permit until after the  
307 comment period and the public hearing, if one is held; (E) the  
308 commissioner shall publish notice of any general permit issued in a  
309 newspaper having a substantial circulation in the affected area or  
310 areas; and (F) summary suspension may be ordered in accordance with  
311 subsection (c) of section 4-182. Any person may request that the  
312 commissioner issue, modify, revoke or suspend a general permit in  
313 accordance with this subsection.]

314 [(3)] (2) Any general permit under this subsection shall be issued for  
315 a fixed term. A general permit covering an activity regulated under the  
316 federal Clean Air Act shall be issued for a term of no more than five

317 years. A general permit covering an activity regulated under the  
318 federal Clean Air Act shall contain such additional conditions as may  
319 be required by [that] said act.

320 [(4)] (3) Notwithstanding any other provision of this chapter and  
321 chapter 54, with respect to a general permit concerning activities  
322 regulated under the federal Clean Air Act, any person who submitted  
323 timely comments thereon may appeal the issuance of such permit to  
324 the superior court in accordance with the provisions of section 4-183.  
325 Such appeal shall have precedence in the order of trial as provided in  
326 section 52-192.

327 [(5)] (4) Subsequent to the issuance of a general permit, the  
328 commissioner may require a person whose activity is or may be  
329 covered by the general permit to apply for and obtain an individual  
330 permit pursuant to this chapter if he determines that an individual  
331 permit would better protect the land, air and waters of the state from  
332 pollution. The commissioner may require an individual permit under  
333 this subdivision in cases including, but not limited to, the following:  
334 (A) The permittee is not in compliance with the conditions of the  
335 general permit; (B) a change has occurred in the availability of  
336 demonstrated technology or practices for the control or abatement of  
337 pollution applicable to the permitted activity; (C) circumstances have  
338 changed since the time the general permit was issued so that the  
339 permitted activity is no longer appropriately controlled under the  
340 general permit, or a temporary or permanent reduction or elimination  
341 of the permitted activity is necessary; or (D) a relevant change has  
342 occurred in the applicability of the federal Clean Air Act. In making  
343 the determination to require an individual permit, the commissioner  
344 may consider the location, character and size of the source and any  
345 other relevant factors. The commissioner may require an individual  
346 permit under this subdivision only if the person whose activity is  
347 covered by the general permit has been notified in writing that an  
348 individual permit is required. The notice shall include a brief statement  
349 of the reasons for requiring an individual permit, an application form,  
350 a statement setting a time for the person to file the application and a

351 statement that the general permit as it applies to such person shall  
352 automatically terminate on the effective date of the individual permit.  
353 Such person shall forthwith apply for, and use best efforts to obtain,  
354 the individual permit. Any person may petition the commissioner to  
355 take action under this subdivision.

356 [(6)] (5) The commissioner [may] shall adopt regulations, in  
357 accordance with the provisions of chapter 54, to carry out the purposes  
358 of this subsection, which shall include standards and procedures for  
359 the issuance of general permits.

360 Sec. 11. Subsection (i) of section 22a-208a of the general statutes is  
361 repealed and the following is substituted in lieu thereof (*Effective*  
362 *October 1, 2010*):

363 (i) (1) The commissioner may issue a general permit for a category  
364 of activities which require a permit under this section, except for an  
365 activity which is already covered by an individual permit, provided  
366 the issuance of the permit is not inconsistent with the requirements of  
367 the federal Resource Conservation and Recovery Act. The  
368 commissioner's authority to issue a general permit for certain  
369 categories of solid waste facilities shall not include the authority to  
370 issue a general permit for resources recovery facilities, biomedical  
371 waste facilities, solid waste disposal areas or municipal solid waste  
372 composting facilities. Any person or municipality conducting an  
373 activity for which a general permit has been issued shall not be  
374 required to obtain an individual permit under this section, except as  
375 provided in subdivision [(3)] (2) of this subsection. The general permit  
376 may regulate a category of activities which (A) involve the same or  
377 substantially similar types of operations, (B) involve the transfer,  
378 storage, processing or disposal of the same types of substances, (C)  
379 require the same operating conditions or standards, and (D) require  
380 the same or similar monitoring, and which in the opinion of the  
381 commissioner are more appropriately controlled under a general  
382 permit than under an individual permit. The general permit may  
383 require any person or municipality proposing to conduct any activity

384 under the general permit to register such activity with the  
385 commissioner before it is covered by the general permit. Registration  
386 shall be on a form prescribed by the commissioner.

387 [(2) Notwithstanding any provisions of this section, or any  
388 regulations adopted thereunder, or of chapter 54, the following  
389 procedures shall apply to the issuance, renewal, modification,  
390 revocation or suspension of a general permit. (A) A general permit  
391 shall be issued for a term specified by the permit and shall clearly  
392 define the activity covered thereby and may include such conditions  
393 and requirements as the commissioner deems appropriate, including  
394 but not limited to, operation and maintenance requirements,  
395 management practices, and reporting requirements; (B) the  
396 commissioner shall publish notice of intent to issue a general permit in  
397 a newspaper having a substantial circulation in the affected area; (C)  
398 there shall be a comment period of thirty days following publication of  
399 such notice during which interested persons may submit written  
400 comments to the commissioner; and (D) the commissioner shall  
401 publish notice of the issuance or decision not to issue a general permit  
402 in a newspaper having substantial circulation in the affected area. The  
403 commissioner may revoke, suspend or modify a general permit in  
404 accordance with the notice and comment procedures for issuance of a  
405 general permit specified in this subsection. Any person may request  
406 that the commissioner issue, modify, suspend or revoke a general  
407 permit in accordance with this subsection.]

408 [(3)] (2) Subsequent to the issuance of a general permit, the  
409 commissioner may require a person or municipality whose activity is  
410 or may be covered by the general permit to apply for and obtain an  
411 individual permit pursuant to subsections (a), (b), (c) and (d) of this  
412 section if he determines that an individual permit would better protect  
413 the land, air and waters of the state from pollution. The commissioner  
414 may require an individual permit under this subdivision in cases  
415 including, but not limited to the following: (A) When the owner or  
416 operator is not in compliance with the conditions of the general permit;  
417 (B) when a change has occurred in the availability of demonstrated

418 technology or practices for the control or abatement of pollution  
419 applicable to the activity; (C) when circumstances have changed since  
420 the time of the issuance of the general permit so that the activity is no  
421 longer appropriately controlled under the general permit, or either a  
422 temporary or permanent reduction or elimination of the authorized  
423 activity is necessary; or (D) when a relevant change has occurred in the  
424 applicability of the federal Resource Conservation and Recovery Act.  
425 In making the determination to require an individual permit, the  
426 commissioner may consider the location, character and size of the  
427 activity, and any other relevant factors. The commissioner may require  
428 an individual permit under this subdivision only if the affected person  
429 or municipality covered by the general permit has been notified in  
430 writing that a permit application is required. This notice shall include a  
431 brief statement of the reasons for this decision, an application form, a  
432 statement setting a time for the person or municipality to file the  
433 application, and a statement that on the effective date of the individual  
434 permit the general permit as it applies to the individual permittee shall  
435 automatically terminate. The commissioner may grant an extension of  
436 time upon the request of the applicant. The applicant shall use his best  
437 efforts to obtain the individual permit. Any interested person or  
438 municipality may petition the commissioner to take action under this  
439 subdivision.

440 [(4)] (3) The commissioner [may] shall adopt regulations, in  
441 accordance with the provisions of chapter 54, to carry out the purposes  
442 of this subsection, which shall include the standards and procedures  
443 for the issuance of general permits.

444 Sec. 12. Section 22a-349a of the general statutes is repealed and the  
445 following is substituted in lieu thereof (*Effective October 1, 2010*):

446 (a) The Commissioner of Environmental Protection may issue a  
447 permit for any minor activity regulated under sections 22a-342 to 22a-  
448 349, inclusive, except for any activity covered by an individual permit,  
449 if the commissioner determines that such activity would cause  
450 minimal environmental effects when conducted separately and would

451 cause only minimal cumulative environmental effects, and will not  
452 cause any increase in flood heights or in the potential for flood damage  
453 or flood hazards. Such activities may include routine minor  
454 maintenance and routine minor repair of existing structures;  
455 replacement of existing culverts; installation of water monitoring  
456 equipment, including but not limited to staff gauges, water recording  
457 and water quality testing devices; removal of unauthorized solid  
458 waste; extension of existing culverts and stormwater outfall pipes;  
459 construction of irrigation and utility lines; and safety improvements  
460 with minimal environmental impacts within existing rights-of-way of  
461 existing roadways. Any person, firm or corporation conducting an  
462 activity for which a general permit has been issued shall not be  
463 required to obtain an individual permit under any other provision of  
464 said sections 22a-342 to 22a-349, inclusive, except as provided in  
465 subsection [(c)] (b) of this section. A general permit shall clearly define  
466 the activity covered thereby and may include such conditions and  
467 requirements as the commissioner deems appropriate, including but  
468 not limited to, management practices and verification and reporting  
469 requirements. The general permit may require any person, firm or  
470 corporation, conducting any activity under the general permit to  
471 report, on a form prescribed by the commissioner, such activity to the  
472 commissioner before it shall be covered by the general permit. The  
473 commissioner shall prepare, and shall annually amend, a list of  
474 holders of general permits under this section, which list shall be made  
475 available to the public.

476 [(b) Notwithstanding any other procedures specified in said sections  
477 22a-342 to 22a-349, inclusive, any regulations adopted thereunder, and  
478 chapter 54, the commissioner may issue, revoke, suspend or modify a  
479 general permit in accordance with the following procedures: (1) The  
480 commissioner shall publish in a newspaper having a substantial  
481 circulation in the affected area or areas notice of intent to issue a  
482 general permit; (2) the commissioner shall allow a comment period of  
483 thirty days following publication of such notice during which  
484 interested persons may submit written comments concerning the  
485 permit to the commissioner and the commissioner shall hold a public

486 hearing if, within said comment period, he receives a petition signed  
487 by at least twenty-five persons; (3) the commissioner may not issue the  
488 general permit until after the comment period; and (4) the  
489 commissioner shall publish notice of any permit issued in a newspaper  
490 having substantial circulation in the affected area or areas. Any person  
491 may request that the commissioner issue, modify or revoke a general  
492 permit in accordance with this subsection.]

493 [(c)] (b) Subsequent to the issuance of a general permit, the  
494 commissioner may require any person, firm or corporation, to apply  
495 for an individual permit under the provisions of said sections 22a-342  
496 to 22a-349, inclusive, for all or any portion of the activities covered by  
497 the general permit, if in the commissioner's judgment the purposes  
498 and policies of such sections would be best served by requiring an  
499 application for an individual permit. The commissioner may require  
500 an individual permit under this subsection only if the affected person,  
501 firm or corporation has been notified in writing that an individual  
502 permit is required. The notice shall include a brief statement of the  
503 reasons for the decision and a statement that upon the date of issuance  
504 of such notice the general permit as it applies to the individual activity  
505 will terminate.

506 [(d)] (c) Any general permit issued under subsection (a) of this  
507 section may require that any person, firm or corporation intending to  
508 conduct an activity covered by such general permit give written notice  
509 of such intention to the inland wetlands agency, zoning commission,  
510 planning commission or combined planning and zoning commission  
511 and conservation commission of any municipality which will or may  
512 be affected by such activity. The general permit shall specify the  
513 information required to be contained in the notice.

514 [(e)] (d) The commissioner [may] shall adopt regulations in  
515 accordance with the provisions of chapter 54 to carry out the purposes  
516 of this section, which shall include standards and procedures for the  
517 issuance of general permits.

518 Sec. 13. Section 22a-378a of the general statutes is repealed and the

519 following is substituted in lieu thereof (*Effective October 1, 2010*):

520 (a) The Commissioner of Environmental Protection may issue a  
521 general permit for any minor activity regulated under sections 22a-365  
522 to 22a-378, inclusive, except for any activity covered by an individual  
523 permit, if the commissioner determines that such activity would cause  
524 minimal environmental effects when conducted separately and would  
525 cause only minimal cumulative environmental effects, and will have  
526 no adverse effect on existing or potential uses of water for potable  
527 water supplies, hydropower, flood management, water-based  
528 recreation, industry or waste assimilation. Such activities may include  
529 diversions which were eligible for registration under subsection (a) of  
530 section 22a-368 but were not registered; backup wells, provided such  
531 wells are not used to increase the quantity of water diverted from a  
532 well-field permitted or registered under said section 22a-368;  
533 transferring water from one distribution system or service area to  
534 another distribution system or service area or the installation of the  
535 capacity to transfer such water in anticipation of a water supply  
536 emergency for public water supply; and collection and discharge of  
537 runoff, including stormwater runoff and skimming of flood flows,  
538 from a watershed area less than equal to one square mile. On or before  
539 April 1, 1995, the commissioner shall issue a general permit for public  
540 water systems, as defined in section 25-33d, in accordance with this  
541 section and the regulations adopted pursuant to sections 22a-365 to  
542 22a-378, inclusive, for diversions maintained by any entity which is  
543 acquired by such systems which diversions were eligible for  
544 registration under subsection (a) of section 22a-368 but were not  
545 registered and for backup wells provided such wells are not used to  
546 increase the quantity of water diverted from a well-field permitted or  
547 registered under said section 22a-368. Any person or municipality  
548 conducting an activity for which a general permit has been issued shall  
549 not be required to obtain an individual permit under any other  
550 provision of said sections 22a-365 to 22a-378, inclusive, except as  
551 provided in subsection [(c)] (b) of this section. A general permit shall  
552 clearly define the activity covered thereby and may include such  
553 conditions and requirements as the commissioner deems appropriate,

554 including, but not limited to, management practices and verification  
555 and reporting requirements. The general permit may require any  
556 person or municipality conducting any activity under the general  
557 permit to report, on a form prescribed by the commissioner, such  
558 activity to the commissioner before it shall be covered by the general  
559 permit. The commissioner shall prepare, and shall annually amend, a  
560 list of holders of general permits under this section, which list shall be  
561 made available to the public.

562 [(b) Notwithstanding any other procedures specified in said sections  
563 22a-365 to 22a-378, inclusive, any regulations adopted thereunder, and  
564 chapter 54, the following procedures shall apply to the issuance,  
565 renewal, modification and revocation or suspension of a general  
566 permit: (1) The commissioner shall publish in a newspaper having a  
567 substantial circulation in the affected area or areas notice of intent to  
568 issue a general permit; (2) the commissioner shall allow a comment  
569 period of thirty days following publication of such notice during  
570 which interested persons may submit written comments concerning  
571 the permit to the commissioner and the commissioner shall hold a  
572 public hearing if, within said comment period, he receives a petition  
573 signed by at least twenty-five persons; (3) the commissioner may not  
574 issue the general permit until after the comment period; and (4) the  
575 commissioner shall publish notice of any issued permits in a  
576 newspaper having substantial circulation in the affected area or areas.  
577 Any person may request that the commissioner issue, modify or  
578 revoke a general permit in accordance with this subsection.]

579 [(c)] (b) Subsequent to the issuance of a general permit, the  
580 commissioner may require any person or municipality to apply for an  
581 individual permit under the provisions of said sections 22a-365 to 22a-  
582 378, inclusive, for all or any portion of the activities covered by the  
583 general permit, if in the commissioner's judgment the purposes and  
584 policies of said sections would be best served by requiring an  
585 application for an individual permit. The commissioner may require  
586 an individual permit under this subsection only if the affected person  
587 or municipality has been notified in writing that an individual permit

588 is required. The notice shall include a brief statement of the reasons for  
589 the decision and a statement that upon the date of issuance of such  
590 notice the general permit as it applies to the individual activity will  
591 terminate.

592 [(d)] (c) Any general permit issued under subsection (a) of this  
593 section may require that any person or municipality intending to  
594 conduct an activity covered by such general permit give written notice  
595 of such intention to the inland wetlands agency, zoning commission,  
596 planning commission or combined planning and zoning commission,  
597 and conservation commission of any municipality which will or may  
598 be affected by such activity. The general permit shall specify the  
599 information which must be contained in the notice.

600 [(e)] (d) The commissioner [may] shall adopt regulations in  
601 accordance with the provisions of chapter 54 to carry out the purposes  
602 of this section, which shall include standards and procedures for the  
603 issuance of general permits.

604 Sec. 14. Section 22a-411 of the general statutes is repealed and the  
605 following is substituted in lieu thereof (*Effective October 1, 2010*):

606 (a) The commissioner may issue a general permit for any minor  
607 activity regulated under sections 22a-401 to 22a-410, inclusive, except  
608 for any activity covered by an individual permit, if the commissioner  
609 determines that such activity would cause minimal environmental  
610 effects when conducted separately and would cause only minimal  
611 cumulative environmental effects. Such activities may include routine  
612 maintenance and routine repair of any dam, dike, reservoir or other  
613 similar structure. Any person conducting an activity for which a  
614 general permit has been issued shall not be required to obtain an  
615 individual permit under sections 22a-36 to 22a-45a, inclusive, as  
616 amended by this act, or section 22a-342, 22a-368 or 22a-403, except as  
617 provided in subsection [(c)] (b) of this section. A general permit shall  
618 clearly define the activity covered thereby and may include such  
619 conditions and requirements as the commissioner deems appropriate,  
620 including, but not limited to, management practices and verification

621 and reporting requirements. The general permit may require any  
622 person conducting any activity under the general permit to report, on  
623 a form prescribed by the commissioner, such activity to the  
624 commissioner before it shall be covered by the general permit. The  
625 commissioner shall prepare, and shall annually amend, a list of  
626 holders of general permits under this section, which list shall be made  
627 available to the public.

628 [(b) Notwithstanding any other procedures specified in said sections  
629 22a-401 to 22a-410, inclusive, any regulation adopted thereunder, and  
630 chapter 54, the commissioner may issue, revoke, suspend or modify a  
631 general permit in accordance with the following procedures: (1) The  
632 commissioner shall publish in a newspaper having a substantial  
633 circulation in the affected area or areas notice of intent to issue a  
634 general permit; (2) the commissioner shall allow a comment period of  
635 thirty days following publication of such notice during which  
636 interested persons may submit written comments to the commissioner  
637 and the commissioner shall hold a public hearing if, within said  
638 comment period, he receives a petition signed by at least twenty-five  
639 persons; (3) the commissioner may not issue the general permit until  
640 after the comment period; and (4) the commissioner shall publish  
641 notice of any issued permit in a newspaper having substantial  
642 circulation in the affected area or areas. Any person may request that  
643 the commissioner issue, modify or revoke a general permit in  
644 accordance with the provisions of this subsection.]

645 [(c)] (b) Subsequent to the issuance of a general permit, the  
646 commissioner may require any person to obtain an individual permit  
647 under the provisions of said sections 22a-401 to 22a-410, inclusive, for  
648 all or any portion of the activities covered by the general permit, if in  
649 the commissioner's judgment the purposes and policies of said sections  
650 would be best served by requiring an application for an individual  
651 permit. The commissioner may require an individual permit under this  
652 subsection only if the affected person has been notified in writing that  
653 an individual permit is required. The notice shall include a brief  
654 statement of the reasons for the decision and a statement that upon the

655 date of issuance of such notice the general permit as it applies to the  
656 individual activity will terminate.

657 [(d)] (c) Any general permit issued under this section shall require  
658 that any person intending to conduct an activity covered by such  
659 general permit shall, at least sixty days before initiating such activity,  
660 give written notice of such intention to the inland wetlands agency,  
661 zoning commission, planning commission or combined planning and  
662 zoning commission, and conservation commission of any municipality  
663 which will or may be affected by such activity, and to the department  
664 which shall make such notices available to the public. The general  
665 permit shall specify the information which must be contained in the  
666 notice. An inland wetlands agency, planning and zoning commission,  
667 conservation commission or any person may submit written comments  
668 to the commissioner concerning such activity no later than twenty-five  
669 days before the date that the activity is proposed to begin.

670 [(e)] (d) The commissioner [may] shall adopt regulations in  
671 accordance with the provisions of chapter 54 to carry out the purposes  
672 of this section, which shall include standards and procedures for  
673 issuance of general permits.

674 Sec. 15. Subsection (b) of section 22a-430b of the general statutes is  
675 repealed and the following is substituted in lieu thereof (*Effective*  
676 *October 1, 2010*):

677 [(b) Notwithstanding the provisions of chapter 54, a general permit  
678 shall be issued, renewed, modified, revoked or suspended in  
679 accordance with the standards and procedures specified for an  
680 individual permit, in accordance with section 22a-430 and any  
681 regulations adopted thereunder, except that (1) summary suspension  
682 may be ordered in accordance with subsection (c) of section 4-182; (2)  
683 any proposed or final general permit and notice thereof may address  
684 persons or municipalities which are or may be covered by the general  
685 permit as a group, describe the facilities which are or may be covered  
686 by the general permit in general terms; and (3) upon issuance of a  
687 proposed or final general permit, the commissioner shall publish

688 notice thereof in a newspaper of substantial circulation in the affected  
689 area.]

690 (b) General permits shall be issued for a term specified by the  
691 permit and such terms shall be consistent with the federal Water  
692 Pollution Control Act and shall be subject to the provisions of section  
693 22a-431. Such permits shall: (1) Describe the category of discharge  
694 regulated by the general permit; (2) specify the manner, nature and  
695 volume of discharge; (3) require proper operation and maintenance of  
696 any pollution abatement facility required by such permit; and (4) be  
697 subject to such other requirements and restriction as the commissioner  
698 deems necessary to fully comply with the purposes of this chapter, the  
699 federal Water Pollution Control Act and the federal Safe Drinking  
700 Water Act. Any construction or modification of a pollution abatement  
701 facility or disposal system which is undertaken pursuant to and in  
702 accordance with a general permit shall not require submission of plans  
703 and specifications to or approval by the commissioner, unless required  
704 pursuant to the terms of the general permit.

705 Sec. 16. Subsection (e) of section 22a-454 of the 2010 supplement to  
706 the general statutes is repealed and the following is substituted in lieu  
707 thereof (*Effective October 1, 2010*):

708 (e) (1) The commissioner may issue a general permit for a category  
709 of activities which require a permit under subsection (a) of this section  
710 or license under subsection (b) of section 22a-449, except for an activity  
711 for which an individual permit has already been obtained provided  
712 the issuance of the general permit is not inconsistent with the  
713 requirements of the federal Resource Conservation and Recovery Act.  
714 Any person or municipality conducting an activity for which a general  
715 permit has been issued shall not be required to obtain an individual  
716 permit under subsection (a) of this section, except as provided in  
717 subdivision [(3)] (2) of this subsection. The general permit may  
718 regulate a category of activities which: (A) Involve the same or  
719 substantially similar types of operations; (B) involve the collection,  
720 storage, treatment or disposal of the same types of substances; (C)

721 require the same operating conditions or standards; and (D) require  
722 the same or similar monitoring, and which in the opinion of the  
723 commissioner are more appropriately controlled under a general  
724 permit than under an individual permit. The general permit may  
725 require any person or municipality proposing to conduct any activity  
726 under the general permit to register such activity with the  
727 commissioner before it is covered by the general permit. Registration  
728 shall be on a form prescribed by the commissioner.

729 [(2) Notwithstanding any provisions of this section, or any  
730 regulations adopted thereunder, or of chapter 54, the following  
731 procedures shall apply to the issuance, renewal, modification,  
732 revocation or suspension of a general permit: (A) A general permit  
733 shall be issued for a term specified by the permit and shall clearly  
734 define the activity covered thereby and may include such conditions  
735 and requirements as the commissioner deems appropriate, including  
736 but not limited to operation and maintenance requirements,  
737 management practices, and reporting requirements; (B) the  
738 commissioner shall publish notice of intent to issue a general permit in  
739 a newspaper having a substantial circulation in the affected area; (C)  
740 there shall be a comment period of thirty days following publication of  
741 such notice during which interested persons may submit written  
742 comments to the commissioner; (D) the commissioner shall publish  
743 notice of the issuance or decision not to issue a general permit in a  
744 newspaper having substantial circulation in the affected area. The  
745 commissioner may revoke, suspend or modify a general permit in  
746 accordance with the notice and comment procedures for issuance of a  
747 general permit specified in this subsection. Any person may request  
748 that the commissioner issue, modify, suspend or revoke a general  
749 permit in accordance with this subsection; and (E) summary  
750 suspension may be ordered in accordance with subsection (c) of  
751 section 4-182.]

752 [(3)] (2) Subsequent to the issuance of a general permit, the  
753 commissioner may require any person or municipality whose activity  
754 is or may be covered by the general permit to apply for and obtain an

755 individual permit pursuant to subsection (a) of this section if he  
756 determines that an individual permit would better protect the land, air  
757 and waters of the state from pollution. The commissioner may require  
758 an individual permit under this subdivision in cases including, but not  
759 limited to the following: (A) When the owner or operator is not in  
760 compliance with the conditions of the general permit; (B) when a  
761 change has occurred in the availability of demonstrated technology or  
762 practices for the control or abatement of pollution applicable to the  
763 activity; (C) when circumstances have changed since the time of the  
764 issuance of the general permit so that the activity is no longer  
765 appropriately controlled under the general permit, or either a  
766 temporary or permanent reduction or elimination of the authorized  
767 activity is necessary; or (D) when a relevant change has occurred in the  
768 applicability of the federal Resource Conservation and Recovery Act.  
769 In making the determination to require an individual permit, the  
770 commissioner may consider the location, character, and size of the  
771 activity, and any other relevant factors. The commissioner may require  
772 an individual permit under this subdivision only if the affected person  
773 or municipality covered by the general permit has been notified in  
774 writing that a permit application is required. This notice shall include a  
775 brief statement of the reasons for this decision, an application form, a  
776 statement setting a time for the person or municipality to file the  
777 application, and a statement that on the effective date of the individual  
778 permit the general permit as it applies to the individual permittee shall  
779 automatically terminate. The commissioner may grant an extension of  
780 time upon the request of the applicant. If the affected person or  
781 municipality does not submit a complete application for an individual  
782 permit within the time frame set forth in the commissioner's notice or  
783 as extended by the commissioner in writing, then the general permit as  
784 it applies to the affected person or municipality shall automatically  
785 terminate. The applicant shall use his best efforts to obtain the  
786 individual permit. Any interested person or municipality may petition  
787 the commissioner to take action under this subdivision.

788 [(4)] (3) The commissioner [may] shall adopt regulations, in  
789 accordance with the provisions of chapter 54 to carry out the purposes

790 of this subsection, which shall include standards and procedures for  
 791 the issuance of general permits.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section
Sec. 2	<i>October 1, 2010</i>	New section
Sec. 3	<i>October 1, 2010</i>	New section
Sec. 4	<i>from passage</i>	New section
Sec. 5	<i>from passage</i>	4-166(13)
Sec. 6	<i>October 1, 2010</i>	4-168a(b)
Sec. 7	<i>October 1, 2010, and applicable to proposed regulations submitted to the standing legislative regulation review committee on or after said date</i>	4-170(b)
Sec. 8	<i>October 1, 2010</i>	22a-430(j)(2)
Sec. 9	<i>October 1, 2010</i>	22a-45a
Sec. 10	<i>October 1, 2010</i>	22a-174(k)
Sec. 11	<i>October 1, 2010</i>	22a-208a(i)
Sec. 12	<i>October 1, 2010</i>	22a-349a
Sec. 13	<i>October 1, 2010</i>	22a-378a
Sec. 14	<i>October 1, 2010</i>	22a-411
Sec. 15	<i>October 1, 2010</i>	22a-430b(b)
Sec. 16	<i>October 1, 2010</i>	22a-454(e)

**CE**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

## **OFA Fiscal Note**

### **State Impact:**

<b>Agency Affected</b>	<b>Fund-Effect</b>	<b>FY 11 \$</b>	<b>FY 12 \$</b>
Department of Environmental Protection	GF - Potential Cost	At least 2,120,000	At least 1,941,600
Department of Economic & Community Development	GF - Potential Cost	75,000	37,500
Department of Transportation	TF - Potential Cost	250,000- 500,000	35,000- 50,000
Department of Public Health	GF - Potential Cost	1,119,049	784,801

Note: GF=General Fund; TF=Transportation Fund

**Municipal Impact:** None

### **Explanation**

The bill may result in costs to: 1) the Department of Environmental Protection (DEP) of at least \$2.1 million in FY 11 and at least \$1.9 million in FY 12; 2) the Department of Economic and Community Development (DECD) of \$75,000 in FY 11 and \$37,500 in FY 12; and 3) the Department of Transportation (DOT) of between \$250,000 and \$500,000 in FY 11 and \$35,000-50,000 in FY 12 for development of the online licensing and permitting system required in the bill.

The system is not only required to receive online licenses and permits of varying types, but is required to track the progress of the license or permit through the agencies' review and approval process.

DEP costs include at least \$1.0 million for contracted system development costs, one-time hardware and software costs, annual software license fees and webhosting costs. The bill also results in Personal Services costs for various positions to develop, maintain, and

update the online licensing and permitting system<sup>1</sup>. Personal Services costs are also required for the updating of 56 sets of regulations pertaining to general permits as required under **Sections 5 and 9-16**.

Under the bill, if DEP fails to meet various timeframes, a permit application may be deemed approved by default. Any such default issuance of a permit authorized by a federal program could jeopardize the annual \$9.7 million grant received by DEP.

The bill also results in a one-time cost in FY 11 for DOT to hire a consultant to program the system, including development of forms for on-line filing and tracking and development and implementation of the electronic database for processing applications. The bill also results in ongoing costs to DOT of \$35,000 to \$50,000 in FY 12 for software licensing and maintenance.

The bill may result in costs to the Department of Public Health (DPH) of \$1.1 million in FY 11 and \$784,801 in FY 12 for development and ongoing operation of the online licensing and permitting system. Costs include Personal Services, Other Expenses, and Equipment.

The requirement that DEP, DECD, DPH and DOT implement the system within available appropriations will likely result in one of four outcomes: (1) the agencies will proceed with the system and require deficiency appropriations in FY 11; (2) the agencies will delay the implementation of the system pending the approval of additional appropriations; (3) the agencies will shift resources from other agency priorities to develop the licensing and permitting system, thereby impacting existing departmental programs; or (4) the agencies will not implement this system.

### ***The Out Years***

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

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<sup>1</sup> It is anticipated that the pilot expedited permitting process in Section 3 would cover

**OLR Bill Analysis****sSB 453****AN ACT CONCERNING THE STATE'S REGULATORY ENVIRONMENT.****SUMMARY:**

This bill establishes new regulatory policies and practices aimed at reducing the time it takes to obtain environmental licenses, permits, and approvals. It requires the Department of Environmental Protection (DEP) commissioner to provide the technical assistance applicants need to obtain these clearances and develop a plan for expedited permitting. It also requires DEP to adopt regulations for issuing general permits. DEP currently issues them under a statutory procedure.

The bill's other changes affect more agencies. It requires DEP and the Transportation, Public Health, and Economic and Community Development departments to develop an online application system. It also requires all agencies to use regulatory methods to mitigate the adverse impact of proposed regulations on small businesses and "minor and less complex activities." Current law requires agencies only to consider using methods that have this effect on small businesses.

The bill requires the Legislative Program Review and Investigations Committee to study how the state's regulations affect businesses. The committee must report its finding and recommendations to the legislature by February 1, 2012 (§ 1).

The bill makes technical and conforming changes

EFFECTIVE DATE: October 1, 2010, except for the provision

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approximately 250 manufacturing or industrial facilities.

requiring an explanation of regulations imposing standards more stringent than federal ones, which takes effect October 1, 2010 and applies to proposed regulations submitted to the Regulations Review Committee on or after that date and the provisions authorizing the Program Review study, DEP regulatory assistance, and regulations for issuing general permits, which take effect upon passage.

## **REGULATORY RELIEF MEASURES**

### **§ 4 — *Regulatory Compliance Assistance***

The bill requires the DEP commissioner to help applicants comply with regulatory requirements and standards by reallocating existing resources and adjusting current policies. In doing so, it directs her to study the consulting service administered by the Labor Department's Division of Occupational Safety and Health.

In providing compliance assistance, the commissioner must exempt from penalties or citations any recipient trying to comply with an environmental law or regulation if its failure to do so did not measurably threaten human health or the environment.

### **§ 2 — *On-line Application System***

The bill requires four state agencies to establish a joint on-line application system to make it easier for people and businesses to comply with regulatory requirements. The departments of Transportation, Environmental Protection, Public Health, and Economic and Community Development must establish the system within available appropriations. The system must:

1. expedite the process for issuing licenses and permits and obtaining regulatory approvals;
2. allow applicants to file license, permit, and approval applications on-line; and
3. permit them to track applications through the regulatory process.

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**§ 7 — Adopting Regulations Implementing Federal Law**

State agencies implementing federal laws must often adopt regulations that are, at a minimum, identical to those laws. The bill sets standards the agencies must meet when proposing regulatory standards that are more stringent than the federal ones. In these cases, the agency must attach a notice to the proposed regulation stating that its requirements exceed the federal ones and summarizing the difference between the two. The agency must include this notice along with the other information it must submit under current law to the Regulations Review Committee.

**§ 6 — Regulatory Flexibility Analysis**

The bill changes the scope of the regulatory flexibility analysis agencies must prepare before adopting proposed regulations. In preparing the analysis under current law, an agency must identify and consider using other methods to achieve the regulation's goal while minimizing the adverse impact the regulation could have on small businesses. The bill requires the agencies to use as many of these methods as possible when implementing the regulation.

Under current law, the methods must be consistent with public health, safety, and welfare. The bill requires them to be consistent only with public health and safety.

The bill extends the regulatory flexibility analysis to "minor and less complex activities," including those that do not require a high level of government oversight but still undergo regulatory review when they are part of a larger and more complex activity requiring such review. In these cases, the bill requires agencies to identify and use other methods that minimize the burden on these activities and still achieve the regulation's goal.

**§ 3 — Plan for Pilot Expedited Permitting Program**

The bill requires the DEP commissioner to prepare a plan for a pilot expedited permitting program, and submit it by January 1, 2011 to the Environment and Commerce committees. The plan must affect at least

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250 manufacturing or industrial facilities and include the following specifications:

1. deadlines for deciding permit applications,
2. tacit approval of applications that are not acted on by the specified or extended deadline,
3. standards for determining “good cause” for denying an application, and
4. reasons for extending deadlines and limits on the number of extensions.

## **REGULATORY ACTIONS SUBJECT TO REGULATIONS REVIEW**

### **§§ 9-16 — *Standards and Procedures for General Permits***

The bill eliminates the statutory process DEP must follow when adopting standards and procedures for issuing general permits, one of two types of permits DEP issues, and instead requires it to adopt a regulatory process. The law allows DEP to issue general permits on a statewide basis for many similar, routine activities that minimally affect the environment, such as repairing or maintaining structures in wetlands. These permits are easier to process than individual permits, which DEP requires for specific activities to address particular environmental needs and concerns. Consequently, general permits take longer to process.

Current law specifies the standards and procedure DEP must follow to issue general permits in different environmental policy areas. The standards vary depending on the policy area, but generally specify the types of activities that qualify for general permits and the conditions for issuing them.

The procedures also vary depending on the policy area, but generally require newspaper notices of DEP’s intent to issue a permit, a period during which interested parties may comment on the proposed permit, and public notice of DEP’s decision to issue the

permit. In some cases, DEP must notify any federal agency that also regulates the activity.

The bill eliminates these statutory procedures and instead requires DEP to adopt regulations for issuing general permits, including the standards and procedures for doing so. In doing so, it requires DEP to submit the proposed regulations to the Regulations Review Committee for review and approval. The bill affects general permits for:

1. wetlands,
2. new and existing stationary air pollution sources,
3. solid waste management,
4. floodplains,
5. potable water supplies,
6. dams and reservoirs,
7. water discharges, and
8. hazardous waste management.

The bill makes a conforming change to the statutory process for adopting regulations (§ 5).

### **§ 8 — Water Discharge Permits**

The bill requires, instead of allows, the DEP commissioner to adopt regulations for exempting different types of water discharges from the requirement to submitting plans and specifications showing how a water discharge system will protect the state's waters. The regulations must include (1) minimum standards for designing and operating a treatment system for discharges and (2) requirements for the system's operator to submit information to DEP regarding discharges.

## **BACKGROUND**

### ***Related Bills***

sSB 174 requires the DEP commissioner to adopt regulations setting water quality standards. Currently, the commissioner sets the standards according to a statutory process the bill eliminates. The Commerce and Environmental Protection committees favorably reported the bill on March 16 and 19, respectively.

sHB 5208 creates an interagency and intergovernmental mechanism for expeditiously reviewing and approving state and municipal projects meeting specified criteria. The Commerce and Planning and Development committees favorably reported the bill on March 16 and 22, respectively.

**COMMITTEE ACTION**

Commerce Committee

Joint Favorable Substitute

Yea 19 Nay 1 (03/23/2010)