



General Assembly

February Session, 2012

Raised Bill No. 343

LCO No. 1716

01716_____PD_

Referred to Committee on Planning and Development

Introduced by:

(PD)

**AN ACT CONCERNING INTERVENTION IN PERMIT PROCEEDINGS
PURSUANT TO THE ENVIRONMENTAL PROTECTION ACT OF 1971.**

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

1 Section 1. Section 22a-19 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2012*):

3 (a) (1) In any administrative, licensing or other proceeding, and in
4 any judicial review thereof made available by law, the Attorney
5 General, any political subdivision of the state, any instrumentality or
6 agency of the state or of a political subdivision thereof, any person,
7 partnership, corporation, association, organization or other legal entity
8 may intervene as a party on the filing of a verified pleading [asserting]
9 demonstrating that the proceeding or action for judicial review
10 involves conduct which [has] will, or which is reasonably likely to,
11 [have, the effect of unreasonably polluting, impairing or destroying]
12 unreasonably pollute, impair or destroy the public trust in the air,
13 water or other natural resources of the state.

14 (2) The verified pleading shall: (A) State with specificity the nature
15 of the alleged pollution, impairment or destruction; (B) include the

16 names of all persons filing the verified pleading, including, in the case
17 of a partnership, corporation, association, organization or other legal
18 entity, the names of all individuals filing the verified pleading on
19 behalf of such partnership, corporation, association, organization or
20 other legal entity; and (C) disclose the names of all individuals or legal
21 entities funding the intervention. A verified pleading shall be filed not
22 later than thirty days after the date on which the proceeding or action
23 for judicial review commences. For purposes of this section, a
24 proceeding commences on the date the board, commission or other
25 administrative agency accepts an application and an action for judicial
26 review commences on the return date.

27 (3) Not later than thirty days after the date on which the verified
28 pleading is filed, the intervenor or intervenors shall introduce evidence
29 supporting any allegations of unreasonable pollution, impairment or
30 destruction of the public trust in the air, water or other natural
31 resources of the state. Not later than thirty days after the date on which
32 such evidence is submitted, the board, commission or other
33 administrative agency or the court shall conduct a hearing to
34 determine whether such submitted evidence substantially supports the
35 allegations in the verified pleading. Such hearing shall conclude not
36 later than fifteen days after the date on which it begins. If the board,
37 commission or other administrative agency or the court concludes that
38 the submitted evidence does not substantially support the allegations
39 in the verified pleading, then the board, commission or other
40 administrative agency or the court shall dismiss the verified pleading.
41 A board, commission or other administrative agency shall render its
42 decision not later than fifteen days after the date on which the hearing
43 concludes, and a court shall render its decision not later than thirty
44 days after the date on which the hearing concludes. Any hearing shall
45 be held in conjunction with, and shall not delay, the underlying
46 proceeding or action in court. If a court determines that the verified
47 pleading is frivolous, vexatious or filed without good faith or for the
48 purpose of delay, the court shall award damages in the amount of
49 actual costs incurred by the party or parties to oppose such verified

50 pleading.

51 (4) No person may intervene pursuant to this section in an action for
52 judicial review unless (A) such person filed a verified pleading in the
53 underlying proceeding and the board, commission or administrative
54 agency determined, after conducting a hearing in accordance with
55 subdivision (3) of this subsection, that the verified pleading was
56 supported by substantial evidence, and (B) such person, within the
57 period allowed for taking such appeal, has given a bond with surety to
58 the adverse parties to guarantee payment of all damages that may be
59 awarded if the court determines that the verified pleading is frivolous,
60 vexatious or filed without good faith or for the purpose of delay.

61 (5) There shall be no right of appeal from any decision of a board,
62 commission or other administrative agency or court rendered pursuant
63 to this section on a verified pleading.

64 (b) In any administrative, licensing or other proceeding, the agency
65 shall consider the alleged unreasonable pollution, impairment or
66 destruction of the public trust in the air, water or other natural
67 resources of the state and no conduct shall be authorized or approved
68 which does, or is reasonably likely to, have such effect as long as,
69 considering all relevant surrounding circumstances and factors, there
70 is a feasible and prudent alternative consistent with the reasonable
71 requirements of the public health, safety and welfare.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2012	22a-19

Statement of Purpose:

To amend substantive and evidentiary requirements for a verified pleading filed by a person seeking to intervene in an administrative proceeding or legal action pursuant to the Environmental Protection Act of 1971.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]