

# The Connecticut General Assembly

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## Memorandum

**To:** Legislative Regulation Review Committee  
**From:** Legislative Commissioners' Office  
**Committee Meeting Date:** June 26, 2012

<b>Regulation No:</b>	2012-17
<b>Agency:</b>	Department of Energy and Environmental Protection
<b>Subject Matter:</b>	State Board of Examiners of Environmental Professionals
<b>Statutory Authority:</b> (copy attached)	22a-133v

	Yes or No
<b>Mandatory</b>	N
<b>Federal Requirement</b>	N
<b>Permissive</b>	Y

### For the Committee's Information:

#### Substantive Concerns:

On pages 16 and 17, in subsections (b)(1) and (b)(3) of section 22a-133v-5, the language "as authorized by the Commissioner pursuant to any other law, regulation, order, permit, license or approval." is unclear because it is not known what other law, regulation, order, permit, license or approval the commissioner could invoke in order to authorize the licensee to utilize his or her seal.

## Technical Corrections:

1. Throughout the regulation, it is not necessary to bracket the introductory language and the word "(NEW)" for each existing section of the Regulations of Connecticut State Agencies that is being amended in Section 1 of the proposed regulation.

2. On page 1, the introductory language should be written as follows, for proper form: "Section 1. Sections 22a-133v-1 to 22a-133v-7, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:"

3. On page 1, the bracketed (NEW) should be deleted, for proper form.

4. On page 6, in subsection (e)(1)(A), clauses (i) and (ii) should be deleted and "Except as provided in section 22a-133v-4(e) of the Regulations of Connecticut State Agencies, no" should be inserted before "[No] licensee may apply continuing education credits", for clarity and proper form.

5. On page 8, in section subdivision (3)(B), "had taken such course" should be "took such course", for clarity.

6. On page 9, in section 22a-133v-3(a)(2), lines 3-5 should be rewritten as follows for proper form:

"complete application\_ [, except that an applicant may be considered for admittance to the first scheduled examination if at least 45 days before the date of such examination such applicant files with the Board a complete application.] An application which is incomplete, illegible or not"

7. On page 13, the catchline for section 22a-133v-4(b) should be "Suspension, Revocation, Sanction or Denial of a License, for clarity.

8. On page 15, in subsection (e), the designator "(e)" should not be underlined and in subparagraph (B), "In any event, such credits cannot be used to satisfy" should be "In any event, such credits shall not be used to satisfy", for proper form.

9. On page 18, in subsections (d)(2)(B) and (d)(2)(C), "22a-133y, 22a-133x" should be "[22a-133y, 22a-133x] 22a-133x, 22a-133y", for consistency.

10. On page 21, in subsection (c)(2), the open and closed brackets should be deleted, for proper form.

11. On page 32, in subsection (w), the open and closed brackets should be deleted, for proper form.

12. On page 39, section 22a-133v-8 should be deleted for proper form since there are no changes being made to that section of the proposed regulation.

**Recommendation:**

<p><b>Approval in whole with technical corrections with deletions with substitute pages Disapproval in whole or in part X Rejection without prejudice</b></p>
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**Reviewed by:** Bradford M. Towson / Angela R. Rehm

**Date:** June 6, 2012

**Sec. 22a-133v. Licensed environmental professionals. Definitions. Licensing board. Standard of care. Issuance of license. Fees. Suspension or revocation of license or other sanction. Examination.** (a) As used in this section: (1) "Environmental professional" means a person who is qualified by reason of his knowledge, as specified in subsection (e) of this section, to engage in activities associated with the investigation and remediation of pollution and sources of pollution including the rendering or offering to render to clients professional services in connection with the investigation and remediation of pollution and sources of pollution; (2) "pollution" means pollution, as defined in section 22a-423; and (3) "commissioner" means the Commissioner of Energy and Environmental Protection or his designated agent.

(b) There shall be within the Department of Energy and Environmental Protection a State Board of Examiners of Environmental Professionals. The board shall consist of eleven members. One member, who shall be the chairman of the board, shall be the Commissioner of Energy and Environmental Protection, or his designee. The Governor shall appoint the other ten members of the board who shall consist of the following: Six members shall be licensed environmental professionals or, prior to the publication by the board of the first roster of licensed environmental professionals, persons on the list maintained by the commissioner pursuant to subsection (h) of this section, including at least two having hydrogeology expertise and two who are licensed professional engineers; two members who are active members of an organization that promotes the protection of the environment; one member who is an active member of an organization that promotes business; and one member who is an employee of a lending institution. The members of the board shall administer the provisions of this section as to licensure and issuance, reissuance, suspension or revocation of licenses concerning environmental professionals. The Governor may remove any member of the board for misconduct, incompetence or neglect of duty. The members of the board shall receive no compensation for their services but shall be reimbursed for necessary expenses incurred in the performance of their duties. The board shall keep a true and complete record of all its proceedings.

(c) A licensed environmental professional shall perform his duties in accordance with the standard of care applicable to professionals engaged in such duties. The commissioner, with advice and assistance from the board, may adopt regulations, in accordance with the provisions of chapter 54, concerning professional ethics and conduct appropriate to establish and maintain a high standard of integrity and dignity in the practice of an environmental professional and may make rules for the conduct of the board's affairs and for the examination of applicants for licenses.

(d) The commissioner shall receive and account for all moneys derived under the provisions of this section and shall deposit such moneys in the General Fund. The board

shall keep a register of all applications for licenses with the actions of the board thereon. A roster showing the names of all licensees shall be prepared each year. A copy of such roster shall be placed on file with the Secretary of the State.

(e) The board shall authorize the commissioner to issue a license under subsection (d) of section 22a-133m, sections 22a-184 to 22a-184e, inclusive, this section and section 22a-133w to any person who demonstrates to the satisfaction of the board that such person: (1) (A) Has for a minimum of eight years engaged in the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater, including a minimum of four years in responsible charge of investigation and remediation of the release of hazardous waste or petroleum products into soil or groundwater, and holds a bachelor's or advanced degree from an accredited college or university in a related science or related engineering field or is a professional engineer licensed in accordance with chapter 391, or (B) has for a minimum of fourteen years engaged in the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater, including a minimum of seven years in responsible charge of investigation and remediation of hazardous waste or petroleum products into soil or groundwater; (2) has successfully passed a written examination, or a written and oral examination, prescribed by the board and approved by the commissioner, which shall test the applicant's knowledge of the physical and environmental sciences applicable to an investigation of a polluted site and remediation conducted in accordance with regulations adopted by the commissioner under section 22a-133k and any other applicable guidelines or regulations as may be adopted by the commissioner; and (3) has paid an examination fee of two hundred thirty-five dollars to the commissioner. In considering whether a degree held by an applicant for such license qualifies for the educational requirements under this section, the board may consider all undergraduate, graduate, postgraduate and other courses completed by the applicant.

(f) The board shall authorize the commissioner to issue a license to any applicant who, in the opinion of the board, has satisfactorily met the requirements of this section. The issuance of a license by the commissioner shall be evidence that the person named therein is entitled to all the rights and privileges of a licensed environmental professional while such license remains unrevoked or unexpired. A licensed environmental professional shall pay to the commissioner an annual fee of four hundred twenty-five dollars, due and payable on July first of every year beginning with July first of the calendar year immediately following the year of license issuance. The commissioner, with the advice and assistance of the board, may adopt regulations in accordance with the provisions of chapter 54, pertaining to the design and use of seals by licensees under this section and governing the license issuance and renewal process, including, but not limited to, procedures for allowing the renewal of licenses when an application is submitted not later than six months after the expiration of the license without the applicant having to take the examination

required under subsection (e) of this section.

(g) The board may conduct investigations concerning the conduct of any licensed environmental professional. The commissioner may conduct audits of any actions authorized by law to be performed by a licensed environmental professional. The board shall authorize the commissioner to: (1) Revoke the license of any environmental professional; (2) suspend the license of any environmental professional; (3) impose any other sanctions that the board deems appropriate; or (4) deny an application for such licensure if the board, after providing such professional with notice and an opportunity to be heard concerning such revocation, suspension, other sanction or denial, finds that such professional has submitted false or misleading information to the board or has engaged in professional misconduct including, without limitation, knowingly or recklessly making a false verification of a remediation under section 22a-134a, or violating any provision of this section or regulations adopted under the provisions of this section.

(h) The board shall hold the first examination pursuant to this section no later than eighteen months after the date the commissioner adopts regulations pursuant to section 22a-133k, and shall publish the first roster of licensed environmental professionals no later than six months after the date of such examination. Until such time as the board publishes the first roster of licensed environmental professionals, any person who (1) has for a minimum of eight years engaged in the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater, including a minimum of four years in responsible charge of investigation and remediation of the release of hazardous waste or petroleum products into soil or groundwater, (2) holds a bachelor's or advanced degree from an accredited college or university in a related science or related engineering field or is a professional engineer licensed in accordance with chapter 391, and (3) pays a registration fee of two hundred eighty-five dollars may apply to the commissioner to be placed on a list of environmental professionals. Any person on such list may perform any duties authorized by law to be performed by a licensed environmental professional until such time as the first roster of licensed environmental professionals is published by the board.

(i) Nothing in this section shall be construed to authorize a licensed environmental professional to engage in any profession or occupation requiring a license under any other provisions of the general statutes without such license.