

## Proposed Amendments to the Connecticut Transfer Act – in Track Changes

Please support our effort to improve the Transfer Act (SB 1030). It is a critical issue to the real estate industry and any support we can get is most appreciated.

I have attached the proposed bill in redline form so you see direct changes it would enact.

Thank you- we really appreciate all the help you can offer.

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**Sec.22a-134. Transfer of hazardous waste establishments: Definitions.** For the purposes of this section and sections 22a-134a to 22a-134d, inclusive:

- (1) “Transfer of establishment” means ~~any transaction or proceeding through which an:~~
- (A) The conveyance of the real property constituting the establishment, except; undergoes a change in ownership, but does not mean:
- (A1) Conveyance or extinguishment of an easement;
- (B2) Conveyance of an establishment through a foreclosure, as defined in subsection (b) of section 22a-452f, foreclosure of a municipal tax lien or through a tax warrant sale pursuant to section 12-157, an exercise of eminent domain by a municipality or pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield, as defined in section 32-760, or a subsequent transfer by such municipality that has foreclosed on the property, foreclosed municipal tax liens or that has acquired title to the property through section 12-157, or is within the pilot program established in subsection (c) of section 32-9cc of the general statutes, revision of 1958, revised to January 1, 2013, or the remedial action and redevelopment municipal grant program established in section 32-763, or has acquired such property through the exercise of eminent domain by a municipality or pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or a resolution adopted in accordance with this subparagraph, provided (i) the party acquiring the property from the municipality did not establish, create or contribute to the contamination at the establishment and is not affiliated with any person who established, created or contributed to such contamination or with any person who is or was an owner or certifying party for the establishment, and (ii) on or before the date the party acquires the property from the municipality, such party or municipality enters and subsequently remains in the voluntary remediation program administered by the commissioner

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pursuant to section 22a-133x and remains in compliance with schedules and approvals issued by the commissioner. For purposes of this subparagraph, subsequent transfer by a municipality includes any transfer to, from or between a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, or a Connecticut brownfield land bank;

~~(C2)~~ Conveyance of a deed in lieu of foreclosure to a lender, as defined in and that qualifies for the secured lender exemption pursuant to subsection (b) of section 22a-452f;

~~(D3)~~ Conveyance of a security interest, as defined in subdivision (7) of subsection (b) of section 22a-452f;

~~(E4)~~ Termination of a lease and conveyance, assignment or execution of a lease for a period less than ninety-nine years including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold, ninety-nine years, including conveyance, assignment or execution of a lease with options or similar terms that will extend the period of the leasehold to ninety-nine years, or from the commencement of the leasehold;

~~(F5)~~ Any change in ownership approved by the Probate Court;

~~(G6)~~ Devolution of title to a surviving joint tenant, or to a trustee, executor or administrator under the terms of a testamentary trust or will, or by intestate succession;

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

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

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

~~(K7)~~ Any conveyance of an interest in an establishment where the transferor is the sibling, spouse, child, parent, grandparent, child of a sibling or sibling of a parent of the transferee;

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

~~(M) Any conveyance of a portion of a parcel upon which portion no establishment is or has been located and upon which there has not occurred a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste, provided either the area of such portion is not greater than fifty~~

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~~per cent of the area of such parcel or written notice of such proposed conveyance and an environmental condition assessment form for such parcel is provided to the commissioner sixty days prior to such conveyance;~~

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

~~(O8) Any conveyance of an establishment which, prior to July 1, 1997, had been developed solely for residential use and such use has not changed;~~

~~(P9) Any conveyance of an establishment to any entity created or operating under chapter 130 or 132, or to an urban rehabilitation agency, as defined in section 8-292, or to a municipality under section 32-224, or to Connecticut Innovations, Incorporated or any subsidiary of the corporation;~~

~~(Q10) Any conveyance of a parcel in connection with the acquisition of properties to effectuate the development of the overall project, as defined in section 32-651;~~

~~(R) The conversion of a general or limited partnership to a limited liability company;~~

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

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

~~(U11) Acquisition of an establishment by any governmental or quasi-governmental condemning authority;~~

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

~~(W)12) Conveyance of a unit in a residential common interest community in accordance with section 22a-134i;~~

~~(X13) Acquisition of an establishment that is in the abandoned brownfield cleanup program established pursuant to section 32-768 and all subsequent transfers of the establishment,~~

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provided the establishment is undergoing remediation or is remediated in accordance with subsection (f) of section 32-768;

~~(Y14)~~ Any transfer of title from a bankruptcy court or a municipality to a nonprofit organization;

~~(Z15)~~ Acquisition of an establishment that is in the brownfield remediation and revitalization program and all subsequent transfers of the establishment, provided the establishment is in compliance with the brownfield investigation plan and remediation schedule, the commissioner has issued a no audit letter or successful audit closure letter in response to a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program, or a one-hundred-eighty-day period has expired since a verification or interim verification submitted regarding the remediation of such establishment under the brownfield remediation and revitalization program without an audit decision from the Commissioner of Energy and Environmental Protection;

~~(AA16)~~ Conveyance of an establishment in connection with the acquisition of properties to effectuate the development of a project certified and approved pursuant to section 32-9v, provided any such property is investigated and remediated in accordance with section 22a-133y;

~~(BB17)~~ Conveyance from the Department of Transportation to the Connecticut Airport Authority of any properties comprising (i) Bradley International Airport and all related improvements and facilities now in existence and as hereafter acquired, added, extended, improved and equipped, including any property or facilities purchased with funds of, or revenues derived from, Bradley International Airport, and any other property or facilities allocated by the state, the Connecticut Airport Authority or otherwise to Bradley International Airport, (ii) the state-owned and operated general aviation airports, including Danielson Airport, Groton/New London Airport, Hartford Brainard Airport, Waterbury-Oxford Airport and Windham Airport and any such other airport as may be owned, operated or managed by the Connecticut Airport Authority and designated as general aviation airports, (iii) any other airport as may be owned, operated or managed by the Connecticut Airport Authority, and (iv) any airport site or any part thereof, including, but not limited to, any restricted landing areas and any air navigation facilities; ~~or~~ and

~~(CC18)~~ Conveyance of an establishment to a Connecticut brownfield land bank and all subsequent transfers of such establishment, provided (i) such establishment was entered into a remediation or liability relief program under section 22a-133x, 22a-133y, 32-768, or 32-769, and the conveyer or transferor of such establishment is in compliance with such program at the time of transfer of such establishment, and (ii) none of the activities described in subdivision (3) of this section were conducted at such establishment after the date such establishment was entered into such remediation or liability relief program;

(B) The sale or other disposition of assets of the direct owner of an establishment leaving no significant continuing activity, except where the transferees are (i) the spouse, children, parents, siblings, grandparents, siblings of a parent, children of a sibling, or spouse of child of the grantor, or (ii) an entity all of whose interests are held directly or indirectly by individuals listed in (i). If an entity retains an activity that represented at least twenty-five per cent of total assets at the end of the most recently completed fiscal year, and twenty-

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five per cent of either income from continuing operations before taxes or revenues from continuing operations for such fiscal year, for the entity and each of its subsidiaries on a consolidated basis, the corporation will conclusively be deemed to have retained a significant continuing activity.

(C) The transfer of more than 50% of the direct ownership interests in the entity that is the establishment within any one-year period, except:

(1) Transfers in which the transferees are (i) the spouse, children, parents, siblings, grandparents, siblings of a parent, children of a sibling, or spouse of child of the transferor or (ii) an entity all of whose interests are held directly or indirectly by individuals listed in (i); or

(2) The issuance of stock or other securities; or

(3) Where the indirect controlling interest in the establishment does not change by more than 50%; or

(4) The conveyance of a security interest, as defined in subdivision (7) of subsection (b) of section 22a-452f; or

(5) As a result of the exercise of a secured party's rights pursuant a security interest.

For purposes of this section: “controlling interest” means (A) in the case of a corporation, more than fifty per cent of the total combined voting power of all classes of stock of such corporation, and (B) in the case of a partnership, association, trust or other entity, more than fifty per cent of the capital, profits or beneficial interest in such partnership, association, trust or other entity<sup>1</sup>; “interests” is defined in subdivision (17) of section 34-600; and “security interest” is defined in subdivision (7) of subsection (b) of section 22a-452f.

~~(B)~~(D) The transfer or execution of a trust to transfer an establishment to a trust, whichever occurs first, except where grantor and beneficiary are identical or are members of the same family. Family includes the spouse, children, parents, siblings, grandparents, siblings of a parent, children of a sibling, or spouse of child of the grantor;

(2) “Commissioner” means the Commissioner of Energy and Environmental Protection or the designated agent of the commissioner;

(3) “Establishment” means any real property at which or any business operation from which (A) on or after November 19, 1980, there was generated, except as the result of (i) remediation of polluted soil, groundwater or sediment, or (ii) the removal or abatement of building materials, more than one hundred kilograms of hazardous waste in any one month, (B) hazardous waste generated at a different location was recycled, reclaimed, reused, stored, handled, treated, transported or disposed of, (C) the process of dry cleaning was conducted on or after May 1, 1967, (D) furniture stripping was conducted on or after May 1, 1967, or (E) a vehicle body repair

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<sup>1</sup> Definition from CGS §12-638a.

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~~facility was located on or after May 1, 1967;~~Entity” means entity as defined in subsection 12 of section 34-600.<sup>2</sup>

(4) “Establishment” means (A) Any business operation that since November 19, 1980 generated more than 100 kg of hazardous waste in a month as part of its business operations, and not as episodic events as defined in Title 40 Code of Federal Regulations §262.231; and, (B) any real property at which such business operation has been conducted since November 19, 1980. For properties that are owner occupied or are leased to a single tenant, the establishment includes that parcel or parcels upon which the business operation has operated. For properties that are commercial or industrial units in a common interest community, the establishment includes the unit and the limited common elements under exclusive use of the unit owner upon which the establishment was or is operated. For leased properties with two or more tenants, the establishment includes that business operation’s leased premises and any areas utilized by such business operation where hazardous substances or hazardous wastes are or were handled, stored or transported.

(45) “Hazardous waste” means any waste which is (A) hazardous waste identified in accordance with Section 3001 of the federal Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq., and (B) hazardous waste identified by regulations adopted by the Commissioner of Energy and Environmental Protection, or (C) polychlorinated biphenyls in concentrations greater than fifty parts per million except that sewage, sewage sludge and lead paint abatement wastes; except that the following shall not be considered to be hazardous waste for the purposes of this section and sections 22a-134a to 22a-134d, inclusive;

(5) “Service station” means a retail operation involving the resale of motor vehicle fuel including, but not limited to, gasoline, diesel fuel and kerosene and which operation does not otherwise meet the definition of an establishment; to 22a-134d, inclusive: universal waste; waste generated as a result of the remediation of polluted soil, groundwater or sediment; waste generated as a result of the removal or abatement of abatement of building materials; sewage; sewage sludge; and, lead paint abatement wastes. (6) “Certifying party” means, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who signs a Form III or Form IV and who agrees to investigate the establishment in accordance with prevailing standards and guidelines and to remediate pollution caused by any release at the establishment in accordance with the remediation standards and, in the case of a Form I or Form II, a transferor of an establishment who signs the certification on a Form I or II;

(6) “Certifying party” means, in the case of a Form III or Form IV, a person associated with the transfer of an establishment who signs a Form III or Form IV and who agrees to investigate the

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<sup>2</sup> Statutory definition of an “entity” is: (12) “Entity”, unless the context otherwise requires, means (A) a business corporation; (B) a nonprofit corporation; (C) a general partnership, including a limited liability partnership; (D) a limited partnership, including a limited liability limited partnership; (E) a limited liability company; (F) a business trust or statutory trust entity; (G) an unincorporated nonprofit association; (H) a cooperative; or (I) any other person who has a separate legal existence or the power to acquire an interest in real property in his or her own name other than (i) an individual; (ii) a testamentary, inter vivos or charitable trust, with the exception of a business trust, statutory trust entity or similar trust; (iii) an association or relationship that is not a partnership solely by reason of the law of any other jurisdiction; (iv) a decedent's estate; or (v) a government, a governmental subdivision, agency or instrumentality, or a quasi-governmental instrumentality.

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parcel in accordance with prevailing standards and guidelines and to remediate pollution caused by any release at the establishment in accordance with the remediation standards and, in the case of a Form I or Form II, a transferor of an establishment who signs the certification on a Form I or II;

(7) “Party associated with the transfer of an establishment” means (A) the present or past owner or operator of the establishment, (B) the owner of the real property on which the establishment is located, (C) the transferor, transferee, lender, guarantor or indemnitor, (D) the business entity which operates or operated the establishment, or (E) the state;

(8) “Remediation standards” means regulations adopted by the commissioner pursuant to section 22a-133k;

~~(9) “Parcel” means piece, parcel or tract of land which constitutes an establishment, as defined in subdivision (3) of this section, or on which is or was located any business operation which constitutes an establishment;~~

~~(10)~~ “Form I” means a written certification by the transferor of an establishment on a form prescribed and provided by the commissioner that: (A) No discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has occurred at the establishment which certification is based on an investigation of the ~~parcel~~establishment in accordance with prevailing standards and guidelines, or (B) no discharge spillage, uncontrolled loss, seepage or filtration of hazardous waste has occurred at the establishment based upon an investigation of the ~~parcel~~establishment in accordance with the prevailing standards and guidelines and the commissioner has determined, in writing, or a licensed environmental professional has verified, in writing, that any discharge, spillage, uncontrolled loss, seepage or filtration of a hazardous substance has been remediated in accordance with the remediation standards and that since any such written approval or verification, including any approval or verification for a portion of an establishment, no discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or hazardous substances has occurred at any portion of the establishment;

~~(11)~~10 “Form II” means a written certification by the transferor of an establishment on a form prescribed and provided by the commissioner that the ~~parcel~~establishment has been investigated in accordance with prevailing standards and guidelines and that (A) any pollution caused by a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance which has occurred from the establishment has been remediated in accordance with the remediation standards and that the remediation has been approved in writing by the commissioner or has been verified pursuant to section 22a-133x or section 22a-134a in writing attached to such form by a licensed environmental professional to have been performed in accordance with the remediation standards and that since any such written approval or verification, including any approval or verification for a portion of an establishment, no discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or hazardous substances has occurred at any portion of the establishment, (B) the commissioner has determined in writing or a licensed environmental professional has verified pursuant to section 22a-133x or section 22a-134a in writing, attached to the form that no remediation is necessary to

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achieve compliance with the remediation standards, or (C) a Form IV verification was previously submitted to the commissioner and, since the date of the submission of the Form IV, no discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has occurred at the establishment, which certification is based on an investigation of the ~~paree~~establishment in accordance with prevailing standards and guidelines;

~~(4211)~~ “Form III” means a written certification signed by a certifying party on a form prescribed and provided by the commissioner, which certification states that (A) a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance has occurred at the establishment or the environmental conditions at the establishment are unknown, and (B) that the person signing the certification agrees to investigate the ~~paree~~establishment in accordance with prevailing standards and guidelines and to remediate pollution caused by any release of a hazardous waste or hazardous substance from the establishment in accordance with the remediation standards;

~~(4312)~~ “Form IV” means a written certification signed by one or more certifying parties on a form prescribed and provided by the commissioner and which is accompanied by a written determination by the commissioner or by a verification by a licensed environmental professional pursuant to section 22a-134a or 22a-133x, which certification states and is accompanied by documentation demonstrating that the ~~paree~~establishment has been investigated in accordance with prevailing standards and guidelines and that (A) there has been a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance on the establishment, and (B) all actions to remediate any pollution caused by any release at the establishment have been taken in accordance with the remediation standards except postremediation monitoring, natural attenuation monitoring or the recording of an environmental land use restriction, and (C) the person or persons signing the certification agree, in accordance with the representations made in the form, to conduct postremediation monitoring or natural attenuation monitoring in accordance with the remediation standards and if further investigation and remediation are necessary to take further action to investigate the establishment in accordance with prevailing standards and guidelines and to remediate the establishment in accordance with the remediation standards;

~~(4413)~~ “Person” means person, as defined in section 22a-2;

~~(4514)~~ “Remediate” means to contain, remove or abate pollution, potential sources of pollution and substances in soil or sediment which pose an unacceptable risk to human health or the environment and includes, but is not limited to, the reduction of pollution by natural attenuation;

~~(4615)~~ “Licensed environmental professional” means an environmental professional licensed pursuant to section 22a-133v;

~~(4716)~~ “Environmental condition assessment form” means a form prescribed and provided by the commissioner, prepared under the supervision of a licensed environmental professional, and executed by (A) the certifying party under sections 22a-134 to 22a-134e, inclusive, or (B) the owner of the property under section 22a-133x which form describes the environmental conditions at the ~~paree~~establishment;



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(1817) “Pollution” means pollution, as defined in section 22a-423;

(1918) “Verification” means the rendering of a written opinion by a licensed environmental professional on a form prescribed by the commissioner that an investigation of the ~~parce~~establishment has been performed in accordance with prevailing standards and guidelines and that the establishment has been remediated in accordance with the remediation standards;

(2019) “Vehicle” means any motorized device for conveying persons or objects except for an aircraft, boat, railroad car or engine, or farm tractor;

(2420) “Business operation” means any businessoperation that has, or any series of substantially similar businessesoperations that have, operated continuously or with only brief interruption ~~on~~in the same parcelocation, either with a single owner or successive owners;

~~(22) “Corporate reorganization not substantially affecting the ownership of an establishment” means implementation of a business plan to restructure a corporation through a merger, spin-off or other plan or reorganization under which the direct owner of the establishment does not change;~~

(2321) “Form IV verification” means the rendering of a written opinion by a licensed environmental professional, after a Form IV has been filed, that postremediation monitoring, natural attenuation or the recording of an environmental land use restriction has been completed in accordance with the Form IV;

(2422) “Hazardous substance” means hazardous substance, as defined in Section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 USC 9601, or a petroleum product or by-product for which there are remediation standards adopted pursuant to section 22a-133k or for which such remediation standards have a process for calculating the numeric criteria of such substance;

(25(23) “Sediment” means unconsolidated material occurring in a stream, pond, wetland estuary or other water body;

(2624) “Universal waste” means batteries, pesticides, thermostats, lamps and used electronics regulated as a universal waste under regulations adopted pursuant to subsection (c) of section 22a-449. “Universal waste” does not mean (A) batteries, pesticides, thermostats and lamps that are not covered under 40 CFR Part 273, or (B) used electronics that are not regulated as a universal waste under regulations adopted pursuant to subsection (c) of section 22a-449;

(27(25) “Universal waste transfer facility” means any facility related to transportation, including loading docks, parking areas, storage areas and other similar areas where shipments of universal waste are held during the normal course of transportation for ten days or less;

(2826) “Interim verification” means a written opinion by a licensed environmental professional, on a form prescribed by the commissioner, that (A) the investigation has been performed in accordance with prevailing standards and guidelines, (B) the remediation has been completed in

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accordance with the remediation standards, except that, for remediation standards for groundwater, the selected remedy is in operation but has not achieved the remediation standards for groundwater, (C) identifies the long-term remedy being implemented to achieve groundwater standards, the estimated duration of such remedy, and the ongoing operation and maintenance requirements for continued operation of such remedy, and (D) there are no current exposure pathways to the groundwater area that have not yet met the remediation standards.

~~(29)(27)~~ “Connecticut brownfield land bank” has the same meaning as provided in section 32-760.

**Sec.22a-134a. Transfer of hazardous waste establishments: Forms, verification, schedules, audits, approval, notification requirements, orders, exceptions, waivers.** (a) No person shall transfer an establishment except in accordance with the provisions of sections 22a-134 to 22a-134e, inclusive. Notwithstanding any provision of sections 22a-134 to 22a-134e, inclusive, a person appointed by the Superior Court or any other court to sell, convey or partition real property or a person appointed as a trustee in bankruptcy shall not be deemed a party associated with the transfer of an establishment and shall not be required to comply with the provisions of sections 22a-134 to 22a-134e, inclusive.

(b) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section.

(c) Prior to transferring an establishment, the transferor shall submit to the transferee a complete Form I or a Form II and, no later than ten days after the transfer, shall submit a copy of such Form I or Form II to the commissioner. The commissioner shall notify the transferor no later than ninety days after the submission of such Form I or Form II if the commissioner deems the Form I or Form II incomplete. If the transferor is unable to submit a Form I or a Form II to the transferee, the transferor shall, prior to the transfer, submit a complete Form III or Form IV prepared and signed by a party associated with the transfer to the transferee and, no later than ten days after the transfer, shall submit a copy of such Form III or Form IV to the commissioner. If no other party associated with the transfer of an establishment prepares and signs the proper form as a certifying party, the transferor shall have the obligation for such preparation and signing.

(d) The certifying party to a Form I, Form II, Form III or Form IV shall (1) upon receipt of a written request from the commissioner, provide to the commissioner copies of all technical plans, reports and other supporting documentation relating to the investigation of the ~~parce~~establishment or remediation of the establishment as specified in the commissioner's written request, and (2) simultaneously submit with the submission of a Form I, Form III or Form IV to the commissioner a complete environmental condition assessment form and shall certify to the commissioner, in writing, that the information contained in such form is correct and accurate to the best of the certifying party's knowledge and belief.

(e) Not later than thirty days after receipt of a Form III or Form IV, the commissioner shall notify the certifying party whether the form is complete or incomplete. The certifying party shall use a licensed environmental professional to verify the investigation and remediation, unless not later than seventy-five days after receipt of a complete Form III or IV the commissioner notifies

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the certifying party, in writing, that review and approval of the remediation by the commissioner shall be required. Any person who submitted a Form III to the commissioner prior to October 1, 1995, may submit an environmental condition assessment form to the commissioner. The commissioner shall, not later than forty-five days after receipt of such form, notify the certifying party whether approval of the remediation by the commissioner will be required or whether a licensed environmental professional may verify that the investigation was performed in accordance with prevailing standards and guidelines and the remediation has been performed in accordance with the remediation standards.

(f) In determining whether review and approval of the remediation by the commissioner will be required, or whether a licensed environmental professional may verify that the remediation has been performed in accordance with the remediation standards, the commissioner shall consider: (1) The potential risk to human health and the environment posed by any discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or a hazardous substance at the establishment; (2) the degree of environmental investigation at the ~~paree~~establishment; (3) the proximity of the establishment to significant natural resources; (4) the character of the land uses surrounding the establishment; (5) the complexity of the environmental condition of the establishment; and (6) any other factor the commissioner deems relevant.

(g) (1) (A) Except as provided in subsection (h) of this section, the certifying party to a Form III shall, not later than seventy-five days after the receipt of the notice that such form is complete or such later date as may be approved in writing by the commissioner, submit a schedule for the investigation of the ~~paree~~establishment and remediation of the establishment. Such schedule shall, unless a later date is specified in writing by the commissioner, provide that the investigation shall be completed within two years of the date of receipt of such notice, remediation shall be initiated not later than three years after the date of receipt of such notice and remediation shall be completed sufficient to support either a verification or interim verification within a time frame set forth in subparagraphs (B) and (C) of this subdivision. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Not later than two years after the date of the receipt of the notice that the Form III is complete, unless the commissioner has specified a later day, in writing, the certifying party shall submit to the commissioner documentation, approved in writing by a licensed environmental professional and in a form prescribed by the commissioner, that the investigation has been completed in accordance with prevailing standards and guidelines. Not later than three years after the date of the receipt of the notice that the Form III is complete, unless the commissioner has specified a later day in writing, the certifying party shall notify the commissioner in a form prescribed by the commissioner that the remediation has been initiated, and shall submit to the commissioner a remedial action plan approved in writing by a licensed environmental professional in a form prescribed by the commissioner. Notwithstanding any other provision of this section, the commissioner may determine at any time that the commissioner's review and written approval is necessary and in such case shall notify the certifying party that the commissioner's review and written approval is necessary. Such certifying party shall investigate the ~~paree~~establishment and remediate the establishment in accordance with the schedule or the schedule specified by the commissioner.

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

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

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

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

(2) (A) Notwithstanding the date the Form III or Form IV was submitted, if a certifying party completes the remediation for a portion of an establishment, such party may submit a verification or an interim verification by a licensed environmental professional for any such portion of an establishment. The certifying party shall be deemed to have satisfied the requirements of this subsection for that portion of the establishment covered by any such verification or interim verification. If any portion of an establishment for which a verification or interim verification is submitted pursuant to this subdivision is transferred or conveyed or undergoes a change in ownership before remediation of the entire establishment is complete that would not otherwise be subject to the provisions of sections 22a-134 to 22a-134e, inclusive, the certifying party shall provide notice to the commissioner of such transfer, conveyance or change in ownership not later than thirty days after any such transfer, conveyance or change in ownership.

(B) Any certifying party who submits an interim verification for a portion of an establishment on or before December 31, 2014, shall not be required to record any environmental land use restriction, in accordance with section 22a-133o, prior to submitting such interim verification, provided such certifying party shall record such environmental land use restriction, in accordance with section 22a-133o, on or before September 1, 2015, or a later date as approved, in writing, by the commissioner. If such environmental land use restriction is not recorded on or

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before September 1, 2015, or such later date, such interim verification shall be invalid and shall not be recognized by the commissioner.

(3) (A) The commissioner may conduct an audit of any verification or interim verification submitted pursuant to this section, but shall not conduct an audit of a final verification of an entire establishment submitted pursuant to subdivision (1) of this subsection after ~~three years~~sixty days have passed since the date of the commissioner's receipt of such final verification unless an exception listed in subparagraph (C) of this subdivision applies. Upon completion of an audit, the commissioner shall send written audit findings to the certifying party and the licensed environmental professional who verified. The ~~three-year~~sixty-day time frame for an audit of a final verification of an entire establishment shall apply to such final verifications received by the commissioner after October 1, 2007.

(B) The commissioner may request additional information during an audit. If such information has not been provided to the commissioner within ninety days of the commissioner's request for such information or any longer time as the commissioner may determine in writing, the commissioner may either (i) suspend the audit, which for a final verification shall suspend the running of the ~~three-year~~sixty-day audit time frame until such time as the commissioner receives all the information requested, or (ii) complete the audit based upon the information provided in the verification before the request for additional information.

(C) The commissioner shall not conduct an audit of a final verification of an entire establishment after ~~three-year~~sixty days from receipt of such verification pursuant to this subdivision unless (i) the commissioner has reason to believe that a verification was obtained through the submittal of materially inaccurate or erroneous information, or otherwise misleading information material to the verification or that misrepresentations were made in connection with the submittal of the verification, (ii) a verification is submitted pursuant to an order of the commissioner pursuant to subsection (j) of this section, (iii) any post-verification monitoring, or operations and maintenance, is required as part of a verification and which has not been done, (iv) a verification that relies upon an environmental land use restriction was not recorded on the land records of the municipality in which such land is located in accordance with section 22a-133o and applicable regulations, (v) the commissioner determines that there has been a violation of sections 22a-134 to 22a-134e, inclusive, or (vi) the commissioner determines that information exists indicating that the remediation may have failed to prevent a substantial threat to public health or the environment.

(h) (1) If the commissioner notifies the certifying party to a Form III or Form IV that the commissioner's review and written approval of the investigation of the ~~paree~~establishment and remediation of the establishment is required, such certifying party shall, not later than thirty days after the receipt of such notice or such later date as may be approved in writing by the commissioner, submit for the commissioner's review and written approval a proposed schedule for: (A) Investigating the ~~paree~~establishment and remediating the establishment; (B) submitting to the commissioner scopes of work, technical plans, technical reports and progress reports related to such investigation and remediation; and (C) providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Upon the commissioner's approval of such schedule, such certifying party shall, in accordance with the

approved schedule, submit scopes of work, technical plans, technical reports and progress reports to the commissioner for the commissioner's review and written approval. Such certifying party shall perform all actions identified in the approved scopes of work, technical plans, technical reports and progress reports in accordance with the approved schedule. The commissioner may approve in writing any modification proposed in writing by such certifying party to such schedule or investigation and remediation. The commissioner may, at any time, notify such certifying party in writing that the commissioner's review and written approval is not required and that a licensed environmental professional may verify that the remediation has been performed in accordance with the remediation standards.

(2) A certifying party may complete the remediation of a portion of an establishment and request that the commissioner determine that the requirements of this subsection have been satisfied for any such portion of the establishment. If the commissioner determines that any such remediation is complete, the certifying party shall be deemed to have satisfied the requirements of this subsection for any such portion of an establishment. Any determination by the commissioner that remediation at the entire establishment has been completed may include and rely upon any determination made pursuant to this subdivision that remediation is complete at a portion of an establishment. If any portion of an establishment for which the commissioner determines that remediation is complete pursuant to this subdivision is transferred or conveyed or undergoes a change in ownership before remediation of the entire establishment is complete that would not otherwise be subject to the provisions of sections 22a-134 to 22a-134e, inclusive, the certifying party shall provide notice to the commissioner of such transfer, conveyance or change in ownership not later than thirty days after any such transfer, conveyance or change in ownership.

(i) The certifying party to a Form III or Form IV shall (1) publish notice of the remediation, in accordance with the schedule submitted pursuant to this section, in a newspaper having a substantial circulation in the area affected by the establishment, (2) notify the director of health of the municipality where the establishment is located of the remediation, and (3) either (A) erect and maintain for at least thirty days in a legible condition a sign not less than six feet by four feet on the establishment, which sign shall be clearly visible from the public highway, and shall include the words "ENVIRONMENTAL CLEAN-UP IN PROGRESS AT THIS SITE. FOR FURTHER INFORMATION CONTACT:" and include a telephone number for an office from which any interested person may obtain additional information about the remediation, or (B) mail notice of the remediation to each owner of record of property which abuts the parcel, at the address for such property on the last-completed grand list of the municipality where the establishment is located.

(j) The commissioner may issue an order to any person who fails to comply with any provision of sections 22a-134 to 22a-134e, inclusive, including, but not limited to, any person who fails to file a form, or files an incomplete or incorrect form or to any person who fails to carry out any activities to which that person agreed in a Form III or Form IV. If no form is filed or if an incomplete or incorrect form is filed for a transfer of an establishment, the commissioner may issue an order to the transferor, the transferee, or both, requiring a filing. The commissioner may also request that the Attorney General bring an action in the superior court for the judicial district of Hartford to enjoin any person who fails to comply with any provision of sections 22a-134 to 22a-134e, inclusive, including, but not limited to, any person who fails to file a form, improperly

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files a Form I, Form II, Form III or Form IV or the certifying party to a Form III or Form IV to take any actions necessary to prevent or abate any pollution at, or emanating from, the subject establishment. Any person to whom such an order is issued may appeal such order in accordance with the procedures set forth in sections 22a-436 and 22a-437.

(k) Notwithstanding the exemptions provided in section 22a-134a, nothing contained in sections 22a-134 to 22a-134e, inclusive, shall be construed as creating an innocent landowner defense for purposes of section 22a-452d.

(l) Notwithstanding any other provisions of this section, no person shall be required to comply with the provisions of sections 22a-134 to 22a-134e, inclusive, when transferring real property

(1) (A) for which a Form I or Form II has been filed for the transfer of the pareeestablishment on or after October 1, 1995, or (B) for which pareeestablishment a Form III or Form IV has been filed and which has been remediated and such remediation has been approved in writing by the commissioner or has been verified in writing in accordance with this section by a licensed environmental professional that an investigation has been performed in accordance with prevailing standards and guidelines and that the remediation has been performed in accordance with the remediation standards, and (2) at which no activities described in subdivision (3) of section 22a-134 have been conducted since the date of such approval or verification or the date on which the Form I or Form II was filed.

(m) Failure of the commissioner to notify any party in accordance with the provisions of this section in no way limits the ability of the commissioner to enforce the provisions of sections 22a-134 to 22a-134e, inclusive.

(n) Notwithstanding any other provision of this section, the execution of a Form III or a Form IV shall not require a certifying party to investigate or remediate any release or potential release of pollution at the pareeestablishment that occurs after the completion of a Phase II investigation, as defined in the Connecticut Department of Energy and Environmental Protection's Site Characterization Guidance Document, or from and after the date such Form III or Form IV was filed with the commissioner, whichever is later.

**New Section** (o) Notwithstanding any other provisions of this section, prior to transferring an establishment that is undergoing investigation and remediation under a prior Transfer Act filing, the potential transferor may submit a Notice of Transfer Act Waiver to the commissioner in accordance with ( ) below. A potential transferor who has submitted a Notice of Transfer Act Waiver to the commissioner prior to a transfer of establishment, shall be exempt for filing as an establishment pursuant to sections 22a-134a to 22a-134d, inclusive, if such real property or prior business operations constitute an establishment, prior to the issuance of a final Verification by a Licensed Environmental Professional or the remediation has been reviewed and approved by the commissioner. Nothing in this section shall be construed to alter any existing legal requirement applicable to any certifying party at a property under sections 22a-134 and 22a-134a to 22a-134e, inclusive.

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**New Section (p)** To submit a Notice of Transfer Act Waiver, a potential transferor shall submit to the commissioner: 1. a completed Notice of Transfer Act Waiver form, identifying the name and location of the establishment, including street address, city or town, municipality, county, zip code, tax block and lot numbers of the establishment and the Department REM ID number, a copy of the prior Transfer Act filing, the name of the prior certifying party, transferor and transferee and the name of the potential transferor and transferee.; 2. A preliminary assessment report and, as applicable, a site investigation report that demonstrates that: i. there has not occurred a discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or hazardous substance at the establishment during the transferor’s period of ownership or operation and/or since the date of the prior filing under which the ongoing remediation and investigation is in progress; or ii. The remediation of any discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste or hazardous substance at the establishment during the transferor’s ownership or operation and/or since the date of the prior filing under which the ongoing remediation and investigation is in progress, has been completed in accordance with the remediation standards, and the transferor includes a copy of a final remediation action report for the remediation of those discharges; 3. Evidence that indicates that the establishment for which the Notice of Transfer Act Waiver is submitted is being remediated by a prior owner or operator pursuant to sections 22a-134a to 22a-134d, inclusive, sections 32-768 inclusive or section 32-769 inclusive. 4. A certification by the potential transferor that any potential transferee of the establishment has been notified that the establishment is the subject of an investigation and remediation; and, 5. A certification by the prior certifying party and/or prior transferor (as applicable), that the prior certifying party and/or transferor (as applicable) will complete the investigation and remediation of the establishment under the prior transfer act filing through Verification in compliance with the Transfer Act .

**New Section (q)** Not later than thirty (30) days after receipt of a Notice of Transfer Act Waiver, the commissioner shall notify the potential transferor whether the form is complete and the potential transferor may transfer ownership of the establishment upon receipt of the commissioner’s notice of completeness of the Transfer Act Waiver Notice and no person shall be required to comply with the provisions of sections 22a-134 to 22a-134e, inclusive, when transferring said establishment. Upon the transfer of the establishment, the potential transferor shall submit payment of all applicable fees required pursuant to section 22a-134a to 22a-134d inclusive.

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

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

(c) This section shall apply to any action brought for the reimbursement or recovery of costs associated with investigation and remediation, which includes assessment, investigation,



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containment, mitigation, removal, remediation and monitoring, and all direct and indirect damages, except any action that becomes final and is no longer subject to appeal on or before October 1, 2009.

**Sec.22a-134c. Authority of commissioner.** The provisions of sections 22a-134 to 22a-134e, inclusive, shall not affect the authority of the commissioner under any other statute or regulation, including, but not limited to, the authority to issue any order to the transferor or transferee of an establishment.

**Sec.22a-134d. Penalty.** Any person who violates any provision of sections 22a-134a to 22a-134e, inclusive, or regulations issued in accordance with the provisions of said sections shall be assessed a civil penalty or shall be fined in accordance with section 22a-438.

**Sec.22a-134e. Transfer fees. Regulations.** (a) As used in this section, “cost of remediation” shall include total costs related to the complete investigation of pollution on-site and off-site, evaluation of remediation alternatives, design and implementation of approved remediation, operation and maintenance costs for the remediation and postremediation monitoring.

(b) The fee for filing a Form I, as defined in section 22a-134, shall be three hundred seventy-five dollars. The fee for filing a Form II shall be one thousand three hundred dollars except as provided for in subsections (e) and (p) of this section.

(c) The fee for filing a Form III, after July 1, 1990, and before July 1, 1993, shall be as follows: (1) Four thousand five hundred dollars if the cost of remediation is less than one hundred thousand dollars; (2) seven thousand dollars if the cost of remediation is equal to or greater than one hundred thousand dollars but less than five hundred thousand dollars; (3) ten thousand dollars if the cost of remediation is equal to or greater than five hundred thousand dollars but less than one million dollars; and (4) thirteen thousand dollars if the cost of remediation is equal to or greater than one million dollars.

(d) The fee for filing a Form III with the Commissioner of Energy and Environmental Protection prior to July 1, 1990, and which concern a site for which the commissioner had not given written approval of a final remediation plan before July 1, 1990, shall be as follows: For a Form III filed between October 1, 1985, and September 30, 1986, the fee shall be twenty per cent of the amount specified in subsection (c) of this section; for a Form III filed between October 1, 1986, and September 30, 1987, the fee shall be forty per cent of the amount specified in subsection (c) of this section; for a Form III filed between October 1, 1987, and September 30, 1988, the fee shall be sixty per cent of the amount specified in subsection (c) of this section; for a Form III filed between October 1, 1988, and September 30, 1989, the fee shall be eighty per cent of the amount specified in subsection (c) of this section; and for a Form III filed between October 1, 1989, and July 1, 1990, the fee shall be ninety per cent of the amount specified in said subsection (c).

(e) If a Form II is filed after July 1, 1990, and before October 1, 1995, and within ~~three~~ sixty days following completion of remedial measures as approved by the Commissioner

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of Energy and Environmental Protection, the fee for such transfer shall be the fee specified in subsection (c) of this section.

(f) The fees specified in subsections (b) and (e) of this section shall be due upon the filing of the notification required under section 22a-134a.

(g) The fee specified in subsection (c) of this section shall be due in accordance with the following schedule: (1) Four thousand five hundred dollars shall be paid upon filing of the Form III; (2) the balance, if any, shall be paid within thirty days of receipt from the commissioner of written approval of a remedial action plan or within thirty days of the issuance of an order, consent agreement or stipulated judgment, whichever is earlier; (3) any remaining balance shall be paid within thirty days after receipt of written notice from the commissioner that it is due; and (4) any refund, if applicable, will be paid after receipt of a letter from the commissioner stating that no further action is required or after receipt of a letter of compliance.

(h) The fee specified in subsection (d) of this section shall be due in accordance with the following schedule: (1) Nine hundred dollars shall be paid within thirty days of receipt of a written notice of a fee due from the Commissioner of Energy and Environmental Protection; (2) the balance, if any, shall be paid within thirty days of receipt from the commissioner of written approval of a remedial action plan or within thirty days of the issuance of an order, consent agreement or stipulated judgment, whichever is earlier; (3) any remaining balance shall be paid within thirty days after receipt of written notice from the commissioner that it is due; and (4) any refund, if applicable, will be paid after receipt of a letter from the commissioner stating that no further action is required or after receipt of a letter of compliance.

(i) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

(j) The fees specified in this section shall be paid by the certifying party.

(k) The fee for filing a Form III, on and after July 1, 1993, and before October 1, 1995, shall be as follows: (1) Twenty-three thousand dollars if the cost of remediation is equal to or greater than one million dollars; (2) twenty thousand dollars if the cost of remediation is equal to or greater than five hundred thousand dollars but less than one million dollars; (3) fourteen thousand dollars if the cost of remediation is equal to or greater than one hundred thousand dollars but less than five hundred thousand dollars; (4) four thousand five hundred dollars if the cost of remediation is equal to or greater than fifty thousand dollars but less than one hundred thousand dollars; (5) three thousand dollars if the cost of remediation is equal to or greater than twenty-five thousand dollars but less than fifty thousand dollars; and (6) two thousand dollars if the cost of remediation is less than twenty-five thousand dollars.

(l) The fee specified in subsection (k) of this section shall be due in accordance with the following schedule: (1) Two thousand dollars shall be paid upon the filing of the notification required under section 22a-134a if the cost of remediation is less than one hundred thousand dollars; (2) six thousand dollars shall be paid upon filing of the notification required under

section 22a-134a if the cost of remediation is equal to or greater than one hundred thousand dollars; (3) the balance, if any, shall be paid within thirty days of receipt from the commissioner of written approval of a remedial action plan or within thirty days of the issuance of an order, consent agreement or stipulated judgment, whichever is earlier; (4) any remaining balance shall be paid within thirty days after receipt of written notice from the commissioner that it is due; and (5) any refund, if applicable, will be paid after receipt of a letter from the commissioner stating that no further action is required or after receipt of a letter of compliance. After the deposit of any appropriated funds, funds from the sale of bonds of the state or any contribution pursuant to section 22a-16a, 22a-133t or 22a-133u or section 3 of public act 96-250\* to the Special Contaminated Property Remediation and Insurance Fund established under section 22a-133t, any amount received by the commissioner pursuant to this section shall be deposited into said fund.

(m) On and after October 1, 1995, the fee for filing a Form III or Form IV shall be due in accordance with the following schedule: An initial fee of three thousand dollars shall be submitted to the commissioner with the filing of a Form III or Form IV. If a licensed environmental professional verifies the remediation of the establishment and the commissioner has not notified the certifying party that the commissioner's written approval of the remediation is required, no additional fee shall be due. If the commissioner notifies the certifying party that the commissioner's written approval of the remediation is required, the balance of the total fee shall be due prior to the commissioner's issuance of the commissioner's final approval of the remediation.

(n) On and after October 1, 1995, the total fee for filing a Form III shall be as follows: (1) Thirty-four thousand seven hundred fifty dollars if the total cost of remediation is equal to or greater than one million dollars; (2) thirty thousand two hundred fifty dollars if the total cost of remediation is equal to or greater than five hundred thousand dollars but less than one million dollars; (3) twenty-one thousand two hundred fifty dollars if the total cost of remediation is equal to or greater than one hundred thousand dollars but less than five hundred thousand dollars; (4) seven thousand dollars if the total cost of remediation is equal to or greater than fifty thousand dollars but less than one hundred thousand dollars; (5) four thousand seven hundred fifty dollars if the total cost of remediation is equal to or greater than twenty-five thousand dollars but less than fifty thousand dollars; and (6) three thousand two hundred fifty dollars if the total cost of remediation is less than twenty-five thousand dollars.

(o) On and after October 1, 1995, except as provided in subsection (p) of this section, the total fee for filing a Form IV shall be as follows: (1) Seventeen thousand five hundred dollars if the total cost of remediation is equal to or greater than one million dollars; (2) fifteen thousand two hundred fifty dollars if the total cost of remediation is equal to or greater than five hundred thousand dollars but less than one million dollars; (3) ten thousand seven hundred fifty dollars if the total cost of remediation is greater than or equal to one hundred thousand dollars but less than five hundred thousand dollars; (4) three thousand six hundred twenty-five dollars if the total cost of remediation is equal to or greater than fifty thousand dollars but less than one hundred thousand dollars; and (5) three thousand two hundred fifty dollars if the total cost of remediation is less than fifty thousand dollars.

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(p) Notwithstanding any other provision of this section, the fee for filing a Form II or Form IV for an establishment for which the commissioner has issued a written approval of a remediation under subsection (d) of section 22a-133x within ~~three years~~sixty days of the date of the filing of the form shall be the total fee for a Form III specified in subsection (n) of this section and shall be due upon the filing of the Form II or Form IV.

(q) The requirements of this section shall not apply to a transfer of property to a municipality under the provisions of section 12-157.

~~Sec.~~NEW (r) The fee for filing a Notice of Transfer Act Waiver, as defined in Section 22a-134, shall be three thousand dollars due not later than ten days after the transfer.**Sec. 22a-134f. List of hazardous waste facilities. Municipal clerks to maintain and post.** (a) The Commissioner of Energy and Environmental Protection shall provide the clerk of each municipality in the state with a list of all hazardous waste facilities located within such municipality. As used in this section, “hazardous waste” means any material defined as hazardous waste in section 22a-115 except sewage and sewage sludge, and “hazardous waste facility” means a facility as defined in section 22a-115, except a facility which stores hazardous waste for less than ninety days or whose primary business is not disposal, treatment or recovery of hazardous waste, but which may treat or recover such waste as an integral part of an industrial process, and any site listed under section 22a-133c. Each such list shall be updated by the commissioner at least quarterly.

(b) Each municipal clerk shall maintain a copy of the list provided pursuant to subsection (a) of this section, as updated, and shall post a notice of the availability of the list in the area where the municipal land records are kept.

**Sec.22a-134g. Termination of operations at certain hazardous waste facilities. Procedures. Regulations.** (a) As used in this section, “regulated substance” means petroleum, any flammable substance, any extremely hazardous substance, as defined in 40 CFR 355, any hazardous substance, as defined in 40 CFR 302, or polychlorinated biphenyls in concentrations greater than fifty parts per million and “regulated activity” means the production, use, storage or handling of any regulated substance by a business if such production, use, storage or handling requires a permit from the Commissioner of Energy and Environmental Protection and is not otherwise regulated under the Resource Conservation and Recovery Act (42 USC 6901 et seq.).

(b) Not later than the date of termination of all business or other activities at any facility involved in regulated activities, the owner or operator of such facility shall file a notice with the Commissioner of Energy and Environmental Protection which shall include information regarding a person employed by the business who may be contacted for information regarding compliance with this section.

(c) Not later than ninety days after such termination, such owner or operator shall (1) submit to the commissioner a list of all regulated substances located at the facility and all stationary storage vessels, (2) drain, remove or otherwise dispose of all regulated substances in accordance with any applicable law, (3) post warning signs around any area of land where the soil is contaminated with a regulated substance, and (4) submit a certification to said commissioner

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with regard to whether regulated substances have been removed and disposed of in accordance with applicable law.

(d) Following receipt of the certification required under subsection (c) of this section, the commissioner shall conduct an inspection of such facility to determine compliance with this section.

(e) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, to carry out the provisions of this section. The commissioner shall give notice of the requirements of this section to any person issued a permit on or after October 1, 1999, for the production, use, storage or handling of a regulated substance, and to any person who has any such permit renewed on or after said date.

**Sec.22a-134h. Transfer of hazardous waste establishments:** Submission prior to October 1, 2001. Withdrawal of forms. (a) Any certifying party who has submitted a Form III or Form IV to the Commissioner of Energy and Environmental Protection pursuant to section 22a-134a prior to October 1, 2001, may comply, after providing notice to the transferor, transferee and, if different, the owner of the [pareeestablishment](#), with the requirements to investigate and remediate under sections 22a-134a to 22a-134d, inclusive, instead of the requirements for investigation and remediation under sections 22a-134a to 22a-134d in effect at the time of the submittal of such Form III or Form IV.

(b) Any person who has submitted a Form I, Form II, Form III or Form IV to the Commissioner of Energy and Environmental Protection pursuant to section 22a-134a may petition the commissioner to withdraw such form. Such petitioner shall notify the transferor, the transferee and the certifying party by certified mail. The petitioner shall make every reasonable effort to identify the address of such transferor, transferee and certifying party. The transferor, transferee and certifying party shall have thirty days to submit to the commissioner written objections to such petition. The commissioner may approve the petition if it demonstrates to the commissioner's satisfaction that the property or business was not an establishment or the transaction was not a transfer at the time the form was submitted. If the commissioner approves the petition, no further action is required by the certifying party with respect to its obligations under the form, but the form and the fee shall not be returned.

**Sec.22a-134i. Transfer of hazardous waste establishments. Conveyance of a unit in a residential common interest community.** (a) Notwithstanding the provisions of this chapter, a conveyance of a unit in a residential common interest community shall not be subject to the requirements of sections 22a-134 to 22a-133e, inclusive, provided the declarant for the residential common interest community of which the unit is a part is a certifying party, as defined in section 22a-134, for purposes of remediation of any establishment, as defined in section 22a-134, within such community and provides to the Commissioner of Energy and Environmental Protection a surety bond or other form of financial assurance acceptable to the commissioner.

(b) The surety bond or other form of financial assurance required pursuant to subsection (a) of this section shall (1) identify both the Department of Energy and Environmental Protection and

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the unit owners association for the common interest community as beneficiaries, and (2) be in an amount and in a form approved by the commissioner that is, at all times when the real property comprising the common interest community is an establishment, equal to the cost of remediation of the contaminants on the subject property. In calculating such remediation costs, the amount of the bond or other form of financial assurance may be reduced from time to time as work covered by the bond is completed, may exclude the costs of any improvements to the real estate not required to remediate the contamination, and may exclude the costs of remediation work already completed or on parcels of real estate that may be added to the common interest community by the exercise of development rights pursuant to section 47-229.

(c) Each time a seller conveys to a purchaser a unit in a common interest community that is an establishment, the seller shall provide a notice to the purchaser that summarizes (1) the status of the environmental condition of the common interest community, (2) any investigation or remediation activities, and (3) any environmental land use restrictions. Such notice requirement applies to all such conveyances, including those conveyances otherwise excepted from the requirement for delivery of a public offering statement or of a resale certificate under subsection (b) of section 47-262 and section 47-270.

**(NEW)Sec. 22a-134j. Transfer of hazardous waste establishments. Conveyance of a unit in an commercial/industrial common interest community. (to be added).**