# CHAPTER 446k*

# WATER POLLUTION CONTROL

*Annotation to former chapter 474a:

Cited. 183 C. 532.

Annotations to present chapter:

Cited. 218 C. 703; 225 C. 731; 226 C. 358; 236 C. 722; 237 C. 135; 241 C. 466.

Cited. 19 CA 216; 21 CA 67; Id., 91; 30 CA 204.

**Table of Contents**

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Sec. 22a-416. (Formerly Sec. 25-26). Pollution of waterways. Qualifications of operators. Delegation of authority. (a) The Commissioner of Energy and Environmental Protection shall examine all existing or proposed disposal systems, and shall compel their operation in a manner which shall conserve and protect the natural resources and environment of Connecticut and protect the public health, safety and welfare.

(b) No disposal system shall be built or operated until the plan or design of the same and the method of operation thereof have been filed with said commissioner and approved by him, and no such system or facility shall be extended or replaced, until the plan for the same has been approved by him. This subsection shall not apply to any disposal system treating a discharge for which a permit has been issued under section 22a-430 or 22a-430b.

(c) The commissioner may, by regulations adopted in accordance with the provisions of chapter 54, delegate to municipalities or regional sewer authorities the authority to review and approve plans and specifications for the design and construction of sanitary sewers. Such regulations may include, but not be limited to, provisions for (1) minimum design and construction requirements, (2) the retention of such authority by the commissioner for certain types of facilities or environmentally sensitive areas, and (3) the identity of municipalities and regional sewer authorities to which such authority is delegated.

(d) As used in this section the terms “class I”, “class II”, “class III” and “class IV” mean the classifications of wastewater treatment plants provided for in regulations adopted by the Department of Energy and Environmental Protection. The Commissioner of Energy and Environmental Protection may establish requirements for the presence of approved operators at pollution abatement facilities. Applicants for class I and class II certificates shall only be required to pass the relevant standardized national examination prepared by the Association of Boards of Certification for Wastewater Treatment Facility Operators. Applicants for class III and class IV certificates shall only be required to pass the relevant standardized national examination prepared by the

Association of Boards of Certification for Wastewater Treatment Facility Operators supplemented with additional questions submitted by the commissioner to such board. Operators with certificates issued by the commissioner prior to May 16, 1995, shall not be required to be reexamined. The commissioner shall administer and proctor the examination of all applicants. The qualifications of the operators at such facilities shall be subject to the approval of the commissioner. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, requiring all operators at pollution abatement facilities to satisfactorily complete, on a regular basis, a state-certified training course, which may include training on the type of municipal pollution abatement facility at which the operator is employed and training concerning regulations promulgated during the preceding year. Any applicant for certification who passed either the examination prepared and administered on December 8, 1994, by the commissioner or the examination prepared by the Association of Boards of Certification for Wastewater Treatment Facility Operators and administered on December 8, 1994, by the commissioner shall be issued the appropriate certificate in accordance with the regulations adopted under this section. On and after October 1, 2018, each certified operator shall obtain not less than six hours of continuing education each year. A record of such continuing education shall be maintained by the certified operator and by the facility employing the operator and shall be made available for inspection upon request by the commissioner.

(1949 Rev., S. 4034; 1957, P.A. 364, S. 10; February, 1965, P.A. 385, S. 1; 508; 1967, P.A. 656, S. 66; 1969, P.A. 307; 1971, P.A. 688, S. 1; 845, S. 16; 872, S. 74; P.A. 73-555, S. 2, 10; P.A. 86-239, S. 5, 14; P.A. 90-69; 90-301, S. 2, 8; P.A. 93-428, S. 22, 39; P.A. 94-89, S. 9; P.A. 95-34, S. 1, 2; P.A. 11-80, S. 1; P.A. 18-97, S. 1.)

History: 1965 acts substituted commissioner of health for state department of health, gave commissioner power to examine refuse disposal areas, required that their plan and design be filed with commissioner, and required that methods of operation of disposal plants and areas be approved; 1967 act specified that plan or design and method of operation be approved by commissioner; 1969 act substituted “volume reduction” plants and areas for “disposal” plants and areas, required that qualifications of operators of such plants be subject to approval of health department and referred to “chapter 474a” rather than “part I”; 1971 acts clarified that sewage discharge points which may directly or indirectly cause pollution be investigated, deleted references to refuse volume reduction plants and areas, transferred duties of commissioner and department of health and of water resources commission to commissioner of environmental protection and deleted necessity for approval to build systems or plants and qualifying phrase characterizing systems or plants requiring approval as those “the effluent or discharge from which may directly or indirectly mingle or come into contact with the waters of the state”; P.A. 73-555 replaced references to sewage systems and plants with references to pollution abatement systems and plants, required operation of systems so as to conserve and protect natural resources and environment and public safety and welfare and deleted prohibition against discharge of “sewage prejudicial to the public health” into waters of the state, essentially rephrasing provisions for economy of expression; Sec. 25-26 transferred to Sec. 22a-416 in 1983; P.A. 86-239 deleted provision requiring commissioner to investigate points of existing or potential discharges which may cause water pollution; P.A. 90-69 added Subsec. (b) authorizing the delegation of certain authority to municipal and regional sewer authorities; P.A. 90-301 added Subsec. (c) re qualifications of approved operators; P.A. 93-428 made part of the former Subsec. (a) into a new Subsec. (b), adding exemptions from this section for certain disposal systems, and relettered former Subsecs. (b) and (c) accordingly, effective July 1, 1993; P.A. 94-89 added provision in Subsec. (d) requiring relevant national examination for operators; P.A. 95-34 amended Subsec. (d) to provide for qualifications of different classes of operators and to delete authority of the commissioner to adopt regulations re testing of facility operators, effective May 16, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” and “Department of Environmental Protection” were changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” and “Department of Energy and Environmental Protection”, respectively, effective July 1, 2011; P.A. 18-97 amended Subsec. (d) by adding provision requiring certified operator to obtain not less than 6 hours of continuing education each year and requiring record of such education to be maintained by operator and facility employing operator and made available for inspection by commissioner.

Annotations to former section 25-26:

Cited. 176 C. 33.

Right of property owner to collect damages for town nuisance not affected. 30 CS 401.

Annotation to present section:

Cited. 218 C. 703.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-417. (Formerly Sec. 25-26a). Discharge of sewage into tributaries of water supply impoundments or Salmon River. (a) No person or municipality shall discharge any sewage into any waters of the state which are tributary to an existing water supply impoundment or any proposed water supply impoundment identified in the long-range plan for management of water resources prepared and adopted pursuant to section 22a-352.

(b) No person or municipality shall discharge into the Salmon River or any of its tributaries any sewage or any other effluent which is less than tertiary treated.

(1971, P.A. 191, S. 1–4; P.A. 73-555, S. 3, 10.)

History: P.A. 73-555 deleted former Subsecs. (a) and (b) which had defined “person” and prohibited discharge in Class A waters sewage or other effluent “which is less than tertiary treated”, inserting new Subsec. (a) prohibitions, relettered Subsec. (c) as (b) and included municipalities in applicability and deleted Subsec. (d) providing penalty under Sec. 25-31 for violations; Sec. 25-26a transferred to Sec. 22a-417 in 1983.

Cited. 21 CA 91.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-418. (Formerly Sec. 25-27). Complaints concerning pollution of waters; investigation; orders. Section 22a-418 is repealed.

(1949 Rev., S. 4036; 1971, P.A. 688, S. 2; 872, S. 75; P.A. 77-614, S. 323, 610; P.A. 86-239, S. 13, 14.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Secs. 22a-419 to 22a-421. Reserved for future use.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-422. (Formerly Sec. 25-54a). Declaration of policy. It is found and declared that the pollution of the waters of the state is inimical to the public health, safety and welfare of the inhabitants of the state, is a public nuisance and is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and that the use of public funds and the granting of tax exemptions for the purpose of controlling and eliminating such pollution is a public use and purpose for which public moneys may be expended and tax exemptions granted, and the necessity and public interest for the enactment of this chapter and the elimination of pollution is hereby declared as a matter of legislative determination.

(1967, P.A. 57, S. 1.)

History: Sec. 25-54a transferred to Sec. 22a-422 in 1983.

Annotation to former section 25-54a:

Cited. 170 C. 31.

Annotations to present section:

Cited. 216 C. 436; 226 C. 358; Id., 737; 237 C. 135; 241 C. 466.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-423. (Formerly Sec. 25-54b). Definitions. As used in this chapter: "Commissioner" means the Commissioner of Energy and Environmental Protection or his designated agent; "waters" means all tidal waters, harbors, estuaries, rivers, brooks, watercourses, waterways, wells, springs, lakes, ponds, marshes, drainage systems and all other surface or underground streams, bodies or accumulations of water, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof; "wastes" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the state; "sewage" means human and animal excretions and all domestic and such manufacturing wastes as may tend to be detrimental to the public health; "pollution" means harmful thermal effect or the contamination or rendering unclean or impure or prejudicial to public health of any waters of the state by reason of any wastes or other material discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters; "rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any of the waters of the state, including, but not limited to, change in odor, color, turbidity or taste; "harmful thermal effect" means any significant change in the temperature of any waters resulting from a discharge therein, the magnitude of which temperature change does or is likely to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; "person" means any individual, partnership, association, firm, limited liability company, corporation or other entity, except a municipality, and includes the federal government, the state or any instrumentality of the state, and any officer or governing or managing body of any partnership, association, firm or corporation or any member or manager of a limited liability company; "community pollution problem" means the existence of pollution which, in the sole discretion of the commissioner, can best be abated by the action of a municipality; "municipality" means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district and each municipal organization having authority to levy and collect taxes or make charges for its authorized function; "discharge" means the emission of any water, substance or material into the waters of the state, whether or not such substance causes pollution; "pollution abatement facility" means any equipment, plant, treatment works, structure, machinery, apparatus or land, or any combination thereof, acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, including, but not limited to: Pumping and ventilating stations, facilities, plants and works; outfall sewers, interceptor sewers and collector sewers; and other real or personal property and appurtenances incident to their use or operation; "potable drinking water" means drinking water from an existing water supply for which treatment is provided or an alternative supply, which the Commissioner of Public Health determines does not create an unacceptable risk of injury to the health or safety of those persons using such water as a public or private source of water for drinking or other personal or domestic uses. In making such determination, the Commissioner of Public Health shall balance all relevant and substantive facts and inferences and shall not be limited to a consideration of available statistical analysis but shall consider all the evidence presented and any factor related to human health risks; "disposal system" means a system for disposing of or eliminating wastes, either by surface or underground methods, and includes sewage systems, pollution abatement facilities, disposal wells and other systems; "federal Water Pollution Control Act" means the federal Water Pollution Control Act, 33 USC Section 466 et seq., including amendments thereto and regulations thereunder; "order to abate pollution" includes an order to abate existing pollution or to prevent reasonably anticipated sources of pollution; "federal Safe Drinking Water Act" means the federal Safe Drinking Water Act, 42 USC, Section 300f et seq., including amendments thereto and regulations thereunder; "monitoring system" means a system or method for measuring the quality or quantity of a discharge or its impact on the waters of the state. Such system or method

shall provide for any means the commissioner reasonably deems necessary to assure the security of the system and the accuracy of monitoring results, including, but not limited to, automatic monitoring; "effluent limitation" means any restriction, established by the commissioner by regulations adopted in accordance with the provisions of chapter 54, on quantities, rates or concentrations of chemical, physical, biological and other constituents which are discharged into the waters of the state and established by permit, schedule of compliance or administrative order; "economic benefit" includes the amount of any savings resulting from avoided or delayed expenditures as a result of noncompliance with the effluent limitations of a permit to discharge into the waters of the state, and includes capital or one-time expenditures, operating costs, maintenance costs and any other benefits resulting from noncompliance; "persistent violator" means any person or municipality which holds a permit to discharge into the waters of the state and which has exceeded any effluent limitation by a factor of one and one-half or more for four out of six consecutive reporting periods.

(1967, P.A. 57, S. 2; 1971, P.A. 872, S. 79; P.A. 73-555, S. 4, 10; P.A. 77-416; P.A. 80-15; P.A. 81-176, S. 4, 7; P.A. 82-240, S. 2, 3; P.A. 84-81, S. 2; P.A. 85-407, S. 3, 9; P.A. 86-82, S. 1, 5; 86-420, S. 10, 12; P.A. 88-118, S. 2, 3; P.A. 90-222, S. 1; P.A. 93-381, S. 9, 39; P.A. 95-79, S. 101, 189; 95-257, S. 12, 21, 58; P.A. 11-80, S. 1.)

History: 1971 act replaced definition of "commission", i.e. water resources commission, with definition of "commissioner", i.e. commissioner of environmental protection and redefined "pollution" to specifically include that which is "prejudicial to public health"; P.A. 73-555 extended applicability of definitions to include part II of chapter 474 and defined "sewage"; P.A. 77-416 included subsurface sewage systems in definition of "pollution abatement facility"; P.A. 80-15 redefined "person" to include the federal government, the state and instrumentalities of the state; P.A. 81-176 defined the Federal Safe Drinking Water Act; P.A. 82-240 defined "potable drinking water"; Sec. 25-54b transferred to Sec. 22a-423 in 1983; P.A. 84-81 revised the definition of potable drinking water by eliminating requirement that alternative supply be provided at the boundary line of the affected property; P.A. 85-407 redefined "potable drinking water" to eliminate the reference to drinking water standards established by the commissioner of health services and to add provision re determination by said commissioner that water does not create an unacceptable risk of injury to users; P.A. 86-82 defined "monitoring system"; P.A. 86-420 redefined "pollution abatement facility"; P.A. 88-118 added an agent designated by the commissioner to the definition of commissioner; P.A. 90-222 defined "effluent limitation", "economic benefit" and "persistent violator"; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-79 redefined "person" to include a limited liability company and any member or manager of a limited liability company, effective May 31, 1995; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Annotations to former section 25-54b:

Former statute cited. 148 C. 586. Cited. 170 C. 31.

Annotation to present section:

Cited. 226 C. 358.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-424. (Formerly Sec. 25-54c). Powers and duties of commissioner. The commissioner shall have the following powers and duties:

(a) To exercise general supervision of the administration and enforcement of this chapter;

(b) To develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the waters of the state;

(c) To advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries in furtherance of the purposes of this chapter. Such powers and duties shall include receiving information provided by the United States Environmental Protection Agency, which if subject to a claim of confidentiality pursuant to the federal Freedom of Information Act of 1976 (5 USC 552) and regulations adopted thereunder, shall be kept confidential by the commissioner notwithstanding any of the provisions of section 1-210 to the contrary;

(d) To submit plans for the prevention and control of water pollution and to render reports and accounts to the Administrator of the Environmental Protection Agency and to any other federal officer or agency on such forms containing such information as the said Administrator or any other federal officer or agency, may reasonably require, in order to qualify the state and its municipalities for grants from the United States government;

(e) To encourage, participate in or conduct studies, investigations, research and demonstrations, and collect and disseminate information, relating to water pollution and the causes, prevention, control and abatement thereof;

(f) To issue, modify or revoke orders prohibiting or abating pollution of the waters of the state, or requiring the construction, modification, extension or alteration of pollution abatement facilities or monitoring systems, or any parts thereof, or adopting such other remedial measures as are necessary to prevent, control or abate pollution;

(g) To hold such hearings as may be required under the provisions of this chapter and the federal Water Pollution Control Act or other applicable federal law, for which he shall have the power to issue notices by certified mail, administer oaths, take testimony and subpoena witnesses and evidence;

(h) To require the submission of plans, specifications and other necessary data for, and inspect the construction of, pollution abatement facilities and monitoring or disposal systems in connection with the issuance of such permits or approvals as may be required by this chapter and the federal Water Pollution Control Act;

(i) To issue, continue in effect, revoke, transfer, modify or deny permits, under such conditions as he may prescribe, for the discharge of any water, substance or material into the waters of the state, or orders for or approval of the installation, modification or operation of pollution abatement facilities or monitoring systems;

(j) To require proper maintenance and operation of monitoring and disposal systems;

(k) To exercise all incidental powers necessary to carry out the purposes of this chapter and the federal Water Pollution Control Act;

(l) To adopt regulations in accordance with the provisions of chapter 54 to implement this chapter and to comply with the federal Water Pollution Control Act and the federal Safe Drinking Water Act;

(m) Either on his own initiative or upon complaint, to investigate or order the person who caused or reasonably may be expected to cause the pollution to investigate all points of existing or potential waste discharge which may directly or indirectly result in pollution of the waters of the state provided upon written complaint by the Commissioner of Public Health, the chief executive officer of a municipality, the warden or any of the burgesses of a borough, a committeeman of a fire district or a local or district director of health, the commissioner shall investigate or order the person who caused or reasonably may be expected to cause the pollution to investigate all points of existing or potential waste discharges which may directly or indirectly result in pollution of the waters of the state.

(1967, P.A. 57, S. 3; 1971, P.A. 872, S. 80; P.A. 73-38, S. 1, 8; P.A. 83-133; P.A. 84-219, S. 1, 4; P.A. 86-82, S. 2, 5; 86-239, S. 6, 14; P.A. 93-381, S. 9, 39; P.A. 94-205, S. 4; P.A. 95-218, S. 11, 24; 95-257, S. 12, 21, 58.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-38 replaced references to U.S. Secretary of the Interior and Federal Water Pollution Control administration with references to administrator of the Environmental Protection Agency and added references to part II of chapter 474a and to the Federal Water Pollution Control Act; Sec. 25-54c

transferred to Sec. 22a-424 in 1983 and references to part II of chapter 474a deleted reflecting incorporation of those sections in this chapter; P.A. 83-133 amended Subdiv. (c) by authorizing the commissioner to keep confidential water pollution information received from the United States Environmental Protection Agency if such information is confidential under federal law, even if it would be available under state law; P.A. 84-219 added Subdiv. (l) authorizing the commissioner to adopt regulations; P.A. 86-82 amended Subdiv. (i) by authorizing the commissioner to consider prior violations and added references to monitoring systems throughout section; P.A. 86-239 added Subdiv. (m) concerning investigations; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 94-205 amended Subdiv. (i) to delete a provision re review of permit applicant's compliance history; P.A. 95-218 amended Subdiv. (i) to authorize the commissioner to transfer permits; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995.

See Sec. 22a-6m re review of permit applicant's compliance history.

Annotation to former section 25-54c:

Cited. 170 C. 31.

Annotations to present section:

Cited. 206 C. 65; 226 C. 358; Id., 737; Id., 792; 241 C. 466.

Cited. 21 CA 91.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-424a. Map of anticipated sewer overflows. Notice of unanticipated sewage spills. Electronic reporting of sewage spill. Notice to municipal chief elected official, public and downstream public officials. Violation. (a) For the purposes of this section:

(1) “Sewage treatment plant or collection system” means any sewage treatment plant, water pollution control facility, related pumping station, collection system or other public sewage works;

(2) “Sewage spill” means the diversion of wastes from any portion of a sewage treatment plant or collection system in this state that reasonably initiates public health, safety or welfare concerns, or environmental concerns;

(3) “Combined sewer” means structures which are designed to convey both sanitary and storm sewage, and allow the overflow of such combined sewage, untreated, to the waters of the state during periods of high flows; and

(4) “Electronic report” means a reporting form that uses an electronic format as prescribed by the Commissioner of Energy and Environmental Protection.

(b) On and after July 1, 2013, the Commissioner of Energy and Environmental Protection shall post, on the department's Internet web site, a map of the state indicating the combined sewer overflows anticipated to occur during certain storm events. The web site may include the following relevant information about the overflows: (1) Location, anticipated duration and extent; (2) reasonable public health, safety or environmental concerns; and (3) public safety precautions that should be taken.

(c) (1) On and after July 1, 2014, the Commissioner of Energy and Environmental Protection shall post, on the department's Internet web site, notice of unanticipated sewage spills and waters of the state that have chronic and persistent sewage contamination that represents a threat to public health, as determined by the Commissioner of Energy and Environmental Protection in consultation with the Commissioner of Public Health. Any notice

posted pursuant to this subsection may contain the following relevant information as best determined from the reported sewage spill incident: (A) The estimated volume of discharge; (B) the level of treatment of the discharge; (C) the date and time the incident occurred; (D) the location of the discharge; (E) the estimated or actual time the discharge ceased; (F) the geographic area impacted by the discharge; (G) the steps taken to contain the discharge; (H) reasonable public health, safety or welfare concerns or environmental concerns; and (I) public safety precautions that should be taken.

(2) On and after July 1, 2018, not later than two hours after becoming aware of any sewage spill, the operator of a sewage treatment plant or collection system shall submit an electronic report to the Department of Energy and Environmental Protection.

(3) On and after July 1, 2018, not later than two hours after becoming aware of any sewage spill that exceeds five thousand gallons or that is anticipated to exceed five thousand gallons, the operator of a sewage treatment plant or collection system shall notify the chief elected official of the municipality where the sewage spill occurred. As soon as practicable after receiving any such notification, such municipality shall inform the public and downstream public officials, as appropriate.

(d) The Commissioner of Energy and Environmental Protection shall consult with the Commissioner of Public Health, operators of sewage treatment plant or collection systems and state and local environmental and health agencies when developing the notice required by subdivision (1) of subsection (c) of this section.

(e) Any report to the Department of Energy and Environmental Protection that is required pursuant to section 22a-430-3 of the regulations of Connecticut state agencies shall be submitted as an electronic report.

(f) The failure to file an electronic report pursuant to any provision of this section shall be deemed a violation of the provisions of this section for purposes of section 22a-438.

(P.A. 12-11, S. 1; P.A. 18-97, S. 2.)

History: P.A. 12-11 effective July 1, 2012; P.A. 18-97 amended Subsec. (a) by adding Subdiv. (4) defining “electronic report”, amended Subsec. (c) by designating existing provisions re notice of unanticipated sewage spills and waters of the state that have chronic and persistent sewage contamination as Subdiv. (1), redesignating existing Subdivs. (1) to (9) as Subparas. (A) to (I), adding Subdiv. (2) re submission of electronic report of sewage spill to the Department of Energy and Environmental Protection and adding Subdiv. (3) re notice to chief elected municipal official of sewage spill that exceeds 5,000 gallons, amended Subsec. (d) by making a conforming change, added Subsec. (e) re electronic reports pursuant to Sec. 22a-430-3 of the regulations of Connecticut state agencies, added Subsec. (f) re the failure to file electronic report as a violation, and made technical changes, effective June 7, 2018.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-425. (Formerly Sec. 25-54d). Records. The commissioner may require any person or municipality to maintain such records relating to pollution, possible pollution or the operation of pollution abatement facilities as he deems necessary to carry out the provisions of this chapter and the federal Water Pollution Act. The commissioner or his authorized representative shall have access to such records, and may examine and copy any such records or memoranda pertaining thereto, or shall be furnished copies of such records on request.

(1967, P.A. 57, S. 4; 1971, P.A. 872, S. 81; P.A. 73-38, S. 2, 8.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner and deleted provisions authorizing commissioner's representatives to enter property for the purpose of securing information and protecting confidentiality of information relating to trade secrets; P.A. 73-38 added reference to part II of chapter 474a and Federal Water Pollution Control Act; Sec. 25-54d

transferred to Sec. 22a-425 in 1983 and reference to part II of chapter 474 deleted reflecting incorporation of those sections in this chapter.

Annotation to former section 25-54d:

Cited. 170 C. 31.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-426. (Formerly Sec. 25-54e). Standards of water quality. (a) The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54 to establish standards of water quality applicable to the various waters of the state or portions thereof. Such standards shall be consistent with the federal Water Pollution Control Act and shall be for the purpose of qualifying the state and its municipalities for available federal grants and for the purpose of providing clear and objective public policy statements of a general program to improve the water resources of the state; provided no standard of water quality adopted shall plan for, encourage or permit any wastes to be discharged into any of the waters of the state without having first received the treatment available and necessary for the elimination of pollution. Such standards of quality shall: (1) Apply to interstate waters or portions thereof within the state; (2) apply to such other waters within the state as the commissioner may determine is necessary; (3) protect the public health and welfare and promote the economic development of the state; (4) preserve and enhance the quality of state waters for present and prospective future use for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes and agricultural, industrial and other legitimate uses; (5) be consistent with health standards as established by the Department of Public Health. Notwithstanding the thirty-day-notice requirement prescribed by subsection (a) of section 4-168, the department shall provide a notice not later than ninety days prior to proposing any regulation in accordance with this section, including, but not limited to, notice of the availability of the underlying documentation that forms the basis for the standards sought to be adopted, amended or repealed by such proposed regulation.

(b) The commissioner shall establish the effective date of the adoption, amendment or repeal of standards of water quality, subject to the provisions of subdivision (1) of section 22a-6. Notice of such adoption, amendment or repeal shall be published in the Connecticut Law Journal upon acceptance thereof by the federal government.

(c) The commissioner shall monitor the quality of the subject waters to demonstrate the results of his program to abate pollution.

(d) The state's water quality standards, including the surface and ground water classifications, in effect on February 28, 2011, shall remain in full force and effect, unless modified in accordance with subsections (a), (e), (f) and (g) of this section. On or after March 1, 2011, the commissioner may reclassify surface or ground waters within the state in accordance with the procedures specified in subsections (e), (f) and (g) of this section.

(e) Notwithstanding the provisions of subsection (a) of this section and chapter 54, the following procedures shall apply to any surface or ground water reclassification initiated by the commissioner: (1) The commissioner shall hold a public hearing in accordance with subdivision (3) of subsection (f) of this section. Such public hearing shall not be considered a contested case pursuant to chapter 54; (2) notice of such hearing specifying the surface or ground waters for which reclassification is proposed and the time, date and place of such hearing and how members of the public may obtain additional information regarding such reclassification shall be published once in a newspaper having a substantial circulation in the affected area at least thirty days before such hearing; and (3) such notice shall also be given by certified mail to the chief executive officer of each municipality in which the water affected by such reclassification is located with a copy to the director of health of each municipality, at least thirty days prior to the hearing. Following the public hearing, the commissioner shall provide notice of the reclassification decision in the Connecticut Law Journal and to the chief elected official and the director of health of each municipality in which the water affected by such reclassification is located.

(f) Notwithstanding the provisions of subsection (a) of this section and chapter 54, the following procedures shall apply to any surface or groundwater reclassification requested by a person other than the commissioner: (1) Any person seeking a reclassification shall apply to the commissioner on forms prescribed by the commissioner and shall provide the information required by such forms; (2) at least thirty days before the hearing specified in subdivision (3) of this subsection, the commissioner shall publish or cause to be published, at the expense of the person seeking a reclassification, once in a newspaper having a substantial circulation in the affected area (A) the name of the person seeking a reclassification, (B) an identification of the surface or ground waters affected by such reclassification, (C) notice of the commissioner's tentative determination regarding such reclassification, (D) how members of the public may obtain additional information regarding such reclassification, and (E) the time, date and place of a public hearing regarding such reclassification. Any such notice shall also be given by certified mail to the chief executive officer of each municipality in which the water affected by such reclassification is located, with a copy to the director of health of each municipality, at least thirty days before the hearing; (3) the commissioner shall conduct a public hearing regarding any tentative determination to reclassify surface or ground waters. Such public hearing shall not be considered a contested case pursuant to chapter 54, but shall be conducted in a manner which affords all interested persons reasonable opportunity to provide oral or written comments. The commissioner shall maintain a recording of the hearing; and (4) following the public hearing, the commissioner shall provide notice of the reclassification decision in the Connecticut Law Journal and to the chief elected official and the director of health of each municipality in which the water affected by such reclassification is located.

(g) Any decision by the commissioner to reclassify surface or ground water shall be consistent with the state's water quality standards and the commissioner shall comply with all applicable federal requirements regarding reclassification of surface water.

(1967, P.A. 57, S. 5; 1971, P.A. 872, S. 82; P.A. 77-614, S. 323, 610; P.A. 83-587, S. 47, 96; P.A. 90-222, S. 5; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 10-158, S. 9; P.A. 11-80, S. 1; 11-141, S. 5.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner and department and added references to Sec. 22a-6(a); P.A. 77-614 replaced department of health with department of health services, effective January 1, 1979; Sec. 25-54e transferred to Sec. 22a-426 in 1983; P.A. 83-587 made a technical amendment; P.A. 90-222 amended Subsec. (a) to require the standards to be adopted in accordance with this section instead of Sec. 22a-6(1); P.A. 93-381 replaced department of health services with department of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 10-158 amended Subsec. (a) to make technical changes and add 90-day notice requirement re proposed regulation, deleted former Subsec. (b) re public hearing and redesignated existing Subsecs. (c) and (d) as Subsecs. (b) and (c), effective March 1, 2011; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a), effective July 1, 2011; P.A. 11-141 added Subsecs. (d) to (g) re surface or ground water reclassification, effective July 8, 2011.

Annotation to former section 25-54e:

Cited. 170 C. 31.

Annotation to present section:

Cited. 226 C. 792.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-427. (Formerly Sec. 25-54f). Pollution or discharge of wastes prohibited. No person or municipality shall cause pollution of any of the waters of the state or maintain a discharge of any treated or untreated wastes in violation of any provision of this chapter.

(1967, P.A. 57, S. 6.)

History: Sec. 25-54f transferred to Sec. 22a-427 in 1983.

Annotations to former section 25-54f:

Cited. 170 C. 31.

Cited. 4 CA 621.

Annotations to present section:

Cited. 237 C. 135; 239 C. 786.

Cited. 20 CA 709; 21 CA 91; 41 CA 120.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-428. (Formerly Sec. 25-54g). Orders to municipalities to abate pollution. If the commissioner finds that any municipality is causing pollution of the waters of the state, or that a community pollution problem exists, or that pollution by a municipality or a community pollution problem can reasonably be anticipated in the future, he may issue to the municipality an order to abate pollution. If the commissioner, after giving due regard to regional factors, determines that such pollution can best be abated by the action of two or more adjacent municipalities, he may issue his order jointly or severally to such municipalities. If a community pollution problem exists in, or if pollution is caused by, a municipality geographically located all or partly within the territorial limits of another municipality, the commissioner may, after giving due regard to regional factors, determine which municipality shall be ordered to abate the pollution or may, after giving due regard to regional factors, issue an order to both of such municipalities jointly to provide the facilities necessary to abate the pollution. Any order issued pursuant to this section shall include a time schedule for action by the municipality or municipalities, as the case may be, which may require, but is not limited to, the following steps to be taken by such municipality or municipalities: (a) Submission of an engineering report outlining the problem and recommended solution therefor for approval by the commissioner; (b) submission of contract plans and specifications for approval by the commissioner; (c) arrangement of financing; (d) acceptance of state and federal construction grants; (e) advertisement for construction bids; (f) start of construction; (g) placing in operation.

(1967, P.A. 57, S. 7; 1969, P.A. 153; 1971, P.A. 872, S. 83; P.A. 73-665, S. 8, 17.)

History: 1969 act authorized water resources commission to issue order jointly or severally to municipalities when determination is made that abatement action would best be undertaken by two or more adjacent municipalities and made minor technical changes; 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-665 made commissioner's actions under section discretionary rather than mandatory, replacing “shall” with “may”; Sec. 25-54g transferred to Sec. 22a-428 in 1983.

Annotation to former section 25-54g:

Cited. 170 C. 31.

Annotations to present section:

Cited. 226 C. 358; 237 C. 135.

Cited. 21 CA 91.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-428a. State-wide strategy to reduce phosphorus loading in inland nontidal waters. The Commissioner of Energy and Environmental Protection, or the commissioner's designee and the chief elected officials of the cities of Danbury, Meriden and Waterbury and the towns of Cheshire, Southington and Wallingford, and the chief elected official of any other municipality impacted by the state-wide strategy to reduce phosphorus, or such chief elected officials' designees, shall collaboratively evaluate and make recommendations regarding a state-wide strategy to reduce phosphorus loading in inland nontidal waters in order to comply with standards established by the United States Environmental Protection Agency. Such evaluation and recommendations shall include (1) a state-wide response to address phosphorus nonpoint source pollution, (2) approaches for municipalities to use in order to comply with standards established by the United States Environmental Protection Agency for phosphorus, including guidance for treatment and potential plant upgrades, and (3) the proper scientific methods by which to measure current phosphorus levels in inland nontidal waters and to make future projections of phosphorus levels in such waters. The commissioner shall submit a report on or before October 1, 2014, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to municipalities and the environment. Such report shall set forth the recommendations required pursuant to subdivisions (1), (2) and (3) of this section and detail the collaborative effort through which such recommendations were reached.

(P.A. 12-155, S. 1; P.A. 13-129, S. 1.)

History: P.A. 12-155 effective June 15, 2012; P.A. 13-129 added provisions requiring commissioner to submit a report on or before October 1, 2014, effective June 18, 2013.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-429. (Formerly Sec. 25-54h). Order to person to abate pollution. Section 22a-429 is repealed.

(1967, P.A. 57, S. 8; 1971, P.A. 872, S. 84; P.A. 73-665, S. 9, 17; P.A. 81-176, S. 3, 7; P.A. 87-261, S. 13.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-430. (Formerly Sec. 25-54i). Permit for new discharge. Regulations. Renewal. Special category permits or approvals. Limited delegation. General permits. (a) No person or municipality shall initiate, create, originate or maintain any discharge of water, substance or material into the waters of the state without a permit for such discharge issued by the commissioner. Any person who initiated, created or originated a discharge prior to May 1, 1967, and any municipality which initiated, created or originated a discharge prior to April 10, 1973, for which a permit has not been issued pursuant to this section, shall submit an application for a permit for such discharge on or before July 1, 1987. Application for a permit shall be on a form prescribed by the commissioner, shall include such information as the commissioner may require and shall be accompanied by a fee of twenty-five per cent more than the amount established in regulations in effect on July 1, 1990. On and after July 1, 1991, such fees shall be as prescribed by regulations adopted by the commissioner in accordance with chapter 54. The commissioner shall not issue or renew a permit unless such issuance or renewal is consistent with the provisions of the federal Clean Water Act (33 USC 1251 et seq.).

(b) The commissioner, at least thirty days before approving or denying a permit application for a discharge, shall publish once in a newspaper having a substantial circulation in the affected area notice of (1) the name of the applicant; (2) the location, volume, frequency and nature of the discharge; (3) the tentative decision on the application, and (4) additional information the commissioner deems necessary to comply with the federal Clean Water Act (33 USC 1251 et seq.). There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the

commissioner shall make a final determination either that (A) such discharge would not cause pollution of any of the waters of the state, in which case he shall issue a permit for such discharge, or (B) after giving due regard to any proposed system to treat the discharge, that such discharge would cause pollution of any of the waters of the state, in which case he shall deny the application and notify the applicant of such denial and the reasons therefor, or (C) the proposed system to treat such discharge will protect the waters of the state from pollution, in which case he shall, except as provided pursuant to subsection (j) of this section, require the applicant to submit plans and specifications and such other information as he may require and shall impose such additional conditions as may be required to protect such water, and if the commissioner finds that the proposed system to treat the discharge, as described by the plans and specifications or such other information as may be required by the commissioner pursuant to subsection (j) of this section, will protect the waters of the state from pollution, he shall notify the applicant of his approval and, when such applicant has installed such system, in full compliance with the approval thereof, the commissioner shall issue a permit for such discharge, or (D) the proposed system to treat such discharge, as described by the plans and specifications, will not protect the waters of the state, in which case he shall promptly notify the applicant that its application is denied and the reasons therefor. No permit shall be issued for an alternative on-site sewage treatment system, as defined in the Public Health Code, in a drinking water supply watershed unless the commissioner determines that (i) such system is the only feasible solution to an existing pollution problem and that the proposed system capacity does not exceed the capacity of the failed on-site system, or (ii) such system is for the expansion of an existing municipal or public school project or for new construction of a municipal or public school project on an existing municipal or public school site, in a municipality in which a majority of the land is located within a drinking water supply watershed. The commissioner shall, by regulations adopted in accordance with the provisions of chapter 54, establish procedures, criteria and standards as appropriate for determining if (I) a discharge would cause pollution to the waters of the state, and (II) a treatment system is adequate to protect the waters of the state from pollution. Such procedures, criteria and standards may include schedules of activities, prohibitions of practices, operating and maintenance procedures, management practices and other measures to prevent or reduce pollution of the waters of the state, provided the commissioner in adopting such procedures, criteria and standards shall consider best management practices. The regulations shall specify the circumstances under which procedures, criteria and standards for activities other than treatment will be required. For the purposes of this section, “best management practices” means those practices which reduce the discharge of waste into the waters of the state and which have been determined by the commissioner to be acceptable based on, but not limited to, technical, economic and institutional feasibility. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application has not been given a public hearing shall have the right to a hearing and an appeal therefrom in the same manner as provided in sections 22a-436 and 22a-437. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application has been given a public hearing shall have the right to appeal as provided in section 22a-437. The commissioner may, by regulation, exempt certain categories, types or sizes of discharge from the requirement for notice prior to approving or denying the application if such category, type or size of discharge is not likely to cause substantial pollution. The commissioner may hold a public hearing prior to approving or denying any application if in his discretion the public interest will be best served thereby, and he shall hold a hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected.

(c) The permits issued pursuant to this section shall be for a period not to exceed five years, except that any such permit shall be subject to the provisions of section 22a-431. Such permits: (1) Shall specify the manner, nature and volume of discharge; (2) shall require proper operation and maintenance of any pollution abatement facility required by such permit; (3) may be renewable for periods not to exceed five years each in accordance with procedures and requirements established by the commissioner; and (4) shall be subject to such other requirements and restrictions as the commissioner deems necessary to comply fully with the purposes of this chapter, the federal Water Pollution Control Act and the federal Safe Drinking Water Act. An application for a renewal of a permit which expires after January 1, 1985, shall be filed with the commissioner at least one hundred eighty days before the expiration of such permit. The commissioner, at least thirty days before approving or denying an application for renewal of a permit, shall publish once in a newspaper having

substantial circulation in the area affected, notice of (A) the name of the applicant; (B) the location, volume, frequency and nature of the discharge; (C) the tentative decision on the application; and (D) such additional information the commissioner deems necessary to comply with the federal Clean Water Act (33 USC 1251 et seq.). There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the commissioner shall make a final determination that (i) continuance of the existing discharge would not cause pollution of the waters of the state, in which case he shall renew the permit for such discharge, (ii) continuance of the existing system to treat the discharge would protect the waters of the state from pollution, in which case he shall renew a permit for such discharge, (iii) the continuance of the existing system to treat the discharge, even with modifications, would not protect the waters of the state from pollution, in which case he shall promptly notify the applicant that its application is denied and the reasons therefor, or (iv) modification of the existing system or installation of a new system would protect the waters of the state from pollution, in which case he shall renew the permit for such discharge. Such renewed permit may include a schedule for the completion of the modification or installation to allow additional time for compliance with the final effluent limitations in the renewed permit provided (I) continuance of the activity producing the discharge is in the public interest; (II) the interim effluent limitations in the renewed permit are no less stringent than the effluent limitations in the previous permit; and (III) the schedule would not be inconsistent with the federal Water Pollution Control Act. No permit shall be renewed unless the commissioner determines that the treatment system adequately protects the waters of the state from pollution. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application for a renewal has not been given a public hearing shall have the right to a hearing and an appeal therefrom in the same manner as provided in sections 22a-436 and 22a-437. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application for a renewal has been given a public hearing shall have the right to appeal as provided in section 22a-437. Any category, type or size of discharge that is exempt from the requirement of notice pursuant to subsection (b) of this section for the approval or denial of a permit shall be exempt from notice for approval or denial of a renewal of such permit. The commissioner may hold a public hearing prior to approving or denying an application for a renewal if in his discretion the public interest will be best served thereby, and he shall hold a hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected.

(d) If the commissioner finds that any person or municipality has initiated, created or originated or is maintaining any discharge into the waters of the state without a permit as required in subsection (a) of this section, or in violation of such a permit, the commissioner may issue an order to abate pollution which shall include a time schedule for the accomplishment of the necessary steps leading to the abatement of such pollution, or notwithstanding any request for a hearing pursuant to section 22a-436 or the pendency of an appeal therefrom, the commissioner may request the Attorney General to bring an action in the superior court for the judicial district of Hartford (1) to enjoin such discharge by such person or municipality until the person or municipality has received a permit from the commissioner or has complied with a permit which the commissioner has issued pursuant to this section, or (2) for injunctive relief to remediate the effects of such discharge. Any such action brought by the Attorney General shall have precedence in the order of trial as provided in section 52-191.

(e) When the commissioner determines that any person or municipality has complied with an order issued pursuant to section 22a-428, 22a-431 or 22a-432, he may issue a permit which shall thereafter be deemed equivalent to a permit issued under subsection (b) of this section, provided a public hearing shall not be required prior to issuing such permit unless required by the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

(f) The commissioner may, by regulation, establish and define categories of discharges, including but not limited to, residential swimming pools, small community sewerage systems, household and small commercial disposal systems and clean water discharges, for which he may delegate authority to any other state agency, water pollution control authority, municipal building official or municipal or district director of health to issue permits

or approvals in accordance with this section or to issue orders pursuant to sections 22a-428, 22a-431, 22a-432 and 22a-436. In establishing such categories the commissioner shall consider (1) whether each discharge in such category, because of size and character, is likely to cause significant pollution to the waters of the state; (2) whether knowledge and training concerning disposal systems for each discharge in such category is within the expertise of such agency, authority, official or director; (3) whether the source of each discharge in such category is likely to be within the jurisdiction of such agency, authority, official or director for other matters. The commissioner shall establish, by regulation, minimum requirements for disposal systems for discharges in such categories. Any permit denied or order issued by any such agency, authority, official or director shall be subject to hearing and appeal in the manner provided in sections 22a-436 and 22a-437, provided such agency, authority, official or director has been duly delegated authority by the commissioner pursuant to this subsection. Any permit granted by any such agency, authority, official or director to which the commissioner has delegated authority pursuant to this subsection shall thereafter be deemed equivalent to a permit issued under subsection (b) of this section.

(g) The commissioner shall, by regulation adopted prior to October 1, 1977, establish and define categories of discharges which constitute household and small commercial subsurface sewage disposal systems for which he shall delegate to the Commissioner of Public Health the authority to issue permits or approvals and to hold public hearings in accordance with this section, on and after said date. The Commissioner of Public Health shall, pursuant to section 19a-36, establish minimum requirements for household and small commercial subsurface sewage disposal systems and procedures for the issuance of such permits or approvals by the local director of health or a sanitarian registered pursuant to chapter 395. As used in this subsection, household and small commercial disposal systems shall include those subsurface sewage disposal systems with a capacity of seven thousand five hundred gallons per day or less. Notwithstanding any provision of the general statutes or regulations of Connecticut state agencies, the regulations adopted by the commissioner pursuant to this subsection that are in effect as of July 1, 2017, shall apply to household and small commercial subsurface sewage disposal systems with a capacity of seven thousand five hundred gallons per day or less. Any permit denied by the Commissioner of Public Health, or a director of health or registered sanitarian shall be subject to hearing and appeal in the manner provided in section 19a-229. Any permit granted by said Commissioner of Public Health, or a director of health or registered sanitarian on or after October 1, 1977, shall be deemed equivalent to a permit issued under subsection (b) of this section.

(h) Each person holding a permit to discharge into the waters of the state shall pay an annual fee of twenty-five per cent more than the fee established by regulations in effect on July 1, 1990. 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.

(i) (1) Notwithstanding the provisions of subsection (c) of this section, the commissioner may issue a permit for a discharge to waters of the state from any solid waste disposal area, as defined in section 22a-207, or from any subsurface sewage disposal system for a period not to exceed thirty years, and for any other discharge for a period not to exceed ten years, provided such permit is not inconsistent with the federal Water Pollution Control Act. Any permit issued pursuant to this subsection shall be subject to the provisions of section 22a-431. For the purpose of this subsection, “subsurface sewage disposal system” means a system consisting of a house or collection sewer, a septic tank followed by a leaching system, any necessary pumps or siphons and any groundwater control system on which the operation of the leaching system is dependent.

(2) Permits for the categories of discharge for which ten-year and thirty-year permits may be issued pursuant to subdivision (1) of this subsection which are in effect on October 1, 1996, shall not expire until five years or twenty-five years, respectively, after the expiration date stated in the permit, provided such extension is not inconsistent with the federal Water Pollution Control Act and further provided no such permit may be valid for a period greater than thirty years and further provided, the commissioner may, no earlier than two hundred seventy days before the expiration date stated in the permit, send notice to the permittee that an application for permit renewal must be submitted not later than one hundred eighty days prior to the expiration date stated in the permit. If a timely and sufficient application for renewal is submitted within such time, the permit shall be

continued in accordance with subsection (b) of section 4-182. If a timely and sufficient application is not submitted within such time, the permit shall expire unless such permit is extended pursuant to section 22a-6j. Nothing in this section shall affect the commissioner's authority to take action under this chapter, including but not limited to, issuance of orders under section 22a-431.

(j) (1) The commissioner may exempt persons who or municipalities which apply for permits for the following discharges from the requirement to submit plans and specifications under subsection (b) of this section:

(A) A discharge from a new treatment or disposal system which system is substantially the same as a system that the applicant is operating in compliance with a permit for said system issued by the commissioner;

(B) The discharge is described in a general permit issued by the commissioner pursuant to section 22a-430b;

(C) The discharge is from a system, the purpose of which, as determined by the commissioner, is not to treat any toxic or hazardous substances; or

(D) The discharge is exempt from public notice under subsection (b) of this section and regulations adopted thereunder.

(2) The commissioner shall adopt regulations not later than February 1, 2015, in accordance with the provisions of chapter 54, to establish other categories of discharges which may be exempted from the requirement to submit plans and specifications under subsection (b) of this section. Such regulations may include, but not be limited to, the following: (A) Minimum standards for the design and operation of treatment systems for such discharges; and (B) requirements for submission of information concerning such discharges.

(k) The commissioner shall not deny a permit under this section if the basis for such denial is a determination by the commissioner that the proposed activity for which application has been made is inconsistent with the state plan of conservation and development adopted under section 16a-30.

(1967, P.A. 57, S. 9; 1971, P.A. 163; 346, S. 1; 872, S. 85; P.A. 73-38, S. 3, 8; 73-555, S. 8, 10; 73-665, S. 10, 17; P.A. 74-187, S. 2; P.A. 77-285, S. 1, 2; 77-614, S. 323, 587, 610; P.A. 78-154, S. 16; 78-280, S. 6, 127; 78-303, S. 85, 136; P.A. 81-176, S. 1, 2, 5–7; P.A. 82-111, S. 1; P.A. 84-219, S. 2, 4; P.A. 86-239, S. 7, 14; 86-277, S. 2, 4; P.A. 87-261, S. 5; P.A. 88-118, S. 1, 3; 88-230, S. 1, 12; 88-364, S. 84, 123; P.A. 90-98, S. 1, 2; 90-231, S. 9, 28; P.A. 91-263, S. 1, 8; 91-369, S. 17, 36; P.A. 93-142, S. 4, 7, 8; 93-381, S. 9, 39; 93-428, S. 16, 20, 21, 39; P.A. 95-220, S. 4–6; 95-257, S. 12, 21, 58; P.A. 96-145, S. 2; P.A. 98-209, S. 1, 25; P.A. 02-129, S. 1; P.A. 03-123, S. 5; 03-125, S. 1; P.A. 04-151, S. 6; P.A. 05-205, S. 10; P.A. 10-158, S. 6; P.A. 13-209, S. 9; P.A. 17-146, S. 30.)

History: 1971 acts prohibited issuance of permit if discharge would be below the highest standard set pursuant to Subsec. (a) of Sec. 25-54e in Subsec. (b) and replaced water resources commission with environmental protection commissioner; P.A. 73-38 set deadline of April 10, 1973, for acquiring permit in Subsec. (a), clarified procedure under Subsec. (b) and added provision allowing commissioner to waive hearing but required hearing if requested by at least 25 persons, placed 5-year limit on renewals and added reference to federal Water Pollution Control Act in Subsec. (c) and added Subsec. (e); P.A. 73-555 added Subsec. (f) re establishment of categories of discharges; P.A. 73-665 made commissioner's request for court action in Subsec. (d) discretionary rather than mandatory, substituting “may” for “shall”; P.A. 74-187 added references to sewer authorities in Subsec. (f); P.A. 77-285 authorized commissioner to define discharge categories and deleted regulation of household and small commercial disposal systems in Subsec. (f) and added Subsec. (g) re household and small commercial disposal systems; P.A. 77-614 and P.A. 78-303 replaced commissioner of health with commissioner of health services, effective January 1, 1979; P.A. 78-154 restored reference to household and small commercial systems in Subsec. (f), added references to community sewerage systems and replaced “sewer authority” with “water pollution control authority”; P.A. 78-280 replaced “Hartford county” with “judicial district of Hartford-New Britain”; P.A. 81-176 replaced former provisions in Subsec. (b) re mandatory public hearing on permit application and public notice of the hearing with provisions requiring public notice of application and mandatory “comment period” before commissioner approves or denies the permit, clarified language concerning

commissioner's options for action on application and added separate notice provision for hearing held at commissioner's discretion or upon receipt of petition, amended Subsec. (c) by authorizing the commissioner to require compliance with the federal Safe Drinking Water Act as condition for obtaining a permit, amended Subsec. (d) by authorizing the commissioner to issue abatement orders where there is a discharge without a permit or in violation of a permit, amended Subsec. (e) by making public hearing mandatory only if required by the federal Safe Drinking Water Act; P.A. 82-111 amended Subsec. (b) to clarify hearing and appeal procedure relative to Secs. 25-54o and 25-54p; Sec. 25-54i transferred to Sec. 22a-430 in 1983; P.A. 84-219 amended Subsec. (b) by replacing numeric Subdiv. indicators with alphabetic indicators and adding provisions requiring the commissioner to adopt regulations establishing standards for determining whether a discharge would cause pollution and the adequacy of a treatment system and amended Subsec. (c) by adding provisions establishing procedures for permit renewal; P.A. 86-239 amended Subsec. (f) by deleting reference to repealed Sec. 22a-418; P.A. 86-277 amended Subsec. (a) to require certain previously exempt persons and municipalities to obtain permits and to prohibit the commissioner from issuing a permit or renewal if such action would be inconsistent with the federal Clean Water Act; P.A. 87-261 amended Subsec. (a) by making technical changes; P.A. 88-118 added Subsec. (h) authorizing the commissioner to issue general permits for categories of discharge; P.A. 88-230 replaced “judicial district of Hartford-New Britain” with “judicial district of Hartford”, effective September 1, 1991; P.A. 88-364 amended Subsecs. (e) and (f) to delete obsolete references to Sec. 22a-429; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 90-231 amended Subsec. (a) to require permit application fees, provided that on and after July 1, 1991, the fee shall be prescribed by regulations, and added Subsec. (i) re payment of annual fee by persons holding a permit to discharge into the waters of the state; P.A. 91-263 deleted former Subsec. (h) re permits, relettered former Subsec. (i) accordingly, and added Subsec. (i) concerning general discharge permits; P.A. 91-369 amended Subsec. (i) to restate commissioner's authority to adopt regulations setting the fees required by this section; (Revisor's note: In 1993 an obsolete reference in Subsec. (e) to repealed Sec. 22a-218 was deleted editorially by the Revisors); P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 93-428 amended Subsec. (b) to make that Subsec. consistent with the new Subsec. (j), amended Subsec. (c) to provide additional authority to the commissioner re renewal of permits and modifications to permits and added a new Subsec. (j) re exemptions from permit requirements of this section, effective July 1, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 96-145 amended Subsec. (i) to extend the length of certain permits under this section to 30 years and to define “subsurface sewage disposal system”; P.A. 98-209 amended Subsecs. (b) and (c) to modify provisions re standing to appeal decisions on permits issued pursuant to federal Water Pollution Control Act under this section; P.A. 02-129 amended Subsec. (b) by adding provision re issuance of permit for an alternative on-site sewage treatment system in a drinking water supply watershed and making technical changes; P.A. 03-123 made technical changes in Subsec. (c), effective June 26, 2003; P.A. 03-125 amended Subsec. (d) to make technical changes, including technical changes for the purpose of gender neutrality, and to allow the Attorney General to seek injunctive relief, effective July 1, 2003; P.A. 04-151 amended Subsec. (f) to add provisions re delegation of authority by commissioner to an agency, authority, official or director, effective May 21, 2004; P.A. 05-205 added new Subsec. (k) re denial of permit where commissioner determines proposed activity is inconsistent with state plan of conservation and development, effective July 1, 2005; P.A. 10-158 amended Subsec. (j)(2) to require commissioner to adopt regulations not later than June 30, 2011; P.A. 13-209 amended Subsec. (j)(2) by changing deadline for adoption of regulations from June 30, 2011, to February 1, 2015; P.A. 17-146 amended Subsec. (g) by replacing “subsurface disposal systems” with “subsurface sewage disposal systems”, adding “household and” and replacing 5,000 gallons with 7,500 gallons re capacity, and adding provision re regulations to apply to household and small commercial subsurface sewage disposal systems with capacity of 7,500 gallons per day or less, effective July 1, 2017.

See Sec. 22a-27i re exemption of municipality for one year.

See Secs. 22a-208*l* and 22a-208o re wood-burning facilities.

Annotation to former section 25-54i:

Cited. 183 C. 532.

Annotations to present section:

Cited. 192 C. 591; 226 C. 205; 227 C. 175; 233 C. 486; 234 C. 488.

Cited. 19 CA 216; 21 CA 91; 41 CA 120.

Subsec. (a):

Cited. 218 C. 821. In finding violation under section, trial court can reasonably infer violations from the evidence before it. 275 C. 420.

Subsec. (d):

When trial court has found in an action brought under Subsec. that defendant has caused pollution of the waters of the state, the court is required to order remediation of the pollution pursuant to remediation standard regulations, but has discretion, derived from its equitable powers and consistent with the statutory scheme, to fashion a remedy that takes into account various relevant considerations. 319 C. 80.

Subsec. (f):

Department may delegate authority to water pollution control authorities to issue permits for all types of discharges that involve sewer connections. 262 C. 84. There is no administrative remedy under Subsec. to review alleged failure of defendant to act at all in response to plaintiff's application. 265 C. 114.

Subsec. (g):

Applies only to septic system permits, not sewer permits. 262 C. 84.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-430a. Delegation of authority to issue certain permits to municipal water pollution control authorities. Section 22a-430a is repealed, effective October 1, 1997.

(P.A. 86-82, S. 3, 5; P.A. 87-235, S. 2; 87-261, S. 10; P.A. 97-162, S. 5.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-430b. General permits. Certifications by qualified professionals. Regulations. (a)(1) The Commissioner of Energy and Environmental Protection may issue a general permit for a category or categories of discharges regulated pursuant to section 22a-430, except for a discharge covered by an individual permit. The general permit may regulate, within a geographical area: (A) A category of discharges which involve the same or substantially similar types of operations, involve the same type of wastes, require the same effluent limitations, operating conditions or standards, and require the same or similar monitoring and which in the opinion of the commissioner are more appropriately controlled under a general permit; (B) stormwater discharges; or (C) a category of discharges not requiring a permit under the federal Water Pollution Control Act. Any person or municipality conducting an activity covered by a general permit shall not be required to apply for or obtain an individual permit pursuant to section 22a-430, except as provided in subsection (c) of this section. The general permit may require that any person or municipality initiating, creating, originating or maintaining any discharge into the waters of the state under the general permit shall register such discharge with the commissioner before

the general permit becomes effective as to such discharge. Registration shall be on a form prescribed by the commissioner.

(2) When issuing a general permit pursuant to this section, the commissioner may require the submission of a certification made by a qualified professional. Any general permit requiring such certification shall specify: (A) The qualifications necessary to define a qualified professional. Such qualifications may include education, training, experience or the attainment of a credential or license that such qualified professional must have obtained. If such qualifications do not require a license, the commissioner shall describe the rationale for such qualifications in a publicly available fact sheet or similar document when proposing the issuance of the applicable general permit pursuant to subsection (b) of this section; (B) the criteria to ensure that a qualified professional is independent and does not have a conflict of interest in making a certification, provided reasonable compensation for services rendered in making a certification shall not be deemed a conflict of interest; (C) the information to be reviewed or inspections to be conducted by such qualified professional as a basis for making a certification; (D) documents that shall be retained in connection with a certification; (E) the standards or requirements for an activity or project that a qualified professional must affirmatively determine have been met; (F) the terms of a statement to be signed by such qualified professional, including any conditions necessary for providing such statement; (G) any other information or condition deemed necessary by the commissioner regarding a certification; and (H) whether the submission of a certification shall be required when the person seeking coverage under the general permit is a governmental entity, including a federal, state or municipal entity. Nothing in this section shall authorize a qualified professional to engage in any profession or occupation requiring a license under any other provision of the general statutes without such license. The commissioner shall not require such certification if such certification would violate the federal Water Pollution Control Act or the federal Safe Drinking Water Act.

(b) Notwithstanding the provisions of chapter 54, a general permit shall be issued, renewed, modified, revoked or suspended in accordance with the standards and procedures specified for an individual permit, in accordance with section 22a-430 and any regulations adopted thereunder, except that (1) summary suspension may be ordered in accordance with subsection (c) of section 4-182; (2) any proposed or final general permit and notice thereof may address persons or municipalities which are or may be covered by the general permit as a group, describe the facilities which are or may be covered by the general permit in general terms; and (3) upon issuance of a proposed or final general permit, the commissioner shall publish notice thereof in a newspaper of substantial circulation in the affected area. General permits shall be issued for a term specified by the permit and such terms shall be consistent with the federal Water Pollution Control Act and shall be subject to the provisions of section 22a-431. Such permits shall: (A) Describe the category of discharge regulated by the general permit; (B) specify the manner, nature and volume of discharge; (C) require proper operation and maintenance of any pollution abatement facility required by such permit; and (D) be subject to such other requirements and restriction as the commissioner deems necessary to fully comply with the purposes of this chapter, the federal Water Pollution Control Act and the federal Safe Drinking Water Act. Any construction or modification of a pollution abatement facility or disposal system which is undertaken pursuant to and in accordance with a general permit shall not require submission of plans and specifications to or approval by the commissioner, unless required pursuant to the terms of the general permit.

(c) Subsequent to the issuance of a general permit, the commissioner may require a person or municipality initiating, creating, originating or maintaining any discharge which is or may be authorized by a general permit to obtain an individual permit pursuant to section 22a-430 if the commissioner determines that an individual permit would better protect the waters of the state from pollution. The commissioner may require an individual permit under this subsection in cases that include but are not limited to the following: (1) When the discharger is not in compliance with the conditions in the general permit; (2) when a change has occurred in the availability of a demonstrated technology or practice for the control or abatement of pollution applicable to the discharge; (3) when effluent limitations and conditions are promulgated by the United States Environmental Protection Agency or established by the commissioner under section 22a-430 for discharges covered by the general permit; (4) when a water quality management plan containing requirements applicable to such discharges is approved by the United States Environmental Protection Agency; (5) when circumstances have changed since the issuance of the general permit so that the discharger is no longer appropriately controlled under the general permit, or a

temporary or permanent reduction or elimination of the authorized discharge is necessary; (6) when the discharge is a significant contributor of pollution, provided the commissioner, in making this determination, may consider the location of the discharge with respect to waters of the state, the size of the discharge, the quantity and nature of the pollution discharged to waters of the state, cumulative impacts of discharges covered by the general permit and other relevant factors; or (7) when the requirements of subsection (a) of this section are not met. The commissioner may require an individual permit under this subsection only if the affected person or municipality has been notified in writing that a permit application is required. The notice shall include a brief statement of the reasons for the commissioner's decision, an application form, a statement setting forth a time for the person or municipality to file the application, and a statement that on the effective date of the individual permit the general permit as it applies to the individual permittee shall automatically terminate. The commissioner may grant additional time upon the request of the applicant. If the affected person or municipality does not submit a complete application for an individual permit within the time frame set forth in the commissioner's notice or as extended by the commissioner in writing, then the general permit as it applies to the affected person or municipality shall automatically terminate. Any interested person or municipality may petition the commissioner to take action under this subsection.

(d) (1) A qualified professional shall ensure that any certification submitted pursuant to this section complies with the general permit that requires such certification. Compliance with a general permit shall include any matter specified in such permit pursuant to subdivision (2) of subsection (a) of this section. The commissioner shall accept a certification when submitted with a registration for a general permit, unless (A) the certification is the subject of an audit pursuant to subsection (e) of this subsection; or (B) the commissioner has reason to believe that the certification does not comply with the requirements of the general permit, including any matter specified in the general permit pursuant to subdivision (2) of subsection (a) of this section.

(2) Any qualified professional who makes a certification pursuant to this section shall promptly notify, in writing, the commissioner and the person who would obtain or has obtained coverage under the general permit based upon such certification if, during the normal course of a qualified professional's practice, such professional learns, or should have learned, of information that would significantly affect or prevent such professional's decision to have made such certification. Such notification shall be made not later than fifteen days after a qualified professional learns of such information and shall identify the certification and the reasons such qualified professional is submitting notice pursuant to this subdivision.

(e) The commissioner may audit any certification made by a qualified professional pursuant to this section. As part of such audit, the commissioner may request any information the commissioner deems necessary to conduct such audit from either the person who would obtain or has obtained coverage under the general permit based upon such certification or the qualified professional making the certification. In addition, the commissioner may require independent verification of all or any part of a certification made by a qualified professional. Such independent verification shall be performed by a different qualified professional who: (1) Meets the requirements for a qualified professional specified in the general permit; (2) does not have a conflict of interest, provided reasonable compensation for providing independent verification shall not constitute a conflict of interest; (3) did not engage in any activities associated with the development, preparation or review of any information on which the certification is based; and (4) is not under the same employ of the person who developed, prepared or reviewed any of the information on which the certification is based. Such independent verification shall be at the expense of the person who seeks or has obtained coverage under a general permit. If an audit undertaken by the commissioner pursuant to this subsection reveals that a certification was made in violation of any requirement of the general permit, including any matter specified in the general permit pursuant to subdivision (2) of subsection (a) of this section, the commissioner may charge, and the person who would obtain or has obtained coverage under the general permit based upon such certification shall pay, for the reasonable costs of conducting such audit.

(f) The commissioner shall have a goal of auditing ten per cent of the certifications submitted with a general permit pursuant to this section. The commissioner shall, not later than January 1, 2014, submit a report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to commerce and the environment. Such report shall include (1) the total

number of certifications submitted; (2) the number of certifications subject to partial or full audit; (3) the number of certifications found not to be in compliance with the general permit; (4) where necessary, the actions taken to bring about or maintain compliance with the general permit; (5) whether any conclusions can be drawn from the audits regarding levels of compliance of the certification with applicable requirements and, if so, any such conclusions; and (6) any additional recommendations regarding the use of certifications in general permits. Such report may be submitted electronically.

(g) Notwithstanding the acceptance of a certification pursuant to the provisions of subdivision (1) of subsection (e) of this section, if, after acceptance, the commissioner finds that a certification does not comply with the requirements of the general permit, including any matter specified in the general permit pursuant to subdivision (2) of subsection (a) of this section, or if the qualified professional that made a certification fails to cooperate or provide information requested by the commissioner pursuant to subsection (e) of this section, the commissioner may (1) deny a registration seeking coverage under a general permit, (2) revoke, suspend or modify any approval issued by the commissioner under a general permit, including the approval of any registration for coverage under a general permit, or (3) require the person who would obtain or has obtained coverage under the general permit based upon such certification to obtain an individual permit, pursuant to subsection (c) of this section. The commissioner may take such action even if the person who would obtain or has obtained coverage under the general permit based upon such certification had no involvement in the development, preparation or review of the certification submitted pursuant to this section, or any of the information on which a certification was based, or was unaware that the certification was not in compliance with the requirements of the general permit, including any matter specified in the general permit pursuant to subdivision (2) of subsection (a) of this section. In addition to any other penalty or sanction provided for by law, disciplinary action may be taken against a qualified professional for a certification that does not comply with the requirements of a general permit, including any matter specified in the general permit pursuant to subdivision (2) of subsection (a) of this section. For any qualified professional required to maintain in effect a license or credential under any provision of law, the commissioner may (A) make a referral for disciplinary action against such qualified professional to any board, commission or department overseeing such professional; (B) issue a reprimand or warning to such qualified professional; or (C) prohibit, either temporarily or permanently, such professional from making a certification submitted pursuant to this section.

(h) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of this section.

(P.A. 87-235, S. 1; 87-589, S. 37, 54, 87; P.A. 90-222, S. 3; P.A. 91-263, S. 2, 8; P.A. 93-428, S. 12, 39; P.A. 06-76, S. 26; P.A. 11-80, S. 1; P.A. 12-172, S. 1.)

History: P.A. 87-589 made technical change in Subsec. (d), deleting reference to Sec. 22a-418; P.A. 90-222 amended Subsec. (a) to make the adoption of regulations mandatory rather than discretionary, substituting “shall” for “may”; P.A. 91-263 substantially revised this section to provide for a system of general permits for certain discharges not otherwise regulated by this chapter; P.A. 93-428 amended Subsec. (b) to modify the requirement re publication of notice of issuance of a general permit, effective July 1, 1993; P.A. 06-76 amended Subsec. (a) to delete exception for certain industrial categories; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a), effective July 1, 2011; P.A. 12-172 amended Subsec. (a) by designating existing provisions as Subdiv. (1), redesignating existing Subdivs. (1) to (3) as Subparas. (A) to (C) and adding new Subdiv. (2) re certifications by qualified professionals, amended Subsecs. (b) and (c) by making technical changes, added new Subsecs. (d) to (g) re certifications by qualified professionals and redesignated existing Subsec. (d) as Subsec. (h), effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-430c. Annual inventory of persons and municipalities in significant noncompliance. The Commissioner of Energy and Environmental Protection shall make available to the public an annual inventory of the persons or

municipalities which have been issued a permit under section 22a-430 and which are in significant noncompliance, as defined pursuant to 40 CFR Ch. 1, 123.45. Such inventory shall be available to the public on or before April first of each year.

(P.A. 91-270, S. 2; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-431. (Formerly Sec. 25-54j). Periodic investigation of discharges. Order to abate or submit information. The commissioner shall periodically investigate and review those sources of discharge which are operating pursuant to any order, permit, directive, registration or decision issued by the water resources commission or the commissioner before or after May 1, 1967, and, if he determines that there has been any substantial change in the manner, nature or volume of such discharge which will cause or threaten pollution to any of the waters of the state, or if he finds that the system treating such discharge, or the operation thereof, no longer insures or adequately protects against pollution of the waters of the state, the commissioner may issue an order to abate such pollution to such person or municipality. Such order shall include a time schedule for the accomplishment of the necessary steps leading to the abatement of the pollution. The commissioner may issue an order to the person or municipality responsible for such source of discharge requiring submission to him of information that he deems necessary describing the manner, nature and volume of such discharge.

(1967, P.A. 57, S. 10; 1971, P.A. 872, S. 86; P.A. 73-665, S. 11, 17; P.A. 76-435, S. 37, 82; P.A. 82-472, S. 100, 183; P.A. 84-219, S. 3, 4; P.A. 87-235, S. 3.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner, retaining reference to past actions of commission; P.A. 73-665 made commissioner's issuance of abatement orders discretionary rather than mandatory, substituting “may” for “shall”; P.A. 76-435 deleted reference to water resources commission; P.A. 82-472 included investigation of discharges operating pursuant to orders of water resources commission; Sec. 25-54j transferred to Sec. 22a-431 in 1983; P.A. 84-219 added provision authorizing the commissioner to issue orders requiring submission of information describing a discharge; P.A. 87-235 extended the commissioners' authority to investigate registered discharges.

Forfeiture provision of Sec. 22a-438 applies to violations of orders to abate pollution issued pursuant to this section. 21 CA 91.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-432. (Formerly Sec. 25-54k). Order to correct potential sources of pollution. If the commissioner finds that any person has established a facility or created a condition before or after June 25, 1985, or is maintaining any facility or condition which reasonably can be expected to create a source of pollution to the waters of the state, he may issue an order to such person to take the necessary steps to correct such potential source of pollution. Any person who receives an order pursuant to this section shall have the right to a hearing and an appeal in the same manner as is provided in sections 22a-436 and 22a-437. If the commissioner finds that the recipient of any such order fails to comply therewith, he may request the Attorney General to bring an action in the superior court for the judicial district of Hartford to enjoin such person from maintaining such potential source of pollution to the waters of the state or to take the necessary steps to correct such potential source of pollution. All actions brought by the Attorney General pursuant to the provisions of this section shall have precedence in the order of trial as provided in section 52-191. An innocent landowner, as defined in section 22a-452d, shall not be held liable, except through imposition of a lien against the contaminated real estate under

section 22a-452a, for any order issued under this section on or before August 1, 1990, which order is subject to appeal as of July 6, 1995, and, after July 1, 1996, for any order issued under this section after July 1, 1996.

(1967, P.A. 57, S. 11; 1971, P.A. 872, S. 87; P.A. 73-665, S. 12, 17; P.A. 78-280, S. 6, 127; P.A. 84-239, S. 1; P.A. 85-392, S. 4, 5; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-190, S. 9, 17; 95-218, S. 18, 24; 95-220, S. 4–6.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-665 made commissioner's issuance of orders to correct potential pollution sources discretionary rather than mandatory, substituting “may” for “shall”; P.A. 78-280 replaced Hartford county with judicial district of Hartford-New Britain; Sec. 25-54k transferred to Sec. 22a-432 in 1983; P.A. 84-239 authorized the commissioner to issue orders to persons establishing a facility or creating a condition which may cause pollution and authorized court action to require correction of potential sources of pollution; P.A. 85-392 made provisions applicable to conditions “before or after June 25, 1985”; P.A. 88-230 replaced “judicial district of Hartford-New Britain” with “judicial district of Hartford”, effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-190 provided a limitation on liability under this section for innocent landowners, effective June 29, 1995; P.A. 95-218 confined the liability protection for innocent landowners to orders issued before July 1, 1990, or after July 1, 1996, effective July 6, 1995; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995.

Annotations to former section 25-54k:

Joinder of necessary parties to injunctive action discussed. 180 C. 568.

Cited. 32 CS 121.

Annotations to present section:

Cited. 204 C. 38. Mere ownership of real property is sufficient basis for imposing liability under statute. 226 C. 358. Cited. 236 C. 722. Officer of a corporation personally liable for abatement of a violation of section when the officer is in a position of responsibility that allows him to influence corporate policies and activities, there is a nexus between his actions or inactions in that position and the violation such that the officer influenced the corporate actions constituting the violation, and his actions or inactions resulted in the violation. 256 C. 602.

Cited. 21 CA 91; 41 CA 89; Id., 120; 42 CA 563. Commissioner may impose liability under section on a landowner who takes title to property with notice that it is polluted, and then maintains the pollution by failing to abate it; owner with notice of pollution on his or her property may not escape liability for its abatement merely by leasing it to a tenant. 161 CA 837.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-433. (Formerly Sec. 25-54*l*). Order to landowner. Whenever the commissioner issues an order to abate pollution to any person pursuant to the provisions of section 22a-430 or 22a-431, an order to correct potential sources of pollution pursuant to the provisions of section 22a-432 or an order to correct a violation of hazardous waste regulations pursuant to section 22a-449 and the commissioner finds that such person is not the owner of the land from which such source of pollution or potential source of pollution emanates, he may issue a like order to the owner of such land or shall send a certified copy of such order, by certified mail, return receipt requested, to the owner at his last-known post-office address, with a notice that such order will be filed on the land records in the town wherein the land is located. When the commissioner issues such an order to an owner, the owner and the person causing such pollution shall be jointly and severally responsible. Any owner to whom such an order is issued or who receives a certified copy of an order pursuant to this section shall be entitled to all notices of, and rights to participate in, any proceedings before or orders of the commissioner and to such hearing and rights of

appeal as are provided for in sections 22a-436 and 22a-437. An innocent landowner, as defined in section 22a-452d, shall not be held liable except through imposition of a lien against the contaminated real estate under section 22a-452a, for any assessment, fine or other costs imposed by the state under this section in any enforcement or cost recovery action if such action has become final, and is no longer subject to appeal, prior to June 30, 1993.

(1967, P.A. 57, S. 12; 1971, P.A. 872, S. 88; P.A. 73-665, S. 13, 17; P.A. 84-239, S. 2; P.A. 87-261, S. 6; P.A. 90-230, S. 35, 101; P.A. 93-375, S. 3, 4.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-665 made technical correction; Sec. 25-54*l* transferred to Sec. 22a-433 in 1983; P.A. 84-239 added provisions authorizing the commissioner to order correction of potential sources of pollution or hazardous waste violations and requiring notice to the landowner that the order will be filed on the land records; P.A. 87-261 deleted an obsolete reference to Sec. 22a-429; P.A. 90-230 corrected an internal reference; P.A. 93-375 added provisions re an innocent landowner defense, effective June 30, 1993.

Cited. 226 C. 358; Id. 737.

Cited. 21 CA 91.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-434. (Formerly Sec. 25-54m). Filing of order on land records. When the commissioner issues a final order to any person to correct potential sources of pollution or to abate pollution, the commissioner shall cause a certified copy thereof to be filed on the land records in the town wherein the land is located, and such order shall constitute a notice to the owner's heirs, successors and assigns. When the order is complied with or revoked, the commissioner shall issue a certificate showing such compliance or revocation, which certificate the commissioner shall cause to be recorded on the land records in the town wherein the order was previously recorded. A certified copy of the certificate shall be sent to the owner of the land at such owner's last-known post office address.

(1967, P.A. 57, S. 13; 1971, P.A. 872, S. 89; P.A. 84-239, S. 3; P.A. 01-118, S. 2; P.A. 13-209, S. 11.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-54m transferred to Sec. 22a-434 in 1983; P.A. 84-239 applied section to orders for correction of potential pollution sources and added provision requiring that certificate of compliance be sent to the landowner; P.A. 01-118 specified that final orders are to be filed on land records and made technical changes; P.A. 13-209 added references to revocation of order and made a technical change.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-434a. Notice of contaminated wells; abatement of contamination or abandonment of well to be on land records. The Commissioner of Energy and Environmental Protection may cause to be filed on the land records in the town wherein the subject land is located a notice that water from a well on said land has been determined by the Commissioner of Public Health to create an unacceptable risk of injury to the health or safety of persons using the water for drinking or other personal or domestic uses. When the water from said well is determined by the Commissioner of Public Health no longer to present such a risk, or when the local or district director of health, in accordance with the provisions of the Connecticut Well Drilling Code adopted pursuant to section 25-128, has verified that the well has been properly abandoned, the Commissioner of Energy and Environmental Protection shall cause to be filed on the land records in the town wherein the notice was previously recorded a notice to that effect.

(P.A. 87-395; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 11-80, S. 1.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-435. (Formerly Sec. 25-54n). Injunction. If any person or municipality fails to comply with any order to abate pollution, or any part thereof, issued pursuant to the provisions of section 22a-428, 22a-431 or 22a-433, and no request for a hearing on such order or appeal therefrom is pending and the time for making such request or taking such appeal has expired, the commissioner may request the Attorney General to bring an action in the superior court for the judicial district of Hartford to enjoin such person or municipality from maintaining such pollution and to comply fully with such order or any part thereof. All actions brought by the Attorney General pursuant to the provisions of this section shall have precedence in the order of trial as provided in section 52-191.

(1967, P.A. 57, S. 14; 1971, P.A. 872, S. 90; P.A. 73-38, S. 4, 8; P.A. 78-280, S. 6, 127; P.A. 86-239, S. 8, 14; P.A. 87-261, S. 7; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; P.A. 73-38 added reference to Sec. 25-27 and made commissioner's request for court action discretionary rather than mandatory, substituting “may” for “shall”; P.A. 78-280 replaced “Hartford county” with “judicial district of Hartford-New Britain”; Sec. 25-54n transferred to Sec. 22a-435 in 1983; P.A. 86-239 deleted reference to repealed Sec. 22a-418; P.A. 87-261 deleted an obsolete reference to Sec. 22a-429; P.A. 88-230 replaced “judicial district of Hartford-New Britain” with “judicial district of Hartford”, effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993.

Annotation to former section 25-54n:

Cited. 170 C. 29.

Annotations to present section:

Cited. 204 C. 38; 216 C. 436; 227 C. 175; 237 C. 135.

Cited. 21 CA 91; 41 CA 89.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-436. (Formerly Sec. 25-54o). Hearing on order to abate. Each order to abate pollution issued under section 22a-428 or 22a-431 or decision under subsection (b) or (c) of section 22a-430 shall be sent by certified mail, return receipt requested, to the subject of such order or decision and shall be deemed issued upon deposit in the mail. Any person who or municipality which is aggrieved by any such order or decision to deny an application or, in the case of a permit issued pursuant to the federal Water Pollution Control Act, any decision without prior hearing under subsection (b) or (c) of section 22a-430 may, within thirty days from the date such order or decision is sent, request a hearing before the commissioner. The commissioner shall not grant any request for a hearing at any time thereafter. After such hearing, the commissioner shall consider the facts presented to him by the person or municipality, including, but not limited to, technological feasibility, shall consider the rebuttal or other evidence presented to or by him, and shall then revise and resubmit the order to the person or municipality, or inform the person or municipality that the previous order has been affirmed and

remains in effect. The request for a hearing as provided for in this section or a decision under subsection (b) or (c) of section 22a-430 made after a public hearing shall be a condition precedent to the taking of an appeal by the person or municipality under the provisions of section 22a-437. The commissioner may, after the hearing provided for in this section, or at any time after the issuance of his order, modify such order by agreement or extend the time schedule therefor if he deems such modification or extension advisable or necessary, and any such modification or extension shall be deemed to be a revision of an existing order and shall not constitute a new order. There shall be no hearing subsequent to or any appeal from any such modification or extension.

(1967, P.A. 57, S. 15; 1971, P.A. 872, S. 91; P.A. 73-38, S. 5, 8; P.A. 74-338, S. 26, 94; P.A. 82-111, S. 2; P.A. 86-239, S. 9, 14; P.A. 87-261, S. 8; P.A. 98-209, S. 2.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-38 added references to Sec. 25-27 and to Subsec. (b) of Sec. 25-54i; P.A. 74-338 made technical correction; P.A. 82-111 made technical revisions for consistency with changes in Sec. 25-54i and specified that commissioner shall not grant request for hearing after expiration of thirty-day limit; Sec. 25-54o transferred to Sec. 22a-436 in 1983; P.A. 86-239 deleted reference to repealed Sec. 22a-418; P.A. 87-261 deleted an obsolete reference to Sec. 22a-429 and required notice for orders issued pursuant to Subsec. (c) of Sec. 22a-430; P.A. 98-209 modified provisions re standing to appeal orders or decisions to deny permits issued pursuant to federal Water Pollution Control Act.

Annotations to former section 25-54o:

Former statute cited. 148 C. 586. Cited. 170 C. 29; 180 C. 568.

Annotations to present section:

Cited. 204 C. 38; 226 C. 358; 236 C. 722; 237 C. 135.

Cited. 21 CA 91; 41 CA 89; Id., 120.

Cited. 42 CS 348.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-437. (Formerly Sec. 25-54p). Appeal. (a) Any person who or municipality which is aggrieved by a decision under subsection (b) or (c) of section 22a-430 or by any order of the commissioner other than an order under section 22a-6b, to abate pollution may, after a hearing by the commissioner as provided for in section 22a-436 or subsection (b) or (c) of section 22a-430, appeal from the final determination of the commissioner based on such hearing to the Superior Court as provided in chapter 54. Such appeal shall have precedence in the order of trial as provided in section 52-192.

(b) Notwithstanding the provisions of any other statute to the contrary, any appeal by a person or municipality aggrieved by an order of the commissioner to abate pollution, other than an order under section 22a-6b, or by a decision under subsection (b) of section 22a-430, shall be pursuant to this section.

(1967, P.A. 57, S. 16; 1971, P.A. 346, S. 2; 870, S. 120; 872, S. 92; P.A. 73-38, S. 6, 8; 73-665, S. 14, 17; P.A. 74-183, S. 252, 291; 74-338, S. 59, 94; P.A. 76-436, S. 216, 681; P.A. 78-280, S. 5, 127; P.A. 82-111, S. 3; P.A. 88-230, S. 1, 12; 88-317, S. 30, 107; P.A. 98-209, S. 3.)

History: 1971 acts added reference to Subsec. (b) of Sec. 25-54i, replaced superior court with court of common pleas, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable, and replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-38 added reference specifically citing Subsec. (b) of Sec. 25-54i and deleted other references to hearings under that section; P.A. 73-665 added second reference to Sec. 22a-

6b re orders issued thereunder; P.A. 74-183 deleted provisions re appeals to supreme court; P.A. 74-338 made technical change; P.A. 76-436 replaced court of common pleas with superior court, effective July 1, 1978; P.A. 78-280 replaced "Hartford county" with "judicial district of Hartford-New Britain"; P.A. 82-111 amended Subsec. (a) by making technical revisions for consistency with Sec. 25-54i and established Subsec. (b) clarifying that appeals for orders to abate pollution or a decision to deny an application shall be pursuant to this section; Sec. 25-54p transferred to Sec. 22a-437 in 1983; P.A. 88-230 proposed to replace reference to "judicial district of Hartford-New Britain" with "judicial district of Hartford" effective September 1, 1991, but said reference was deleted by P.A. 88-317; P.A. 88-317 amended Subsec. (a) to require appeal to be made "as provided in chapter 54" instead of specifying the judicial district, deadline, mailing requirement for final determination, evidence on which appeal shall be based, and standard for court determinations, effective July 1, 1989, and applicable to all agency proceedings commencing on or after that date; P.A. 98-209 amended Subsec. (a) to modify provisions re standing to appeal certain actions of the commissioner under this chapter.

Annotations to former section 25-54p:

Cited. 170 C. 29; 180 C. 568.

Annotations to present section:

Cited. 217 C. 130; 226 C. 358; 236 C. 722; 237 C. 135.

Cited. 21 CA 91.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-438. (Formerly Sec. 25-54q). Forfeiture for violations. Penalties. (a) Any person who or municipality which violates any provision of this chapter, or section 22a-6 or 22a-7 shall be assessed a civil penalty not to exceed twenty-five thousand dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Attorney General, upon complaint of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty. In determining the amount of any penalty assessed under this subsection, the court may consider the nature, circumstances, extent and gravity of the violation, the person or municipality's prior history of violations, the economic benefit resulting to the person or municipality from the violation, and such other factors deemed appropriate by the court. The court shall consider the status of a person or municipality as a persistent violator. The provisions of this section concerning a continuing violation shall not apply to a person or municipality during the time when a hearing on the order pursuant to section 22a-436 or an appeal pursuant to section 22a-437 is pending.

(b) Any person who with criminal negligence violates any provision of this chapter, or section 22a-6 or 22a-7 shall be fined not more than twenty-five thousand dollars per day for each day of violation or be imprisoned not more than one year or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than two years, or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(c) Any person who knowingly violates any provision of this chapter, or section 22a-6 or 22a-7 shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall be a class C felony, except that such conviction shall carry a fine of not more than one hundred thousand dollars per day for each day of violation. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(d) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or section 22a-6 or 22a-7 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, or section 22a-6 or 22a-7 shall upon conviction be fined not more than

twenty-five thousand dollars for each violation or imprisoned not more than two years for each violation, or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(e) Any person who wilfully or with criminal negligence discharges gasoline in violation of any provision of this chapter, shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years, or both. A subsequent conviction for any such violation shall be a class C felony, except that such conviction shall carry a fine of not more than one hundred thousand dollars per day for each day of violation. For the purposes of this subsection, person includes any responsible corporate officer or municipal officer.

(1967, P.A. 57, S. 17; 1969, P.A. 486, S. 1; 1971, P.A. 872, S. 93; P.A. 73-38, S. 7, 8; P.A. 81-443, S. 4, 7; P.A. 86-203; 86-239, S. 10, 14; P.A. 88-230, S. 1, 12; P.A. 89-270, S. 4; P.A. 90-98, S. 1, 2; 90-222, S. 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4–6; P.A. 00-19, S. 3; 00-175, S. 2, 4; P.A. 01-195, S. 176, 181; P.A. 13-258, S. 121.)

History: 1969 act limited applicability of section, excluding persons and municipalities when hearing or appeal pending; 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; P.A. 73-38 substituted “wilfully or negligently” for “knowingly” in Subsec. (a), included violations of part II of chapter 474 and increased fine from $1,000 to $10,000, and added Subsecs. (b) and (c) imposing additional penalties; P.A. 81-443 amended Subsec. (a) to delete requirement that violation be “wilful or negligent”, amended Subsec. (b) to revise the standard for conviction of a criminal violation from negligence to criminal negligence; Sec. 25-54q transferred to Sec. 22a-438 in 1983 and references to part II of chapter 474 were deleted, reflecting incorporation of those sections in this chapter; P.A. 86-203 amended Subsec. (a) by making violations of Sec. 22a-6 or 22a-7 subject to the forfeiture provisions of the subsection, amended Subsec. (b) by adding provisions regarding subsequent convictions and amended Subsec. (c) by making penalties applicable to each separate violation; P.A. 86-239 made a technical change clarifying provision re continuing violations; P.A. 89-270 amended Subsec. (a) by increasing the maximum penalty from $10,000 to $25,000 and made technical changes (Revisor's note: P.A. 88-230 authorized substitution of “judicial district of Hartford” for “judicial district of Hartford-New Britain” in the public and special acts of 1989, effective September 1, 1991); P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 90-222 amended Subsec. (a) by adding the factors a court may consider when determining the amount of penalty; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 00-19 amended Subsec. (b) by deleting “or municipality which wilfully or” and adding “or municipal official”, inserted new Subsec. (c) re criminal penalties for knowingly violating provisions and subsequent convictions, redesignated former Subsec. (c) as Subsec. (d) and amended said Subsec. by deleting “or municipality which”, increasing criminal penalties and adding provision specifying that person includes responsible corporate officer or municipal official; P.A. 00-175 added new provisions, designated as Subsec. (e), re criminal penalties for discharging gasoline in violation of chapter, effective July 1, 2000; P.A. 01-195 amended Subsec. (e) to delete reference to municipality and to include municipal officers within the definition of person, effective July 11, 2001; P.A. 13-258 amended Subsecs. (c) and (e) to substitute provisions re class C felony for provisions re imprisonment of not more than 10 years and made technical changes.

See Sec. 22a-226c for penalty for illegal disposal of biomedical waste.

Cited. 204 C. 38; 226 C. 205; 227 C. 175; 237 C. 135. Trial court did not abuse its discretion in imposing penalties because violations were serious and ongoing and defendant's intentions were irrelevant under strict liability scheme of the act. 275 C. 420.

Cited. 19 CA 216. Forfeiture provision applies to violations of orders to abate pollution issued under Sec. 22a-431; expressly applies to any provision in chapter. 21 CA 91. Cited. 30 CA 204; 41 CA 120. Factors that guide courts in assessing penalties under Sec. 22a-226, including size of business involved, also apply to penalties under this section. 132 CA 110.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-439. (Formerly Sec. 25-54r). State grant for sewers and pollution abatement facilities. Commissioner to adopt regulations. (a) The commissioner shall make a grant to any municipality which, after May 1, 1967, constructs, rebuilds, expands or acquires a pollution abatement facility and the commissioner may make a grant to any municipality which, after June 30, 1975, prepares an engineering report or plans and specifications or which constructs, rebuilds, expands, or acquires sewers. For the purposes of this section, "sewers" means (A) lateral or collector sewers required to abate pollution, and (B) after October 1, 1979, sanitary and storm sewers required to serve primarily industrial areas or outfall sewers required to convey to an acceptable point of discharge that wastewater and cooling water which, prior to October 1, 1979, had been discharged from manufacturing firms to sanitary sewers. In the case of a municipality which, on said date, is in the process of constructing, rebuilding, expanding or acquiring such a facility, such grant shall apply only to that part of the facility constructed, rebuilt, expanded or acquired after said date. The grants under this section shall be subject to the following conditions: (1) No grant shall be made for any report, plans and specifications for sewers or a pollution abatement facility except where such report, plans and specifications for sewers or a pollution abatement facility are in accordance with a time schedule of the commissioner, and subject to such requirements as the commissioner shall impose. If the commissioner requires that the report, plans, and specifications for sewers or a pollution abatement facility be approved by the federal Environmental Protection Agency any grant shall be conditioned upon the municipality complying with all of the requirements of said agency; (2) no grant shall be made until the municipality has agreed to pay that part of the total cost which is in excess of the applicable state and federal grants; (3) except as otherwise provided in this section the grant to each municipality shall equal thirty per cent of the cost, which cost shall be that cost which the federal Environmental Protection Agency uses or would use in making a federal grant, except that where the commissioner has imposed requirements exceeding the requirements of the federal act and for which federal grants are not available, the grant shall be thirty per cent of the actual cost provided the percentage of the cost which is the grant under this section shall be reduced when federal grants are available so that the total federal and state grants available to the municipality shall not exceed ninety per cent of the cost unless the reduction of the percentage will reduce the amount of the federal grant available in which case the total grant may exceed ninety per cent in order to maximize the federal grant; (4) on or after July 1, 1983, the grant to each municipality shall equal fifty-five per cent of the cost, which cost shall be that cost which the federal Environmental Protection Agency uses or would use in making a federal grant, except that where the commissioner has imposed requirements exceeding the requirements of the federal act and for which federal grants are not available, the grant shall be fifty-five per cent of the actual cost provided the percentage of the cost which is the grant under this section shall be reduced when federal grants are available so that the total federal and state grants available to the municipality shall not exceed ninety per cent of the cost unless the reduction of the percentage will reduce the amount of the federal grant available in which case the total grant may exceed ninety per cent in order to maximize the federal grant. To be eligible for the grant a municipality shall have been on the priority list for not less than three years and shall have the capability of initiating construction not more than ninety days after being awarded the grant; (5) the state grant under this section may be increased so that the total federal and state grant available to the municipality is equal to one hundred per cent of the cost of the engineering report provided the commissioner has required that the report cover regional problems outside of the corporate limits of the municipality; (6) the state grant under this section may be increased, in the sole discretion of the commissioner, so that the total federal and state grant available to the municipality shall equal one hundred per cent of the cost of facilities required to remove nutrients which are causing excessive growth of aquatic freshwater plants in the inland waters of the state; (7) on or after September 30, 1984, the total amount of federal and state grants available to the municipalities shall be not more than fifty-five per cent of the cost approved for the planning, design and construction of the facility, except as otherwise provided in this section and in the provisions of the federal Water Pollution Control Act concerning innovative and alternative technology, except that the amount of state and federal grants shall not be more than seventy-five per cent of the costs for the planning, design and construction of treatment facilities in excess of secondary treatment, as defined by the federal Water Pollution Control Act, required to meet water quality standards and new facilities required to meet secondary treatment where no previous secondary treatment existed; (8) the state grant under this section shall be paid to the municipality in partial payments similar to the time schedule that such payments are or would be provided to the municipality by the federal Environmental Protection Agency; (9) no grant shall be made for a pollution abatement facility unless the municipality assures the commissioner of the proper and efficient operation and

maintenance of the facility after construction; (10) no grant shall be made unless the municipality has filed properly executed forms and applications prescribed by the commissioner; (11) any municipality receiving state or federal grants for pollution abatement facilities shall keep separate accounts by project for the receipt and disposal of such eligible project funds; and (12) no design grant or advance shall be made under this section or section 22a-443 for work initiated after October 1, 1981, unless local financing for design and construction is authorized. Any funds advanced to a municipality prior to October 1, 1971, under the provisions of this section shall be considered a part of the total amount of the state grant provided for in this section.

(b) If federal funds for an engineering report for a pollution abatement facility are not available to a municipality at the time of its scheduled planning, the commissioner may advance funds to such municipality in an amount sufficient to pay the cost of the report. Such funds shall be considered a part of the total amount of the state grant provided for in this section. Notwithstanding any of the provisions of this section to the contrary, twenty-five per cent of the funds advanced shall be returned to the state if the report does not recommend the construction, rebuilding, expansion or acquisition of a pollution abatement facility.

(c) The Commissioner of Energy and Environmental Protection shall adopt regulations pursuant to chapter 54 to implement the provisions of this section. The regulations shall be consistent with Part 35 of the federal Construction Grant Regulations and the federal Water Pollution Control Act and shall include, but not be limited to, the establishment of a system setting the priority for making grants for municipal pollution abatement facilities. The commissioner shall prepare a list by priority of projects eligible for funding pursuant to this section. The system and list shall be similar to and used with the list required by Part 35 of the federal Construction Grant Regulations and the federal Water Pollution Control Act.

(1967, P.A. 57, S. 18; 1971, P.A. 872, S. 94; 1972, P.A. 222, S. 1; P.A. 73-555, S. 5, 10; P.A. 74-311, S. 1, 6; P.A. 75-471, S. 1, 2; P.A. 78-359, S. 5, 8; P.A. 79-607, S. 15; P.A. 81-143; P.A. 83-524, S. 1, 6; P.A. 11-80, S. 1.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner and provided that funds advanced to a municipality before July 1, 1971, are to be considered a part of the total state grant amount; 1972 act added proviso in Subdiv. (3) re reduction in grant so that total state and federal grants do not exceed 90% of facility's cost; P.A. 73-555 replaced water pollution control administration with Environmental Protection Agency throughout section; P.A. 74-311 inserted new Subdiv. (4) re commissioner's discretionary authority to increase amount of state grant, renumbering remaining Subdivs. accordingly; P.A. 75-471 authorized grants for municipalities which prepare engineering reports, plans and specifications or which construct, rebuild, expand or acquire sewers after June 30, 1975, inserted new Subdiv. (4) allowing commissioner to increase state grant for engineering report under certain conditions, renumbering remaining Subdivs., and made other language changes for clarity; P.A. 78-359 added provision in Subdiv. (3) allowing grant to exceed 90% of cost where reduction of state grant will cause reduction in federal grant; P.A. 79-607 defined “sewers” for purposes of section; P.A. 81-143 added Subdiv. (10) requiring authorization of local financing for design and construction as a condition of the state grant for work initiated after October 1, 1981; Sec. 25-54r transferred to Sec. 22a-439 in 1983; P.A. 83-524 inserted new Subdiv. (4) re conditions where grant may exceed 55% of the cost and the total federal and state grant may exceed 90% of the cost in order to maximize the federal cost, inserted new Subdiv. (7) re total amount of federal and state grants available for planning, design and construction of the facility, renumbering remaining Subdiv. accordingly, and added Subsecs. (b) and (c) re funding, regulations and priority of projects; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (c), effective July 1, 2011.

Cited. 206 C. 65; 226 C. 358.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-439a. Funds for construction of facilities by state agencies. The Commissioner of Energy and Environmental Protection may provide funds to any state agency to construct a pollution abatement facility

pursuant to sections 22a-430 to 22a-432, inclusive. Such funds shall be in an amount sufficient to cover the cost of the planning, design and construction of the required facility. The Commissioner of Administrative Services shall consult with the Commissioner of Energy and Environmental Protection in any decision necessary to implement the project. The review of the project by the Commissioner of Energy and Environmental Protection shall be consistent with technical and administrative review of a project pursuant to section 22a-439. The commissioner shall establish a priority system for funding projects eligible for funds pursuant to this section. Such priority shall be separate from the priority for municipal pollution abatement facilities established in accordance with the provisions of section 22a-439.

(P.A. 83-524, S. 2; P.A. 87-496, S. 93, 110; P.A. 88-364, S. 85, 123; P.A. 11-51, S. 90; 11-80, S. 1; P.A. 13-247, S. 200.)

History: P.A. 87-496 substituted “public works” for “administrative services” commissioner; P.A. 88-364 substituted reference to Sec. 22a-430 for reference to Sec. 22a-429; pursuant to P.A. 11-51, “Commissioner of Public Works” was changed editorially by the Revisors to “Commissioner of Construction Services”, effective July 1, 2011; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011; pursuant to P.A. 13-247, “Commissioner of Construction Services” was changed editorially by the Revisors to “Commissioner of Administrative Services”, effective July 1, 2013.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-439b. Southeastern Connecticut Water Authority may acquire and operate sewerage systems. (a) The Southeastern Connecticut Water Authority may acquire and operate sewerage systems, provided that the service area of the sewerage system to be acquired is generally congruent with the service area of a water supply and distribution system owned and operated by Southeastern Connecticut Water Authority.

(b) All provisions of special act number 381 of 1967, as amended by special act number 206 of 1969, numbers 64, 133 and 95 of 1973, number 54 of 1976 and number 38 of 1981, which apply to acquisitions and operation of water systems, shall apply to sewerage systems.

(c) The provisions of this section shall not apply to sewerage systems owned or operated by a municipality or a municipal water pollution control authority unless the municipal owner of such system voluntarily transfers the ownership of such system to the Southeastern Connecticut Water Authority.

(d) The Southeastern Connecticut Water Authority shall, in the operation of sewerage systems, comply with the laws and regulations of the United States of America and the state of Connecticut.

(P.A. 83-524, S. 5, 6; P.A. 85-129, S. 1, 2.)

History: P.A. 85-129 provided that the Authority may acquire and operate a municipal sewerage system if the municipal owner voluntarily transfers ownership to the Authority.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-440. (Formerly Sec. 25-54s). Grants for storm and sanitary sewer separation programs, pollution abatement facilities. The commissioner may provide a grant to a municipality for the cost of those facilities which he determines to be essential to a storm and sanitary sewer separation program when he finds that such facilities are primarily for the separation of storm and sanitary sewage and will eliminate a substantial source of pollution. The cost of the project used to determine the state grant in this section shall not include any cost for the acquisition of land or any rights or interests therein. For the purposes of this section and section 22a-439 such facilities shall be considered pollution abatement facilities. The grants under this section shall be subject to all the conditions of grants made under section 22a-439.

(1967, P.A. 57, S. 19; 1971, P.A. 872, S. 95; P.A. 73-555, S. 6, 10.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; P.A. 73-555 deleted phrase limiting grants to 30% of facility cost, substituting “facilities” for “projects”, specified that facilities under section to be considered pollution abatement facilities and that grants are subject to conditions of grants under Sec. 25-54r; Sec. 25-54s transferred to Sec. 22a-440 in 1983.

Cited. 226 C. 358.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-441. (Formerly Sec. 25-54t). Grants for prior construction. The commission shall make a grant to any municipality which, prior to May 1, 1967, constructed, rebuilt, acquired or expanded a pollution abatement facility, which grant shall be thirty per cent of the principal amount of bond or note obligations of such municipality, issued to finance such construction, rebuilding, acquisition or expansion and outstanding on said date, exclusive of all interest costs and for which grant application is made prior to October 1, 1969, on an application prescribed by the commission. Such grant shall be paid in equal annual installments at least thirty days prior to the date the municipality is obligated to make payment on such bonds or notes, provided any grant under this section shall be reduced by any amount payable to such municipality under the provisions of section 22a-439 for the same construction, rebuilding, acquisition or expansion project, such reduction to be prorated over the period remaining for the payment of such bonds or notes.

(1967, P.A. 57, S. 35; 1969, P.A. 63, S. 1.)

History: 1969 act specified that grant application must be made before October 1, 1969; Sec. 25-54t transferred to Sec. 22a-441 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-442. (Formerly Sec. 25-54u). State advances in anticipation of federal funds for construction of facility. If federal funds are not available to the municipality at the time of its scheduled construction of a pollution abatement facility, the commissioner shall advance to such municipality, in addition to the state contribution provided for in section 22a-439, that sum of money which would equal the amount of the federal grant, provided the municipality shall agree that any federal contribution thereafter made for the project shall be forwarded to the state as reimbursement for the funds expended under this section. Prior to advancing the federal share, the commissioner shall require the municipality to agree in its project contract with the commissioner to do all that is necessary to qualify for the federal grant. The municipality shall also agree to pay over to the commissioner any installment of a grant received from the federal Water Pollution Control Administration on which the state has made an advance under this section. Said moneys received from the municipality shall be deposited in a sinking fund which is hereby established for payment of the debt service costs of bonds issued under section 22a-446.

(1967, P.A. 57, S. 20; 1971, P.A. 872, S. 96.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-54u transferred to Sec. 22a-442 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-443. (Formerly Sec. 25-54v). State advance in anticipation of federal funds for contract plans and specifications. Except as otherwise provided in subsection (b) of section 22a-439, if federal funds for contract

plans and specifications for the construction of a pollution abatement facility are not available to the municipality at the time of its scheduled planning, the commissioner shall advance to such municipality a sum equal to seven per cent of the estimated construction cost, said amount to be used by the municipality for the purpose of preparing contract plans and specifications; provided any remaining balance of the seven per cent advanced under this section shall be applied to the cost of construction of the facility. The funds advanced to the municipality under this section shall be considered a part of the total amount of the state grant provided for in section 22a-439. Such facility shall be constructed in accordance with a schedule of the commissioner and shall be in conformance with an engineering report approved by the commissioner. Before approving the engineering report required in this section and in section 22a-428, and as may be required under section 22a-431, the commissioner shall, among other factors, give due regard to whether such report is in conformance with his applicable guidelines, whether such report makes adequate recommendations concerning all existing and anticipated community discharges, whether such report conforms with existing planning studies and whether satisfactory considerations have been given to all regional problems outlined to the engineer in a prereport conference with the commissioner.

(1967, P.A. 57, S. 21; 1971, P.A. 872, S. 97; P.A. 83-524, S. 3.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-54v transferred to Sec. 22a-443 in 1983; P.A. 83-524 added reference to Subsec. (b) of Sec. 22a-439, which provides for payment of total cost of report.

Cited. 226 C. 358.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-444. (Formerly Sec. 25-54x). Commissioner of Energy and Environmental Protection to administer funds. The Commissioner of Energy and Environmental Protection is designated as the officer of the state to manage, administer and control funds appropriated by the General Assembly or authorized by the State Bond Commission to carry out the provisions of this chapter. No grant shall be made under this chapter if such grant, together with all grants awarded prior thereto, exceeds the amount of funds available therefor.

(1967, P.A. 57, S. 23; 1971, P.A. 872, S. 98; P.A. 11-80, S. 1.)

History: 1971 act replaced commissioner of agriculture and natural resources with commissioner of environmental protection and deleted provision which had required that grants be made “only with the advice and consent of the commissioner”; Sec. 25-54x transferred to Sec. 22a-444 in 1983; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-445. (Formerly Sec. 25-54y). Commissioner to accept federal aid. Cooperation with other agencies, municipalities, states. The Commissioner of Energy and Environmental Protection is designated as the administrative agency of the state to apply for and accept any funds or other aid and to cooperate and enter into contracts and agreements with the federal government relating to the planning, developing, maintaining and enforcing of the program to provide clean water and pollution abatement of the waters of the state, or for any other related purpose which the Congress of the United States has authorized or may authorize. The commissioner is authorized in the name of the state to make such applications, sign such documents, give such assurances and do such other things as are necessary to obtain such aid from or cooperate with the United States or any agency thereof. The commissioner may enter into contracts and agreements and cooperate with any other state agency, municipality, person or other state when the same is necessary to carry out the provisions of this chapter. Such contracts shall be subject to the approval of the Attorney General as to form.

(1967, P.A. 57, S. 24; 1971, P.A. 872, S. 99; P.A. 11-80, S. 1.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-54y transferred to Sec. 22a-445 in 1983; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-446. (Formerly Sec. 25-54z). Bond issue. (a) The State Bond Commission is empowered to authorize the issuance of bonds of the state in one or more series in an aggregate principal amount not exceeding three hundred ninety-eight million dollars. The proceeds of the sale of said bonds shall be used for the making of advances and grants under sections 22a-439 to 22a-443, inclusive, and for the payment of expenses incurred by the Department of Energy and Environmental Protection in carrying out the provisions of this chapter which are not otherwise provided for from the state General Fund. Not more than one-half of one per cent of said proceeds may be used for the payment of such expenses. Said bonds shall be issued in accordance with section 3-20 and the full faith and credit of the state are pledged for the payment of the principal of and interest on said bonds as the same become due.

(b) All of said bonds shall be payable at such place or places as may be determined by the Treasurer pursuant to section 3-19 and shall bear such date or dates, mature at such time or times not exceeding twenty years from their respective dates, bear interest at such rate or different or varying rates and payable at such time or times, be in such denominations, be in such form with or without interest coupons attached, carry such registration and transfer privileges, be payable in such medium of payment and be subject to such terms of redemption with or without premium as, irrespective of the provisions of section 3-20, may be provided in the determination authorizing the same or fixed in accordance therewith. Notwithstanding the provisions of said section 3-20, any of said bonds may be sold to the United States or any agency or instrumentality thereof in such manner and on such terms as may be provided in the determination authorizing the same or fixed in accordance therewith.

(1967, P.A. 57, S. 25; 1969, P.A. 384, S. 1; 1971, P.A. 872, S. 100; 1972, P.A. 225, S. 4; P.A. 81-370, S. 8, 13; P.A. 82-369, S. 12, 28; P.A. 83-524, S. 4; 83-587, S. 48, 96; June Sp. Sess. P.A. 83-33, S. 6, 17; P.A. 84-443, S. 10; P.A. 85-558, S. 14, 17; P.A. 86-396, S. 19, 25; P.A. 89-331, S. 20, 30; P.A. 90-297, S. 13, 24; P.A. 11-80, S. 1.)

History: 1969 act increased aggregate amount of bond issue in Subsec. (a) from $150,000,000 to $250,000,000; 1971 act replaced department of agriculture and natural resources with commissioner of environmental protection under Subsec. (a); 1972 act increased bond issue to $325,000,000; P.A. 81-370 increased the aggregate of bonds the bond commission may authorize for purposes of Secs. 25-54r to 25-54yy, inclusive, to $331,000,000; P.A. 82-369 increased bond authorization to $339,000,000; Sec. 25-54z transferred to Sec. 22a-446 in 1983; P.A. 83-524 included in Subsec. (a) funding for construction of facilities by state agencies and deleted reference to Sec. 25-54w, which deletion was repeated in P.A. 83-587; June Sp. Sess. P.A. 83-33 increased bond authorization to $347,000,000; P.A. 84-443 increased authorization limit to $362,000,000; P.A. 85-558 increased the bond authorization limit to $382,000,000; P.A. 86-396 increased bond authorization to $405,000,000; P.A. 89-331 decreased the bond authorization to $390,000,000; P.A. 90-297 increased the bond authorization to $398,000,000; pursuant to P.A. 11-80, "Department of Environmental Protection" was changed editorially by the Revisors to "Department of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-446a. Uniform tipping fee at facilities disposing of septic tank pumpings. Any municipality operating a water pollution abatement facility which receives or received funds pursuant to section 22a-439 and which

disposes of septic tank pumpings shall establish a uniform tipping fee for pumpings collected in such municipality and delivered to such facility for disposal by haulers located in the municipality or in any other municipality.

(P.A. 87-430, S. 1; 87-589, S. 43, 56, 87.)

History: P.A. 87-589 substituted reference to water pollution abatement facilities for reference to solid waste facilities and reference to Sec. 22a-439 for reference to chapter 446d.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-447. (Formerly Sec. 25-54aa). Prior orders, directives and decisions continued in force. All orders, directives or decisions of the Water Resources Commission in existence on October 1, 1971, shall continue in force until rescinded, amended or repealed by the commissioner.

(1967, P.A. 57, S. 34; 1971, P.A. 872, S. 101.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner and changed applicable date from May 1, 1967, to July 1, 1971; Sec. 25-54aa transferred to Sec. 22a-447 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-448. (Formerly Sec. 25-54bb). Pollution by chemical liquid, hazardous waste, oil or petroleum, waste oil or solid, liquid or gaseous products: Definitions. For the purposes of sections 22a-133a to 22a-133j, inclusive, sections 22a-448 to 22a-454, inclusive, and section 22a-457a:

(1) “Chemical liquids” means any chemical, chemical solution or chemical mixture in liquid form;

(2) “Emergency” means any situation which requires state or local efforts to save lives and protect property and public health or safety or to avert or lessen the threat of disaster;

(3) “Hazardous waste” means any waste material which may pose a present or potential hazard to human health or the environment when improperly treated, stored, transported or disposed of or otherwise managed including hazardous waste identified in accordance with Section 3001 of the Resource Conservation and Recovery Act of 1976, 42 USC 6901 et seq.;

(4) “Oil or petroleum” means oil or petroleum of any kind or in any form including, but not limited to, waste oils and distillation products such as fuel oil, kerosene, naphtha, gasoline and benzene, or their vapors;

(5) “Solid, liquid or gaseous products” means any substance or material including, but not limited to, hazardous chemicals, flammable liquids, explosives as defined in section 29-343, liquefied petroleum gas, as defined in section 43-36, hazardous materials designated in accordance with the Hazardous Materials Transportation Act, 49 USC 1801 et seq. and hazardous substances designated in accordance with Section 311 of the federal Water Pollution Control Act;

(6) “Waste oil” means oil having a flash point at or above one hundred forty degrees Fahrenheit (sixty degrees Centigrade) which is no longer suitable for the services for which it was manufactured due to the presence of impurities or a loss of original properties, including, but not limited to, crude oil, fuel oil, lubricating oil, kerosene, diesel fuels, cutting oil, emulsions, hydraulic oils, polychlorinated biphenyls and other halogenated oils that have been discarded as waste or are recovered from oil separators, oil spills, tank bottoms or other sources;

(7) “Floating boom retention device” means a floating containment barrier used to contain floating oil or petroleum;

(8) “Hazardous chemicals” means (A) any materials that are highly flammable or that may react to cause fires or explosions, or which by their presence create or augment a fire or explosion hazard, or which because of their toxicity, flammability or liability to explosion render fire fighting abnormally dangerous or difficult; (B) flammable liquids that are chemically unstable and that may spontaneously form explosive compounds, or undergo spontaneous reactions of explosive violence, or with sufficient evolution of heat to be a fire hazard; or (C) such materials as compressed gases, liquefied gases, flammable solids, corrosive liquids, oxidizing materials, potentially explosive chemicals, highly toxic materials and poisonous gases;

(9) “Compressed gas” means any mixture or material having in the container either an absolute pressure exceeding forty pounds per square inch at seventy degrees Fahrenheit, or an absolute pressure exceeding one hundred four pounds per square inch at one hundred thirty degrees Fahrenheit, or both, or any liquid flammable material having a vapor pressure exceeding forty pounds per square inch at one hundred degrees Fahrenheit;

(10) “Corrosive liquids” means those acids, alkaline caustic liquids and other corrosive liquids that, when in contact with living tissue, will cause severe damage of such tissue by chemical action or are liable to cause fire when in contact with organic matter or with certain chemicals;

(11) “Flammable solid” means a solid substance, other than one classified as an explosive, that is liable to cause fires through friction, absorption of moisture, spontaneous chemical changes or as a result of retained heat from manufacturing or processing;

(12) “Highly toxic materials” means materials so toxic to man as to afford an unusual hazard to life and health during firefighting operations, including parathion, malathion, TEPP (tetraethyl phosphate), HETP (hexaethyl tetraphosphate), and similar insecticides and pesticides;

(13) “Oxidizing materials” means substances such as chlorates, permanganates, peroxides or nitrates, that yield oxygen readily to stimulate combustion;

(14) “Poisonous gas” means and includes any noxious gas of such nature that a small amount of the gas when mixed with air is dangerous to life, including chlorpicrin, cyanogen, hydrogen cyanide, nitrogen peroxide and phosgene;

(15) “Potentially explosive chemical” means any chemical substance, other than one classified as an explosive, which can be exploded by heat or shock when it is unconfined and unmixed with air or other materials; and

(16) “Vapor pressure” means the pressure, measured in pounds per square inch (absolute), exerted by a volatile liquid as determined by the nationally recognized good practice known as the Reid method.

(1969, P.A. 765, S. 1; P.A. 79-605, S. 2, 17; P.A. 82-151, S. 1; P.A. 87-561, S. 11, 13; P.A. 88-364, S. 86, 123; P.A. 90-274, S. 12; P.A. 09-177, S. 23; P.A. 10-54, S. 5, 6; P.A. 17-80, S. 5.)

History: P.A. 79-605 defined “petroleum” in same terms as apply for “oil” and clarified definition adding reference to kerosene, naphtha, gasoline, benzene or their vapors, etc. and defined “chemical liquids”, “solid, liquid or gaseous products”, “hazardous waste” and “emergency”; P.A. 82-151 made technical revisions and defined “waste oil”; Sec. 25-54bb transferred to Sec. 22a-448 in 1983; P.A. 87-561 specified applicability of definitions to Secs. 22a-133a to 22a-133j, inclusive; P.A. 88-364 made a technical change deleting an obsolete reference; P.A. 90-274 added a new Subdiv. (7) defining a floating boom retention device and specified that definitions apply to Sec. 22a-454a; P.A. 09-177 made technical changes in Subdivs. (4) and (5), amended Subdiv. (5) to delete “as defined in section 29-336”, and added Subdivs. (8) to (16) defining “hazardous chemicals”, “compressed gas”, “corrosive liquids”, “flammable solid”, “highly toxic materials”, “oxidizing materials”, “poisonous gas”, “potentially explosive chemical” and “vapor pressure”, respectively, effective January 1, 2011; P.A. 10-54 made technical changes in Subdivs. (3), (5) and (6), effective January 1, 2013, and

changed effective date of P.A. 09-177, S. 23, from January 1, 2011, to January 1, 2013, effective May 18, 2010; P.A. 17-80 amended Subdiv. (5) by deleting "as defined in section 29-320,", effective July 1, 2017.

See Secs. 22a-133a to 22a-133j, inclusive, re hazardous waste disposal site discovery program.

Cited. 231 C. 756; 239 C. 284.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449. (Formerly Sec. 25-54cc). Duties and powers of commissioner re sources of potential pollution or damage. Licenses. Regulations. Nonresidential underground storage tank systems. (a) The Commissioner of Energy and Environmental Protection shall, to the extent possible, immediately, whenever there is discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes upon any land or into any of the waters of the state or into any offshore or coastal waters, which may result in pollution of the waters of the state, damage to beaches, wetlands, stream banks or coastal areas, or damage to sewers or utility conduits or other public or private property or which may create an emergency, cause such discharge, spillage, uncontrolled loss, seepage or filtration to be contained and removed or otherwise mitigated by whatever method said commissioner considers best and most expedient under the circumstances. The commissioner shall also (1) determine the person, firm or corporation responsible for causing such discharge, spillage, uncontrolled loss, seepage or filtration, and (2) send notice, in writing, to the chief executive officer and the local director of health of the municipality in which such discharge, spillage, uncontrolled loss, seepage or filtration occurs of such occurrence. Such notification shall be sent not later than twenty-four hours after the commissioner becomes aware of the contamination.

(b) The commissioner may: (1) License terminals in the state for the loading or unloading of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes and shall adopt, in accordance with chapter 54, reasonable regulations in connection therewith for the purposes of identifying terminals subject to licensure and protecting the public health and safety and for preventing the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes. Each license issued under this section shall be valid for a period of not more than ten years from the date of issuance, unless sooner revoked by the commissioner, and there shall be charged for each such license or renewal thereof fees established by regulation sufficient to cover the reasonable cost to the state of inspecting and licensing such terminals; (2) provide by regulations for the establishment and maintenance in operating condition and position of suitable equipment to contain as far as possible the discharge, spillage, uncontrolled loss, seepage or filtration of any oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes; (3) inspect periodically all hoses, gaskets, tanks, pipelines and other equipment used in connection with the transfer, transportation or storage of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes to make certain that they are in good operating condition, and order the renewal of any such equipment found unfit for further use. No person shall commence operation of any such terminal in this state on or after July 1, 1993, without a license issued by the commissioner. Any person who operates any such terminal without a license issued by the commissioner shall be fined not more than five thousand dollars per day during any period of unlicensed operation.

(c) The commissioner may establish such programs and adopt, in accordance with chapter 54, and enforce such regulations as he deems necessary to carry out the intent of sections 22a-133a to 22a-133j, inclusive, sections 22a-448 to 22a-454, inclusive, and Subtitle C of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.), as amended from time to time, except that actions pursuant to the state's hazardous waste program shall be brought under the provisions of sections 22a-131 and 22a-131a.

(d) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Safety, may establish by regulations adopted in accordance with the provisions of chapter 54 standards and criteria for the nonresidential underground storage of oil, petroleum and chemical liquids, which may include but not be limited to standards and criteria for the design, installation, operation, maintenance and

monitoring of facilities for the underground storage and handling of such liquids. The Commissioner of Energy and Environmental Protection may establish such programs and adopt, in accordance with chapter 54, and enforce such regulations as he deems necessary to carry out the intent of Subtitle I of the Resource Conservation and Recovery Act of 1976 (42 USC 6901, et seq.), as amended from time to time.

(e) On and after October 10, 2009, the fee for the notification of each nonresidential underground storage facility submitted to the commissioner shall be one hundred dollars per tank. Such notification shall be submitted annually on a form prescribed by the commissioner on or before October tenth and shall be accompanied by such fee. Such fee shall not apply to any of the following: A farm or residential tank of one thousand one hundred gallons or less capacity used for storing motor fuel for noncommercial purposes; a tank used for storing heating oil for consumptive use on the premises where stored; a septic tank; a pipeline facility; a surface impoundment; a stormwater or wastewater collection system; a flow-through process tank; a liquid trap or associated gathering lines directly related to oil or gas production and gathering operations; a storage tank situated in an underground area, including, but not limited to, a basement, cellar, mineworking drift, shaft or tunnel, if the storage tank is situated above the surface on the floor.

(f) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, to establish (1) requirements for the inspection of nonresidential underground storage tank systems for compliance with the requirements of this chapter, including, but not limited to, the minimum frequency, method and content of inspections, and maintenance and disclosure of results, (2) a program to authorize persons to (A) perform inspections, including, but not limited to, education and training requirements for such persons, and whether or not such persons may be employed by the owner or operator of the subject nonresidential underground storage tank system, and (B) determine whether the violations for which a nonresidential underground storage tank system has been taken out of service pursuant to subsection (g) of this section have been corrected, which regulations may include, but not be limited to, a prohibition against an owner or operator of any such system placing such system back into service pursuant to subsection (g) of this section after the regulations take effect or additional requirements for an owner or operator of any such system, and (3) requirements, in addition to the requirements contained in subsection (g) of this section, relating to the prohibition of deliveries to and the use of nonresidential underground storage tank systems that are not in compliance with section 22a-449o or with the requirements of this section and any regulations adopted under this section.

(g) (1) If the commissioner determines that there is a release from a nonresidential underground storage tank system or that such system (A) is not designed, constructed, installed and operated in accordance with section 22a-449o or regulations adopted pursuant to this section, (B) fails to have or operate proper release detection equipment in accordance with regulations adopted pursuant to this section, or (C) fails to have or operate proper overfill and spill protection measures or equipment in accordance with regulations adopted pursuant to this section, then the commissioner may require the owner or operator of the nonresidential underground storage tank system to pump out the contents of its system, and the commissioner may place a notice on a system that is plainly visible, indicating that the system is not in compliance with the requirements applicable to nonresidential underground storage tank systems and that such system cannot be used and deliveries to such system cannot be accepted, or the commissioner may disable the use of such system by placing a disabling device on the system that prohibits deliveries to such system. Any action pursuant to this subdivision shall not be based solely on requirements relating to reporting or recordkeeping. No person shall make deliveries to any nonresidential underground storage tank system bearing the notice described in this subdivision or on which the commissioner has placed a disabling device. The owner or operator of such system shall ensure that any such system is not used for dispensing a product or receiving deliveries while any notice or disabling device has been placed upon such system. Except as provided in subdivision (3) of this subsection, no person or municipality shall remove, alter, deface or tamper with any notice or disabling device placed by the commissioner pursuant to this subdivision.

(2) Not later than two business days after placing a notice or disabling device on a nonresidential underground storage tank system pursuant to subdivision (1) of this subsection, the commissioner shall provide the owner or operator of the affected underground storage tank system with an opportunity for a hearing. Any such hearing

shall be limited to whether the violation upon which the commissioner took action under subdivision (1) of this subsection occurred and whether such violation is continuing.

(3) A nonresidential underground storage tank system upon which a notice or disabling device has been placed pursuant to subdivision (1) of this subsection shall not be put back into service and shall not be used for dispensing a product or receiving deliveries until the violations that caused the notice or disabling device to be placed have been corrected to the satisfaction of (A) the commissioner, or (B) a person who, pursuant to regulations adopted pursuant to subsection (f) of this section, has been authorized by the commissioner to determine whether such violations have been corrected. The commissioner shall determine whether any applicable violation has been corrected not later than twenty-four hours after being contacted by the owner or operator of the underground storage tank system that any such violation has been fully corrected. Notwithstanding the provisions of this subdivision, until the commissioner authorizes persons to determine whether violations have been corrected pursuant to regulations adopted pursuant to subsection (f) of this section, the owner or operator of an underground storage tank system upon which a notice or a disabling device has been placed by the commissioner may place such system back into service, where, not later than twenty-four hours after being contacted by the owner or operator, the commissioner has not determined whether any applicable violation has been corrected and on the day any such system is returned to service or the next business day in the event such day is a Saturday, Sunday or legal holiday, the owner or operator provides the commissioner with a written affidavit fully describing all actions taken to correct the violations that caused a notice or disabling device to be placed upon such system and certifying that all such violations were fully corrected before any such system was returned to service.

(4) Nothing in this subsection shall affect the authority of the commissioner under any other statute or regulation.

(h) The person submitting a notification of installation for a nonresidential underground storage tank or underground storage tank system pursuant to regulations adopted pursuant to this section shall submit with such notification a notification fee of one hundred dollars per tank.

(i) Any moneys collected for the issuance or renewal of a license, pursuant to subsection (b) of this section or regulations adopted pursuant to said subsection, shall be deposited in the General Fund.

(1969, P.A. 765, S. 2, 8; 1971, P.A. 433, S. 1; 872, S. 102; 1972, P.A. 252, S. 1; P.A. 79-605, S. 3, 17; P.A. 81-443, S. 5, 7; P.A. 82-233; P.A. 83-142; 83-587, S. 93, 96; P.A. 86-28, S. 1, 2; 86-403, S. 118, 132; P.A. 87-561, S. 12, 13; P.A. 88-119; P.A. 90-231, S. 7, 28; 90-269, S. 2, 8; 90-276, S. 1; P.A. 91-369, S. 32, 36; P.A. 93-428, S. 34, 39; P.A. 95-208, S. 10, 13; P.A. 98-140, S. 1; June 30 Sp. Sess. P.A. 03-6, S. 134; June Sp. Sess. P.A. 05-3, S. 89; P.A. 06-76, S. 22; P.A. 07-192, S. 3; P.A. 08-124, S. 26; June Sp. Sess. P.A. 09-3, S. 422; Sept. Sp. Sess. P.A. 09-8, S. 17; P.A. 11-80, S. 1.)

History: 1971 acts required water resources commission to act if there is discharge, spillage, seepage, etc. upon land, where previously only discharge into waters was mentioned and later replaced water resources commission with environmental protection commissioner; 1972 act increased fee for license or renewal of license from $10 to $125; P.A. 79-605 clarified provisions, including references to uncontrolled loss of oil, petroleum or chemical liquids, to hazardous wastes, to pollution of state waters, wetlands, stream banks, etc., to damage to sewers, utility conduits or other property, and rephrasing in some cases for clarity and economy of expression, amended Subsec. (b) to replace set license fee with charge of an amount sufficient to cover state inspection and licensing costs and to delete Subdivs. (4) and (5) which had required that equipment be available to remove pollutants from waters of state and that companies pay inspection cost and amended Subsec. (c) to require that regulations be in accordance with chapter 54 and to add reference to federal act; P.A. 81-443 added exception in Subsec. (c) re actions pursuant to hazardous waste program approved in accordance with federal act; P.A. 82-233 added Subsec. (d) authorizing the commissioner of environmental protection to adopt regulations governing nonresidential underground storage of oil and chemicals; Sec. 25-54cc transferred to Sec. 22a-449 in 1983; P.A. 83-142 amended Subsec. (d) to authorize monitoring to determine the life expectancy or failure of an underground storage facility; P.A. 83-587 changed effective date of P.A. 83-142 from October 1, 1983, to May 16, 1983; P.A. 86-28 amended Subsec. (c) by deleting requirement that actions pursuant to the state's hazardous

waste program be approved in accordance with the Resource Conservation and Recovery Act, and substituted "Subchapter III" for "Subtitle C"; P.A. 86-403 made technical change changing "Subchapter III" to "Subtitle C"; P.A. 87-561 amended Subsec. (c) to authorize regulations enforcing Secs. 22a-133a to 22a-133j, inclusive; P.A. 88-119 amended Subsec. (d) by deleting language re monitoring to determine life expectancy or failure of a facility and substituting provision re adoption of regulations by the commissioner of environmental protection to implement the Resource Conservation and Recovery Act of 1976; P.A. 90-231 amended Subsec. (d) to require the payment of notification fees by facilities and provided that on and after July 1, 1993, the fees shall be prescribed by regulations and added Subsec. (e) re inspection fees; P.A. 90-269 added Subsec. (f) re deposits into the emergency spill response fund; P.A. 90-276 amended Subsec. (a) by adding Subdiv. (2) re notification of a chemical spill; P.A. 91-369 amended Subsecs. (d) and (e) to restate commissioner's authority to adopt regulations setting the fees required by this section; P.A. 93-428 amended Subsec. (b) to extend the period of oil terminal licensure from one year to three years and to increase the per diem fine for failure to obtain such a license from $100 to $5,000, effective July 1, 1993; (Revisor's note: In 1995 the phrase "emergency spill response fund" was replaced editorially by the Revisors with "emergency spill response account" to conform section with Sec. 22a-451, as amended by P.A. 94-130); P.A. 95-208 amended Subsec. (f) to require that moneys collected for issuance or renewal of license be deposited in General Fund, rather than emergency spill response account, effective July 1, 1995; P.A. 98-140 amended Subsec. (a) to require the commissioner to notify municipal officials within 24 hours of certain contamination events; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (d) and (e) to increase notification and inspection fees from $50 to $100 and to delete provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 05-3 made a technical change in Subsec. (a), amended Subsec. (d) to delete language re notification fee, redesignated existing Subsec. (f) as Subsec. (i), added new Subsec. (f) re inspections of nonresidential systems and prohibitions re use of and deliveries to certain nonresidential systems, added Subsec. (g) re placement of notice of noncompliance or disabling device on a nonresidential system for certain violations, and added Subsec. (h) re notification fee, effective June 30, 2005; P.A. 06-76 amended Subsec. (b)(1) to replace "three years commencing July first" with "ten years from the date of issuance"; P.A. 07-192 made technical changes in Subsec. (f), effective July 5, 2007; P.A. 08-124 made technical changes in Subsec. (f), effective June 2, 2008; June Sp. Sess. P.A. 09-3 deleted former Subsec. (e) re fee and added new Subsec. (e) re fee and notification for inspection of nonresidential underground storage facilities; Sept. Sp. Sess. P.A. 09-8 amended Subsec. (e) to replace "October 1, 2009," with "October 10, 2009,", replace "inspection" with "notification" re fee, replace "which pursuant to this section, submits notification" with "submitted" and make a conforming change, effective October 5, 2009; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

See Sec. 22a-27i re exemption of municipality for one year.

See Sec. 22a-131 et seq. re provisions concerning the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.).

See Sec. 25-102t re oil spill containment and removal within the lower Connecticut River.

Cited. 225 C. 912; 226 C. 358; Id., 748.

Cited. 27 CA 353; 30 CA 204.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449a. Definitions. As used in this section and sections 22a-449c to 22a-449m, inclusive, 22a-449p and 22a-449r to 22a-449t, inclusive:

(1) "Petroleum" means crude oil, crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils and diesel fuels;

(2) “Release” means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping or disposing of petroleum from any underground storage tank or underground storage tank system;

(3) “Responsible party” means (A) for an application or request for payment or reimbursement received by the commissioner before July 1, 2005, or for a determination made by the commissioner before July 1, 2005, regarding a person's status as a responsible party or a third party with respect to a specific release or suspected release, any person who owns or operates an underground storage tank or underground storage tank system from which a release or suspected release emanates, (B) for an application or request for payment or reimbursement received by the commissioner on or after July 1, 2005, any person who (i) at any time owns, leases, uses or has an interest in the real property on which an underground storage tank system is or was located from which there is or has been a release or suspected release, regardless of when the release or suspected release occurred, or whether such person owned, leased, used or had an interest in the real property at the time the release or suspected release occurred, or whether such person owned, operated, leased or used the underground storage tank system from which the release or suspected release occurred, (ii) at any time owns, leases, operates, uses, or has an interest in an underground storage tank system from which there is or has been a release or suspected release, regardless of when the release or suspected release occurred or whether such person owned, leased, operated, used or had an interest in the underground storage tank system at the time the release or suspected release occurred, or (iii) is affiliated with a person described in clause (i) or (ii) of this subparagraph through a direct or indirect familial relationship or any contractual, corporate or financial relationship;

(4) “Underground storage tank” means a tank or combination of tanks, including underground pipes connected thereto, used to contain an accumulation of petroleum, whose volume is ten per cent or more beneath the surface of the ground, including the volume of underground pipes connected thereto;

(5) “Underground storage tank system” means an underground storage tank and any associated ancillary equipment and containment system;

(6) “Residential underground heating oil storage tank system” means (A) an underground storage tank system used in connection with residential real property composed of four residential units or fewer, or (B) a storage tank system and any associated ancillary equipment used in connection with residential real property composed of four residential units or fewer;

(7) “Person” means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency or political or administrative subdivision of the state, or other legal entity of any kind;

(8) “Municipal applicant” means an applicant that is a town, city or borough, whether consolidated or unconsolidated;

(9) “Small station applicant” means an applicant who owned, operated, leased, used, or had an interest in, at the time such applicant's first application was received by the underground storage tank petroleum clean-up program, five or fewer separate parcels of real property, within or outside of the state, on which an underground storage tank system was or had been previously located;

(10) “Mid-size station applicant” means an applicant who owned, operated, leased, used, or had an interest in, at the time such applicant's first application was received by the underground storage tank petroleum clean-up program, six to ninety-nine separate parcels of real property, within or outside of the state, on which an underground storage tank system was or had been previously located;

(11) “Large station applicant” means an applicant who owned, operated, leased, used, or had an interest in, at the time such applicant's first application was received by the underground storage tank petroleum clean-up program, one hundred or more separate parcels of real property, within or outside of the state, on which an underground storage tank system was or had been previously located;

(12) “Other applicant” means an applicant who is not a municipal applicant or a small, mid-size or large station applicant;

(13) “Applicant” means any person who has filed an application;

(14) “Application” means any request or application for payment or reimbursement, including, but not limited to, any supplemental application, from the underground storage tank petroleum clean-up program established pursuant to section 22a-449c;

(15) “Affiliate” or “a person affiliated” means a person that directly or indirectly through one or more intermediaries owns or controls, is owned or controlled by, or is under common control with an applicant;

(16) “Control”, “controlling”, “controlled by” or “under common control with” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or the policies of a person, whether through the ownership of voting securities, by contract or otherwise. For the purposes of this definition, the beneficial ownership of ten per cent or more of the voting stock of a corporation creates a presumption of control; and

(17) “Commissioner” means the Commissioner of Energy and Environmental Protection or the commissioner's designee.

(P.A. 89-373, S. 1, 10; P.A. 00-201, S. 1, 8; June Sp. Sess. P.A. 05-3, S. 90; P.A. 08-124, S. 27; June 12 Sp. Sess. P.A. 12-1, S. 251.)

History: P.A. 00-201 made technical changes and added Subdiv. (6) defining “residential underground heating oil storage tank system”, effective June 1, 2000; June Sp. Sess. P.A. 05-3 added reference to Sec. 22a-449p, redefined “responsible party” in Subdiv. (3) and added Subdiv. (7) to define “person”, effective June 30, 2005; P.A. 08-124 made technical changes in Subdiv. (3), effective June 2, 2008; June 12 Sp. Sess. P.A. 12-1 applied definitions to Secs. 22a-449r to 22a-449t, amended Subdiv. (3) to change “board” to “commissioner” and added Subdivs. (8) to (17) defining “municipal applicant”, “small station applicant”, “mid-size station applicant”, “large station applicant”, “other applicant”, “applicant”, “application”, “affiliate”, “control” and “commissioner”, effective June 15, 2012 (Revisor's note: An internal reference in June 12 Sp. Sess. P.A. 12-1, S. 251, to “sections 262 to 264, inclusive, of this act” was determined by the Revisors to properly refer to sections 261 to 263, inclusive, of said act and was therefore codified as “22a-449r to 22a-449t, inclusive”).

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449b. Portion of petroleum products gross earnings tax credited to underground storage tank petroleum clean-up account. Section 22a-449b is repealed, effective October 1, 2009.

(P.A. 89-373, S. 3, 10; P.A. 92-62, S. 1, 2; P.A. 94-130, S. 5; P.A. 02-80, S. 2; June Sp. Sess. P.A. 09-3, S. 513.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449c. Underground storage tank petroleum clean-up program. Applications for payment or reimbursement. (a)(1) There is established an underground storage tank petroleum clean-up program administered by the commissioner. The Department of Energy and Environmental Protection shall constitute a successor department to the Underground Storage Tank Petroleum Clean-Up Review Board in the manner provided for departments, institutions and agencies under the provisions of sections 4-38d, 4-38e and 4-39. Any application received by, filed with or submitted to the board, pursuant to sections 22a-449a to 22a-449p, inclusive, prior to June 15, 2012, shall be deemed to have been received by, filed with or submitted to the commissioner on the date such application was received by, filed with or submitted to the board. Any approval,

determination or decision of the board prior to June 15, 2012, regarding an application pursuant to sections 22a-449a to 22a-449p, inclusive, shall be deemed to have been made by the commissioner.

(2) The program shall provide money for reimbursement or payment pursuant to this section and sections 22a-449d to 22a-449i, inclusive, 22a-449p, 22a-449r and 22a-449t, within available appropriations, to responsible parties or parties supplying goods or services, for costs, expenses and other obligations paid or incurred, as the case may be, as a result of releases, and suspected releases, costs of investigation and remediation of releases and suspected releases, and for claims by a person other than a responsible party for bodily injury, property damage and damage to natural resources that have been finally adjudicated or settled with the prior written consent of the commissioner. The commissioner may also make payment to an assignee who is in the business of receiving assignments of amounts approved by the commissioner, but not yet paid from the program, provided the party making any such assignment, using a form approved by the commissioner, directs the commissioner to pay such assignee, that no cost of any assignment shall be borne by the state and that the state and its agencies shall not bear any liability with respect to any such assignment.

(3) Notwithstanding the provisions of this section regarding reimbursements of parties pursuant to section 22a-449f and regulations adopted pursuant to section 22a-449e, and regardless of when an application for payment or reimbursement from the program may have been submitted to the commissioner, no payment or reimbursement shall be made to any person: (A) For any costs, expenses and other obligations paid or incurred for remediation, including any monitoring to determine the effectiveness of the remediation, of a release to levels more stringent than or beyond those specified in the remediation standards established pursuant to section 22a-133k, except to the extent the applicant demonstrates that it has been directed otherwise, in writing, by the commissioner; (B) for diminution in property value or interest; and (C) for attorneys' fees or other costs of legal representation paid or incurred as a result of a release or suspected release (i) in excess of five thousand dollars to any responsible party, (ii) in excess of ten thousand dollars to any person other than a responsible party, and (iii) by a responsible party regarding the defense of claims brought by another person, except that applications for reimbursement filed on or before June 30, 2005, shall not be subject to the limitations for reimbursement imposed by clauses (i) and (ii) of this subparagraph. In addition, notwithstanding the provisions of this section regarding reimbursements of parties pursuant to section 22a-449f, the responsible party shall bear all costs of the release that are less than ten thousand dollars and all persons shall bear all costs of the release that are more than one million dollars, except that for any such release which was reported to the department prior to December 31, 1987, and for which more than five hundred thousand dollars has been expended by the responsible party to remediate such release prior to June 19, 1991, the responsible party for the release shall bear all costs of such release which are less than ten thousand dollars or more than five million dollars, provided the portion of any reimbursement or payment in excess of three million dollars may, at the discretion of the commissioner, be made in annual payments for up to a five-year period.

(b) (1) If an initial application or request for payment or reimbursement is received by the commissioner before July 1, 2005, no supplemental application or request for payment or reimbursement shall be submitted on or after October 1, 2009, regarding costs, expenses or other obligations paid or incurred in response to the release or suspected release noted in any such initial application or request for payment or reimbursement. The provisions of this subdivision shall apply regardless of whether the cost, expense or other obligation was paid or incurred by an applicant before October 1, 2009, and no reimbursement or payment from the program shall be ordered or made by the commissioner regarding any such supplemental application or request for payment or reimbursement received on or after the October 1, 2009, deadline established in this subdivision.

(2) If an initial application or request for payment or reimbursement is received by the commissioner on or after July 1, 2005, no supplemental application or request for payment or reimbursement shall be submitted more than five years after the date that the initial application or request for payment or reimbursement was received by the commissioner, regarding costs, expenses or other obligations paid or incurred in response to the release or suspected release noted in such initial application or request for payment or reimbursement. The provisions of this subdivision shall apply regardless of whether a cost, expense or other obligation was paid or incurred by an applicant before the expiration of the five-year deadline established in this subdivision and no reimbursement or payment from the program shall be ordered or made by the commissioner regarding any such supplemental

application or request for payment or reimbursement received by the commissioner after the five-year deadline established in this subdivision.

(3) Notwithstanding the provisions of subsection (i) of section 22a-449f, if the commissioner has not ordered payment or reimbursement on an application or request for payment or reimbursement within six months after having received such application, provided such application is complete, as determined by the commissioner, then six months shall be added to the deadline applicable pursuant to subdivision (1) or (2) of this subsection, provided no more than two years shall be added to the deadline established pursuant to subdivision (1) or (2) of this subsection.

(4) The provisions of this subsection shall not apply to annual groundwater remedial actions, including the preparation of a groundwater remedial action progress report, performed pursuant to subdivision (6) of section 22a-449p. The commissioner may continue to receive applications or requests for payment or reimbursement for such annual groundwater remedial actions and, provided all other requirements have been met, may order payment or reimbursement from the program for such actions.

(c) (1) Any person who has insurance, or a contract or other agreement to provide payment or reimbursement for any costs, expense or other obligation paid or incurred in response to a release or suspected release may submit an application or request seeking payment or reimbursement from the program to the commissioner, provided any such application or request for payment or reimbursement shall be subject to all applicable requirements, including, but not limited to, subdivision (7) of subsection (c) of section 22a-449f.

(2) Any person who at any time receives or expects to receive payment or reimbursement from any source other than the program for any cost, expense, obligation, damage or injury for which such person has received or has applied for payment or reimbursement from the program, shall notify the commissioner, in writing, of such supplemental or expected payment and shall, not more than thirty days after receiving such supplemental payment, repay the program all such amounts received from any other source.

(3) If the commissioner determines that a person is seeking or has sought payment or reimbursement for any cost, expense, obligation, damage or injury from the program and that payment or reimbursement for any such cost, expense, obligation, damage or injury is actually or potentially available to any such person from any source other than the program, the commissioner may impose any conditions the commissioner deems reasonable regarding any amount the commissioner orders to be paid from the program.

(P.A. 89-373, S. 4, 10; P.A. 90-181, S. 1; P.A. 91-254, S. 1, 7; P.A. 94-130, S. 6; P.A. 96-132, S. 1, 5; P.A. 97-241, S. 3, 5; P.A. 00-201, S. 2, 8; June Sp. Sess. P.A. 01-9, S. 37, 131; P.A. 02-80, S. 1; P.A. 04-244, S. 2; P.A. 05-288, S. 107; June Sp. Sess. P.A. 05-3, S. 91; P.A. 06-196, S. 259; P.A. 07-192, S. 4; June Sp. Sess. P.A. 09-3, S. 423; June 12 Sp. Sess. P.A. 12-1, S. 252.)

History: P.A. 90-181 amended Subsec. (b) to allow payments or reimbursement to parties supplying goods or services, allowed payments and reimbursements for expenses resulting from suspected releases, authorized payment of costs of defense of third party claims and costs of investigation and deleted the requirement that the responsible party be responsible for all costs which are less than $10,000; P.A. 91-254 added the requirement that the responsible party be responsible for all costs which are less than $10,000, added the provisions concerning releases reported prior to December 31, 1987, and for which more than $500,000 had been expended and added provisions re funds for administrative costs which are to be allocated to the department; P.A. 94-130 changed name of fund from “Underground Storage Tank Petroleum Clean-Up Fund” to “underground storage tank petroleum clean-up account” and eliminated requirement that investment earnings credited to assets of fund shall become part of the assets of said fund; P.A. 96-132 amended Subsec. (b) to increase the allocation for administrative costs, effective July 1, 1996; P.A. 97-241 amended Subsec. (b) to increase costs of remediation to be borne by certain responsible parties under this section and to increase the allocation to the department for administrative costs, effective June 24, 1997; P.A. 00-201 redesignated existing language in Subsec. (a) as Subsec. (a)(1) and existing language in Subsec. (b) as Subsec. (a)(2) and added new Subsec. (b) establishing residential underground heating oil storage tank system clean-up subaccount, effective June 1, 2000; June Sp. Sess. P.A. 01-9 amended Subsec. (a) to add references to Sec. 22a-449f and increase amount of administrative

costs from $1,150,000 to $2,000,000 and amended Subsec. (b) to add reference to Sec. 22a-449n, effective July 1, 2001; P.A. 02-80 amended Subsec. (a)(2) to raise limit for payments from account from $3,000,000 to $5,000,000 for costs or expenses incurred in connection with any release reported to the Department of Environmental Protection prior to December 31, 1987, and for which the responsible party has expended more than $500,000 for remediation prior to June 19, 1991, and to add proviso that the portion of any reimbursement or payment in excess of $3,000,000 may, at the discretion of the commissioner, be made in annual payments for up to a five-year period, effective July 1, 2002; P.A. 04-244 amended Subsec. (a)(2) to add prohibition against payment or reimbursement for costs incurred for remediation of a release to levels more stringent than those specified in remediation standards, except as required by the department, effective June 8, 2004; P.A. 05-288 made technical changes in Subsec. (a)(2), effective July 13, 2005; June Sp. Sess. P.A. 05-3 made technical changes, amended Subsec. (a)(2) to delete “or both, to responsible parties”, to insert “and remediation”, to replace “third party” with “for”, to insert “by a person other than a responsible party”, to require final adjudication or settlement of a claim, and to allow payment to an assignee, inserted designator for Subsec. (a)(3), amended Subsec. (a)(3) to insert “in writing”, to prohibit, after June 1, 2005, payment or reimbursement for diminution in property value or interest and for certain attorneys' fees, and to insert “and all persons shall bear all costs of the release that are”, added Subsec. (c) establishing pay for performance subaccount, added Subsec. (d) re submission of supplemental applications, and added Subsec. (e) re insurance and receipt of payment or reimbursement from other sources, effective June 30, 2005; P.A. 06-196 made a technical change in Subsec. (e)(2), effective June 7, 2006; P.A. 07-192 amended Subsec. (a)(3) to permit certain applicants to receive reimbursement for interest on attorney's fees and to exempt certain applications from limitations on such fees, effective July 5, 2007; June Sp. Sess. P.A. 09-3 amended Subsec. (a) by deleting references to underground storage tank petroleum clean-up account, adding references to underground storage tank petroleum clean-up program and deleting provision re allocation of $2,000,000 to Department of Environmental Protection for administrative costs, deleted former Subsecs. (b) and (c) re residential underground heating oil storage tank system clean-up subaccount and pay for performance subaccount, redesignated existing Subsecs. (d) and (e) as Subsecs. (b) and (c) and made conforming changes; June 12 Sp. Sess. P.A. 12-1 amended Subsec. (a) to establish Department of Energy and Environmental Protection as successor agency to the Underground Storage Tank Petroleum Clean-Up Review Board in Subdiv. (1), replace reference to Sec. 22a-449f with references to section and Secs. 22a-449d to 22a-449i, 22a-449p, 22a-449r and 22a-449t in Subdiv. (2) and delete provision re permitted reimbursement for interest on attorneys' fees in Subdiv. (3)(B), amended Subsec. (b) to add provisions re 6 month extension of deadline if commissioner has not ordered payment or reimbursement within 6 months after receiving complete application and delete provisions re board in Subdiv. (3) and authorize commissioner to continue to receive applications for payment or reimbursement for annual groundwater remedial actions in Subdiv. (4), changed “board” to “commissioner” and “account” to “program” and made technical changes, effective June 15, 2012 (Revisor's note: An internal reference in June 12 Sp. Sess. P.A. 12-1, S. 252, to “sections 262 and 264 of this act” was determined by the Revisors to properly refer to sections 261 and 263 of said act and was therefore codified in Subsec. (a)(2) as “22a-449r and 22a-449t”).

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449d. Payment and reimbursement from the program. Guidelines for reasonable cost determinations. Payment to registered contractors. (a) Upon application for reimbursement or payment pursuant to section 22a-449f, the commissioner shall determine, based on the provisions of sections 22a-449a to 22a-449i, inclusive, 22a-449p, 22a-449r and 22a-449t, and all regulations adopted pursuant to section 22a-449e, whether or not to order payment or reimbursement from the program. The commissioner shall have the authority to order payment within available resources to registered contractors pursuant to section 22a-449*l*, or to owners pursuant to section 22a-449n, for reasonable costs associated with the remediation of a residential underground heating oil storage tank system based on the guidelines established pursuant to subsection (c) of this section.

(b) The commissioner shall establish guidelines for determining what costs are reasonable for payment under sections 22a-449*l* and 22a-449n and shall establish requirements for financial assurance, training and performance standards for registered contractors, as defined in said sections 22a-449*l* and 22a-449n. The commissioner shall make payment pursuant to section 22a-449n to the owner at a rate not to exceed one hundred

fifty-seven dollars per ton of contaminated soil removed which shall be considered as full payment for all eligible costs for remediation. For any claim filed pursuant to section 22a-449n where no contaminated soil is removed the commissioner shall reimburse eligible costs in accordance with the guidelines pursuant to this section.

(c) To the extent that funds are available, the commissioner may order payment to registered contractors for reimbursement of eligible costs for services associated with the remediation of a residential underground heating oil storage tank system prior to July 1, 2001, to owners of such systems for payment for eligible costs incurred after July 1, 2001. No such payment shall be authorized unless the commissioner deems the costs reasonable based on the guidelines established pursuant to subsection (b) of this section. Notwithstanding the provisions of this subsection, if the commissioner determines that the owner may not receive reimbursement payment from the contractor, the commissioner may, if reimbursement has not been sent to the contractor, directly reimburse the owner of such system for eligible costs incurred by the owner and paid to the registered contractor for services associated with a remediation of a system prior to July 1, 2001.

(P.A. 89-373, S. 5, 10; P.A. 90-181, S. 4; P.A. 91-254, S. 2, 7; P.A. 99-269, S. 4, 6; P.A. 00-201, S. 3, 8; June Sp. Sess. P.A. 01-9, S. 38, 131; P.A. 04-172, S. 1; June Sp. Sess. P.A. 05-3, S. 92; June Sp. Sess. P.A. 09-3, S. 424; P.A. 11-80, S. 66; June 12 Sp. Sess. P.A. 12-1, S. 253.)

History: P.A. 90-181 amended Subsec. (a) to include applications for payment and amended Subsec. (b) to add to the membership of the board one person representing the service station dealers association and one person representing the public; P.A. 91-254 added language in Subsec. (a) re powers of board to hold hearings, administer oaths, etc., to designate an agent to act for it and to give notice re punishment for false statement and amended Subsec. (b) to add member representing small manufacturing company and to authorize election of chairman; (Revisor's note: In 1995 the word “fund” was replaced editorially by the Revisors with “account” in review board name to conform with Secs. 22a-449b and 22a-449c, as amended by P.A. 94-130 and in 1997 a reference in Subsec. (b) to “Commissioners of the Department of Environmental Protection and Revenue Services” was replaced editorially by the Revisors with “Commissioners of Environmental Protection and Revenue Services” for consistency with customary statutory usage); P.A. 99-269 amended Subsec. (b) to add to the board a member with experience with residential underground petroleum storage tanks, effective July 1, 1999; P.A. 00-201 amended Subsec. (a) by authorizing board to order payments from residential underground heating oil storage tank system clean-up subaccount, amended Subsec. (b) by adding licensed environmental professional appointed by the Governor as a board member and added Subsec. (c) requiring board to establish guidelines and requirements, effective June 1, 2000; June Sp. Sess. P.A. 01-9 amended Subsec. (a) to add references to Secs. 22a-449*l* and 22a-449n and to replace reference to Sec. 22a-449d(c) with reference to Subsec. (c) of section, amended Subsec. (c) by adding provisions re payment pursuant to Sec. 22a-449n and reimbursement in accordance with guidelines and added Subsec. (d) re payment from subaccount to registered contractors and owners for eligible costs deemed reasonable, effective July 1, 2001; P.A. 04-172 amended Subsec. (d) to add provision re direct reimbursement of owner, effective June 1, 2004; June Sp. Sess. P.A. 05-3 amended Subsec. (a) to delete language re review of applications, to delete language re damage resulting from release, and to insert reference to Secs. 22a-449 to 22a-449i, inclusive, and all regulations adopted pursuant to said sections re whether to order payment or reimbursement, and amended Subsec. (b) to replace “Connecticut Gasoline Retailers Association” with “Gasoline and Automotive Service Dealers of America, Inc.”, effective June 30, 2005; June Sp. Sess. P.A. 09-3 replaced Underground Storage Tank Petroleum Clean-Up Account Review Board with Underground Storage Tank Petroleum Clean-Up Review Board and made conforming changes, amended Subsec. (a) to delete reference to residential underground heating oil storage tank system clean-up subaccount and specify that board has authority to order payment within available resources, and amended Subsec. (d) to delete references to residential underground heating oil storage tank system clean-up subaccount; P.A. 11-80 amended Subsec. (b) by changing “Commissioner of Environmental Protection” to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 amended Subsec. (a) to delete provision re establishment of the Underground Storage Tank Petroleum Clean-Up Review Board, add references to Secs. 22a-449p, 22a-449r and 22a-449t and delete provisions re authority to hold hearings, administer oaths, subpoena witnesses and documents, designate agents and provide notice re false statements, deleted former Subsec. (b) re membership of board, redesignated existing Subsecs. (c) and (d) as

Subsecs. (b) and (c), and changed “board” to “commissioner” and made technical changes, effective June 15, 2012 (Revisor's note: An internal reference in June 12 Sp. Sess. P.A. 12-1, S. 253, to “sections 262 and 264 of this act” was determined by the Revisors to properly refer to sections 261 and 263 of said act and was therefore codified in Subsec. (a) as “22a-449r and 22a-449t”).

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449e. Regulations. Schedule for maximum or range of amounts to be paid from the program. Use of seal. (a) The commissioner shall adopt regulations in accordance with the provisions of chapter 54 setting forth procedures for reimbursement and payment from the program established under section 22a-449c. Such regulations shall include such provisions as the commissioner deems necessary to carry out the purposes of sections 22a-449a to 22a-449i, inclusive, including, but not limited to, provisions for (1) notification of eligible parties of the existence of the underground storage tank petroleum clean-up program; (2) records required for submission of claims and reimbursement and payment; (3) periodic and partial reimbursement and payment to enable responsible parties to meet interim costs, expenses and obligations; and (4) reimbursement and payment for costs, expenses and obligations incurred in connection with releases or suspected releases discovered before or after July 5, 1989, provided reimbursement and payment shall not be ordered or made for costs, expenses and obligations incurred by a responsible party on or before said date.

(b) (1) The commissioner, in accordance with the procedures set forth in subdivision (2) of this subsection, may prescribe a schedule for the maximum or range of amounts to be paid for labor, equipment, materials, services or other costs, expenses or obligations paid or incurred as a result of a release or suspected release. Such schedule shall not be a regulation, as defined in section 4-166 and the adoption, modification, repeal or use of such schedule shall not be subject to the provisions of chapter 54 concerning a regulation. The amounts in any such schedule may be less than and shall be not more than the usual, customary and reasonable amounts charged, as determined by the commissioner. Notwithstanding the provisions of sections 22a-449a to 22a-449j, inclusive, or any regulation adopted by the commissioner pursuant to this section, upon adoption of any such schedule, the amount to be paid for any labor, equipment, materials, services or other costs, expenses or other obligations, shall not exceed the amount established in any such schedule and such schedule may serve as guidance with respect to any costs, expenses or other obligations paid or incurred before the adoption of such schedule.

(2) The commissioner shall adopt, revise or revoke the schedule in accordance with the provisions of this subsection. The commissioner shall publish notice of intent to adopt, revise or revoke the schedule, or any portion thereof, in a newspaper having substantial circulation in the affected area. There shall be a comment period of thirty days following publication of such notice during which interested persons may submit written comments to the commissioner. The commissioner shall publish notice of the adoption, revision or revocation of the schedule, or part thereof, in a newspaper having substantial circulation in the affected area. The commissioner shall, upon request, review the schedule and shall make any revisions the commissioner deems necessary to such schedule once every two years or may do so more frequently as the commissioner deems necessary. The commissioner may revise or revoke the schedule, in whole or in part, using the procedures specified in this subsection. Any person may request that the commissioner adopt, revise or revoke the schedule in accordance with this subsection.

(c) Upon adoption of a schedule by the commissioner pursuant to subsection (b) of this section, the requirements concerning obtaining three bids for services rendered contained in regulations adopted pursuant to this section shall not apply, provided that the schedule includes the subject services.

(d) An environmental professional, who has a currently valid and effective license issued pursuant to section 22a-133v, shall use a seal, as provided for in regulations adopted pursuant to section 22a-133v, to provide written approval required under sections 22a-449c, 22a-449f and 22a-449p, and any approval without a seal shall not constitute an approval of a licensed environmental professional. The regulations adopted pursuant to section 22a-133v regarding the use of a seal and the rules of professional conduct shall apply to the duties of a licensed environmental professional contained in sections 22a-449a to 22a-449i, inclusive, and 22a-449p.

(P.A. 89-373, S. 6, 10; P.A. 90-181, S. 2; P.A. 91-254, S. 3, 7; June Sp. Sess. P.A. 05-3, S. 93; P.A. 08-124, S. 28; June Sp. Sess. P.A. 09-3, S. 425; P.A. 11-80, S. 1; June 12 Sp. Sess. P.A. 12-1, S. 254.)

History: P.A. 90-181 amended Subdivs. (2), (3) and (4) to include provisions relating to payment in addition to reimbursement; P.A. 91-254 added language giving the commissioner broader authority to adopt regulations under Secs. 22a-449a to 22a-449h, inclusive; (Revisor's note: In 1995 references to clean-up "fund" were replaced editorially by the Revisors with references to clean-up "account" to conform section with Sec. 22a-449c as amended by P.A. 94-130); June Sp. Sess. P.A. 05-3 designated existing language as Subsec. (a) and made a technical change therein, added Subsec. (b) re schedule for the maximum or range of amounts to be paid from the account, added Subsec. (c) re inapplicability of requirement for three bids for services, and added Subsec. (d) re use of a seal by an environmental professional, effective June 30, 2005; P.A. 08-124 made technical changes in Subsecs. (a) and (b)(2), effective June 2, 2008; June Sp. Sess. P.A. 09-3 substituted "program" for "account" in Subsecs. (a) and (b); pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 amended Subsecs. (a) and (b)(2) to delete provisions requiring commissioner to consult with board and made technical changes in Subsec. (a), effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449f. Application for reimbursement for claims resulting from release of petroleum. (a) Application. Notice of claim. A responsible party may apply to the commissioner for reimbursement for costs paid and payment of costs incurred as a result of a release, or a suspected release, including costs of investigating and remediating a release, or a suspected release, incurred or paid by such party who is determined not to have been liable for any such release. If a person other than a responsible party claims to have suffered bodily injury, property damage or damage to natural resources from a release, the person with such claim shall make reasonable attempts to provide written notice to the responsible party of such claim and if such person cannot provide such notice or if the responsible party does not apply to the commissioner for payment of such claim not later than sixty days after receipt of such notice or such other time as may be agreed to by the parties, the person holding such claim may apply to the commissioner for payment for such damage or bodily injury.

(b) Approval by commissioner or licensed environmental professional. (1) In addition to all other applicable requirements, a person seeking payment or reimbursement from the underground storage tank petroleum clean-up program established pursuant to section 22a-449c shall demonstrate that when the total costs, expenses or other obligations in response to a release or suspected release (A) are two hundred fifty thousand dollars or less, all labor, equipment and materials provided after October 1, 2005, and all services and activities undertaken after October 1, 2005, are approved, in writing, either by the commissioner or by a licensed environmental professional with a currently valid and effective license issued pursuant to section 22a-133v; and (B) exceed two hundred fifty thousand dollars, all labor, equipment and materials provided after October 1, 2005, and all services and activities undertaken after October 1, 2005, are approved, in writing, by the commissioner, provided the commissioner may authorize, in writing, a licensed environmental professional with a currently valid and effective license issued pursuant to section 22a-133v to approve, in writing, such labor, equipment, materials, services and activities, in lieu of the commissioner. The provisions of this subsection shall apply to all costs, expenses or other obligations for which a person is seeking payment or reimbursement from the program and the commissioner shall not order or make payment or reimbursement from the program for any cost, expense or other obligation, unless the person seeking such payment or reimbursement provides the written approval required by this subdivision. Any written approval provided by a licensed environmental professional pursuant to this subdivision shall be submitted with the application for payment or reimbursement. Any written approval provided by the commissioner pursuant to this subdivision shall not constitute an approval pursuant to any other provision of the general statutes or any regulation.

(2) The fees charged by a licensed environmental professional regarding labor or services rendered in response to a release or suspected release may be included in any application or request for payment or reimbursement

from the program. The amount to be paid or reimbursed for such fees may also be established in the schedule adopted by the commissioner pursuant to subsection (b) of section 22a-449e.

(3) Providing it is true and accurate, a licensed environmental professional shall submit an executed certification regarding any approval provided under subdivision (1) of this subsection and section 22a-449p that reads: "I hereby agree that all of the labor, equipment, materials, services, and activities described in or covered by this certification were appropriate under the circumstances to abate an emergency or were performed as part of a plan specifically designed to ensure that the release or suspected release is or has been investigated in accordance with prevailing standards and guidelines and remediated consistent with and to achieve compliance with the remediation standards adopted under section 22a-133k of the general statutes.". The commissioner shall not order or make payment or reimbursement from the program if an application relying upon approval from a licensed environmental professional pursuant to subdivision (1) of this subsection does not include such certification of approval.

(c) Conditions for reimbursement or payment. The commissioner shall order reimbursement or payment from the program for any cost paid or incurred, as the case may be, if, (1) such cost is or was incurred after July 5, 1989, (2) a responsible party was or would have been required to demonstrate financial responsibility under 40 CFR Part 280.90 et seq. as said regulation was published in the Federal Register of October 26, 1988, for the underground storage tank or underground storage tank system from which the release emanated, whether or not such party is required to comply with said requirements on the date any such cost is incurred, provided if the state is the responsible party, the commissioner may order payment, within available resources, without regard to whether the state was or would have been required to demonstrate financial responsibility under said sections 40 CFR Part 280.90 et seq., (3) after the release, if any, the responsible party incurred a cost, expense or obligation for investigation, cleanup or for claims of a person other than a responsible party resulting from the release, provided any such claim shall be required to be finally adjudicated or settled with the prior written approval of the commissioner before an application for reimbursement or payment is made, (4) the commissioner determines that the cost, expense or other obligation is reasonable and that there are not grounds for recovery specified in subdivision (1) or (3) of subsection (g) of this section, (5) the responsible party notified the commissioner, as soon as practicable, of the release and of any other claim by a person other than a responsible party, resulting from the release, in accordance with the regulations adopted pursuant to section 22a-449e, (6) the responsible party, or, if a person other than a responsible party applies for payment or reimbursement from the program, then such person demonstrates the remediation, including any monitoring to determine the effectiveness of the remediation, for which payment or reimbursement is sought is not more stringent than that required by the remediation standards established pursuant to section 22a-133k, except to the extent the responsible party or such person demonstrates that it has been directed otherwise, in writing, by the commissioner, (7) the responsible party, or, if a person other than a responsible party applies for payment or reimbursement, then such person demonstrates that it does not have insurance, or a contract or other agreement to provide payment or reimbursement for any cost, expense or other obligation incurred in response to a release or suspected release, or if there is any such insurance, contract or other agreement, that any insurance coverage has been denied or is insufficient to cover the costs, expenses or other obligations, paid or incurred or that any contract or other agreement is not able to or is insufficient to cover the costs, expenses or other obligations, paid or incurred, for which payment or reimbursement is sought, (8) the responsible party demonstrates and the commissioner determines that one of the milestones noted in section 22a-449p has been completed, (9) the commissioner determines what, if any, reductions to the amounts sought should be made based upon the compliance evaluations performed pursuant to subsection (d) of this section, and (10) at the time any application or request for payment or reimbursement, including any supplemental application or request, is submitted (A) for applications submitted on or after October 1, 2007, there is no underground storage tank system subject to the financial responsibility demonstration required in subdivision (2) of this subsection dispensing petroleum on the property where the release or suspected release emanated or occurred, and if the application is submitted by the person who owns or operates or who owned or operated the underground storage tank system at the time of the release, such person demonstrates, in addition to all other applicable requirements, that lack of compliance with provisions of the general statutes and regulations governing underground storage tank systems was not a proximate cause of the release or suspected release and that there are not grounds for recovery specified in subdivision (2) of subsection (g) of this section, or (B) for applications submitted prior to October 1, 2007, there

is no underground storage tank system dispensing petroleum on the property where the release or suspected release emanated or occurred, and if the application is submitted by the person who owns or operates or who owned or operated the underground storage tank system at the time of the release, such person demonstrates, in addition to all other applicable requirements, that lack of compliance with provisions of the general statutes and regulations governing underground storage tank systems was not a proximate cause of the release or suspected release and that there are not grounds for recovery specified in subdivision (2) of subsection (g) of this section. Subdivision (10) of this subsection shall not apply to any application concerning a release of an underground storage tank system that was reported to the commissioner in September, 2003 where such system was owned or operated by a municipality or other political subdivision of the state at the time of the release and such system was removed on or before April 1, 2005. In acting on an application or a request for payment or reimbursement, the commissioner, using funds from the program, may contract with experts, including, but not limited to, attorneys and medical professionals, to better evaluate and defend against claims and negotiate claims by persons other than responsible parties. If a person other than a responsible party applies to the commissioner claiming to have suffered bodily injury, property damage or damage to natural resources, the commissioner shall order reimbursement or payment from the program if such person demonstrates that subdivisions (1), (2), (6) and (7) of this subsection are satisfied, the commissioner determines that as a result of a release or suspected release such person has suffered bodily injury, property damage or damage to natural resources, that the costs, expenses or other obligations incurred are reasonable and the person submitting such claim demonstrates that it has attempted to or has provided written notice of its claim to the responsible party as required in subsection (a) of this section and that the responsible party has not applied to the commissioner for payment or reimbursement of this claim. On or before June 30, 2005, if the commissioner denied reimbursement or provided for only partial payment or reimbursement from the program regarding a release, pursuant to subdivision (4) of this subsection, such denial or partial payment or reimbursement shall remain in effect and shall apply to all subsequent applications or requests for payment or reimbursement regarding such release.

(d) Compliance status of underground storage tank systems. Applicability. Evaluation. (1) Except as provided in this subsection, if at the time any application or request for payment or reimbursement is submitted to the commissioner, including any supplemental application or request, there is an underground storage tank system dispensing petroleum on the property where the release or suspected release emanated or occurred, such application or request shall not be deemed complete and shall not be acted upon by the commissioner unless such application or request includes a summary of the compliance status of all the underground storage tank systems on the subject property. Any such summary shall include an evaluation of compliance with the design, construction, installation, notification, general operating, release detecting, system upgrading, abandonment and removal date requirements of the regulations adopted pursuant to sections 22a-449 and 22a-449o and shall be prepared by an independent consultant on a form prescribed by or acceptable to the commissioner. The summary shall be based on an evaluation of said underground storage tank systems performed not more than one hundred eighty days before the commissioner receives an application or a request for reimbursement or payment, except that with respect to any provision of the subject regulations regarding record keeping, periodic monitoring or testing, the summary shall be based on an evaluation of a one-year period terminating within one hundred eighty days prior to the commissioner's receipt of an application or a request for payment or reimbursement. The summary shall also include a full description of all corrective measures that have been taken or that are being taken with regard to any noncompliance identified in the compliance evaluation performed pursuant to this subdivision.

(2) With respect to any initial application or request for payment or reimbursement regarding a release or suspected release the provisions of subdivision (1) of this subsection shall apply only to applications or requests received on or after January 1, 2006. With respect to any supplemental application or request for payment or reimbursement regarding a release or suspected release, the provisions of subdivision (1) of this subsection shall apply to each application or request submitted to the commissioner on or after January 1, 2006, regardless of when the initial application or request was submitted, except that submission of a compliance summary shall not be required if at the time a supplemental application or request is submitted, less than one year has passed since the performance of a compliance evaluation submitted with any prior application or request.

(3) The cost of hiring an independent consultant to perform a compliance evaluation, as required by this subsection, shall be eligible for payment or reimbursement up to a maximum of one thousand dollars per compliance evaluation, provided the evaluation is in conformance with the requirements of this subsection and includes all underground storage tank systems on the property where a release or suspected release emanated or occurred. If the schedule adopted by the commissioner pursuant to subsection (b) of section 22a-449e includes an amount for performing a compliance evaluation, upon adoption of any such schedule, the amount eligible for payment or reimbursement for performing a compliance evaluation shall be the amount prescribed in any such schedule.

(4) Nothing in this subsection shall affect the continued applicability of any decision of the commissioner to (A) deny reimbursement or payment, or (B) provide only partial payment or reimbursement regarding all applications or requests for payment or reimbursement. Any such decision shall remain in effect and shall not be subject to reconsideration or reevaluation as a result of this subsection.

(5) Except as provided for in this subdivision, if at the time any application or request for payment or reimbursement, including any supplemental application or request, is submitted, there is no underground storage tank system dispensing petroleum on the property where the release or suspected release emanated or occurred, any such application or request shall be subject to the provisions of subdivision (10) of subsection (c) of this section, even where a prior application or request was subject to the provisions of this subsection. The provisions of this subdivision shall not apply to an application or request for payment or reimbursement for annual groundwater remedial actions, including the preparation of a groundwater remedial action progress report, performed pursuant to subdivision (6) of section 22a-449p.

(e) Reduction of payment or reimbursement. Authority of commissioner. (1) If the compliance evaluation summary performed pursuant to subsection (d) of this section indicates that any of the violations noted in this subdivision exist with respect to any underground storage tank or underground storage tank system on the property at which a release or suspected release occurred and any such violations have not been fully corrected by the time an application or request for reimbursement is submitted to the commissioner, the commissioner shall reduce any payment or amount to be reimbursed as follows: (A) A one hundred per cent reduction of the payment or amount to be reimbursed for failure to meet the tank or piping construction requirements of section 22a-449o or the regulations adopted pursuant to section 22a-449 or for failure to report the release to the commissioner as required by this section, (B) a seventy-five per cent reduction of the payment or amount to be reimbursed for failure to have properly functioning cathodic protection, spill prevention, overfill prevention, or release detection as required by the regulations adopted pursuant to section 22a-449. Notwithstanding the provisions of this subsection, the commissioner may reduce any amount to be paid or reimbursed based on any other violation of the provisions of the general statutes or regulations of Connecticut state agencies regarding ownership or operation of an underground storage tank system.

(2) Nothing in this subsection and no determination by the commissioner of any issue of fact or law pursuant to this subsection shall affect the authority of the commissioner under any other statute or regulations, including, but not limited to, taking any enforcement action based upon the violations identified in any compliance evaluation performed pursuant to subsection (d) of this section.

(f) Payment or reimbursement for work, services, material. (1) For all work or services performed or materials provided before October 1, 2004, the commissioner shall not order payment or reimbursement for any cost paid or incurred, unless when seeking payment or reimbursement, the application is received by the commissioner on or before April 1, 2005.

(2) For purposes of this subsection, work or services shall be deemed rendered or performed on the date such work is rendered or performed and a material shall be deemed provided on the date a material is made available for use.

(3) After June 30, 2005, the commissioner shall not order payment or reimbursement for any cost, expense or other obligation, paid or incurred, unless the application or request for payment or reimbursement is received by

the commissioner not later than one year after the completion of all or substantially all of the work or activities necessary to prepare the plan or report required by the milestones set forth in section 22a-449p.

(g) Civil actions. The Attorney General, upon the request of the commissioner, may institute an action in the superior court for the judicial district of Hartford to recover the amounts specified in this section from any person who owns or operates an underground storage tank system at the time a release emanates or occurs from such system or any person who owns the real property on which a release emanates or occurs, provided such person owned the real property at or any time after the release emanates or occurs until the time that a final remediation action report is submitted by a licensed environmental professional or approved by the commissioner pursuant to subdivision (7) of section 22a-449p, if: (1) Prior to the occurrence of the release, the underground storage tank or underground storage tank system from which the release emanated was required by regulations adopted under section 22a-449 to be the subject of an Underground Storage Facility Notification Form, or EPHM-6 but the person who owns or operates or who owned or operated such tank or tank system knowingly and intentionally failed to submit such notification form to the commissioner; (2) the release results from a reckless, wilful, wanton or intentional act or omission of such person or a negligent act or omission of such person that constitutes noncompliance with the general statutes or regulations governing the installation, operation and maintenance of underground storage tanks; or (3) the release occurs from an underground storage tank or system which is not in compliance with a final order issued by the commissioner pursuant to this chapter or a final judgment issued by a court concerning noncompliance with a requirement of this chapter; or (4) payment has been made, including payment to the commissioner pursuant to subsection (i) of this section, to a person other than a person against whom an action may be brought pursuant to this subsection. All costs to the state relating to actions to recover such payments, including, but not limited to, reasonable attorneys' fees, shall initially be paid within available resources. In any recovery the commissioner is entitled to recover from such person (A) all payments made under the program with respect to a release or suspected release, (B) all payments made by the commissioner pursuant to subsection (i) of this section with respect to a release or suspected release, (C) interest on such payments at a rate of ten per cent per year from the date such payments were made, and (D) all costs of the state relating to actions to recover such payments, including, but not limited to, reasonable attorneys' fees. All actions brought pursuant to this section shall have precedence in the order of trial, as provided in section 52-191. If the Attorney General has filed an action against a person seeking recovery of the amounts specified in this subsection or if the commissioner sends a person a demand letter regarding costs incurred by the state pursuant to section 22a-451, any such person against whom an action has been brought or who receives a demand letter shall not submit an application or request for payment or reimbursement to the commissioner seeking payment or reimbursement of any such amount sought by the Attorney General or by the commissioner. If any such application or request for payment or reimbursement is submitted, the commissioner shall not take any action regarding any such application or request.

(h) Rendering of decision by commissioner. Hearings. The commissioner shall render a decision as to whether or not to order payment or reimbursement from the program not more than ninety days after receipt of an application from a person, provided, in the case of a second or subsequent application, the commissioner shall render a decision not more than forty-five days after receipt of such application. A copy of the decision shall be sent to the person seeking payment or reimbursement by certified mail, return receipt requested. Any person aggrieved by the decision of the commissioner may, not later than twenty days after the date of issuance of such decision, request a hearing before the commissioner in accordance with the provisions of chapter 54. After such hearing, the commissioner shall consider the information submitted and affirm or modify the decision on the application. A copy of the affirmed or modified decision shall be sent to all parties to the hearing by certified mail, return receipt requested. For applications submitted before, on or after June 15, 2012, once the commissioner renders a decision regarding an application or request for payment or reimbursement and no hearing has been requested pursuant to this subsection regarding any such decision, the costs, expenses or other obligations addressed by any such decision shall not be resubmitted in any other application or request.

(i) Use of available resources for clean-up. Whenever the commissioner determines that as a result of a release or a suspected release, a clean-up is necessary, including, but not limited to, actions to prevent or abate pollution or a potential source of pollution and to provide potable drinking water, the commissioner may undertake such actions using not more than one million dollars, within available resources, for each release or suspected release

from an underground storage tank or an underground storage tank system for which the responsible party is the state or for which a responsible party was or would have been required to demonstrate financial responsibility under 40 CFR Part 280.90 et seq., as said regulation was published in the Federal Register of October 26, 1988.

(j) Percentage payments. (1) If through an initial application or request for payment or reimbursement received by the commissioner before June 1, 2005, the commissioner has determined that a person has paid or incurred costs, expenses or other obligations that are eligible for payment or reimbursement, with respect to any supplemental application or request for payment or reimbursement the following shall apply. The commissioner may identify a category of activities, costs, expenses, or other obligations that are less than one hundred thousand dollars for which, in lieu of full payment, the commissioner may approve a percentage of the costs, expenses or other obligations paid or incurred. When implementing this subsection, the commissioner shall consider the amounts previously paid from the program and any other information the commissioner deems relevant. Any such percentage shall be not more than, but may be less than, ninety per cent of the average amount, as determined by the commissioner, previously paid from the program for any activity, cost, expense or obligation. The commissioner may, using the procedures specified in this subdivision, modify any percentage previously approved pursuant to this subdivision.

(2) A person with a supplemental application or request for payment or reimbursement may agree to accept the percentage payment approved by the commissioner. Any such acceptance shall be in writing, signed by the person seeking payment or reimbursement and shall acknowledge that the person is agreeing to accept less than the full amount sought by such person for the costs, expenses or other obligations covered by such acceptance. If the commissioner has prescribed forms, any such acceptance shall be made using the forms prescribed by the commissioner. Once a completed written acceptance is received, the commissioner shall, not later than ninety days after receiving such acceptance, determine whether to order payment or reimbursement from the program.

(3) Any amount paid or reimbursed under this section shall be considered full payment for any such activity, expense or other obligation and a person shall not seek any additional reimbursement for any such activity, expense or other obligation. The categories or activities for which the commissioner recommends payment of a percentage pursuant to this section may constitute all or a portion of the amounts sought in a supplemental application or supplemental request for payment or reimbursement.

(k) Notification to commissioner. Notification to the commissioner pursuant to regulations adopted pursuant to section 22a-449 shall constitute compliance with any regulation adopted pursuant to section 22a-449e regarding notification to the commissioner of a release.

(P.A. 88-230, S. 1, 12; P.A. 89-373, S. 7, 10; P.A. 90-98, S. 1, 2; 90-181, S. 3; P.A. 91-254, S. 4, 7; P.A. 93-142, S. 4, 7, 8; P.A. 94-28, S. 2, 3; P.A. 95-220, S. 4–6; P.A. 96-180, S. 81, 166; P.A. 04-244, S. 3; June Sp. Sess. P.A. 05-3, S. 94; P.A. 06-196, S. 260; P.A. 07-192, S. 5–7; P.A. 08-124, S. 29, 30; June Sp. Sess. P.A. 09-3, S. 426; P.A. 11-80, S. 1; June 12, Sp. Sess. P.A. 12-1, S. 255.)

History: P.A. 90-181 amended Subsec. (a) to allow a responsible party to apply for costs paid, to allow application for reimbursement and payment of costs for a suspected release, to allow the board to order reimbursement in addition to payment, added Subdiv. (1) re requirement that reimbursement may only be ordered if the cost is or was incurred after July 5, 1989, amended Subdiv. (2) to provide that the responsible party had to demonstrate financial responsibility under the CFR as it was published in the Federal Register of October 26, 1988, regardless of whether the owner is required to comply with said requirements on the date the cost is incurred, amended Subdiv. (3) to include expense for investigation and amended Subsec. (b) to allow the board the right of subrogation if the release occurs from a tank or system which is not in compliance with the general statutes and regulations governing such tanks and to allow the board an additional right for subrogation against a responsible party for the first $10,000 of reimbursements and payments it makes in respect to a release unless the responsible party incurring the costs is determined not to have been liable for the release; P.A. 91-254 added Subsec. (a)(4) and (5) concerning a determination by the board for disbursement from the fund, amended Subsec. (b) to authorize the attorney general to institute actions to recover amounts disbursed from the fund, to set forth prerequisite factors for such action and to provide for payment of costs for such actions, and to specify what may be recovered in such action, amended Subsec. (c) to provide for a process of appeal from decisions of

the board and added Subsec. (d) concerning use of the fund by the commissioner in case of a release (Revisor's note: P.A. 88-230 and P.A. 90-98 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain at Hartford" in public and special acts of the 1991 session of the general assembly, effective September 1, 1993); P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 94-28 amended Subsec. (c) to extend the time for decisions by the board regarding first applications for reimbursement from 45 to 90 days, effective July 1, 1994, and applicable to applications filed with the board after said date; (Revisor's note: In 1995 the word "fund" was replaced editorially by the Revisors with "account" in references to the former underground storage tank petroleum clean-up fund and its review board to conform section with Secs. 22a-449b et seq., as amended by P.A. 94-130); P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 96-180 amended Subsec. (d) to correct a grammatical error, effective June 3, 1996; P.A. 04-244 added Subsec. (a)(6) re demonstration that the remediation is not more stringent than required by remediation standards, added new Subsec. (b) re deadlines for submission of application or preauthorization request, redesignated existing Subsecs. (b) to (d) as new Subsecs. (c) to (e), respectively, and made technical changes in said Subsec. (c), effective June 8, 2004; June Sp. Sess. P.A. 05-3 amended Subsec. (a) to add "and remediating", to delete references to "responsible" party and to "entity", to replace "damage or personal injury" with "bodily injury, property damage or damage to natural resources", to add requirement re attempt to provide written notice, to delete reference to denial of release, and to add 60-day requirement re application, designated a portion of existing Subsec. (a) as new Subsec. (c), added new Subsec. (b) re approval of services and activities that surpass certain cost thresholds and inclusion of fees and certification by licensed environmental professional, amended new Subsec. (c) to make technical changes, to change names of certain entities and notification requirement, to add new criteria for applicants in Subdivs. (7) to (10), and to specify criteria for persons other than a responsible party, added new Subsec. (d) re compliance evaluations of existing tank systems, added new Subsec. (e) re reduction of payment or amount to be reimbursed based on compliance evaluations, deleted former Subsec. (b)(1) and redesignated existing Subsecs. (b)(2) and (3) as Subsecs. (f)(1) and (2), amended Subsec. (f)(1) to rephrase language re preauthorization, added new Subsec. (f)(3) re deadline for applications, redesignated existing Subsec. (c) as Subsec. (g) and amended same to allow commissioner to request an action, to revise persons from which attorney general may attempt to recover costs, to make technical changes, to delete references to knowingly and intentionally failing to notify commissioner, to add negligent acts or omissions that constitute noncompliance with installation, operation, and maintenance requirements in Subdiv. (2), to revise Subdiv. (3) to insert reference to "a final" order, to replace reference to general statutes and regulations with "this chapter" or certain final judgments, to add Subdiv. (4) re payment made from account, and to add language re inability of person to file an application or request upon receipt of demand letter or where person is subject of an action, redesignated existing Subsec. (d) as Subsec. (h) and amended same to change names of certain entities, to make technical changes, and to prohibit resubmission of costs in application subject to board decision, redesignated existing Subsec. (e) as Subsec. (i) and amended same to make a technical change and to delete language re refusal to pay first $10,000 of third party claims, added Subsec. (j) re identification of a category of activities and approval of a percentage of costs, and added Subsec. (k) re notification of release, effective June 30, 2005; P.A. 06-196 made technical changes in Subsec. (b)(1)(B) and (3), effective June 7, 2006; P.A. 07-192 amended Subsec. (b)(1) to make technical changes, provide differing timeframes for submission of approval by a licensed environmental professional and add provision re commissioner's approval pursuant to subdivision, effective July 5, 2007, and applicable to applications filed with the underground storage tank petroleum clean-up account on or after July 1, 2005, amended Subsec. (c)(5) to require notification concerning release and to add reference to regulations, and amended Subsec. (c)(10) to add Subpara. (A) designator, to add requirement re demonstration of financial responsibility, to require that only certain applicants do proximate cause analysis, to add new Subpara. (B) and to add provision re denial or partial payment or reimbursement on or before June 30, 2005, effective July 5, 2007, and applicable to applications filed with the underground storage tank petroleum clean-up account either prior to or subsequent to July 5, 2007, except that the provisions of Subsec. (a)(10)(A) shall be applicable only to applications filed on or after October 1, 2007, and amended Subsec. (g)(1) to add provision re knowing or intentional failure to submit Underground Storage Facility Notification Form, effective July 5, 2007, and applicable to applications filed with the underground storage tank petroleum clean-up account both prior to and subsequent to July 5, 2007; P.A. 08-124 made technical changes in Subsecs. (b)(1) and (c), effective June 2, 2008; June Sp. Sess. P.A. 09-3 deleted references to underground storage tank petroleum clean-up account and made conforming changes throughout; pursuant to

P.A. 11-80, “Commissioner of Environmental Protection” and “Department of Environmental Protection” were changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” and “Department of Energy and Environmental Protection”, respectively, in Subsec. (c), effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 deleted provisions re the Underground Storage Tank Petroleum Clean-Up Review Board and changed “board” to “commissioner”, changed “account” to “underground storage tank petroleum clean-up program” and “program”, amended Subsec. (b)(3) to add provision prohibiting commissioner from ordering or making payment or reimbursement from program if application relying upon approval from a licensed environmental professional does not include certification of approval, amended Subsec. (c) to delete provision re the costs for experts, amended Subsec. (h) to add reference to applications filed on or after June 15, 2012, amended Subsec. (i) to delete reference to Sec. 22a-449a, and made technical changes, effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449g. Appeals. Any person aggrieved by a decision of the commissioner after a hearing pursuant to subsection (h) of section 22a-449f may appeal from such decision to the superior court for the judicial district of New Britain within twenty days after the issuance of such decision. Such appeal shall be in accordance with chapter 54. All such appeals shall be heard by the court without a jury, and shall have precedence in the order of trial as provided in section 52-192. If an appeal is taken pursuant to this section, any portion of the ordered reimbursement or payment that is approved and not the subject of such appeal, shall be paid by the commissioner, within available appropriations and subject to the provisions of section 22a-449r, notwithstanding the pendency of the appeal.

(P.A. 88-230, S. 1, 12; P.A. 89-373, S. 8, 10; P.A. 90-98, S. 1, 2; P.A. 91-254, S. 5, 7; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4–6; P.A. 99-215, S. 24, 29; P.A. 11-80, S. 1; June 12 Sp. Sess. P.A. 12-1, S. 256.)

History: (Revisor's note: P.A. 88-230 authorized substitution of “judicial district of Hartford” for “judicial district of Hartford-New Britain” in public and special acts of the 1989 session, effective September 1, 1991); P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 91-254 authorized commissioner to make appeal and provided for appeals under this section to be in accordance with chapter 54 and that any uncontested portion of a reimbursement order shall be paid notwithstanding the pendency of any appeal; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; (Revisor's note: In 1995 a reference to clean-up “fund” was replaced editorially by the Revisors with a reference to clean-up “account” to conform section with Sec. 22a-449c as amended by P.A. 94-130); P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 99-215 replaced “judicial district of Hartford” with “judicial district of New Britain”, effective June 29, 1999; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 deleted reference to the review board, added provision re payment of any portion of ordered reimbursement or payment that is approved and not the subject of appeal and made technical changes, effective June 15, 2012 (Revisor's note: An internal reference in June 12 Sp. Sess. P.A. 12-1, S. 256, to “section 262 of this act” was determined by the Revisors to properly refer to section 261 of said act and was therefore codified as “section 22a-449r”).

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449h. Extension of time to replace school underground storage tank systems. Notwithstanding the provisions of regulations adopted by the Commissioner of Energy and Environmental Protection under subsection (d) of section 22a-449, (1) a town, regional school district or incorporated or endowed high school or academy approved by the State Board of Education pursuant to section 10-34 shall have until October 1, 1991, or five years after the life expectancy of an underground storage tank system, as defined in subdivision (5) of section 22a-449a, of a public school building or building of such an incorporated or endowed high school or academy, whichever is later, to replace such a system, provided application for a school building project for such

purpose is made on or before October 1, 1990, or October first of the year preceding the fifth year, as appropriate, to the state Department of Education pursuant to section 10-283 or 10-285b, and (2) a nonpublic elementary or secondary school shall have until October 1, 1991, or five years after the life expectancy of such an underground storage tank system of a nonpublic school, whichever is later, to replace such a system.

(P.A. 89-373, S. 9, 10; P.A. 90-181, S. 5; 90-256, S. 8, 9; P.A. 11-80, S. 1.)

History: P.A. 90-181 added Subdiv. (2) providing an extension of time to nonpublic schools for the replacement of underground storage tank systems; P.A. 90-256 added five years after the life expectancy of an underground storage tank system as an alternative deadline for replacement and provided that the extensions of time in the section apply to all elementary and secondary schools; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449i. Authority of commissioners unaffected. Nothing in sections 22a-449a to 22a-449h, inclusive, shall affect the authority of the Commissioner of Energy and Environmental Protection or the Commissioner of Public Health under any other statute or regulation, including, but not limited to, the authority to issue any order to prevent or abate pollution or potential sources of pollution or to provide potable drinking water.

(P.A. 91-254, S. 6, 7; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; June Sp. Sess. P.A. 09-3, S. 480; P.A. 11-80, S. 1.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; (Revisor's note: In 1995 the word “fund” was replaced editorially by the Revisors with “account” in review board's name to conform with Sec. 22a-449b et seq., as amended by P.A. 94-130); P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; June Sp. Sess. P.A. 09-3 deleted provision re determination by Underground Storage Tank Petroleum Clean-Up Account Review Board; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449j. Immunity from liability to the state for certain residential underground heating oil storage tank systems. (a) No person shall be liable to the state in any civil action for any cost relating to any spill, as defined in section 22a-452c, attributable to a residential underground heating oil storage tank system if (1) such person has provided for the removal or replacement of such system after July 1, 1999, and before January 1, 2002, and (2) such person has provided notice and documentation of such removal or replacement to the Commissioner of Energy and Environmental Protection in such form and containing such information as the commissioner may require. After a person has been released from potential liability pursuant to this subsection, such release as it applies to such removal or replacement shall apply to subsequent owners of property where such removal or replacement occurred. The provisions of this subsection shall not apply to any person who fails to discontinue the use of or to remove a residential underground heating oil storage tank system within the period specified by an order of the Commissioner of Energy and Environmental Protection. Removals and replacements shall be conducted in accordance with subsection (a) of section 22a-449m.

(b) On or before January 1, 2000, and annually thereafter until January 1, 2003, the commissioner shall report to the joint standing committee of the General Assembly having cognizance of matters relating to the environment regarding the program established under this section, the extent to which it is used and the extent of the state's liability for environmental remediation as a result of the program.

(P.A. 99-269, S. 1, 6; P.A. 00-201, S. 4, 8; P.A. 11-80, S. 1.)

History: P.A. 99-269 effective July 1, 1999; P.A. 00-201 designated existing language re immunity from liability as Subsec. (a), deleting provisions re underground petroleum storage tank system, adding provision re residential underground heating oil storage tank system and adding language re release applying to subsequent owners, exceptions, and requirement to comply with Sec. 22a-449m(a), and designated existing language re reports as Subsec. (b), effective June 1, 2000; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449k. Residential underground heating oil storage tank replacement contractors. Registration. Fees. No person shall remove or replace or subcontract for the removal or replacement of a residential underground heating oil storage tank system if the person finds such removal or replacement will involve remediation of contaminated soil or groundwater, unless the person is a registered contractor. To become a registered contractor, a person shall provide to the commissioner on forms prescribed by said commissioner, (1) evidence of financial assurance in the form of liability insurance coverage or liquid company assets in an amount not less than one million dollars, and (2) a written statement certifying that such person has had any training required by law for such business and that such person has (A) performed no fewer than three residential underground petroleum storage tank system removals, or (B) has contracted for at least three removals of residential underground petroleum storage tank systems. Such person shall pay a registration fee of nine hundred forty dollars to the commissioner. Each contractor holding a valid registration on July first shall, not later than August first of that year, pay a renewal fee to the commissioner of four hundred seventy dollars in order to maintain such registration. Any money collected for registration pursuant to this section shall be deposited in the General Fund. The commissioner may revoke a registration for cause and, on and after the date the requirements for financial assurance, training and performance standards are established pursuant to subsection (b) of section 22a-449d, may reject any application for registration that does not meet such requirements.

(P.A. 99-269, S. 2, 6; P.A. 00-201, S. 5, 8; June 30 Sp. Sess. P.A. 03-6, S. 135; P.A. 09-122, S. 2; June Sp. Sess. P.A. 09-3, S. 427; P.A. 11-80, S. 1; June 12 Sp. Sess. P.A. 12-1, S. 257.)

History: P.A. 99-269 effective July 1, 1999; P.A. 00-201 substantially rewrote language to prohibit person from replacing or removing certain residential underground heating oil storage tank systems unless registered and added provisions re subcontracting, renewal fees, deposit of registration funds, registration revocation and registration requirements, effective June 1, 2000; June 30 Sp. Sess. P.A. 03-6 increased registration fee from $500 to $750 and increased renewal fee from $250 to $375, effective August 20, 2003; P.A. 09-122 deleted provision re surety bond and changed liability insurance coverage or liquid assets amount from $250,000 to $1,000,000,000 in Subdiv. (1), effective June 9, 2009; June Sp. Sess. P.A. 09-3 deleted provision re payment of costs out of residential underground heating oil storage tank system clean-up subaccount, increased fees and substituted "General Fund" for "Environmental Quality Fund"; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 deleted reference to the review board and made technical changes, effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449*l*. Remediation costs of removal or replacement of certain residential underground heating oil storage tank systems. Payment for services commenced prior to July 1, 2001. Procedures. (a) As used in this section, "registered contractor" means a person registered with the commissioner pursuant to section 22a-449k.

(b) Prior to July 1, 2001, if, in the course of removing or replacing a residential underground heating oil storage tank system, a registered contractor finds that there has been a spill, as defined in section 22a-452c, attributable to such system and such contractor estimates that the remediation of such spill is likely to cost more than five thousand dollars, such contractor shall immediately notify the Department of Energy and Environmental Protection regarding such spill. If, after the contractor's initial estimate, the contractor subsequently determines that such cost will exceed five thousand dollars, the contractor shall upon that determination notify the Department of Energy and Environmental Protection. The department may assess the spill and confirm that the remediation proposed by the contractor is appropriate and necessary, or may authorize an environmental professional licensed under section 22a-133v to assess the spill and make such confirmation. Any such remediation shall be subject to approval by the department, except that the department may authorize an environmental professional licensed under section 22a-133v to make a recommendation regarding such approval. If a registered contractor estimates that the remediation of such spill is likely to cost more than ten thousand dollars, the commissioner or any agent of the commissioner or an environmental professional licensed under said section 22a-133v contracted by the department shall inspect the site and confirm that such remediation is reasonable. The costs of such an inspection shall be eligible for payment within available resources.

(c) (1) In order to receive reimbursement of eligible costs for services commenced after July 1, 1999, and prior to July 1, 2001, a registered contractor shall on or before December 1, 2001, submit to the commissioner for a disbursement from available resources, all reasonable costs for work commenced prior to July 1, 2001, pursuant to a contract with the owner or the state for the remediation of a residential underground heating oil storage tank system for the purpose of providing payment for the costs of such remediation. An owner of a residential underground heating oil storage tank system shall not be responsible to the registered contractor or any subcontractor of the registered contractor for any costs that are eligible for payment from the residential underground heating oil storage tank system clean-up program over five hundred dollars. The registered contractor or any subcontractor shall not bill the owner for any costs eligible for payment from said program over five hundred dollars unless the contractor or subcontractor enters into a separate written contract with the owner, on a form prescribed by the commissioner, authorizing the contractor or subcontractor to bill the owner more than five hundred dollars and such separate contract gives the owner the right to cancel such contract up to three days after entering into it. Such owner shall provide to the commissioner a statement confirming the registered contractor has been engaged by such owner to remove or to replace such residential underground heating oil storage tank system and perform the remediation and shall execute an instrument which provides for payment to the program of any amounts realized by the owner, after any costs of litigation or attorney's fees have been paid, from a judgment or settlement regarding any claim for the costs of such remediation made against an insurance policy or any party. In any service contract entered into between a registered contractor and an owner for the remediation of a residential underground heating oil storage tank system, the registered contractor shall clearly identify all costs, including markup costs, that are not or may not be eligible for payment under said program.

(2) The registered contractor shall submit documentation, satisfactory to the commissioner, of any costs associated with such remediation. The commissioner may deny remediation costs of the registered contractor that the commissioner determines are unreasonable based on the guidelines established pursuant to subsection (b) of section 22a-449d on and after the date the commissioner establishes such guidelines, and may deny remediation costs (A) in excess of five thousand dollars if the Department of Energy and Environmental Protection was not notified in accordance with the provisions of subsection (b) of this section, and (B) in excess of ten thousand dollars if the site was not inspected in accordance with the provisions of subsection (b) of this section. The commissioner shall deny any such costs in excess of fifty thousand dollars unless the commissioner determines such additional costs are warranted to protect public health and the environment. If a registered contractor fails to submit to the commissioner documentation of costs associated with such remediation that may be eligible for payment from the residential underground heating oil storage tank system clean-up program or if the registered contractor submits documentation of such costs but the commissioner denies payment of such costs, the registered contractor shall be liable for such costs and shall have no cause of action against the owner of the underground petroleum storage tank.

(3) A copy of the commissioner's decision shall be sent to the registered contractor by certified mail, return receipt requested. Any contractor aggrieved by a decision of the commissioner may, not more than twenty days after the date the decision was issued, request a hearing before the commissioner in accordance with chapter 54. After such hearing, the commissioner shall consider the information submitted and affirm or modify the decision on the reimbursement. A copy of the affirmed or modified decision shall be sent to any contractor by certified mail, return receipt requested.

(d) The commissioner shall not accept applications pursuant to this section on or after December 1, 2001, for the reimbursement of eligible costs for services completed prior to July 1, 2001, except that, notwithstanding subsection (c) of this section, prior to July 1, 2004, the commissioner may accept applications for reimbursement from and make payments to any owner who demonstrates that the owner paid for eligible costs for services provided to the owner prior to July 1, 2001, and either (1) the registered contractor filed an application for reimbursement between December 1, 2001, and January 1, 2003, or (2) the owner, prior to May 1, 2003, filed a complaint with the commissioner regarding the failure of the registered contractor to file a timely application.

(P.A. 99-269, S. 3, 6; P.A. 00-201, S. 6, 8; June Sp. Sess. P.A. 01-9, S. 39, 131; P.A. 04-172, S. 2, 3; June Sp. Sess. P.A. 09-3, S. 428; P.A. 11-80, S. 1; June 12 Sp. Sess. P.A. 12-1, S. 258.)

History: P.A. 99-269 effective July 1, 1999; P.A. 00-201 changed “contractor” to “registered contractor” throughout, amended Subsec. (a) by deleting prohibition on person replacing or removing underground petroleum storage tank unless registered, amended Subsec. (b) by adding “residential underground heating oil storage tank system”, deleting description of the types of tanks provision applies to, adding requirement re immediate notification to department re spill and adding provision re spills likely to cost more than $10,000 needing inspection, amended Subsec. (c)(1) by deleting language re person licensed under Sec. 22a-454 and re disbursement from $2,000,000 in bond proceeds, and by adding language re disbursement from the residential underground heating oil storage tank system clean-up subaccount for remediation costs, re owner not being responsible for costs over $500 and re contract requirements, amended Subsec. (c)(2) by adding language requiring documentation of costs, requiring costs to be reasonable based on guidelines and requiring costs over $50,000 to be approved by commissioner, and by adding provisions re denial of remediation costs and liability of registered contractor, and added Subsec. (c)(3) re decision and hearing, effective June 1, 2000; June Sp. Sess. P.A. 01-9 amended Subsec. (b) to add reference to July 1, 2001, amended Subsec. (c) to add provisions re reimbursement for services commenced after July 1, 1999, and prior to July 1, 2001, and re submission deadline of December 1, 2001, and added Subsec. (d) prohibiting acceptance of applications pursuant to section on or after December 1, 2001, effective July 1, 2001; P.A. 04-172 amended Subsec. (c)(1) to add “or the state” and amended Subsec. (d) to add exception to allow the acceptance of applications after December 1, 2001, from certain owners who paid for eligible costs for services prior to July 1, 2001, effective June 1, 2004; June Sp. Sess. P.A. 09-3 deleted references to residential underground heating oil storage tank system clean-up subaccount in Subsecs. (b) and (c)(1), substituted “program” for “subaccount” throughout, amended Subsec. (b) to provide that costs of inspection are eligible for payment within available resources, amended Subsec. (c)(1) to provide that reimbursement of eligible costs may be disbursed from available resources, amended Subsecs. (c)(1) and (d) to delete “Account” from title of board and made a technical change; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” and “Department of Environmental Protection” were changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” and “Department of Energy and Environmental Protection”, respectively, effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 changed “Underground Storage Tank Petroleum Clean-Up Review Board”, “review board” and “board” to “commissioner”, changed “account” to “program” and made technical changes, effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449m. Standards for remediation of soil and replacement of residential underground heating oil storage tank systems. Any remediation of contaminated soil or groundwater the cost of which is to be paid out of the program established under subsection (a) of section 22a-449c shall be performed by or under the direct onsite supervision of a registered contractor, as defined in sections 22a-449*l* and 22a-449n, and shall be performed in

accordance with regulations adopted by the commissioner pursuant to section 22a-133k that establish direct exposure criteria for soil, pollutant mobility criteria for soil and groundwater protection criteria for GA and GAA areas. If the replacement of any such residential underground heating oil storage tank system performed pursuant to the provisions of this section involves installation of an underground petroleum storage tank, such tank shall conform to any standards which apply to new underground petroleum storage tanks.

(P.A. 00-201, S. 7, 8; June Sp. Sess. P.A. 01-9, S. 40, 131; P.A. 07-192, S. 2; June Sp. Sess. P.A. 09-3, S. 429; P.A. 13-209, S. 12.)

History: P.A. 00-201 effective June 1, 2000; June Sp. Sess. P.A. 01-9 amended Subsec. (a) to add reference to Sec. 22a-449n, effective July 1, 2001; P.A. 07-192 amended Subsec. (b) to make technical changes and require adoption of regulations re removal of pipes; June Sp. Sess. P.A. 09-3 amended Subsec. (a) by substituting "program" for "subaccount" and by replacing reference to Sec. 22a-449c(b) with reference to Sec. 22a-449c(a); P.A. 13-209 deleted former Subsec. (b) re adoption of regulations and made a technical change.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449n. Remediation costs of removal or replacement of certain residential underground heating oil storage tank systems. Payment for services commenced on or after July 1, 2001. Procedures. (a) As used in this section, "registered contractor" means a person registered with the Commissioner of Energy and Environmental Protection pursuant to section 22a-449k, "qualifying income" means the owner's adjusted gross income, as defined in section 12-701, for the calendar year immediately preceding the year in which costs eligible for payment were incurred under this section and "costs eligible for payment" means costs that are reasonable for payment, as determined by the guidelines established pursuant to section 22a-449d.

(b) If, in the course of removing or replacing a residential underground heating oil storage tank system, a registered contractor finds that there has been a spill, as defined in section 22a-452c, attributable to such a system, or if such contractor estimates that the remediation of such spill is likely to cost more than ten thousand dollars then such contractor shall immediately notify the Department of Energy and Environmental Protection. The commissioner may assess the spill and confirm that the remediation proposed by the contractor is appropriate and necessary, or may authorize an environmental professional licensed under section 22a-133v to assess the spill and make such confirmation. Any such remediation shall be subject to approval by the commissioner. The commissioner may authorize an environmental professional licensed under section 22a-133v to make a recommendation regarding such approval. The costs of an inspection pursuant to this section shall be eligible for payment under the residential underground heating oil storage tank system clean-up program established under subsection (a) of section 22a-449c. The commissioner may revoke a registration pursuant to section 22a-449k for failure of a contractor to notify the department as required by this section.

(c) On or after July 1, 2001, to be eligible for payment pursuant to this section, an owner shall submit the following information to the commissioner, in such form as the commissioner may require, prior to entering into a contract with a registered contractor for remediation of a spill attributable to a residential underground heating oil storage tank system: (1) The name and Social Security number of the property owner; (2) a verification that such tank serves the owner's primary residence; (3) a verification of the owner's qualifying income; and (4) the name of the registered contractor who will perform the remediation. The commissioner shall, not later than thirty days following receipt of such information, send a written notice to the owner that specifies whether the owner is eligible for payment under this section, whether funds are available for the owner under this section and the amount of remediation costs for which the owner is responsible prior to receiving payment under this section.

(d) Subject to the provisions of subsection (e) of this section, an owner may be reimbursed for all reasonable costs for work commenced on or after July 1, 2001, in accordance with the following: (1) If an owner's qualifying income is less than or equal to fifty thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of five hundred dollars; (2) if an owner's qualifying income is greater than fifty thousand dollars and less than or equal to one hundred thousand dollars, the owner may be reimbursed for costs eligible

for payment in excess of two thousand dollars; (3) if an owner's qualifying income is greater than one hundred thousand dollars and less than or equal to one hundred fifty thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of four thousand dollars; (4) if an owner's qualifying income is greater than one hundred fifty thousand dollars and less than or equal to two hundred thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of five thousand dollars; (5) if an owner's qualifying income is greater than two hundred thousand dollars and less than or equal to two hundred fifty thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of seven thousand five hundred dollars; (6) if an owner's qualifying income is greater than two hundred fifty thousand dollars and less than or equal to five hundred thousand dollars, the owner may be reimbursed for costs eligible for payment in excess of ten thousand dollars; (7) if an owner's qualifying income is greater than five hundred thousand dollars, the owner is not eligible for payment of costs. No registered contractor or any subcontractor of a registered contractor shall accept payment for any costs eligible for payment from said program until it has provided the owner with the information necessary to apply for a disbursement pursuant to subsection (e) of this section.

(e) (1) On or after July 1, 2001, an owner shall submit to the commissioner an application that is postmarked no later than December 31, 2001, for a disbursement from the residential underground heating oil storage tank system clean-up program, within available resources, documentation of all costs eligible for payment for work performed pursuant to a contract with the owner for the remediation of a residential underground heating oil storage tank system for the purpose of providing payment for the costs of such remediation, provided such owner has complied with the provisions of subdivisions (1) and (2) of subsection (a) of section 22a-449j and provided such remediation was completed on or before December 1, 2001. Such payments shall be made in accordance with subsection (d) of this section. Such owner shall provide to the commissioner a statement confirming that the registered contractor has been engaged by such owner to remove or to replace such residential underground heating oil storage tank system, except that a storage tank system and any associated ancillary equipment shall not be subject to such requirement and perform the remediation and shall execute an instrument which provides for payment to the program of any amounts realized by the owner, after any costs of litigation or attorney's fees have been paid, from a judgment or settlement regarding any claim for the costs of such remediation made against an insurance policy or any person.

(2) In any service contract entered into between a registered contractor and an owner for the remediation of a residential underground heating oil storage tank system, the registered contractor shall clearly identify all costs, including markup costs, that are not or may not be eligible for payment from said program.

(3) The owner shall submit documentation, satisfactory to the commissioner, of any costs associated with such remediation. The commissioner may deny payment of remediation costs that the commissioner determines are unreasonable based on the guidelines established pursuant to subsection (b) of section 22a-449d on and after the date the commissioner establishes such guidelines. The commissioner shall deny any such costs if the owner fails to comply with subsection (c) of this section and any such costs in excess of fifty thousand dollars unless the commissioner determines such additional costs are warranted to protect public health and the environment.

(4) A copy of the commissioner's decision shall be sent to the owner by certified mail, return receipt requested. Any owner aggrieved by a decision of the commissioner may, not more than twenty days after the date the decision was issued, request a hearing before the commissioner in accordance with chapter 54. After such hearing, the commissioner shall consider the information submitted and affirm or modify the decision. A copy of the affirmed or modified decision shall be sent to the owner by certified mail, return receipt requested.

(5) No owner shall be entitled to reimbursement both under this section and section 22a-449*l*.

(June Sp. Sess. P.A. 01-9, S. 36, 131; June Sp. Sess. P.A. 09-3, S. 430; P.A. 11-80, S. 1; June 12 Sp. Sess. P.A. 12-1, S. 259.)

History: June Sp. Sess. P.A. 01-9 effective July 1, 2001; June Sp. Sess. P.A. 09-3 substituted “program” for “subaccount” in Subsecs. (b), (d) and (e) and amended Subsec. (e)(1) to delete “Account” from title of board and provide for disbursement “within available resources” (Revisor's note: In Subsec. (b), an internal reference to Sec. 22a-449c(b) was changed editorially by the Revisors to Sec. 22a-449c(a) for accuracy); pursuant to P.A. 11-

80, “Commissioner of Environmental Protection” and “Department of Environmental Protection” were changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” and “Department of Energy and Environmental Protection”, respectively, effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 changed “Underground Storage Tank Petroleum Clean-Up Board” and “review board” to “commissioner”, changed “account” to “program” and made technical changes, effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449o. Requirement for double-walled underground storage tanks. (a) As used in this section:

(1) “Double-walled underground storage tank” means an underground storage tank that is listed by Underwriters Laboratories, Incorporated and that is constructed using two complete shells to provide both primary and secondary containment, and having a continuous three-hundred-sixty degree interstitial space between the two shells which interstitial space shall be continuously monitored using inert gas or liquid, vacuum monitoring, electronic monitoring, mechanical monitoring or any other monitoring method approved in writing by the commissioner before being installed or used;

(2) “Double-walled underground storage tank system” means one or more double-walled underground storage tanks connected by double-walled piping and utilizing double-walled piping to connect the underground storage tank to any associated equipment;

(3) “Hazardous substance” means a substance defined in Section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, but does not include any substance regulated as a hazardous waste under subsection (c) of section 22a-449 or any mixture of such substances and petroleum;

(4) “Petroleum” means crude oil, crude oil fractions and refined petroleum fractions, including gasoline, kerosene, heating oils and diesel fuels;

(5) “Underground storage tank” means a tank or combination of tanks, including underground pipes connected thereto, used to contain an accumulation of petroleum or hazardous substances, whose volume is ten per cent or more beneath the surface of the ground, including the volume of underground pipes connected thereto; and

(6) “Underground storage tank system” means an underground storage tank and any associated ancillary equipment and containment system.

(b) No person or municipality shall install, on or after October 1, 2003, an underground storage tank system and no person or municipality shall operate or use, an underground storage tank system installed after October 1, 2003, unless such underground storage tank system is a double-walled underground storage tank system. This section shall not apply to a residential underground storage tank system, as defined in section 22a-449a.

(P.A. 03-218, S. 12.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449p. Milestones for investigation and remediation of a release. Notwithstanding any provision of sections 22a-449a to 22a-449i, inclusive, or any regulation adopted pursuant to said sections, except as provided for in subdivision (6) of this section, with respect to the investigation and remediation of a release, the underground storage tank petroleum clean-up program established pursuant to section 22a-449c shall be used to provide payment or reimbursement only when any of the following milestones are completed:

(1) A release response report prepared by an environmental professional, as defined in section 22a-133v, has been submitted to the commissioner which report describes: (A) All initial response actions taken that are necessary to prevent an on-going release and to mitigate an explosion, fire or other safety hazard resulting from

the release; (B) the results of an initial site investigation that determines the presence and extent of free product from the release, the potential for or existence of groundwater pollution from the release which threatens the quality of drinking water well or wells, and whether the release has resulted in soil vapors or indoor air that threatens public health; and (C) all interim actions taken and proposed to remove such free product to the extent technically practicable, to provide potable water to any person whose drinking water has been polluted by a substance from the release which is above the groundwater protection criteria or above a level determined by the Commissioner of Public Health to be an unacceptable risk of injury to the health or safety of persons using such groundwater as a public or private source of water for drinking or other personal or domestic uses, whichever is more stringent, and to mitigate any risk to public health from polluted soil vapor or indoor air resulting from the release.

(2) An interim remedial action report approved, in writing, by a licensed environmental professional has been submitted to the commissioner or an interim remedial action report has been approved, in writing, by the commissioner. Such interim remedial action report shall describe in detail all interim remedial action taken to: (A) Remove free product to the maximum extent technically practicable; (B) ensure that all persons whose drinking water was polluted by the release have been provided potable water; and (C) ensure that soil vapors which pose a risk to public health are prevented from migrating into any overlying buildings.

(3) An investigation report and remedial action plan approved, in writing, by a licensed environmental professional has been submitted to the commissioner, or an investigation report and remedial action plan has been approved, in writing, by the commissioner. Such investigation report and remedial action plan shall include a detailed description of an investigation which determines the existing and potential extent and degree of soil, surface water, soil vapor and groundwater pollution, on and off-site, resulting from the release and describes all actions proposed to remediate soil, surface water, air or groundwater polluted by the release in accordance with the regulations adopted pursuant to section 22a-133k.

(4) A soil remedial action report approved, in writing, by a licensed environmental professional has been submitted to the commissioner, or a soil remedial action report has been approved, in writing, by the commissioner. Such soil remedial action report shall describe in detail the extent of soil pollution resulting from the release, all remedial actions taken to abate such soil pollution, and all documentation that demonstrates that such soil pollution has been remediated in accordance with the regulations adopted pursuant to section 22a-133k.

(5) A groundwater remedial action progress report approved, in writing, by a licensed environmental professional has been submitted to the commissioner or a groundwater remedial action progress report has been approved, in writing, by the commissioner. Such report may only be submitted after all construction necessary to implement the approved groundwater remedial actions has been completed and the groundwater remedial actions have been operated and monitored for one year. Such report shall include a detailed description of the remedial actions, the results of groundwater or any other monitoring conducted, an analysis of whether the remedial actions are effective, and a proposal for any changes in the groundwater remedial actions and monitoring that may be necessary to achieve compliance with the regulations adopted pursuant to section 22a-133k.

(6) An annual groundwater remedial action progress report approved, in writing, by a licensed environmental professional has been submitted to the commissioner or approved, in writing, by the commissioner. Such report shall include a detailed description of the remedial actions, the results of groundwater or any other monitoring conducted for the year covered by the report, an analysis of whether the remedial actions are effective, and a proposal for any changes in the groundwater remedial actions and monitoring that may be necessary to achieve compliance with the regulations adopted pursuant to section 22a-133k. A responsible party pursuant to section 22a-449f may submit to the commissioner up to, but not more than, four separate applications or requests for payment or reimbursement in a calendar year regarding costs, expenses or obligations paid or incurred concerning annual groundwater monitoring or compliance with this subdivision.

(7) A final remedial action report approved by a licensed environmental professional has been submitted to the commissioner, or a final remedial action report has been approved, in writing, by the commissioner, that

documents that the release has been investigated in accordance with prevailing standards and guidelines and that the soil, surface water, groundwater and air polluted by the release has been remediated in accordance with the regulations adopted pursuant to section 22a-133k.

(8) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, establishing milestones for investigation and remediation of releases or suspected releases from underground storage tank systems, including milestones that differ from those set forth in this section. Upon the adoption of such regulations, the milestones for investigation and remediation for which payment or reimbursement is available from the program shall be those set forth in the regulations.

(9) This section shall apply to an application or request for reimbursement or payment received by the commissioner on or after October 1, 2005, regardless of when the release or suspected release occurred, whether actions in response to the release or suspected release have already occurred or whether prior applications or requests seeking payment or reimbursement have already been submitted to the commissioner.

(June Sp. Sess. P.A. 05-3, S. 95; P.A. 06-196, S. 261; June Sp. Sess. P.A. 09-3, S. 431; P.A. 11-80, S. 1; June 12 Sp. Sess. P.A. 12-1, S. 260.)

History: June Sp. Sess. P.A. 05-3 effective June 30, 2005; P.A. 06-196 made technical changes, effective June 7, 2006; June Sp. Sess. P.A. 09-3 substituted “program” for “account”; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011; June 12 Sp. Sess. P.A. 12-1 changed “board” to “commissioner” in Subdivs. (6) and (9) and made technical changes, effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449q. Storage of underground storage tank system records. The owner or operator of an underground storage tank system storing petroleum that is subject to section 22a-449(d)-101 et seq. of the regulations of Connecticut state agencies, who owns or operates more than ten facilities with underground storage tank systems, may store records required to be maintained under section 22a-449(d)-103(e) of the regulations of Connecticut state agencies, in a central location in the state of Connecticut, provided such owner or operator: (1) Specifies, in writing, the location of any such centrally stored records and such other information as the Commissioner of Energy and Environmental Protection may prescribe related to such storage on a form prescribed by said commissioner and submits such form to said commissioner; and (2) ensures that such records are immediately available for inspection by the Commissioner of Energy and Environmental Protection, or the commissioner's designee, at any such central location. The following records may not be stored solely at such a central location but shall be maintained at the site of the underground storage tank system: (A) A copy of all Underground Storage Tank Facility Notification Forms, or EPHM-6, submitted to the commissioner, regarding underground storage tanks for the site; (B) for all metallic underground storage tank systems, records concerning the most recent cathodic protection test; (C) for underground storage tank systems with impressed current cathodic protection, the last six months of records regarding the inspection of the cathodic protection systems, if applicable; (D) the most recent prior twelve months of records related to repairs of the underground storage tank system required by section 22a-449(d)-103(d)(6) of the regulations of Connecticut state agencies; (E) the most recent six months of records demonstrating compliance with the release detection requirements of section 22a-449(d)-104 of the regulations of Connecticut state agencies, including, but not limited to, inventory control and reconciliation of such inventory control records; (F) records regarding the two most recent underground storage tank tightness pursuant to section 22a-449(d)-104(e)(3) of the regulations of Connecticut state agencies; and (G) any other records regarding the underground storage tank system that the commissioner specifies, in writing. Nothing in this section shall affect any requirement of this chapter other than the location of where certain records may be stored.

(P.A. 07-192, S. 1; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449r. Underground storage tank clean-up program. Distribution of funds. Order of priority. Reduced payment election. (a)(1) Notwithstanding the provisions of sections 22a-449a to 22a-449i, inclusive, and any regulations adopted pursuant to section 22a-449e, any amount available for purposes of paying applicants under the underground storage tank clean-up program shall be distributed as follows: (A) One-quarter for payment or reimbursement to municipal applicants and other applicants; (B) one-quarter for payment or reimbursement to small station applicants; (C) one-quarter for payment or reimbursement to mid-size station applicants; and (D) one-quarter for payment or reimbursement to large station applicants. If at any time there is an amount remaining in one such category and if in such category there are no pending applications or applications for which payment or reimbursement has been ordered by the commissioner but has not been made, or if such category is for payment or reimbursement to mid-size station or large station applicants and the most recent reverse auction under subsection (c) of this section results in no payment to any such applicant or there is an amount remaining after taking into account all potential payments that could be made to any such applicants in said category, then such amount shall be redistributed for payment or reimbursement in the following order of priority: (i) First to municipal applicants and other applicants, (ii) if after redistribution pursuant to subclause (i) of this subdivision there is an amount remaining, then to small station applicants, (iii) if after redistribution pursuant to subclauses (i) and (ii) of this subdivision there is an amount remaining, then to mid-size station applicants, and (iv) if after redistribution pursuant to subclauses (i), (ii) and (iii) of this subdivision there is an amount remaining, then to large station applicants.

(2) The commissioner shall determine whether an applicant is a municipal applicant, small, mid-size or large station applicant or other applicant. Such determination shall be based on the applicant's status at the time the commissioner received the applicant's first application for payment or reimbursement. In making such determination, the commissioner shall include all affiliates of an applicant and shall consider any underground storage tank system owned, operated, leased or used by an applicant on the property of another to be an interest in a parcel of real property. The commissioner shall make one such determination per applicant. Such determination shall apply to all applications submitted by such applicant before, on or after June 15, 2012, including, but not limited to, applications for which payment or reimbursement has been ordered by the commissioner but has not been made. In the case of assignees under subdivision (2) of subsection (a) of section 22a-449c, for assignments made prior to July 1, 2012, the commissioner shall determine the assignee to be an other applicant and for assignments made on or after July 1, 2012, the assignee shall assume the status of the assignor. Each applicant shall submit information regarding whether it is a municipal applicant, small, mid-size or large station applicant or other applicant to the commissioner, on a form prescribed by the commissioner, and shall provide any additional information the commissioner deems necessary to make such determination. The commissioner shall not order payment or reimbursement to an applicant until the commissioner makes the determination required under this subdivision for such applicant.

(b) Notwithstanding the provisions of sections 22a-449a to 22a-449i, inclusive, payment or reimbursement to municipal applicants, small station applicants and other applicants shall be in accordance with this subsection and shall follow the order of priority set forth in this subsection. The provisions of this subsection shall apply to all applications submitted by such applicants before, on or after June 15, 2012, including, but not limited to, applications for which payment or reimbursement has been ordered by the commissioner but has not been made. Priority shall be given to those applications for which the commissioner has ordered payment or reimbursement beginning from the earliest date payment or reimbursement was ordered. If payment or reimbursement was ordered on the same day, priority shall be given to those applications that were received by the commissioner earliest. If there are insufficient funds to satisfy payment and reimbursement of municipal applicants, small station applicants and other applicants, the prioritization established pursuant to this subsection shall carry over to the subsequent fiscal quarter, and if necessary, from year to year.

(c) (1) Notwithstanding the provisions of sections 22a-449a to 22a-449i, inclusive, and any regulations adopted pursuant to section 22a-449e, payment or reimbursement to mid-size station applicants and large station applicants under the program shall be in accordance with this subsection and shall follow the order of priority set forth in this subsection.

(2) The provisions of this subsection shall create a reverse auction system, and shall apply to all applications submitted by mid-size or large station applicants before, on or after June 15, 2012, including, but not limited to, applications for which payment or reimbursement has been ordered by the commissioner but has not been made. For purposes of this section, a payment election at or below the amount specified in subparagraph (A) or (B) of this subdivision shall be called the “reduced payment election”.

(A) In the fiscal year beginning July 1, 2012, no payment shall be made to mid-size station applicants in excess of thirty-five cents on each dollar the commissioner orders to be paid or reimbursed under the program. In the fiscal year beginning July 1, 2013, and each fiscal year thereafter, such amount shall increase by ten cents on each dollar per fiscal year and in such years no payment or reimbursement shall be made in excess of the amount in effect for such fiscal year. After such amount reaches one dollar, it shall no longer increase. In addition, if a mid-size station applicant agrees, in writing, not to submit any applications seeking payment or reimbursement under the program on or after October 1, 2012, such applicant shall receive an additional ten cents on each dollar that would be paid to such applicant pursuant to this subdivision, provided such additional ten cents shall not be counted when determining such mid-sized station applicant's priority for payment pursuant to subdivision (4) of this subsection and shall not result in an applicant receiving more than one dollar on each dollar the commissioner orders to be paid or reimbursed under the program.

(B) In the fiscal year beginning July 1, 2012, no payment shall be made to large station applicants in excess of twenty cents on each dollar the commissioner orders to be paid or reimbursed under the program. In the fiscal year beginning July 1, 2013, and each fiscal year thereafter, such amount shall increase by five cents per fiscal year and in such years no payment or reimbursement shall be made in excess of the amount in effect for such fiscal year. After such amount reaches one dollar, it shall no longer increase.

(3) (A) Each mid-size station applicant and large station applicant shall submit a payment election to the commissioner. Such payment election shall indicate what, if any, reduced payment election the applicant accepts. Such payment election shall be submitted, on a form prescribed by the commissioner, between July first and August first, or such additional time periods prescribed by the commissioner, annually, unless:

(i) Such applicant is submitting an application for the first time, in which case such applicant shall submit a payment election with such application; or

(ii) Such applicant has submitted a reduced payment election, in which case, a subsequent payment election shall not be required, but may be submitted if an applicant agrees to accept a lower reduced payment election than was made in the previously submitted payment election.

(B) An applicant's payment election, including a reduced payment election, shall apply to, and shall be the same for, all applications submitted by such applicant before, on or after June 15, 2012, including, but not limited to, applications for which payment or reimbursement has been ordered by the commissioner but has not been made. An applicant's payment election shall remain in effect regardless of when the commissioner orders payment or reimbursement for an application or when payment for an application is made. An applicant's payment election shall be final and shall not be modified unless an applicant subsequently agrees to a lower reduced payment election pursuant to subparagraph (A)(ii) of this subdivision.

(C) An applicant's acceptance of payment or reimbursement in the amounts specified in such applicant's reduced payment election shall be considered final and full payment of all applications covered by such election and with the acceptance of such payment or reimbursement, an applicant agrees that it shall not seek any additional payment or reimbursement of any kind in any administrative or judicial proceeding for any cost, expense or other obligation associated with any such applications.

(4) Among mid-size station applicants or among large station applicants, priority for payment or reimbursement shall be given to those applicants who, through the payment election process set forth in subdivision (3) of this subsection, agree to accept the greatest reduction in the amount ordered for payment or reimbursement by the commissioner under the program, provided such payment shall not exceed the amount set forth in subparagraph (A) or (B) of subdivision (2) of this subsection, as applicable. In the case where the reduced payment election is equal among two or more mid-size station applicants or among two or more large station applicants, priority shall be given to those applications for which the commissioner ordered payment or reimbursement, beginning from the earliest date payment or reimbursement was ordered. In the case where such reduced payment election is equal among applicants and the commissioner ordered payment or reimbursement on the same day, priority shall be given to those applications that were received by the commissioner earliest. Any mid-size or large station applicant that chooses not to make the reduced payment election shall receive payment when the amount specified in subparagraph (A) or (B) of subdivision (2) of this subsection, as applicable, reaches one dollar and there are no mid-size and large station applicants with applications for which the commissioner has ordered payment or reimbursement, and who made the reduced payment election, remaining to be paid. Among mid-size station applicants who choose not to make the reduced payment election or among large station applicants who choose not to make the reduced payment election, priority with respect to the issuance of payment or reimbursement shall be given to those applications for which the commissioner has ordered payment or reimbursement, beginning from the earliest date payment or reimbursement was ordered. If there are insufficient funds to satisfy payment and reimbursement of mid-size and large station applicants, the prioritization established pursuant to this subsection shall carry over to the subsequent fiscal quarter, and if necessary, from year to year, provided such prioritization may change based upon a subsequent reduced payment election submitted pursuant to subparagraph (A)(ii) of subdivision (3) of this subsection.

(June 12 Sp. Sess. P.A. 12-1, S. 261; P.A. 13-247, S. 238.)

History: June 12 Sp. Sess. P.A. 12-1 effective June 15, 2012; P.A. 13-247 amended Subsec. (a) by inserting “paying applicants under” and adding provision re redistribution for order of priority if category is for payment or reimbursement to mid-size station or large station applicants and the most recent reverse auction resulted in no payment or if there is an amount remaining after all potential payments in category are taken into account in Subdiv. (1), and adding provision requiring commissioner to determine the assignee to be an other applicant for assignments made prior to July 1, 2012, and requiring the assignee to assume the status of the assignor after July 1, 2012, in Subdiv. (2), effective June 19, 2013.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449s. Underground storage tank petroleum clean-up program: Cancellation. Unavailability of program to demonstrate financial responsibility. Determination of applicability. (a) Notwithstanding the provisions of section 22a-449(d)-109(p) of the regulations of Connecticut state agencies, this section shall constitute notice of the cancellation of the underground storage tank petroleum clean-up program, established pursuant to section 22a-449c, as a financial assurance mechanism.

(b) On and after October 1, 2013, any municipality or person who owns or operates one or more underground storage tank systems on five or fewer separate parcels of real property and is subject to the financial responsibility requirements of section 22a-449(d)-109 of the regulations of Connecticut state agencies shall not use the program to demonstrate such financial responsibility.

(c) On and after October 1, 2012, any person who owns or operates one or more underground storage tank systems on more than five separate parcels of real property and is subject to the financial responsibility requirements of section 22a-449(d)-109 of the regulations of Connecticut state agencies shall not use the program to demonstrate such financial responsibility.

(d) The owner or operator of an underground storage tank system shall, not later than thirty days after a written request from the commissioner, provide the commissioner with any information the commissioner deems

necessary to determine whether an owner or operator is subject to subsection (b) or (c) of this section. All underground storage tank systems located within or outside this state, owned or operated by such person, shall be included in such determination.

(June 12 Sp. Sess. P.A. 12-1, S. 262.)

History: June 12 Sp. Sess. P.A. 12-1 effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449t. Underground storage tank petroleum clean-up program: Prohibitions on applications. Exceptions. (a) Notwithstanding the provisions of the general statutes or regulations of Connecticut state agencies, on or after October 1, 2014, no person, regardless of whether such person has submitted an application to the underground storage tank petroleum clean-up program, established pursuant to section 22a-449c, but who otherwise constitutes a municipal applicant, small station applicant or other applicant, shall submit an application to the commissioner for reimbursement or payment from the program, pursuant to sections 22a-449a to 22a-449i, inclusive, 22a-449p and 22a-449r. Such person may submit an application for payment or reimbursement to the program on or before September 30, 2014, for a release reported to the commissioner before October 1, 2013, but shall not submit any application to the program for a release reported to the commissioner on or after October 1, 2013.

(b) Notwithstanding the provisions of the general statutes or regulations of Connecticut state agencies, on or after October 1, 2013, no person, regardless of whether such person has submitted an application to the program, but who otherwise constitutes a mid-size station applicant, shall submit to the commissioner an application for reimbursement or payment from the program, pursuant to sections 22a-449a to 22a-449i, inclusive, 22a-449p and 22a-449r. Such person may submit an application for payment or reimbursement to the program on or before September 30, 2013, for a release reported to the commissioner before October 1, 2012, but shall not submit any application to the program for a release reported to the commissioner on or after October 1, 2012.

(c) Notwithstanding the provisions of the general statutes or regulations of Connecticut state agencies, on or after October 1, 2012, no person, regardless of whether such person has submitted an application to the program, but who otherwise constitutes a large station applicant, shall submit an application for payment or reimbursement pursuant to sections 22a-449a to 22a-449i, inclusive, 22a-449p and 22a-449r.

(June 12 Sp. Sess. P.A. 12-1, S. 263.)

History: June 12 Sp. Sess. P.A. 12-1 effective June 15, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449u. Bond authorization for underground storage tank petroleum clean-up program. (a) For the purposes described in subsection (b) of this section, the State Bond Commission shall have the power from time to time to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate thirty-six million dollars, provided (1) nine million dollars shall be effective July 1, 2013, (2) nine million dollars shall be effective July 1, 2014, and (3) nine million dollars shall be effective July 1, 2015.

(b) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (a) of this section, shall be used by the Department of Energy and Environmental Protection for the purpose of providing payment or reimbursement ordered by the Commissioner of Energy and Environmental Protection pursuant to the underground storage tank petroleum clean-up program.

(c) All provisions of section 3-20, or the exercise of any right or power granted thereby, which are not inconsistent with the provisions of this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due.

(P.A. 12-189, S. 48.)

History: P.A. 12-189 effective July 1, 2012.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-449v. Underground storage tank general liability insurance policy. Cancellation restriction. Notwithstanding any provision of the general statutes, any general liability insurance policy issued for or applicable to an underground storage tank shall not be cancelled or denied renewal solely due to such policy's applicability to an underground storage tank. The provisions of this section shall apply to any such policy issued or eligible for renewal on or after June 7, 2018.

(P.A. 18-118, S. 1.)

History: P.A. 18-118 effective June 7, 2018.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-450. (Formerly Sec. 25-54dd). Report of discharge, spill, loss, seepage or filtration. Regulations. (a) The master of any ship, boat, barge or other vessel, or the person in charge of any terminal for the loading or unloading of any oil or petroleum or chemical liquids or solid, liquid or gaseous products, or hazardous wastes, or the person in charge of any establishment, or the operator of any vehicle, trailer or other machine which by accident, negligence or otherwise causes the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products, or hazardous wastes which poses a potential threat to human health or the environment, shall immediately report to the commissioner such facts as the commissioner by regulation may require. Any such report shall include, but not be limited to, the location, the quantity and the type of substance, material or waste, the date and the cause of the discharge, spillage, uncontrolled loss, seepage or filtration, the name and address of the owner of the ship, boat, barge or other vessel, terminal, establishment, vehicle, trailer or machine, and the name and address of the person making the report and his or her relationship to the owner. Any person who fails to make a report required by this section may be fined not more than one thousand dollars and the employer of such person may be fined not more than five thousand dollars, except that any person who fails to make a report relating to the discharge, spillage, uncontrolled loss, seepage or filtration of gasoline shall be fined not more than five thousand dollars and the employer of such person may be fined not more than ten thousand dollars.

(b) On and after the effective date of the regulations adopted pursuant to subsection (c) of this section, the report described in subsection (a) of this section shall be required whenever the discharge, spillage, uncontrolled loss,

seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products, or hazardous wastes occurring on or after such date exceeds the applicable threshold adopted by the commissioner pursuant to subsection (c) of this section. The reporting requirements set forth in subsection (a) of this section shall apply until the effective date of such regulations.

(c) The commissioner shall adopt regulations, in accordance with the provisions of chapter 54, to define the threshold amounts for discharges, spillages, uncontrolled losses, seepages or filtrations that shall be reported to the commissioner pursuant to this section. Such regulations may include the specification of any facts, in addition to those specified in subsection (a) of this section, that shall be included in any report submitted under this section.

(1969, P.A. 765, S. 3; 1971, P.A. 872, S. 103; P.A. 77-614, S. 486, 587, 610; P.A. 78-303, S. 85, 136; P.A. 79-605, S. 4, 17; P.A. 94-108, S. 1; P.A. 95-218, S. 16; P.A. 00-175, S. 3, 4; P.A. 16-199, S. 1.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 77-614 and P.A. 78-303 made state police department a division within the department of public safety, effective January 1, 1979; P.A. 79-605 clarified provisions by adding specific reference to “solid, liquid or gaseous” products, “hazardous wastes”, etc., deleted provision setting forth when reports must be made to U.S. Coast Guard and replaced previous penalty of $1,000 minimum to $5,000 maximum fine for failure to report under Secs. 25-54bb to 25-54hh with $1,000 maximum fine for failure to report under this section and $5,000 maximum fine levied against the employer of any person who fails to make the required report; Sec. 25-54dd transferred to Sec. 22a-450 in 1983; P.A. 94-108 deleted a requirement that spills be reported to the state police and required reporting to the commissioner of environmental protection; P.A. 95-218 added a provision specifying that spills required to be reported under this section are those which pose a potential threat to human health or the environment; P.A. 00-175 added provisions re penalties for failing to make a report relating to the discharge, spillage, uncontrolled loss, seepage or filtration of gasoline, effective July 1, 2000; P.A. 16-199 designated existing provisions as Subsec. (a) and made a technical change therein, added Subsec. (b) re threshold for reporting under Subsec. (a), and added Subsec. (c) re adoption of regulations defining threshold amounts and specifying facts to be included in report.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-450a. Elimination of MTBE as gasoline additive. (a) As used in this section, “MTBE” means the gasoline additive methyl tertiary butyl ether.

(b) The Commissioner of Energy and Environmental Protection shall, in conjunction with the Northeast Regional Fuels Task Force, develop and implement a plan for the phase-out of the use of MTBE in a manner that will eliminate MTBE as a gasoline additive in gasoline intended for sale to ultimate consumers in this state on and after January 1, 2004, provided the state of New York also requires the elimination of MTBE as a gasoline additive on said date. In the event that the state of New York does not require the elimination of MTBE as a gasoline additive in gasoline on and after January 1, 2004, the commissioner shall develop and implement such phase-out plan that will eliminate MTBE as a gasoline additive on and after July 1, 2004. Not later than January 1, 2001, and annually thereafter through January 1, 2004, the commissioner shall report to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on how the elimination of MTBE will be achieved. Each report shall include a progress update on the status of the regional efforts to reduce MTBE levels in gasoline. Nothing in this section shall prohibit a person from selling, offering for sale, distributing or blending a motor fuel that contains not more than one-half of one per cent by volume of MTBE.

(c) Beginning July 1, 2000, the Connecticut Petroleum Council, the National Petrochemical and Refiners Association, the Oxygenated Fuels Association, and the Independent Connecticut Petroleum Association, under the direction of the Commissioner of Energy and Environmental Protection, shall undertake an effective education campaign directed at all users of gasoline, including, but not limited to, homeowners, marine trades

and businesses, about the proper handling of gasoline. Said campaign shall include, but not be limited to: (1) Warning at the point of sale about the proper handling of gasoline; (2) instructions on portable gasoline containers sold after July 1, 2000, about the proper handling of gasoline; and (3) newspaper, radio and television information advertisements.

(d) The Commissioner of Energy and Environmental Protection shall seek a waiver from the United States Environmental Protection Agency for the purpose of discontinuing the use of MTBE, as a gasoline additive in this state.

(e) Notwithstanding the provisions of this section, any marina or recreational or commercial boating facility may sell or provide gasoline that contains MTBE for use by watercraft, including, but not limited to, a boat, ship, vessel, barge or other floating craft, provided such gasoline was purchased and stored on site by the subject marina or boating facility prior to January 1, 2004.

(P.A. 00-175, S. 1, 4; P.A. 03-122, S. 1; P.A. 04-109, S. 10; 04-151, S. 16; P.A. 11-80, S. 1.)

History: P.A. 00-175 effective July 1, 2000; P.A. 03-122 amended Subsec. (b) to add “in gasoline intended for sale to ultimate consumers in this state”, revise date for elimination of MTBE as a gasoline additive to coincide with a similar elimination in New York and add provision re a de minimus exemption, effective June 18, 2003; P.A. 04-109 amended Subsec. (b) to make a technical change, effective May 21, 2004; P.A. 04-151 added Subsec. (e) re sale of gasoline with MTBE by a marina or recreational or commercial boating facility, effective May 21, 2004; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-451. (Formerly Sec. 25-54ee). Liability for pollution, contamination or emergency. (a) Any person, firm or corporation which directly or indirectly causes pollution and contamination of any land or waters of the state or directly or indirectly causes an emergency through the maintenance, discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes or which owns any hazardous wastes deemed by the commissioner to be a potential threat to human health or the environment and removed by the commissioner shall be liable for all costs and expenses incurred in investigating, containing, removing, monitoring or mitigating such pollution and contamination, emergency or hazardous waste, and legal expenses and court costs incurred in such recovery, provided, if such pollution or contamination or emergency was negligently caused, such person, firm or corporation may, at the discretion of the court, be liable for damages equal to one and one-half times the cost and expenses incurred and provided further if such pollution or contamination or emergency was wilfully caused, such person, firm or corporation may, at the discretion of the court, be liable for damages equal to two times the cost and expenses incurred. The costs and expenses of investigating, containing, removing, monitoring or mitigating such pollution, contamination, emergency or hazardous waste shall include, but not be limited to, the administrative cost of such action calculated at ten per cent of the actual cost plus the interest on the actual cost at a rate of ten per cent per year thirty days from the date such costs and expenses were sought from the party responsible for such pollution, contamination or emergency. The costs of recovering any legal expenses and court costs shall be calculated at five per cent of the actual costs, plus interest at a rate of ten per cent per year thirty days from the date such costs were sought from the party responsible for such pollution, contamination or emergency. Upon request of the commissioner, the Attorney General shall bring a civil action to recover all such costs and expenses.

(b) If the person, firm or corporation which causes any discharge, spillage, uncontrolled loss, seepage or filtration does not act immediately to contain and remove or mitigate the effects of such discharge, spillage, loss, seepage or filtration to the satisfaction of the commissioner, or if such person, firm or corporation is unknown, and such discharge, spillage, loss, seepage or filtration is not being contained, removed or mitigated by the federal government, a state agency, a municipality or a regional or interstate authority, the commissioner may

contract with any person issued a permit pursuant to section 22a-454 to contain and remove or mitigate the effects of such discharge, spillage, loss, seepage or filtration. The commissioner may contract with any person issued a permit pursuant to said section 22a-454 to remove any hazardous waste that the commissioner deems to be a potential threat to human health or the environment.

(c) Whenever the commissioner incurs contractual obligations pursuant to subsection (b) of this section and the responsible person, firm or corporation or the federal government does not assume such contractual obligations, the commissioner shall request the Attorney General to bring a civil action pursuant to subsection (a) of this section to recover the costs and expenses of such contractual obligations. If the responsible person, firm or corporation is unknown, the commissioner shall request the federal government to assume such contractual obligations to the extent provided for by the federal Water Pollution Control Act.

(1969, P.A. 765, S. 4; 1971, P.A. 433, S. 2; 872, S. 104; 1972, P.A. 217; P.A. 76-9, S. 1, 2; P.A. 79-605, S. 5, 17; P.A. 82-320, S. 2, 4; P.A. 83-499, S. 1, 2; 83-572, S. 8, 9; P.A. 84-81, S. 1; 84-370, S. 1, 6; P.A. 85-177, S. 1, 2; 85-407, S. 1, 9; P.A. 86-202, S. 1, 2; 86-239, S. 11, 14; 86-364, S. 5; P.A. 87-332, S. 1, 2; P.A. 88-364, S. 98, 123; P.A. 89-365, S. 5, 9; P.A. 90-275, S. 6, 9; P.A. 91-372, S. 3, 4; 91-376, S. 5, 10; 91-393, S. 1, 2; P.A. 92-235, S. 2, 6; P.A. 94-130, S. 2; P.A. 95-208, S. 11, 13; P.A. 97-241, S. 1, 4, 5; June 18 Sp. Sess. P.A. 97-11, S. 28, 65; P.A. 98-140, S. 5; June Sp. Sess. P.A. 01-6, S. 14, 85; June Sp. Sess. P.A. 09-3, S. 432.)

History: 1971 acts extended applicability to pollution of land as well as water, added proviso allowing assessment of treble damages if contamination caused by gross negligence and replaced references to water resources commission and its chairman with references to environmental protection commissioner; 1972 act specified that provisions applicable in cases where pollution or contamination will result in damages exceeding $5,000, substituted “negligently caused” for “gross negligence” and replaced assessment of treble damages with assessment of “one and one-half times the costs and expenses incurred by said commissioner”; P.A. 76-9 deleted phrase which limited applicability to cases where damages would exceed $5,000; P.A. 79-605 clarified previous provisions by adding references to emergencies, to uncontrolled losses of pollutants or contaminants, to solid, liquid or gaseous products or hazardous wastes, deleted provision setting forth allocation of costs and expenses recovered and added Subsecs. (b) to (d); P.A. 82-320 amended Subsec. (d) to authorize expenditures for remedial action pursuant to the federal Comprehensive Environmental Response, Compensation and Liability Act of 1980, provision of potable drinking water and completion of an inventory of hazardous waste disposal sites, and to specify limits on expenditures; Sec. 25-54ee transferred to Sec. 22a-451 in 1983; P.A. 83-499 specifically subjected hazardous waste owned by a person or corporation and deemed by the commissioner to constitute a potential threat to health or environment, to the provisions of this section; P.A. 83-572 added to the purpose of the revolving fund by requiring that not more than $80,000 be expended in fiscal year 1984 to accomplish the purposes of chapter 445a; P.A. 84-81 amended Subsec. (d) by limiting payments for the provision of potable drinking water to reimbursement for costs for short-term provision and capital improvements; P.A. 84-370 amended Subsec. (d) by clarifying Subdiv. (5) re authorization of funds for the hazardous waste management service, by clarifying expenditures under Subdiv. (3) re fiscal years involved and by imposing limit on expenditures under Subdiv. (5) for fiscal year ending June 30, 1985; P.A. 85-407 amended Subsec. (d)(2) by deleting language specifying costs that may be reimbursed re provision of potable drinking water, requiring commissioner to adopt regulations concerning the provision of potable drinking water and establishing cap on the amount that can be expended for Subdiv. (3), and, in conjunction with P.A. 85-177, by extending the limit on expenditures under Subdiv. (5) to apply to the fiscal year ending June 30, 1986; P.A. 86-202 amended Subsec. (d)(5)) by authorizing expenditures for fiscal year ending June 30, 1987; P.A. 86-239 amended Subsec. (a) by authorizing double damages if pollution was wilful; P.A. 86-364 amended Subsec. (d) by placing provision re amounts expended by the Hazardous Waste Management Service in Subdiv. (5) and added Subdiv. (6) regarding expenditures for the provision of potable drinking water and a pesticide study required pursuant to S.A. 86-44; P.A. 87-332 amended Subsec. (d)(5) by authorizing expenditures for fiscal year ending June 30, 1988, and adding reference to Sec. 22a-134hh; P.A. 88-364 amended Subsec. (d) by deleting reference to specific fiscal years for funds expended by the Hazardous Waste Management Service; P.A. 89-365 added Subsec. (d)(6) to (10) authorizing expenditures for loans and lines of credit under Sec. 32-23z; remedial action at hazardous waste sites under Sec. 22a-133b to 22a-133g, inclusive, and Sec. 22a-133k; development of the aquifer protection program under Secs. 22a-354g to 22a-354cc, inclusive, and research on toxic substance

contamination, to increase total allowable annual expenditures under Subsec. (d)(5) from $80,000 to $280,000 per year and to establish expenditure limits for new Subdivs. (6) to (10); P.A. 90-275 added Subsec. (d)(11) and (12) authorizing expenditures not exceeding $300,000 for the costs of the commissioner in performing or approving level A mapping and authorizing expenditures for fiscal year ending June 30, 1991, for use by the eight county soil and water conservation districts; P.A. 91-372 amended Subsec. (a) to provide for liability on the part of responsible parties for costs of investigating and monitoring pollution and for court costs incurred in recovering against such parties and further specified certain parameters of such costs and expenses; P.A. 91-376 amended Subsec. (d)(5) to increase allocation to the Connecticut Hazardous Waste Management Service from $280,000 to $340,000; P.A. 91-393 amended Subsec. (d) to increase the authorized allocation from the fund to the commissioner for costs of approving level A mapping of aquifer protection areas from $300,000 to $350,000; P.A. 92-235 amended Subsec. (d) to include costs associated with implementation of Sec. 22a-449 and chapter 441 in the allowable uses to which the fund may be put and deleted a limit on use of the fund for accomplishment of the purposes of Secs. 22a-133b to 22a-133g, inclusive, and Secs. 22a-134 to 22a-134d, inclusive, and Sec. 22a-133k; P.A. 94-130, changed name of fund from “Emergency Spill Response Fund” to “emergency spill response account” of the Environmental Quality Fund; P.A. 95-208 amended Subsec. (d) to change designation of emergency spill response account from “revolving account” of Environmental Quality Fund to “account” of General Fund, to delete provisions re amounts expended under Subdivs. (7), (8) and (10) to (13), inclusive, of Subsec. (d), to delete provision that money recovered pursuant to Subsecs. (a) and (c) of section be deposited in General Fund, credited to emergency spill response account and used by commissioner to meet contractual obligations incurred pursuant to Subsec. (b) of section, and to add provision that on July 1, 1995, any balance remaining in said account shall be transferred to General Fund, effective July 1, 1995 (Revisor's note: A reference in Subsec. (d)(7)(A) to “section 22-471” was changed editorially by the Revisors to “section 22a-471” to correct a clerical error); P.A. 97-241 amended Subsec. (a) to provide that interest on costs under this section shall commence 30 days from the date costs were sought from the responsible party and amended Subsec. (d) to provide that certain appropriated funds shall not lapse and shall continue to be available for emergency spill response in succeeding fiscal years, effective June 24, 1997; June 18 Sp. Sess. P.A. 97-11 repealed Subsec. (d)(6) re provision of money for purposes of Secs. 22a-134aa to 22a-134hh, inclusive, and renumbered remaining Subdivs., effective July 1, 1997; P.A. 98-140 amended Subsec. (a) to provide for liability under this section for maintenance of a pollution condition; June Sp. Sess. P.A. 01-6 amended Subsec. (b) to make a technical change for purposes of gender neutrality, amended Subsec. (d) to delete provisions re account of the General Fund and add provisions making the account part of the Environmental Quality Fund, and added new Subsec. (e) re budget for the account, effective July 1, 2001; June Sp. Sess. P.A. 09-3 deleted former Subsecs. (d) and (e) re emergency spill response account.

Cited. 215 C. 292; 226 C. 358; 229 C. 456; 231 C. 756; 241 C. 466.

Cited. 30 CA 204.

Cited. 43 CS 83.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-451a. Annual report. Section 22a-451a is repealed, effective October 1, 2009.

(P.A. 85-610, S. 2; June Sp. Sess. P.A. 09-3, S. 513.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-451b. Expenditures by agencies paid from emergency spill response account. Section 22a-451b is repealed, effective October 1, 2009.

(P.A. 91-376, S. 7, 10; June Sp. Sess. P.A. 09-3, S. 513.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-452. (Formerly Sec. 25-54ff). Reimbursement for containment or removal costs. Liability for certain acts or omissions. (a) Any person, firm, corporation or municipality which contains or removes or otherwise mitigates the effects of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes resulting from any discharge, spillage, uncontrolled loss, seepage or filtration of such substance or material or waste shall be entitled to reimbursement from any person, firm or corporation for the reasonable costs expended for such containment, removal, or mitigation, if such oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes pollution or contamination or other emergency resulted from the negligence or other actions of such person, firm or corporation. When such pollution or contamination or emergency results from the joint negligence or other actions of two or more persons, firms or corporations, each shall be liable to the others for a pro rata share of the costs of containing, and removing or otherwise mitigating the effects of the same and for all damage caused thereby.

(b) No person, firm or corporation which renders assistance or advice in mitigating or attempting to mitigate the effects of an actual or threatened discharge of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous materials, other than a discharge of oil as defined in section 22a-457b, to the surface waters of the state, or which assists in preventing, cleaning-up or disposing of any such discharge shall be held liable, notwithstanding any other provision of law, for civil damages as a result of any act or omission by him in rendering such assistance or advice, except acts or omissions amounting to gross negligence or wilful or wanton misconduct, unless he is compensated for such assistance or advice for more than actual expenses. For the purpose of this subsection, “discharge” means spillage, uncontrolled loss, seepage or filtration and “hazardous materials” means any material or substance designated as such by any state or federal law or regulation.

(c) The immunity provided in this section shall not apply to (1) any person, firm or corporation responsible for such discharge, or under a duty to mitigate the effects of such discharge, (2) any agency or instrumentality of such person, firm or corporation or (3) negligence in the operation of a motor vehicle.

(1969, P.A. 765, S. 5; 1971, P.A. 872, S. 105; P.A. 79-605, S. 6, 17; P.A. 83-374, S. 1, 2; P.A. 86-239, S. 12, 14; P.A. 91-289, S. 2.)

History: 1971 act replaced reference to water resources commission in Subsec. (b) with reference to environmental protection commissioner; P.A. 79-605 clarified provisions by adding references to containment or mitigation of pollutants, to “solid, liquid or gaseous” products, to hazardous wastes, etc.; Sec. 25-54ff transferred to Sec. 22a-452 in 1983; P.A. 83-374 replaced existing provisions re liability of persons, firms and corporations assisting in cleaning up or disposing of discharges with new provisions and defined “discharge” and “hazardous material” and added Subsec. (c), excluding from the immunities provided those responsible for the discharge or those who are negligent in the operation of a motor vehicle; P.A. 86-239 amended Subsec. (a) by authorizing municipalities to be reimbursed for clean-up expenses; P.A. 91-289 amended Subsec. (b) to add reference to discharge of oil to surface waters.

See Sec. 22a-457b re limited immunity for certain persons responding to oil spills.

Cited. 238 C. 800; 241 C. 466. Court upheld Appellate Court ruling against plaintiffs who claimed compensation based on argument that easement deprived them of their statutory right to remediate the property at defendant's expense. 276 C. 426.

Subsec. (a):

Trial court properly considered in its valuation of property the possibility of recovering remediation costs under Subsec. 272 C. 14. In order for plaintiff to recover under section, plaintiff must establish that it took action in specific ways to effectuate remediation of the contaminated land and that it expended costs to do so. 284 C. 537.

(Return to Chapter (Return to (Return to

Table of Contents) List of Chapters) List of Titles)

Sec. 22a-452a. State lien against real estate as security for amounts paid to clean up or to remove hazardous waste. Notice and hearing. (a) On and after June 3, 1985, any amount paid by the Commissioner of Energy and Environmental Protection pursuant to subsection (b) of section 22a-451 to contain and remove or mitigate the effects of a spill or to remove any hazardous waste shall be a lien against the real estate on which the spill occurred or from which it emanated or against real estate where no spill occurred but from which hazardous waste was removed provided such hazardous waste did not enter such real estate through surface or subsurface migration. Any such lien shall be filed in accordance with the provisions of this section, except that such lien against real estate which has been transferred in accordance with the provisions of sections 22a-134 to 22a-134d, inclusive, shall not have priority over any previous transfer or encumbrance. The amount of the lien shall include administrative costs, as set forth in subsection (a) of section 22a-451, as of the date of the filing of the lien. Any costs incurred subsequent to the filing of the lien may be the subject of another lien.

(b) A lien pursuant to this section shall not be effective unless (1) a certificate of lien is filed in the land records of each town in which the real estate is located, describing the real estate, the amount of the lien, the name of the owner as grantor, and (2) the commissioner mails a copy of the certificate to the owner of record and to all other persons of record holding an interest in such real estate over which the commissioner's lien is entitled to priority. Upon presentation of a certificate of lien, the town clerk shall endorse thereon his identification and the date and time of receipt and forthwith record it in accordance with section 42a-9-519.

(c) (1) Before filing a lien under this section, the commissioner shall give the owner of the property on which the lien is to be filed and mortgagees and lienholders of record a notice of his intent to file a certificate of lien, as provided in this subsection.

(2) The notice required under this subsection shall be sent by certified mail or served in the manner for serving civil process and shall provide the following: (A) A statement of the purpose of the lien; (B) a brief description of the property to be affected by the lien; (C) a statement of the sum of the expenses incurred by the commissioner in containing, removing or mitigating the effects of a spill or removing hazardous waste; (D) a brief statement of the facts demonstrating probable cause that the property is the subject of the expenses incurred by the commissioner; and (E) the time period following service during which any recipient of such notice whose legal rights may be affected by the lien may request a hearing before the commissioner. A request for a hearing under this subsection must be received by the commissioner on or before thirty days following the service of the notice of intent to file a certificate of lien. A hearing held pursuant to a request filed under this subsection shall be limited to determining, in a summary manner, probable cause for filing the certificate of lien.

(d) In the absence of a timely request for a hearing, the certificate of lien may be filed on the land records immediately. If a hearing is held, the commissioner may issue a decision authorizing the filing of a certificate of lien on the land records, denying the filing of a certificate of lien or authorizing the filing and modifying the amount of the certificate of lien.

(e) Within thirty days after the filing of the certificate of lien pursuant to this section, any property owner, mortgagee or other lienholder of record who has been served with a copy of the certificate of lien and whose legal rights may be affected by the lien may file with the commissioner a request for a hearing limited to the issues of a reduction in the amount of the lien or a discharge of the lien in its entirety. If requested, the commissioner shall hold a hearing as soon thereafter as practicable. There shall be no stay of a decision by the commissioner authorizing the filing of a certificate of lien unless the party seeking a stay has posted a surety acceptable to the commissioner in an amount sufficient to cover the full amount of the lien plus interest and costs.

(f) Except as provided in subsection (a) of this section, such lien shall take precedence over all transfers and encumbrances recorded on or after June 3, 1985, in any manner affecting such interest in such real estate or any part of it on which the spill occurred or from which the spill emanated, or real estate which has been included, within the preceding three years, in the property description of such real estate and is contiguous to such real

estate. This subsection shall not apply to real estate which consists exclusively of residential real estate, including, but not limited to, residential units in any common interest community, as defined in section 47-202.

(g) In the case of all other real estate, including real estate which consists exclusively of residential real estate, including but not limited to, residential units in any common interest community, as defined in section 47-202, the lien shall take precedence over any transfer or encumbrance recorded after the commissioner files with the town clerk notice of intent to file a lien on the land records in the town in which the real estate is located.

(h) When any amount with respect to which a lien has been recorded under the provisions of this section has been paid or reduced, the commissioner, upon request of any interested party, shall issue a certificate discharging or partially discharging such lien, which certificate shall be recorded in the same office in which the lien was recorded. The town clerk shall note the recording of the certificate of discharge upon the original notice of lien. Any action for the foreclosure of such lien shall be brought by the Attorney General in the name of the state in the superior court for the judicial district in which the property subject to such lien is situated, or, if such property is located in two or more judicial districts, in the superior court for any one such judicial district, and the court may limit the time for redemption or order the sale of such property or make such other or further decree as it judges equitable.

(P.A. 84-535, S. 2; P.A. 85-443, S. 2, 5; P.A. 87-475, S. 3; P.A. 97-218, S. 3; P.A. 01-132, S. 168; P.A. 07-217, S. 116; P.A. 11-80, S. 1.)

History: P.A. 85-443 divided section into Subsecs. and amended Subsec. (a) to apply section to amounts paid after June 3, 1985, instead of October 1, 1984; inserted new provisions as Subsec. (b) to require filing of the lien in the town clerk's office; amended Subsec. (c) to give the lien precedence over transfers and encumbrances to property on which the spill occurred or emanated from three years prior to the spill except residential real estate; inserted new provisions as Subsec. (d) to give the lien precedence over all transfers after filing, and amended Subsec. (e) to authorize the commissioner to issue a certificate partially discharging the lien; P.A. 87-475 amended Subsec. (a) by making the lien apply only to real estate on which a spill occurred, or from which it emanated and adding provision limiting the lien to prospective transfers only, amended Subsec. (b) by requiring that town clerk make certain endorsements and amended Subsec. (e) by requiring the town clerk to note any discharge on the original lien notice; P.A. 97-218 amended Subsec. (a) to provide that the lien under this section may be filed against real property in certain circumstances where no spill occurred but from which hazardous waste was removed and to provide that the amount of the lien shall include administrative costs, made a technical change in Subsec. (b), added new Subsecs. (c), (d) and (e) re notice and hearing requirements for imposition of the lien, redesignated former Subsecs. (c), (d) and (e) as Subsecs. (f), (g) and (h), and deleted provision in Subdiv. (h) re action or appeal in accordance with Secs. 49-35a to 49-35c, inclusive; P.A. 01-132 amended Subsec. (b) to make a technical change and replace reference to Sec. 42a-9-409 with Sec. 42a-9-519; P.A. 07-217 made technical changes in Subsec. (f), effective July 12, 2007; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

Cited. 216 C. 419; 226 C. 358; 236 C. 722.

Cited. 30 CA 204.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-452b. Exemptions. (a) Notwithstanding any provision of the general statutes, a mortgagee who acquires title to real estate by virtue of a foreclosure or tender of a deed in lieu of foreclosure, shall not be liable for any assessment, fine or other costs imposed by the state for any spill upon such real estate beyond the value of such real estate, provided such spill occurred prior to the date of acquisition of title to such real estate by such mortgagee.

(b) Notwithstanding the provisions of section 22a-451, the Commissioner of Energy and Environmental Protection may enter into an agreement with any person or the estate of any person, as applicable, who died or sustained serious bodily injury and for which the commissioner incurred expenses to contain, remove or mitigate the human bodily effects of such death or serious bodily injury on any land or waters of the state. Any such agreement may provide for the payment of less than all: (1) Costs and expenses incurred in containing, removing or mitigating such effects, and (2) legal expenses and court costs incurred by the department in seeking such recovery of costs and expenses. The commissioner shall not seek the recovery of any such costs and expenses from any person or the estate of any person, as applicable, who dies or sustains serious bodily injury, on or after June 6, 2014, and for which the commissioner incurs expenses to contain, remove or mitigate only the human bodily effects of such death or serious bodily injury on any land or waters of the state.

(P.A. 85-443, S. 3, 5; P.A. 14-153, S. 1.)

History: P.A. 14-153 designated existing provisions as Subsec. (a) and added Subsec. (b) re authority of commissioner to enter into agreement with person or estate of person who died or sustained serious bodily injury re expenses to contain, remove or mitigate the human bodily effects of such death or serious bodily injury, effective June 6, 2014.

Cited. 226 C. 358.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-452c. Definition of "spill". For the purposes of sections 22a-452a and 22a-452b, "spill" means the discharge, spillage, uncontrolled loss, seepage or filtration of oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous waste.

(P.A. 85-443, S. 1, 5.)

Cited. 239 C. 284.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-452d. Limitation on liability of innocent landowners: Definitions. As used in this section, section 22a-452e and section 22a-433:

(1) "Innocent landowner" means: (A) A person holding an interest in real estate, other than a security interest, that, while owned by that person, is subject to a spill or discharge if the spill or discharge is caused solely by any one of or any combination of the following: (i) An act of God; (ii) an act of war; (iii) an act or omission of a third party other than an employee, agent or lessee of the landowner or other than one whose act or omission occurs in connection with a contractual relationship, existing directly or indirectly, with the landowner, unless there was a reasonably foreseeable threat of pollution or the landowner knew or had reason to know of the act or omission and failed to take reasonable steps to prevent the spill or discharge, or (iv) an act or omission occurring in connection with a contractual arrangement arising from a published tariff and acceptance for carriage by a common carrier by rail, unless there was a reasonably foreseeable threat of pollution or the landowner knew, or had reason to know, of the act or omission and failed to take reasonable steps to prevent the spill or discharge; or (B) a person who acquires an interest in real estate, other than a security interest, after the date of a spill or discharge if the person is not otherwise liable for the spill or discharge as the result of actions taken before the acquisition and, at the time of acquisition, the person (i) does not know and has no reason to know of the spill or discharge, and inquires, consistent with good commercial or customary practices, into the previous uses of the property; (ii) is a government entity; (iii) acquires the interest in real estate by inheritance or bequest; or (iv) acquires the interest in real estate as an executor or administrator of a decedent's estate.

(2) "Discharge" means a discharge causing pollution, as those terms are defined in section 22a-423.

(3) “Spill” means a spill as defined in section 22a-452c.

(P.A. 93-375, S. 1, 4; P.A. 95-190, S. 7, 17.)

History: P.A. 93-375 effective June 30, 1993; P.A. 95-190 amended Subdiv. (1) to add provision re reasonably foreseeable threat of pollution to criteria for defining an innocent landowner in cases of a spill in connection with a contract for carriage by rail and deleted a provision extending liability protection to trustees who receive property from a decedent's estate, effective June 29, 1995.

Cited. 236 C. 722.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-452e. Limitation on liability of innocent landowners. (a) An innocent landowner holding or acquiring an interest in real estate that has been subjected to a spill or discharge shall not be liable, except through imposition of a lien against that real estate under section 22a-452a, for any assessment, fine or other costs imposed by the state for the containment, removal or mitigation of such spill or discharge or for any order of the commissioner to abate or remediate such spill or discharge which order was issued on or before August 1, 1990, and is subject to appeal as of July 6, 1995, and, after July 1, 1996, for any order to abate or remediate such spill or discharge which order is issued by the commissioner after July 1, 1996. A person claiming immunity under this subsection must establish that he is an innocent landowner by a preponderance of the evidence. In determining whether a person is an innocent landowner, a court may take into account any specialized knowledge or experience of the person, the relationship of the consideration paid for the interest in the real estate to the value of such interest if the real estate were not polluted, commonly known or reasonably ascertainable information about the real estate, the obviousness of the presence or likely presence of the spill or discharge and the ability to detect such spill or discharge by appropriate inspection.

(b) Notwithstanding the provisions of subsection (a) of this section: (1) Any amount paid by the Commissioner of Energy and Environmental Protection pursuant to subsection (b) of section 22a-451 to contain, remove or mitigate the effects of the spill or discharge shall be a lien against the real estate, as provided by section 22a-452a, in an amount not to exceed the value of the land appraised as if it were uncontaminated; and (2) an innocent landowner who sells an interest in real estate that has been subjected to a spill or discharge shall be liable, to the extent of the net proceeds of such sale, for the costs of containing, removing or mitigating the effects of such spill or discharge. For the purposes of this subsection, “net proceeds” means proceeds received by the person after payment of the reasonable expenses of the sale.

(c) The liability of a person holding a security interest in real estate who acquires title to the real estate by virtue of a foreclosure or tender of a deed in lieu of foreclosure shall be limited as provided in section 22a-452b.

(d) This section shall apply to any spill or discharge which occurred before or after July 6, 1995, except that it shall not affect any enforcement or cost recovery action if such action has become final, and is no longer subject to appeal, prior to July 6, 1995.

(P.A. 93-375, S. 2, 4; P.A. 95-190, S. 8, 17; 95-218, S. 17, 24; P.A. 11-80, S. 1.)

History: P.A. 93-375 effective June 30, 1993; P.A. 95-190 amended Subsec. (a) to extend the liability protection to orders to abate or remediate pollution, amended Subsec. (b) to change the value of the lien from the interest of the innocent landowner to the value of the land appraised as if uncontaminated, to delete a provision allowing any person to avail themselves of a limitation on liability upon sale of contaminated property and to delete a provision excluding satisfaction of all debts from the definition of “net proceeds” and amended Subsec. (d) to make the section only applicable to actions which were not final as of June 29, 1995, effective June 29, 1995; P.A. 95-218 amended Subsec. (a) to limit applicability of this section in cases of orders of the commissioner to those orders issued before August 1, 1990, or after July 1, 1996, effective July 6, 1995; pursuant to P.A. 11-80,

"Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (b), effective July 1, 2011.

Cited. 226 C. 737; 236 C. 722.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-452f. Exemption from liability for certain lenders. (a)(1) A lender who holds indicia of ownership primarily to protect a security interest in a property, business including its tangible and intangible assets or establishment, as defined in section 22a-134, and does not participate in the management of such property, business or establishment, shall not be liable for any damages, assessment, fine or other costs imposed by the state for the containment, removal or mitigation of such a spill or discharge, or for any order of the commissioner to abate or remediate such spill or discharge from, or in connection with a property, business or establishment.

(2) A lender who did not participate in management of a property, business or establishment, but acquires right, title or interest in a property, business, including its tangible or intangible assets, or establishment by foreclosure, shall not be liable for any damage, assessment, fine or other costs imposed by the state for the containment, removal or mitigation of such a spill or discharge, or for any order of the commissioner to abate or remediate such spill or discharge provided such lender seeks to sell, re-lease, in the case of a lease finance transaction, or otherwise divest itself of the property, business or establishment at the earliest practicable, commercially reasonable time, on commercially reasonable terms, taking into account market conditions and legal and regulatory requirements, after the foreclosure.

(b) For the purposes of this section:

(1) "Participate in management" means actually taking part in the management or operational affairs of a property, business or establishment, but does not mean merely having the capacity to influence or the unexercised right to control the property, business or establishment operations. A lender holding indicia of ownership primarily to protect a security interest in a property, business or establishment shall be considered to participate in management only if, while the borrower is still in possession of the property, business or establishment encumbered by the security interest, the lender exercises decision-making control over the borrower's environmental compliance activities such that (A) the lender has undertaken responsibility for the hazardous substance handling or disposal practices related to the property, business or establishment, or (B) the lender exercises control at a level comparable to that of a property, business or establishment manager to the point where the lender has assumed or manifested responsibility for the overall management encompassing day-by-day decision-making with respect to environmental compliance or decision making over all or substantially all of the operational functions, as distinguished from financial or administrative functions, of the property, business or establishment other than the function of compliance with environmental protection laws. "Participate in management" does not mean: (i) Performing an act or failing to act prior to the time at which a security interest is created in a property, business or establishment; (ii) holding such a security interest or abandoning or releasing such a security interest; (iii) including in the terms of an extension of credit, or in a contract or security agreement relating to the extension, a covenant, warranty or other term or condition that relates to compliance with environmental protection laws; (iv) monitoring or enforcing the terms and conditions of the extension of credit or security interest; (v) monitoring or undertaking one or more inspections of the property, business or establishment; (vi) requiring a response action or other lawful means of containing, removing or attempting to mitigate a discharge or spill prior to, during or on the expiration of the term of the extension of credit; (vii) providing financial or other advice or counseling in an effort to mitigate, prevent or cure default or diminution in the value of the property, business or establishment; (viii) restructuring, renegotiating or otherwise agreeing to alter the terms and conditions of the extension of credit or security interest; (ix) exercising forbearance; (x) exercising other remedies that may be available under applicable law for the breach of a term or condition of the extension of credit or security agreement; or (xi) containing, removing or otherwise mitigating a spill or discharge;

(2) “Extension of credit” means a lease finance transaction in which the lessor does not initially select the leased property, business, including tangible and intangible assets, or establishment and does not during the lease term control the daily operations or maintenance of the property, business or establishment, or the lease or finance transaction provided such transaction conforms to regulations issued by the federal banking agency or the state bank supervisor, as those terms are defined in the Federal Deposit Insurance Act (12 USC 1813), or in regulations issued by the National Credit Union Administration Board;

(3) “Financial or administrative function” means a function of a credit management officer, accounts payable officer, accounts receivable officer, personnel manager, comptroller or chief financial officer or similar function;

(4) “Foreclosure” and “foreclose” means, respectively, acquiring, and to acquire, a property, business or establishment through (A) purchase at sale under a judgment or decree, a power of sale, a nonjudicial foreclosure sale, a deed in lieu of foreclosure, or similar conveyance from a trustee, or repossession, if the property, business, including its tangible and intangible assets, or establishment was security for an extension of credit previously contracted, including the termination of a lease agreement, or (B) any other formal or informal manner by which a lender acquires, for subsequent disposition, title to or possession of a property, business, including its tangible and intangible assets, or facility in order to protect its security interest;

(5) “Lender” means (A) an insured depository institution, as defined in Section 3 of the Federal Deposit Insurance Act (12 USC 1813); (B) an insured credit union, as defined in Section 101 of the Federal Credit Union Act (12 USC 1752); (C) a bank or association chartered under the Farm Credit Act of 1971 (12 USC 2001 et seq.); (D) a leasing or trust company that is an affiliate of an insured depository institution; (E) any person, including a successor or assignee of any such person, that makes a bona fide extension of credit to, or takes or acquires a security interest from, a nonaffiliated person; (F) the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Agricultural Mortgage Corporation, or any other person or entity that in a bona fide manner makes, buys or sells loans or interests in loans; (G) a person who insures or guarantees against a default in the repayment of an extension of credit or acts as a surety with respect to an extension of credit to a nonaffiliated person; and (H) any person who provides title or other insurance and who acquires a property, business or establishment as a result of assignment or conveyance in the course of underwriting claims and claims settlement;

(6) “Operational function” means a facility or plant manager, operations manager, chief operating officer or chief executive officer; and

(7) “Security interest” means a right under a mortgage, deed of trust, assignment, judgment lien, pledge, security agreement, factoring agreement or lease and any other right accruing to a person to secure the repayment of money, the performance of a duty or any other obligation by a nonaffiliated person.

(P.A. 98-253, S. 6.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-453. (Formerly Sec. 25-54gg). Coordination of activities with other agencies. Contracts for services. The commissioner shall represent the state in its relations with the federal government and with any municipality and with any regional or interstate authority in all matters relating to oil or petroleum or chemical liquids or solid, liquid or gaseous products or hazardous wastes pollution or contamination or emergency resulting from the discharge, spillage, uncontrolled loss, seepage or filtration of such substance or material or waste. Said commissioner may enter into agreements with the federal government, such municipalities or authorities, to coordinate supervisory activities and, subject to adequate appropriations, share reasonable costs. The commissioner may contract with any person, firm or corporation for such protective and cleanup services as may from time to time be required.

(1969, P.A. 765, S. 6; 1971, P.A. 872, S. 106; P.A. 79-605, S. 7, 17.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 79-605 clarified provisions by adding references to solid, liquid or gaseous products, to hazardous wastes and to emergencies resulting from discharge, spillage, uncontrolled loss etc. and by deleting phrases which had limited applicability of provisions to cases involving state waters; Sec. 25-54gg transferred to Sec. 22a-453 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-453a. Oil spill contingency planning and coordination. The Commissioner of Energy and Environmental Protection shall develop and implement a program of oil spill contingency planning and coordination with local officials.

(P.A. 90-269, S. 1, 8; P.A. 92-162, S. 14, 25; P.A. 11-80, S. 1.)

History: P.A. 92-162 deleted requirement that the commissioner adopt regulations to implement the provisions of this section; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-454. (Formerly Sec. 25-54hh). Permit for collection, storage or treatment, containment, removal or disposal of certain substances, materials or wastes: Suspension or revocation. Prohibition of disposal of certain hazardous wastes in a land disposal facility. Status changes. (a) No person shall engage in the business of collecting, storing or treating waste oil or petroleum or chemical liquids or hazardous wastes or of acting as a contractor to contain or remove or otherwise mitigate the effects of discharge, spillage, uncontrolled loss, seepage or filtration of such substance or material or waste nor shall any person, municipality or regional authority dispose of waste oil or petroleum or chemical liquids or waste solid, liquid or gaseous products or hazardous wastes without a permit from the commissioner. Such permit shall be in writing, shall contain such terms and conditions as the commissioner deems necessary and shall be valid for a fixed term not to exceed five years. No permit shall be granted, renewed or transferred unless the commissioner is satisfied that the activities of the permittee will not result in pollution, contamination, emergency or a violation of any regulation adopted under sections 22a-30, 22a-39, 22a-116, 22a-347, 22a-377, 22a-430, 22a-449, 22a-451 and 22a-462. The commissioner shall require payment of a fee of six hundred twenty-five dollars per year for each year covered by a permit to transport hazardous waste and the payment of a fee of fourteen thousand two hundred fifty dollars for a permit to treat waste oil or petroleum or chemical liquids. 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. The commissioner may suspend or revoke a permit for violation of any term or condition of the permit, for conviction of a violation of section 22a-131a or for assessment of a fine under section 22a-131. The commissioner may conduct a program of study and research and demonstration, relating to new and improved methods of waste oil and petroleum or chemical liquids or waste solid, liquid or gaseous products or hazardous wastes disposal. For the purposes of this section, collecting, storing, or treating of waste oil, petroleum or chemical liquids or hazardous waste shall mean such activities when engaged in by a person whose principal business is the management of such wastes.

(b) No person may dispose of any hazardous waste in a hazardous waste land disposal facility except the following: (1) Metal hydroxide sludge generated from the treatment of electroplating or metal finishing operation waste waters or any other metal hydroxide sludge approved by the commissioner; (2) hazardous waste sludge or residue resulting from an operation determined by the commissioner to be a recycling operation and which has received the required approvals from the commissioner and the Connecticut Siting Council, provided the commissioner determines that such residue cannot reasonably be incinerated or otherwise managed; and (3) hazardous waste spills, fly ash, residue from waste-to-energy facilities or municipal wastewater treatment sludge

that has been determined to be hazardous waste but approved for such disposal by the commissioner. As used in this subsection, "hazardous waste" has the same meaning as in section 22a-115 and "hazardous waste land disposal facility" means a facility or part of a facility where hazardous waste is applied onto, placed within or beneath the soil surface and remains after closure of the facility. The prohibition established by this subsection shall not continue after July 1, 1991, unless renewed by the General Assembly. Notwithstanding the provisions of this subsection, any restrictions on the land disposal of hazardous waste imposed by the commissioner pursuant to this subsection shall be as stringent as those imposed under Subtitle C of the Resource Conservation and Recovery Act of 1976 (42 USC 6901 et seq.), as amended.

(c) No person shall engage in the business of the transfer of hazardous waste from one vehicle to another or from one mode of transportation to another without a permit from the commissioner issued under subsection (a) of this section.

(d) The commissioner shall require the payment of the following fees for permits under this section: (1) Forty-five thousand two hundred fifty dollars to operate a hazardous waste landfill or incinerator; (2) twenty-one thousand two hundred fifty dollars to store or treat hazardous waste; (3) ten thousand seven hundred fifty dollars to engage in the transfer of hazardous waste as described in subsection (c) of this section if the hazardous waste is transferred from its original container to another container; and (4) four thousand dollars to engage in the transfer of hazardous waste as described in subsection (c) of this section if the hazardous waste remains in the original container. The commissioner shall also charge a fee of two hundred dollars for each hazardous waste treatment, disposal or storage facility which submits an application for a status change to a generator. The commissioner shall charge a fee of one hundred dollars for each hazardous waste large quantity generator which submits an application for status change to a small generator.

(e) (1) The commissioner may issue a general permit for a category of activities which require a permit under subsection (a) of this section or license under subsection (b) of section 22a-449, except for an activity for which an individual permit has already been obtained provided the issuance of the general permit is not inconsistent with the requirements of the federal Resource Conservation and Recovery Act. Any person or municipality conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under subsection (a) of this section, except as provided in subdivision (3) of this subsection. The general permit may regulate a category of activities which: (A) Involve the same or substantially similar types of operations; (B) involve the collection, storage, treatment or disposal of the same types of substances; (C) require the same operating conditions or standards; and (D) require the same or similar monitoring, and which in the opinion of the commissioner are more appropriately controlled under a general permit than under an individual permit. The general permit may require any person or municipality proposing to conduct any activity under the general permit to register such activity with the commissioner before it is covered by the general permit. Registration shall be on a form prescribed by the commissioner.

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

(3) Subsequent to the issuance of a general permit, the commissioner may require any person or municipality whose activity is or may be covered by the general permit to apply for and obtain an individual permit pursuant

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

(4) The commissioner may adopt regulations, in accordance with the provisions of chapter 54 to carry out the purposes of this subsection.

(1969, P.A. 765, S. 7; 1971, P.A. 872, S. 107; 1972, P.A. 237, S. 1; P.A. 73-265, S. 1, 2; P.A. 79-605, S. 8, 17; P.A. 82-151, S. 2; P.A. 84-115; 84-535, S. 1; P.A. 85-342, S. 1; 85-568, S. 1; P.A. 86-219, S. 1, 3; P.A. 87-150; 87-226, S. 1, 2; 87-531, S. 5; P.A. 90-231, S. 6, 28; P.A. 91-251, S. 2, 4; 91-313, S. 2, 5; 91-369, S. 18, 36; P.A. 94-205, S. 5; P.A. 96-145, S. 4; 96-163, S. 7; June 30 Sp. Sess. P.A. 03-6, S. 136; June Sp. Sess. P.A. 09-3, S. 433.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; 1972 act prohibited “acting as a contractor to contain or remove spills of such material” without permit and added other references to containment and removal and contracting for such services; P.A. 73-265 reworded provision re charge for permit to allow charge of less than $5, substituting “not to exceed” $5 for “of” $5, deleted provision re commissioner's duty to consult with and advise persons in the business of disposal of pollutants as to best methods of doing so and made program of study and research optional rather than mandatory, substituting “may” for “shall”; P.A. 79-605 clarified provisions, adding references to hazardous wastes, “solid, liquid or gaseous” products, etc., required municipalities and regional authorities to obtain permits and deleted provision re fee for permit; P.A. 82-151 amended section to require permits for the storage and treatment of waste oil, made permit valid for maximum of five years rather than one year, authorized suspension or revocation of a permit upon violation of a term or condition and specified meaning of collecting, storing or treating of applicable substances for purposes of section; Sec. 25-54hh transferred to Sec. 22a-454 in 1983; P.A. 84-115 added Subsec. (b) prohibiting the disposal of certain hazardous wastes in land disposal facilities; P.A. 84-535 amended Subsec. (a) by adding provisions authorizing the commissioner of environmental protection to consider an applicant's compliance history when granting or renewing certain hazardous waste permits and expanded the class of persons requiring a permit to include persons who manage waste oil, petroleum or chemical liquids or hazardous waste during the course of their business and amended Subsec. (b) by adding a provision terminating the ban on the disposal of hazardous waste in a land disposal facility as of July 1, 1986; P.A. 85-342 added Subsec. (a)(2) re denial of a permit for a criminal conviction of violating environmental law; P.A. 85-568 amended Subsec. (b)(2) by deleting provision that sludge be from residue derived from an “in-state” operation; P.A. 86-219 amended Subsec. (b) by extending the ban on the disposal of hazardous waste in a landfill from July 1, 1986, to July 1, 1987; P.A. 87-150 amended Subsec. (a) by requiring persons whose principal business is the management of hazardous waste to obtain a permit rather

than all persons who manage hazardous waste; P.A. 87-226 amended Subsec. (b) by adding proviso to Subdiv. (2) that the commissioner determines that the residue cannot be incinerated and adding to Subdiv. (3) residue from waste-to-energy facilities, by adding provisions regarding the stringency of restrictions on the land disposal of hazardous waste imposed by the commissioner and by extending prohibition of the disposal of metal hydroxide sludge from July 1, 1987 to July 1, 1991; P.A. 87-531 applied provisions to transfer of permits; P.A. 90-231 amended Subsec. (a) to require the payment of fees for permits issued pursuant to said Subsec. and provided that on and after July 1, 1993, the fees shall be prescribed by regulations and added Subsec. (c) re the payment of fees with certain applications; P.A. 91-251 added Subsec. (d), relettered as (e) because of subsequent amendment, concerning general permits for certain categories of activities; P.A. 91-313 inserted new Subsec. (c) concerning transfer of hazardous waste and changed subsequent Subsec. designator accordingly; P.A. 91-369 amended section to specify in Subsec. (a) the amount required for a fee to transport hazardous waste, to move the fees for operating a hazardous waste landfill and for storing or treating hazardous waste from Subsec. (a) to Subsec. (c) and to restate commissioner's authority to adopt regulations setting the fees required by this section; P.A. 94-205 amended Subsec. (a) to delete provisions re review of permit applicant's compliance history; P.A. 96-145 amended Subsec. (e) to authorize a general permit for certain activities associated with oil terminals; P.A. 96-163 amended Subsec. (d) to delete a provision re setting of fees by regulation and provided fees for a permit to transfer hazardous waste; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (d) to increase permit fee for operation of a hazardous waste landfill or incinerator from $30,000 to $45,000, increase permit fee for storage or treatment of hazardous waste from $14,000 to $21,000, increase permit fee for transfers of hazardous waste to a different container from $7,000 to $10,500, increase permit fee for transfers of hazardous waste in the original container from $2,500 to $3,750, increase application fee for a status change from a treatment, disposal or storage facility to a generator from $50 to $100, and increase application fee for a status change from a large to a small quantity generator from $25 to $50, and to delete provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased fees in Subsecs. (a) and (d).

See Sec. 22a-6m re review of permit applicant's compliance history.

See Sec. 22a-6z re regulations implementing Subtitle C of the Resource Conservation and Recovery Act of 1976.

See Sec. 22a-27i re exemption of municipality for one year.

Cited. 192 C. 591; 202 C. 300.

Subsec. (a):

Processing of spent etchant, irrespective of whether it is solid waste, is subject to regulation under section. 257 C. 128.

Because department has discretion to deny a transshipment permit, applicant cannot possess a protected property interest in such permit. 89 CA 745.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-454a. Closure plans. Fees. Regulations. Each hazardous waste treatment, storage or disposal facility, as defined in regulations adopted by the commissioner pursuant to section 22a-449, shall pay a fee of four thousand dollars at the time it submits closure/postclosure plans to the Department of Energy and Environmental Protection.

(P.A. 90-231, S. 17, 28; P.A. 91-369, S. 19, 36; June 30 Sp. Sess. P.A. 03-6, S. 137; June Sp. Sess. P.A. 09-3, S. 434; P.A. 11-80, S. 1.)

History: P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; June 30 Sp. Sess. P.A. 03-6 increased fee for submission of closure or postclosure plans from $2,500 to

$3,750 and deleted provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased fee from $3,750 to $4,000; pursuant to P.A. 11-80, "Department of Environmental Protection" was changed editorially by the Revisors to "Department of Energy and Environmental Protection", effective July 1, 2011.

See Sec. 22a-27i re exemption of municipality for one year.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-454b. Groundwater monitoring. Fees. Regulations. Each hazardous waste treatment, storage or disposal facility, as defined in regulations adopted by the commissioner pursuant to section 22a-449, which is subject to groundwater monitoring requirements shall pay a fee of nine hundred forty dollars annually during its operating and postclosure period.

(P.A. 90-231, S. 18, 28; P.A. 91-369, S. 20, 36; June 30 Sp. Sess. P.A. 03-6, S. 138; June Sp. Sess. P.A. 09-3, S. 435.)

History: P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; June 30 Sp. Sess. P.A. 03-6 increased fee for facilities subject to groundwater monitoring requirements from $500 to $750 and deleted provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased fee from $750 to $940.

See Sec. 22a-27i re exemption of municipality for one year.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-454c. Annual fees. Generators of acutely hazardous waste. Facilities. (a) Each generator which generates in any calendar month during the calendar year one thousand kilograms or more of hazardous waste or one kilogram or more of acutely hazardous waste shall pay an annual fee of two hundred dollars to the Commissioner of Energy and Environmental Protection.

(b) Each hazardous waste landfill, incinerator, storage, treatment or land treatment facility, as defined in regulations adopted by the Commissioner of Energy and Environmental Protection pursuant to section 22a-449, shall pay an annual fee of one thousand seven hundred fifty dollars.

(P.A. 90-231, S. 19, 28; P.A. 91-369, S. 21, 36; June 30 Sp. Sess. P.A. 03-6, S. 139; June Sp. Sess. P.A. 09-3, S. 436; P.A. 11-80, S. 1.)

History: P.A. 91-369 amended Subsec. (c) to restate commissioner's authority to adopt regulations setting the fees required by this section; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (a) to increase annual fee for generators from $50 to $100, amended Subsec. (b) to increase annual fee for hazardous waste landfills, incinerators, storage, treatment or land treatment facilities from $1,000 to $1,500, and deleted former Subsec. (c) re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 amended Subsec. (a) by increasing annual fee from $100 to $200 and amended Subsec. (b) by increasing annual fee from $1,500 to $1,750; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

See Sec. 22a-27i re exemption of municipality for one year.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Secs. 22a-455 to 22a-457. (Formerly Secs. 25-54ii to 25-54kk). Vessel operator to post bond. Other evidence of financial responsibility. Penalty. Sections 22a-455 to 22a-457, inclusive, are repealed.

(1971, P.A. 190, S. 1–3; P.A. 79-605, S. 9–11, 17; P. A. 87-125, S. 3.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-457a. Floating boom retention devices required, when. Regulations. Each tank ship and tank barge from which and to which oil or petroleum liquids are being transferred shall be protected by (1) a floating boom retention device which shall enclose the vessel, or (2) any other device designed for the retention of oil or petroleum liquids for which the commissioner has issued written approval for the particular site at which the oil or petroleum liquids are transferred. The floating boom retention device or other device approved by the commissioner shall be deployed at sufficient distance from the vessel to catch and contain any spilled oil or petroleum, except when weather, wind, sea, or ice conditions prevent the boom or other device from being wholly or partially deployed in a safe manner. The terminal operator shall report to the Commissioner of Energy and Environmental Protection prior to transfer if the weather, wind, sea, or ice conditions exist or develop after deployment which require removal of the boom or other device. The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, creating exemptions to the use of floating boom retention devices or other devices where he deems them in the best interest of public health and safety and protection of the environment.

(P.A. 90-274, S. 13, 14; P.A. 93-47; P.A. 11-80, S. 1.)

History: P.A. 93-47 authorized use of alternative retention devices with approval of the commissioner; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-457b. Limited immunity for certain persons responding to oil spills. (a) For the purposes of this section:

(1) “Damages” means damages of any kind for which liability may exist under the laws of this state resulting from, arising out of or related to the discharge or threatened discharge of oil;

(2) “Discharge” means any emission, other than natural seepage, intentional or unintentional, and includes, but is not limited to, spilling, leaking, pumping, pouring, emitting, emptying or dumping;

(3) “Federal on-scene coordinator” means the federal official predesignated by the United States Environmental Protection Agency or the United States Coast Guard to coordinate and direct federal responses under Subpart D, or the official designated by the lead agency to coordinate and direct removal under Subpart E, of the National Contingency Plan;

(4) “National Contingency Plan” means the National Contingency Plan prepared and published under Section 311(d) of the federal Water Pollution Control Act (33 USC 1321(d)), as amended by the Oil Pollution Act of 1990, Public Law 101-380, 104 Stat. 484 (1990);

(5) “Oil” means oil of any kind or in any form, including, but not limited to, petroleum, fuel oil, sludge, oil refuse and oil mixed with wastes other than dredged spoil, but does not include petroleum, including crude oil or any fraction thereof, which is specifically listed or designated as a hazardous substance under subparagraphs (A) to (F), inclusive, of section 101 (14) of the Comprehensive Environmental Response, Compensation, and Liability Act (42 USC 9601) and which is subject to the provisions of that act;

(6) "Person" means an individual, corporation, limited liability company, partnership, association, state, municipality, commission or political subdivision of a state, or any interstate body;

(7) "Removal costs" means the costs of removal that are incurred after a discharge of oil has occurred or, in any case in which there is a substantial threat of a discharge of oil, the costs to prevent, minimize or mitigate oil pollution from such an incident;

(8) "Responsible party" means a responsible party as defined under Section 1001 of the Oil Pollution Act of 1990, Public Law 101-380, 104 Stat. 484 (1990).

(b) Notwithstanding any other provision of law, a person is not liable for removal costs or damages which result from actions taken or omitted to be taken in the course of rendering care, assistance or advice to prevent, minimize or mitigate a discharge of oil to the surface waters of the state, provided such care, assistance or advice is consistent with the National Contingency Plan or as otherwise directed by the federal on-scene coordinator or, to the extent that the federal coordinator has not given direction, the Commissioner of Energy and Environmental Protection. The immunity provided by this subsection shall not apply (1) to a responsible party; (2) with respect to personal injury or wrongful death; (3) if the person is grossly negligent or engages in wilful misconduct; or (4) to negligence in the operation of a motor vehicle on a public highway.

(c) A responsible party is liable for any removal costs and damages that another person is relieved of under the provisions of subsection (b) of this section.

(d) Nothing in this section affects the liability of a responsible party for oil spill response under any provision of the general statutes.

(P.A. 91-289, S. 1; P.A. 93-224; P.A. 95-79, S. 102, 189; P.A. 11-80, S. 1.)

History: P.A. 93-224 amended Subsec. (b)(4) to specify that the immunity does not apply to negligence in the operation of a motor vehicle "on a public highway"; P.A. 95-79 amended Subsec. (a) to redefine "person" to include a limited liability company, effective May 31, 1995; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (b), effective July 1, 2011.

See Sec. 22a-452 for general immunity provisions.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-458. (Formerly Sec. 25-54*ll*). Water pollution control authority, mandatory establishment by municipality. Notwithstanding any provision of the general statutes, any special act or municipal charter provision to the contrary, including but not limited to any referendum provision, the legislative body of any municipality ordered by the Commissioner of Energy and Environmental Protection, under the provisions of chapter 474 and this chapter, to abate or control water pollution shall establish a water pollution control authority and authorize the necessary funds to undertake and complete any action necessary to comply with such order.

(1971, P.A. 305, S. 1; P.A. 78-154, S. 17; P.A. 11-80, S. 1.)

History: 1971, P.A. 872 allowed substitution of environmental protection commissioner for water resources commission; P.A. 78-154 substituted water pollution control authorities for sewer authorities and rephrased provisions; Sec. 25-54*ll* transferred to Sec. 22a-458 in 1983; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

In this instance, statute prevails over town charter and does not violate home rule provision of Art. X, Sec. 1 of Connecticut Constitution. 216 C. 436. Cited. 237 C. 135.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Secs. 22a-458a and 22a-458b. Water pollution control authority; reports. Submission of municipal assessment to commissioner. Sections 22a-458a and 22a-458b are repealed, effective October 1, 1997.

(P.A. 90-301, S. 1, 4, 8; P.A. 97-162, S. 5.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-459. (Formerly Sec. 25-54mm). Failure to establish water pollution control authority, violation. Penalties. (a) The failure to comply with an order under section 22a-458 shall constitute a violation of said section 22a-458 and of this section.

(b) If any person or municipality violates section 22a-458 or this section, the commissioner may institute an action in the superior court for the judicial district of Hartford to enjoin the continuance of such violation, such action to have precedence in the order of trial as provided in section 52-191; provided, in the case of a municipality, the commissioner, in lieu of instituting such action, may notify the Commissioner of Administrative Services to take such steps as are necessary to cause the discharge of such municipality to comply with any outstanding order to abate pollution, and the powers of such municipality shall be pro tanto suspended until completion and such municipality shall be obligated to pay to the state for the municipality's share of the cost of such steps plus one-tenth of one per cent of such share. The Commissioner of Energy and Environmental Protection shall determine a schedule of payments for said obligation, which payments shall be made in not more than twenty equal annual installments. If such municipality fails to pay any such installment, the commissioner shall notify the Comptroller who shall thereafter withhold his order for the payment of any form of state aid or grant to such municipality except those provided under titles 10 and 17 until the total of such withheld payments equals the total of any such unpaid installments.

(c) If any municipality violates the terms of any injunction obtained in accordance with the provisions of this section, the commissioner may notify the Commissioner of Administrative Services, with a copy of such notice to such municipality, to take such steps as are necessary to cause the discharge of such municipality to comply with the terms of such injunction, and the powers of such municipality shall be pro tanto suspended until completion, provided, however, that such municipality shall be obligated to pay to the state for the municipality's share of the cost of such steps plus one-tenth of one per cent of such share. The Commissioner of Energy and Environmental Protection shall determine a schedule of payments for said obligation, which payments shall be made in not more than twenty equal annual installments. If such municipality fails to pay any such installment, the commissioner shall notify the Comptroller who shall thereafter withhold his order for the payment of any form of state aid or grant to such municipality except those provided under titles 10 and 17 until the total of such withheld payments equals the total of such unpaid installments.

(d) If any person, municipality, or an agent thereof knowingly violates section 22a-458 or this section, the court, in an action instituted under subsection (b) of this section, shall order such person or municipality to pay to the state a sum not to exceed one thousand dollars for each day's continuance of each violation, provided that if such person or municipality has previously been ordered by the court to make payment to the state for the same violation, then the court shall order payment of a sum not less than five hundred dollars for each day's continuance of such violation. If a municipality fails to make such payment in accordance with the judgment, the commissioner shall notify the Comptroller who shall thereafter withhold his order for the payment of any form of state aid or grant to such municipality except those provided under titles 10 and 17 until the total of such withheld payments equals the amount of such payment.

(1971, P.A. 305, S. 2; P.A. 73-665, S. 15, 17; P.A. 77-614, S. 73, 610; P.A. 78-280, S. 6, 127; P.A. 87-496, S. 94, 110; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4–6; P.A. 11-51, S. 90; 11-80, S. 1; P.A. 13-247, S. 200.)

History: 1971, P.A. 872 allowed substitution of references to environmental protection commissioner for references to water resources commission; P.A. 73-665 made court action by commissioner in Subsec. (b) and notification of public works commissioner in Subsec. (c) optional rather than mandatory, substituting "may" for "shall"; P.A. 77-614 replaced public works commissioner with commissioner of administrative services; P.A. 78-280 replaced "Hartford county" with "judicial district of Hartford-New Britain" in Subsec. (b); Sec. 25-54mm transferred to Sec. 22a-459 in 1983; P.A. 87-496 substituted "public works" for "administrative services" commissioner; P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; pursuant to P.A. 11-51, "Commissioner of Public Works" was changed editorially by the Revisors to "Commissioner of Construction Services" in Subsecs. (b) and (c), effective July 1, 2011; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsecs. (b) and (c), effective July 1, 2011; pursuant to P.A. 13-247, "Commissioner of Construction Services" was changed editorially by the Revisors to "Commissioner of Administrative Services" in Subsecs. (b) and (c), effective July 1, 2013.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-460. (Formerly Sec. 25-54nn). Detergents: Definitions. As used in sections 22a-460 to 22a-462, inclusive:

(a) "Synthetic detergent" or "detergent" means any cleaning compound which is available for household use, laundry use, other personal uses or industrial use, which is composed of organic and inorganic compounds, including soaps, water softeners, surface active agents, dispersing agents, organic solvents, oil emulsifying agents, soluble oil compounds, foaming agents, buffering agents, builders, fillers, dyes, enzymes and fabric softeners, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form;

(b) "Polyphosphate builder" or "phosphorus" means a water softening and soil suspending agent made from condensed phosphates, including pyrophosphates, triphosphates, tripolyphosphates, metaphosphates and glassy phosphates, used as a detergent ingredient;

(c) "Recommended use level" means the amount or concentration of synthetic detergent or detergent which the manufacturer thereof recommends for use, at which level such synthetic detergent or detergent will effectively perform its intended function;

(d) "Machine dishwasher" means equipment manufactured for the purpose of cleaning dishes, glassware and other utensils involved in food preparation, consumption or use, using a combination of water agitation and high temperatures;

(e) "Dairy equipment", "beverage equipment" and "food processing equipment" mean that equipment used in the production of milk and dairy products, foods and beverages, including the processing, preparation or packaging thereof for consumption;

(f) "Industrial cleaning equipment" means machinery and other tools used in cleaning processes during the course of industrial manufacturing, production and assembly;

(g) "Sewage system additive" means any substance or compound sold or offered for sale for the purpose of cleaning, degreasing, unclogging or enhancing the performance of any septic tank, subsurface sewage disposal system, house sewer, sewer service connection, groundwater control system or subsurface drain.

(1971, P.A. 248, S. 1; P.A. 74-311, S. 2, 6; P.A. 79-605, S. 12, 17; P.A. 82-117, S. 1.)

History: P.A. 74-311 included oil emulsifying agents and soluble oil compounds in definition of "synthetic detergent", deleted exclusion of polyphosphate builders or phosphorus essential for medical, scientific or special engineering use in definition of "polyphosphate builders" and "phosphorus" and made minor wording change in definition of "recommended use level"; P.A. 79-605 included "organic solvents" in definition of "synthetic detergent"; P.A. 82-117 added Subsec. (g) defining "sewage system additive"; Sec. 25-54nn transferred to Sec. 22a-460 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-461. (Formerly Sec. 25-54oo). Labeling of detergents. Restrictions on sale or use. Certain sewage system additives prohibited. Penalty. (a) No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent, whether in the form of crystals, powders, flakes, bars, liquids, sprays or any other form, in the state of Connecticut (1) on and after February 1, 1972, unless the container, wrapper or other packaging thereof shall be clearly labeled with respect to its polyphosphate builder or phosphorus ingredient content, clearly and legibly set forth thereon in terms of percentage of phosphorus by weight, expressed as elemental phosphorus per container, wrapper or other packaging thereof, as well as grams of phosphorus, expressed as elemental phosphorus, per recommended use level, and (2) on and after October 1, 1974, unless such person, firm or corporation files with the Commissioner of Energy and Environmental Protection a written statement setting forth the chemical and common names of all ingredients.

(b) The Commissioner of Energy and Environmental Protection may require that the recommended household, commercial, personal or industrial use or uses of each product and that the per cent by weight and function of any ingredient in any product be provided in a written statement within thirty days of a request for such information. Any information acquired by the commissioner under this subsection shall, upon written request, be kept confidential with respect to the product name.

(c) The Commissioner of Energy and Environmental Protection may, by order, ban or restrict the sale or use of any synthetic detergent or detergent in the state or the use of any synthetic detergent or detergent in any geographical area of the state to protect the waters of the state.

(d) No person, firm or corporation may use, sell, offer or expose for sale or give or furnish any sewage system additive which contains any substance or compound on the toxic pollutant list published by the United States Environmental Protection Agency pursuant to Section 1317 of the federal Water Pollution Control Act (33 USC 1317), as amended.

(e) Any person who violates any provision of this section may be fined not less than one hundred dollars or more than three hundred dollars for the first offense, and not less than three hundred dollars or more than five hundred dollars for the second and each subsequent offense. A separate and distinct offense shall be construed to be committed each day on which such person shall continue or permit any such violation.

(1971, P.A. 248, S. 2; P.A. 73-555, S. 7, 10; P.A. 74-311, S. 3, 6; P.A. 82-117, S. 2; P.A. 95-167, S. 1; P.A. 97-124, S. 7, 16; P.A. 11-80, S. 1; P.A. 13-209, S. 10.)

History: P.A. 73-555 added Subdiv. (b) re conditions for sale on and after October 1, 1973; P.A. 74-311 made previous provisions Subsec. (a), replacing alphabetic Subdiv. indicators with numeric indicators, changing applicable date in Subdiv. (2) to October 1, 1974, requiring that statement contain common names of ingredients and deleting provision allowing expression of nonactive filler materials as "inert matters" and added Subsecs. (b) to (d) re further requirements and penalty for violation of provisions; P.A. 82-117 inserted new Subsec. (d) prohibiting to the use or sale of sewage system additives containing substances or compounds on the federal toxic pollutant list, relettering former Subsec. (d) accordingly; Sec. 25-54oo transferred to Sec. 22a-461 in 1983; P.A. 95-167 amended Subsec. (d) to provide the labeling requirement for sewage system additives, inserted a new Subsec. (e) requiring regulations re registration of such additives and relettered former Subsec. (e) as (f); P.A. 97-124 amended Subsec. (d) to eliminate a requirement for labeling of sewage system additives, effective June 6, 1997; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by

the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011; P.A. 13-209 deleted former Subsec. (e) re adoption of regulations and redesignated existing Subsec. (f) as Subsec. (e).

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-462. (Formerly Sec. 25-54pp). Sale of certain detergents prohibited: Excepted uses. Regulations. (a) No person, firm or corporation shall sell, offer or expose for sale, give or furnish any synthetic detergent or detergent which requires a recommended use level of such synthetic detergent or detergent which contains more than seven grams of phosphorus by weight expressed as elemental phosphorus, within the state of Connecticut from and after February 1, 1972, except that synthetic detergents or detergents manufactured for use or to be used for medical, scientific or special engineering purposes or for use in machine dishwashers, dairy equipment, beverage equipment, food processing equipment and industrial cleaning equipment shall not be subject to the limitation in this section.

(b) The concentration of phosphorus, by weight, expressed as elemental phosphorus in any synthetic detergent or detergent shall be determined by the current applicable method prescribed by the American Society for Testing and Materials.

(c) The provisions of subsections (b) and (c) of section 22a-438, shall not apply to violations of subsection (a) of this section.

(d) The Commissioner of Energy and Environmental Protection shall adopt regulations in accordance with the provisions of chapter 54 to carry out the provisions of sections 22a-460 to 22a-462, inclusive.

(1971, P.A. 248, S. 3; P.A. 73-192, S. 1, 2; P.A. 74-311, S. 4, 6; P.A. 80-103; P.A. 82-117, S. 3; P.A. 85-77; P.A. 95-167, S. 2; P.A. 11-80, S. 1.)

History: P.A. 73-192 made previous provisions of Subsec. (b) applicable on and after June 30, 1974, rather than on and after June 30, 1973, and added Subdiv. (2) re investigation of phosphorus and its substitutes by commissioner; P.A. 74-311 expanded exemption in Subsec. (a) to include detergents used for medical, scientific or special engineering purposes, deleted Subsec. (b) which had prohibited use of phosphorus detergents on and after June 30, 1974, and required commissioner to investigate effects of phosphorus and its substitutes, relettered former Subsec. (c) as Subsec. (b) and added new Subsec. (c); P.A. 80-103 expanded exemption in Subsec. (a) to include detergents used in small amounts and containing small amounts of phosphorus as specified; P.A. 82-117 added Subsec. (d) requiring the commissioner to adopt regulations implementing the provisions of Secs. 25-54nn to 25-54pp; Sec. 25-54pp transferred to Sec. 22a-462 in 1983; P.A. 85-77 amended Subsec. (a) by eliminating the maximum allowed phosphorus content; P.A. 95-167 amended Subsec. (d) to delete requirement re regulations for the labeling and registration of sewage system additives; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (d), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-462a. Microbead prohibitions. Regulations. Study. Penalty. (a) For the purposes of this section:

(1) "Over-the-counter drug" means any drug that is a personal care product that contains a label that identifies such product as a drug, as required by 21 CFR 201.66, as amended from time to time;

(2) "Personal care product" means any (A) article intended to be rubbed, poured, sprinkled, sprayed on, introduced into or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness or altering the appearance of, (B) article intended for use as a component of any such article described in subparagraph (A) of this subdivision, or (C) over-the-counter drug. "Personal care product" does

not include any product for which a prescription is required for distribution or dispensation, as determined by the Commissioner of Consumer Protection; and

(3) "Microbead" means any intentionally added synthetic solid plastic particle measured to be five millimeters or less in size that is used to exfoliate or cleanse and is intended to be rinsed off or washed off the body and consequently deposited into a sink, shower or bathtub drain.

(b) On and after December 31, 2017, no person shall manufacture for sale any personal care product, except for an over-the-counter drug, that contains any intentionally added microbead.

(c) On and after December 31, 2018, no person shall import, sell or offer for sale any personal care product, except for an over-the-counter drug, that contains any intentionally added microbead.

(d) On and after December 31, 2018, no person shall manufacture for sale any over-the-counter drug that contains an intentionally added microbead.

(e) On and after December 31, 2019, no person shall import, sell or offer for sale any over-the-counter drug that contains any intentionally added microbead.

(f) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Consumer Protection, may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section.

(g) (1) On or before August 15, 2016, the Commissioner of Energy and Environmental Protection shall accept an application on behalf of a manufacturer of a personal care product for the performance of a study, at the request of said commissioner, by the Connecticut Academy of Science and Engineering to determine if a biodegradable microbead is available for use in such personal care product that does not adversely impact the environment or publicly-owned treatment works in this state. Any such application shall require the manufacturer of such biodegradable microbead to disclose the chemical constituents or composition of such microbead. Upon receipt of any such application, in a format as prescribed by the commissioner, the commissioner shall request the Connecticut Academy of Science and Engineering to perform such study. Said academy may establish a fee for the performance of such study and such fee shall be remitted by the applicant to the Department of Energy and Environmental Protection. Upon receipt of such request and such fee from the commissioner, said academy shall commence such study. Such study shall, at a minimum, consist of: (A) A study committee appointed by said academy to oversee such study, (B) the use of an academy-selected research team with expertise in matters relating to biodegradable microbeads to conduct relevant research for such study, including, but not limited to, the fate and transport of microbeads, and author a study report, and (C) study committee meetings that afford the opportunity for such applicant, department and interested persons to obtain information concerning the study's process. The academy shall complete any such study and issue a final study report for such study to the commissioner not later than December 15, 2017. Upon receipt of such final study report, the commissioner shall review such final study report and, not later than February 1, 2018, forward such final study report and any recommendations of said academy for legislation concerning the use of biodegradable microbeads in personal care products to the joint standing committee of the General Assembly having cognizance of matters relating to the environment.

(2) Any information or materials submitted by an applicant to the Department of Energy and Environmental Protection or the Connecticut Academy of Science and Engineering in connection with the performance of the study described in subdivision (1) of this subsection shall not be subject to disclosure pursuant to chapter 14 provided such applicant indicates to the department or academy, at the time of submission, information or materials that such applicant deems a trade secret or privileged in any manner.

(3) In the event that the study described in subdivision (1) of this subsection is not completed on or before December 15, 2017, the manufacturing, selling, importing or offering for sale of any personal care product that contains an intentionally added biodegradable microbead shall be prohibited on and after July 1, 2018.

(h) Any person who violates any of the provisions of subsections (b) to (e), inclusive, of this section or any regulation adopted pursuant to subsection (f) of this section shall be fined not more than five thousand dollars for the first violation and not more than ten thousand dollars for any subsequent violation.

(June Sp. Sess. P.A. 15-5, S. 50; P.A. 16-89, S. 4.)

History: June Sp. Sess. P.A. 15-5 effective June 30, 2015; P.A. 16-89 amended Subsec. (g)(1) to make a technical change, effective June 1, 2016.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-462b. Microfiber pollution working group. Consumer awareness and education program. Requirements. Membership. Report. Not later than July 1, 2018, the Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Consumer Protection, shall convene a working group of representatives of the apparel industry and the environmental community for the purpose of developing a consumer awareness and education program concerning the presence of synthetic microfiber pollution. Such program shall include, but not be limited to, consumer oriented information that explains the process by which such microfibers are shed from clothing and are dispersed in the state's waterways, best practices for consumers to eliminate and reduce the disbursement of microfibers from clothing into the waterways of the state and information on efforts that members of the apparel industry, including, but not limited to, brand labels, are undertaking to reduce or eliminate microfibers in clothing. The working group shall include, but not be limited to, a representative of each of the following organizations: (1) The Sustainable Apparel Coalition, (2) the American Apparel and Footwear Association, (3) the American Apparel and Producer's Network, (4) Fashion Group International, (5) the National Retail Federation, (6) the Council of Fashion Designers of America, (7) Fashion Business, Inc., and (8) the Outdoor Industry Association. Not later than January 1, 2019, the Commissioner of Energy and Environmental Protection shall, in accordance with section 11-4a, submit a report to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on the efforts of such working group and any related recommendations for legislation concerning such consumer awareness and education program and the reduction of microfibers in our state's waterways.

(P.A. 18-181, S. 6.)

History: P.A. 18-181 effective June 14, 2018.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-463. (Formerly Sec. 25-54rr). Polychlorinated biphenyls (PCB). Definitions. As used in sections 22a-463 to 22a-469, inclusive:

(a) “Commissioner” means the Commissioner of Energy and Environmental Protection.

(b) “PCB” means the class of organic compounds known as polychlorinated biphenyls or terphenyls and includes any of several compounds produced by replacing two or more hydrogen atoms on the biphenyl or terphenyl molecule with chlorine.

(c) “Incidental amounts of PCB” means amounts of the compound PCB in an item, product or material which are beyond the control of the person manufacturing, selling for use, or using such item, product or material.

(P.A. 76-389, S. 1, 8; P.A. 11-80, S. 1.)

History: Sec. 25-54rr transferred to Sec. 22a-463 in 1983; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and

Environmental Protection", effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-464. (Formerly Sec. 25-54ss). Restrictions on manufacture, sale or use of PCB. (a) No person shall manufacture the compound PCB on or after July 1, 1976, and no person shall sell or offer for sale the compound PCB on or after July 1, 1976, unless he has registered such activity with the commissioner. Any person registered to sell or offer for sale the compound PCB shall, at least thirty days prior to the date on which delivery is to be made, notify the commissioner of each sale, the purchaser and the amount purchased.

(b) No person shall use the compound PCB in the manufacture of an item, product or material or sell or offer for sale an item, product or material to which the compound PCB has been added on or after July 1, 1977, except in accordance with section 22a-465.

(P.A. 76-389, S. 2, 8.)

History: Sec. 25-54ss transferred to Sec. 22a-464 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-465. (Formerly Sec. 25-54tt). Use of PCB in closed systems. Incidental amounts of PCB permitted. (a) An item, product or material containing the compound PCB may be manufactured for sale, sold for use or used if the compound PCB is used in a closed system as a dielectric fluid for an electric transformer or capacitor provided the item, product or material is labeled in accordance with the American National Standards Institute Incorporated guidelines.

(b) An item, product or material containing incidental amounts of PCB may be manufactured for sale, sold for use or used provided such incidental amounts do not result from exposing the item, product or material to the compound PCB or from failing to take reasonable measures to rid the item, product or material of the compound PCB.

(c) An item, product or material containing the compound PCB may be manufactured for sale, sold for use or used provided an exemption has been granted by the commissioner in accordance with section 22a-466.

(P.A. 76-389, S. 3, 8.)

History: Sec. 25-54tt transferred to Sec. 22a-465 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-466. (Formerly Sec. 25-54uu). Exemptions. (a) The commissioner may exempt the manufacture for sale, sale for use or use of an item, product or material containing the compound PCB or the use of the compound PCB for other purposes provided there is no reasonable substitute for the compound PCB in the item, product or material or for the use for other purposes.

(b) Any person intending to manufacture or continue to manufacture for sale, sell for use or continue to sell for use, use or continue to use an item, product or material containing the compound PCB or intending to use or continue to use the compound PCB after July 1, 1977, for uses other than those exempted pursuant to section 22a-465, shall file a request for exemption with the commissioner at least six months prior to the date such use is intended to be initiated or continued.

(c) Each request for exemption shall contain a complete description of the intended use or use of the item, product or material containing the compound PCB or the intended use or use of the compound PCB for other purposes, the amounts of the compound PCB which is intended to be used or is used, the reasons a substitute for the compound PCB cannot be used or is not used and the means by which the discharge of the compound PCB will be or is controlled.

(d) In granting an exemption the commissioner may impose such conditions as he deems appropriate to control the discharge or potential discharge of the compound PCB.

(e) All exemptions shall expire annually on July first. Reapplication for an exemption shall be filed with the commissioner on or before January first of the year when the exemption will expire.

(P.A. 76-389, S. 4, 8.)

History: Sec. 25-54uu transferred to Sec. 22a-466 in 1983.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-467. (Formerly Sec. 25-54vv). Disposition of PCB regulated. No person shall dispose of the compound PCB or any item, product or material containing the compound PCB except in accordance with a permit issued pursuant to section 22a-208a, 22a-430 or 22a-454. Notwithstanding the provisions of this section, a person or municipality may dispose of the compound PCB, or the item, product or material containing the compound PCB, in accordance with a written approval by the commissioner if such disposal (1) results in destruction of the compound PCB; or (2) is not inconsistent with the provisions of Part 761 of Title 40 of the Code of Federal Regulations. The commissioner may include in any such approval such conditions as he deems appropriate to protect the environment and human health. For purposes of this section, person includes any responsible corporate officer or municipal official and “dispose” means to incinerate or treat the compound PCB or any item, product or material containing the compound PCB, or to discharge, deposit, inject, dump or place the compound PCB or any item, product or material containing the compound PCB into or on land or water so that such compound, item, product or material enters the environment, is emitted into the air, or is discharged into any waters, including groundwaters.

(P.A. 76-389, S. 5, 8; P.A. 86-403, S. 57, 132; P.A. 93-428, S. 15, 39; P.A. 00-19, S. 4.)

History: Sec. 25-54vv transferred to Sec. 22a-467 in 1983; P.A. 86-403 made technical change, adding reference to Sec. 22a-208a; P.A. 93-428 provided for written approval of the commissioner for disposal in lieu of a permit, effective July 1, 1993; P.A. 00-19 changed “no person or municipality” to “no person”, added language providing that person includes any responsible corporate officer or municipal official, and defined “dispose”.

See Sec. 22a-469a re incineration of PCB by public service companies.

Cited. 192 C. 591.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-468. (Formerly Sec. 25-54ww). Regulations. The commissioner may adopt such regulations as he deems appropriate to implement the provisions of sections 22a-463 to 22a-469, inclusive. The commissioner may adopt by reference any standards or regulations concerning the disposal, storage, marking, record-keeping, use and transportation, by any mode, manufacturing, processing and distribution in commerce of the compound PCB adopted by the United States Environmental Protection Agency pursuant to the Toxic Substances Control Act (15 USC 2601 et seq).

(P.A. 76-389, S. 6, 8; P.A. 87-157, S. 1.)

History: Sec. 25-54ww transferred to Sec. 22a-468 in 1983; P.A. 87-157 authorized the commissioner to adopt by reference federal standards or regulations concerning the compound PCB.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-469. (Formerly Sec. 25-54xx). Penalty. Any person who or municipality which violates any provisions of sections 22a-463 to 22a-469, inclusive, shall be subject to the penalties provided for in section 22a-438.

(P.A. 76-389, S. 7, 8; P.A. 87-157, S. 2.)

History: Sec. 25-54xx transferred to Sec. 22a-469 in 1983; P.A. 87-157 made a technical change.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-469a. Incineration of PCB by public service companies. Any public service company, as defined in section 16-1, planning to incinerate in the state any solid or liquid substance in which the compound PCB, as defined in section 22a-463, is present in a concentration of at least fifty parts per million, shall notify the municipality where the incineration is to occur, at least seven days before transporting the substance into the municipality, of (1) the location from which the substance will be transported, (2) the date of entry of the substance into the municipality, (3) the quantity of the substance and concentration of the compound PCB that will be incinerated and (4) the method and date of the incineration.

(P.A. 83-100.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-470. (Formerly Sec. 25-54yy). Relocation or removal of public service facilities as necessary for construction of municipal sewer or pollution abatement facilities. Whenever a municipality obtains a grant under this chapter for the construction, rebuilding, expansion or acquisition of sewers or other pollution abatement facilities and where the carrying out of such construction, rebuilding, expansion or acquisition requires the temporary or permanent readjustment, relocation or removal of a public service facility from a street or public right-of-way, the municipality shall issue an appropriate order to the company owning or operating such facility and such company shall permanently or temporarily readjust, relocate or remove such facility promptly in accordance with such order, provided an equitable share of the cost of such readjustment, relocation or removal of said public service facility, including the cost of installing and constructing a facility equal in capacity in a new location, shall be borne by the municipality. Such equitable share shall be one hundred per cent of such cost after the deductions hereinafter provided. In establishing the equitable share of the cost to be borne by the municipality, there shall be deducted from the cost of the readjusted, relocated or removed facilities a sum based on a consideration of the value of materials salvaged from existing installations, the cost of the original installation, the life expectancy of the original facility and the unexpired term of such useful life. For the purposes of determining the equitable share of the cost of such readjustment, relocation or removal, the books and records of the company shall be available for the inspection of the municipality. When any facility is removed from a street or public right-of-way to a private right-of-way, the municipality shall not pay for such right-of-way. If the municipality and the company owning or operating such facility cannot agree upon the share of the cost to be borne by the municipality, either may apply to the superior court for the judicial district in which the street or public right-of-way is situated or, if the court is not in session, to any judge thereof for a determination of the cost to be borne by the municipality, and such court or judge after causing notice of the pendency of such application to be given to the other party, shall appoint a state referee to make such determination. Such referee, having given at least ten days' notice to the parties interested of the time and place of the hearing, shall hear both parties, shall take such testimony as such referee may deem material and shall thereupon determine the amount of the cost to be borne by the municipality and forthwith report to the court. If

the report is accepted by the court, such determination shall, subject to right of appeal as in civil actions, be conclusive upon such parties. As used in this section, "public service facility" includes any sewer, pipe, main, conduit, cable, wire, tower, building or a utility appliance owned or operated by an electric distribution, gas, telephone, water or community antenna television service company.

(P.A. 79-526, S. 1, 2; P.A. 14-134, S. 34.)

History: Sec. 25-54yy transferred to Sec. 22a-470 in 1983; P.A. 14-134 replaced reference to electric company with reference to electric distribution company and deleted reference to telegraph company, effective June 6, 2014.

"Equitable share" discussed. 206 C. 65.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-471. Pollution of groundwaters. Orders to provide potable drinking water. Grants to municipalities. Hearing on order to abate. Appeal. Injunction. Forfeiture for violations. Orders to persons engaged in agriculture for contamination of groundwater by pesticides. (a)(1) If the Commissioner of Energy and Environmental Protection determines that pollution of the groundwaters has occurred or can reasonably be expected to occur and the Commissioner of Public Health determines that the extent of pollution creates or can reasonably be expected to create an unacceptable risk of injury to the health or safety of persons using such groundwaters as a public or private source of water for drinking or other personal or domestic uses, the Commissioner of Energy and Environmental Protection may issue an order to the person or municipality responsible for such pollution requiring that potable drinking water be provided to all persons affected by such pollution. In determining if pollution creates an unacceptable risk of injury, the Commissioner of Public Health shall balance all relevant and substantive facts and inferences and shall not be limited to a consideration of available statistical analysis but shall consider all of the evidence presented and any factor related to human health risks. If the Commissioner of Energy and Environmental Protection finds that more than one person or municipality is responsible for such pollution, the commissioner shall attempt to apportion responsibility if the commissioner determines that apportionment is appropriate. If the commissioner does not apportion responsibility, all persons and municipalities responsible for the pollution of the groundwaters shall be jointly and severally responsible for the providing of potable drinking water to persons affected by such pollution. If the commissioner determines that the state or an agency or department of the state is responsible in whole or in part for the pollution of the groundwaters, such agency or department shall prepare or arrange for the preparation of an engineering report and shall provide or arrange for the provision of a long-term potable drinking water supply. If the commissioner is unable to determine the person or municipality responsible or if the commissioner determines that the responsible persons have no assets other than land, buildings, business machinery or livestock and are unable to secure a loan at a reasonable rate of interest to provide potable drinking water, the commissioner may prepare or arrange for the preparation of an engineering report and provide or arrange for the provision of a long-term potable drinking water supply or the commissioner may issue an order to the municipality wherein groundwaters unusable for potable drinking water are located requiring that short-term provision of potable drinking water be made to those existing residential buildings and elementary and secondary schools affected by such pollution and that long-term provision of potable drinking water be made to all persons affected by such pollution. For purposes of this section, "residential building" means any house, apartment, trailer, mobile manufactured home or other structure occupied by individuals as a dwelling, except a non-owner-occupied hotel or motel or a correctional institution.

(2) Any order issued pursuant to this section may require the provision of potable drinking water in such quantities as the commissioner determines are necessary for drinking and other personal and domestic uses and may require the maintenance and monitoring of potable water supply facilities for any period which the commissioner determines is necessary. In making such determinations, the commissioner shall consider the short-term and long-term needs for potable drinking water and the health and safety of those persons whose water supply is unusable. Any order may require the submission of an engineering report which shall be subject

to the approval of the commissioner and the Commissioner of Public Health and include, but not be limited to, a description in detail of the problem, area and population affected by pollution of the groundwaters; the expected duration of and extent of the pollution; alternate solutions including relative cost of construction or installation, operation and maintenance; design criteria on all alternate solutions; and any other information which the commissioner deems necessary. Upon review of such report, the commissioner and the Commissioner of Public Health shall consider the nature of the pollution, the expected duration and extent of the pollution, the health and safety of the persons affected, the initial and ongoing cost-effectiveness and reliability of each alternative and any other factors which they deem relevant, and shall approve a system or method to provide potable drinking water pursuant to the order. Each order shall include a time schedule for the accomplishment of the steps leading to the provision of potable drinking water. Notwithstanding the fact that a responsible party has been or may be identified or a request for a hearing on or a pending appeal from an order issued pursuant to this section, when pollution of the groundwaters has occurred or may reasonably be expected to occur, the commissioner may prepare or arrange for the preparation of an engineering report as described in this subdivision and may provide or arrange for the provision of a long-term potable drinking water supply. In any case where the state or an agency or department of the state is responsible in whole or in part for the pollution of the groundwaters, such agency or department shall prepare or arrange for the preparation of an engineering report and shall provide or arrange for the provision of a long-term potable drinking water supply, and if the state is not the sole responsible party, the commissioner shall seek reimbursement under subdivision (4) of subsection (b) of this section for the costs of such report and for the provision of potable water. The cost of the report and of the provision of a long-term potable drinking water supply, as funds allow, shall be paid from the proceeds of any bonds authorized for the provision of potable drinking water.

(3) The provisions of this section shall not affect the rights of any municipality to institute suit to recover all damages, expenses and costs incurred by the municipality from any responsible party, including, but not limited to, the costs specified in subparagraph (B)(i) and (ii) of subdivision (4) of subsection (b) of this section and, in the case of any municipality which is not responsible for the pollution of the groundwaters, the additional amounts specified in subparagraph (B)(iii) and (iv) of subdivision (4) of subsection (b) of this section.

(4) No provision of this section shall limit the liability of any person who or municipality which renders the groundwaters unusable for potable drinking water from a suit for damages by a person who or municipality which relied on said groundwaters for potable drinking water prior to the determination by the commissioner that the groundwaters are polluted.

(5) The commissioner may issue any order pursuant to this section if the pollution of the groundwaters occurred before or after July 1, 1982.

(6) The commissioner may at any time require further action by any person to whom or municipality to which an order is issued pursuant to this section if the commissioner determines that such action is necessary to protect the health and safety of those persons whose water supply was rendered unusable.

(b) (1) (A) Any municipality not responsible for the pollution of the groundwaters that is ordered to provide potable drinking water in accordance with subsection (a) of this section may apply to the commissioner for a grant as provided by this subsection. Except as provided in subparagraph (C) of subdivision (1) of this subsection and in subdivision (2) of this subsection, the commissioner shall make grants for the short-term provision of potable drinking water and the construction or installation of individual wells or individual water treatment systems, including, but not limited to, carbon absorption filters and shall make grants for other capital improvements for the long-term provision of potable drinking water from any bond authorization established for that purpose.

(B) The amount distributed to a municipality shall, as funds allow, equal one hundred per cent of the cost of short-term provision of potable drinking water, one hundred per cent of the cost of the engineering report required by this section, one hundred per cent of the cost of capital improvements for the most cost-effective long-term method of providing potable drinking water as determined by the commissioner and the Commissioner of Public Health upon consideration of such engineering report, and one hundred per cent of the cost during the first five years of installation of monitoring and maintaining individual water treatment systems

and monitoring drinking water wells located in an area where the commissioner determines that pollution of the groundwater is reasonably likely to occur. No state funds shall be distributed to a municipality for the cost of operating or maintaining any potable water supply facilities other than as specified in this subsection.

(C) Notwithstanding any provision of this subsection to the contrary, the commissioner may advance to a municipality, from the proceeds of any bonds authorized for the provision of potable drinking water, any percentage of the cost of short-term and long-term provision of potable drinking water that the commissioner deems necessary.

(2) (A) If the commissioner is unable to determine the person or municipality responsible for rendering the groundwaters unusable for potable drinking water or if the commissioner determines that the responsible persons have no assets other than land, buildings, business machinery or livestock and are unable to secure a loan at a reasonable rate of interest to provide potable drinking water, a water company that has less than ten thousand customers and that owns, maintains, operates, manages, controls or employs a water supply well that is rendered unusable for potable drinking water, may apply to the commissioner for a grant from funds established pursuant to section 22a-451 or from the proceeds of any bonds authorized for the provision of potable drinking water. If, upon review of the engineering report required by this subsection to be submitted with an application for such a grant, the commissioner determines that a grant to a water company from available appropriations or from the proceeds of any bonds authorized for the provision of potable drinking water is appropriate, the commissioner may make such a grant in accordance with regulations adopted by the commissioner pursuant to subsection (e) of this section.

(B) The total amount distributed to a water company pursuant to this subsection shall, as funds allow, equal fifty per cent of the cost of the engineering report required by this subsection and fifty per cent of the cost of the most cost-effective long-term method of rendering the water supply in question usable for potable drinking water, as determined by the commissioner and the Commissioner of Public Health upon consideration of the required engineering report.

(C) For purposes of this section, “water company” and “customer” have the same meanings as provided in section 25-32a.

(D) Any water company applying for a grant pursuant to this section shall prepare or have prepared an engineering report that shall be subject to the approval of the commissioner and the Commissioner of Public Health and include, but not be limited to, a description in detail of the problem, area and population affected by pollution of the groundwaters; alternate solutions including relative cost of construction or installation, operation and maintenance; design criteria on all alternate solutions and any other information the commissioner deems necessary.

(3) (A) If a municipality or water company receives funding from a private source, a federal grant or another state grant for any cost for which a grant may be awarded pursuant to this section, the grant under this section shall equal the specified percentage of the costs specified in this subsection minus the amount of the other funding.

(B) If a municipality or water company receives a grant under this section and is compensated by a person who or municipality that is responsible for rendering the groundwaters unusable for potable drinking water, the municipality or water company shall reimburse the account from which the funds were made available for the grant as follows: If the compensation from the responsible party equals or exceeds the costs toward which the grant was to be applied, the municipality or water company shall reimburse the total amount of the grant; if the compensation is less than the cost toward which the grant was to be applied, the municipality or water company shall reimburse a percentage of the compensation equal to the percentage of such costs paid by the grant.

(4) (A) Notwithstanding any request for a hearing or a pending appeal therefrom, if a person or municipality responsible for pollution of the groundwaters fails to comply with an order of the commissioner issued pursuant to this section, the municipality wherein such pollution is located may, after giving written notice of its intent to the commissioner and the responsible person or municipality, undertake the actions required by the order and

seek reimbursement for the cost of such actions from the responsible person or municipality. If at any time after receipt of such a notice, the responsible party intends to comply with a step of the order that the municipality has not yet completed, the responsible party may do so with the written approval of the commissioner and municipality, provided the actions that the responsible party takes are consistent with those taken by the municipality.

(B) The commissioner may order any person or municipality responsible for pollution of the groundwaters to reimburse the state, a water company, and any municipality that is not responsible for pollution but received an order pursuant to this section or that did not receive such an order but voluntarily provided potable drinking water, for (i) the expenses each incurred in providing potable drinking water to any person affected by such pollution, provided the required reimbursement for such expenses shall not exceed the actual cost of short-term provision of potable drinking water and an amount equal to the reasonable cost of planning and implementing the most cost-effective long-term method of providing potable drinking water as determined by the commissioner and the Commissioner of Public Health; (ii) costs for recovering such reimbursement; (iii) interest on the expenses specified in (i) at a rate of ten per cent a year from the date such expenses were paid; and (iv) reasonable attorney's fees. The commissioner may request the Attorney General to bring a civil action to recover any costs or expenses incurred by the commissioner pursuant to this subsection provided no such action may be brought later than ten years after the date of discovery of the pollution of public or private sources of water for drinking or other personal or domestic use.

(C) If a municipality fails to recover all expenses specified in subparagraph (B)(i) of subdivision (4) of this subsection from the responsible party, the municipality may apply to the commissioner for a grant in accordance with this subsection, provided the total amount of funds received from the commissioner and the responsible party shall not exceed the amounts specified in subparagraph (B) of subdivision (1) of subsection (b) of this section.

(5) For purposes of this section except subdivision (3) of subsection (a) and subparagraph (B)(ii) of subdivision (4) of this subsection, “cost” includes only those costs that the commissioner determines are necessary and reasonable, including, but not limited to, the cost of plans and specifications, construction or installation and supervision thereof.

(6) If any grant application is pending on June 7, 1994, and is approved by the commissioner, the percentage of costs to be paid by the grant shall be determined in accordance with this section. Any order pending on May 31, 1985, shall be construed in accordance with this section.

(7) Any person who or municipality that provides potable drinking water pursuant to this section may, with the approval of the commissioner, construct or install facilities beyond the areas included in the order or facilities that are more costly than those that are determined to be most cost-effective, provided any request for a grant or reimbursement shall be limited to the amounts specified in this section.

(8) Notwithstanding any provision of this section and the cost-sharing formula established in section 22a-471-1 of the Regulations of Connecticut State Agencies, for any area of a municipality that is adjacent to a federal Superfund site where there is a water line extension component to such project and the federal government is providing fire flow capacity while such water is groundwater supplied by a municipal water company, the minimum size water main required to address pollution may be upgraded in order to carry fire flow and the municipality shall only be responsible to pay the incremental project cost.

(9) Notwithstanding any provision of this section and the cost sharing formula established in section 22a-471-1 of the regulations of Connecticut state agencies, for any area of a municipality that is adjacent to a site listed on the State of Connecticut Superfund Priority List where a water line extension component to such project has been installed by a municipal or private water company, the minimum size water main required to address pollution may be upgraded in order to carry fire flow or address public water supply needs that are consistent with an adopted plan of conservation and development and the municipality shall only be responsible to pay the incremental project cost, which may be funded by such water company, another person or available local, state or federal funds.

(c) Any order issued under the provisions of this section shall be subject to the rights of any aggrieved person or municipality to a hearing before the commissioner as provided in section 22a-436, and appeal from the final determination of the commissioner to the Superior Court as provided in section 22a-437. The request for a hearing or pending appeal therefrom shall not constitute a condition which shall stay the commissioner from requesting that an injunction under the provisions of section 22a-6 or 22a-435, or a civil action to recover a forfeiture under the provisions of section 22a-438, be initiated by the Attorney General. The court shall issue an injunction requiring the recipient of the order to take the steps required by the order for short-term and long-term provision of potable drinking water unless such court determines that the issuance of the order was arbitrary. Notwithstanding any provision of the general statutes, a court shall not grant a stay from any order issued pursuant to this section on the grounds that an administrative appeal is pending. If it is thereafter determined by the Superior Court as the result of an appeal under the provisions of section 22a-437 that the commissioner acted arbitrarily, unreasonably or contrary to law in requiring a person or municipality to comply with an order the commissioner shall reimburse the person or municipality for the total costs which have been incurred from the funds established under section 22a-446.

(d) The commissioner shall not issue an order to any person pursuant to this section if the sole basis for the order is that such person is the owner of the land from which the source of pollution or potential source of pollution emanates.

(e) The commissioner may, in accordance with chapter 54, adopt such regulations as the commissioner deems necessary to carry out the provisions of this section, and shall adopt regulations for the provision of grants pursuant to this section which shall include criteria for eligibility for funds.

(f) (1) Notwithstanding the provisions of subsection (a) of this section, if the commissioner determines that a person whose actions have caused or can reasonably be expected to cause pollution of the groundwaters by the application of a pesticide (A) has properly applied the pesticide or arranged for a pesticide application which was properly performed, (B) was engaged in agriculture at the time the pesticide was applied and used the pesticide solely in the production of agricultural commodities, (C) has agreed to implement the plans specified in subdivision (2) of this subsection, and (D) maintained the records of the application of the pesticide as required by section 22a-58 and the records and plan identified in section 22a-471a, the commissioner shall not issue an order under subsection (a) of this section to the person engaged in agriculture, but may issue an order under said subsection (a) to another responsible person, including, but not limited to, the producer of the pesticide, requiring the short-term and long-term provision of potable drinking water in accordance with said subsection (a). The commissioner shall not issue an order under said subsection (a) to a person engaged in agriculture who did not maintain the records identified under section 22a-471a if said commissioner finds such records are not relevant to a determination of the party responsible for pollution of the groundwaters. If the commissioner is unable to determine the responsible person, the commissioner may issue such order to the municipality wherein groundwaters unusable for potable drinking water are located.

(2) If the commissioner determines that a person engaged in agriculture has caused or can reasonably be expected to cause pollution of the groundwaters by pesticides, the commissioner may cause such person to submit to the commissioner and, upon approval by the commissioner, implement a plan to minimize the potential for groundwater contamination from the storage, handling and disposal of pesticides at the locations where such person engaged in agriculture.

(3) For the purposes of this subsection, a pesticide is properly applied if at the time of the application the pesticide was licensed by or registered with the state and federal government and was applied in a manner consistent with (A) the labeling of the pesticide, as defined in section 22a-47, (B) applicable state and federal statutes and regulations at the time of the application, (C) any approvals or recommendations of the federal, state or local government, including any limitations, warnings or conditions of such approvals or recommendations, and (D) generally accepted agricultural management practices at the time of application, considering any special geological, hydrological or soil conditions of which the farmer was aware or reasonably should have been aware.

(4) Any municipality which receives an order pursuant to subdivision (1) of this subsection shall be eligible for a grant from the state in accordance with subparagraph (1) of subsection (b) of this section.

(5) The provisions of this subsection shall apply to pollution of the groundwaters by pesticides discovered on or after May 26, 1988. All orders issued pursuant to this section by the commissioner prior to May 26, 1988, shall remain in effect unless the orders are otherwise revoked, amended or modified by said commissioner.

(6) Nothing in this subsection, section 22a-471a or section 22a-471b shall affect or limit any right of action of an individual against any person engaged in agriculture for injury to person or property resulting from the use of a pesticide.

(7) For purposes of this subsection, "pesticide" has the same meaning as provided in section 22a-47.

(P.A. 82-240, S. 1, 3; June Sp. Sess. P.A. 83-3, S. 1; P.A. 84-81, S. 3; P.A. 85-407, S. 2, 9; P.A. 86-364, S. 6; P.A. 87-191, S. 1, 2; 87-261, S. 9; P.A. 88-211, S. 1, 4; P.A. 93-381, S. 9, 39; P.A. 94-198, S. 1, 13; P.A. 95-169, S. 1; 95-257, S. 12, 21, 58; P.A. 05-288, S. 108, 109; June Sp. Sess. P.A. 09-3, S. 481; P.A. 11-80, S. 1; P.A. 13-247, S. 37; P.A. 14-122, S. 137, 138; P.A. 15-105, S. 1; P.A. 16-88, S. 1.)

History: June Sp. Sess. P.A. 83-3 changed term "mobile home" to "mobile manufactured home" in Subsec. (a)(1); P.A. 84-81 amended Subsec. (a) by adding provision that the order may require the supply of water in quantities necessary for domestic and personal use and authorized grants if the responsible party has no liquid assets or is unable to secure a loan; P.A. 85-407 amended Subsec. (a) by organizing the section into subdivisions and requiring the commissioner of health services to determine that pollution creates an unacceptable risk of injury as a prerequisite to the arrangement for provision of potable drinking water by the commissioner of environmental protection for residential buildings and elementary and secondary schools, by authorizing the commissioner to require maintenance and monitoring of drinking water facilities and to require submission of an engineering report; inserted new Subsec. (b) re grants to municipalities and water companies and relettering the existing provisions as Subsec. (c); amended relettered Subsec. (c) by specifying that the courts, in an action for injunction, shall require the recipient of an order to implement the order unless the order is arbitrary and added Subsecs. (d) and (e); P.A. 86-364 amended Subsec. (a) (2) to authorize environmental protection commissioner to prepare or arrange for preparation of engineering reports where there is actual or suspected groundwater pollution and to specify that report shall include information re expected duration and extent of pollution; P.A. 87-191 amended Subdiv. (1) (C) of Subsec. (b) to make advances from the emergency spill response fund or from the proceeds of bonds authorized to provide potable drinking water; P.A. 87-261 amended Subsec. (c) by adding reference to Sec. 22a-6; P.A. 88-211 added Subsec. (f) exempting persons engaged in agriculture who contaminate groundwater by pesticides from potable drinking water orders if Subparas. (A) to (D), inclusive, of Subdiv. (1) are complied with; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 94-198 amended Subsec. (a) to specify a time limit for certain orders to provide potable water, to require responsible state agencies to provide potable water in certain cases and to allow the use of certain bond funds for the provision of potable water and amended Subsec. (b) to allow the use of the emergency spill response fund for the provision of potable water in certain cases, to increase the percentages of costs of provision of potable water allowable to municipalities, to delete a requirement that municipalities reimburse the state for certain funds disbursed to them under this section and to authorize the attorney general to bring an action for recovery of costs under that subsection, effective June 7, 1994; (Revisor's note: In 1995 the word "fund" was replaced editorially by the Revisors with "account" in references to the emergency spill response fund to conform section with Sec. 22a-451, as amended by P.A. 94-130); P.A. 95-169 amended Subsec. (b) to change the limitation on bringing an action for reimbursement of expenses under that subsection from 6 years after the discovery of pollution of the groundwaters to 10 years from the date of discovery of pollution of public or private sources of water for drinking or personal or domestic use; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 05-288 made technical changes in Subsecs. (a)(3) and (f)(1), effective July 13, 2005; June Sp. Sess. P.A. 09-3 amended Subsecs. (a) and (b) by inserting references to available appropriations and deleting references to emergency spill response account; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a)(1), effective July 1, 2011; P.A. 13-247

amended Subsec. (a) by deleting requirement that Commissioner of Energy and Environmental Protection arrange for the short-term provision of potable drinking water and adding provision re standard for whether pollution creates an unacceptable risk of injury, and made technical changes, effective July 1, 2013; P.A. 14-122 made technical changes in Subsecs. (b)(2)(C) and (f)(7); P.A. 15-105 amended Subsec. (b) by adding Subdiv. (8) re upgrade of minimum size water main to address pollution in municipality adjacent to a federal Superfund site and municipality's responsibility for project cost, and by making technical changes, effective June 19, 2015; P.A. 16-88 amended Subsec. (b) by adding Subdiv. (9) re certain water main upgrades, effective June 2, 2016.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-471a. Exemption from potable drinking water orders for persons engaged in agriculture. (a) The provisions of subsection (f) of section 22a-471 shall apply to any person engaged in agriculture on May 26, 1988, who makes an application or arranges for the application of a general use or restricted use pesticide to agricultural or horticultural products or to the land, provided such person (1) maintains the records specified in subsection (d) of this section, and (2) develops and implements by July 1, 1989, the plan specified in subsection (e) of this section.

(b) On and after July 1, 1989, the provisions of subsection (f) of section 22a-471 shall not apply to any person engaged in agriculture who (1) fails to maintain the records specified in subsection (d) of this section, or (2) has not developed and implemented the plan specified in subsection (e) of this section when such records have been maintained for less than three years.

(c) The provisions of subsection (f) of section 22a-471 shall apply to any person beginning agricultural activities on or after July 1, 1989, who makes an application or arranges for the application of a general use or restricted use pesticide to agricultural or horticultural products or to the land, provided such person (1) maintains the records specified in subsection (d) of this section, and (2) develops and implements the plan specified in subsection (e) of this section.

(d) The records required under subsection (a) of this section shall include a record of the following information for each application of a general or restricted use pesticide to an agricultural or horticultural product or to the land: (1) The name of the applicator; (2) the kind and amount of the pesticide used; (3) the date and place of application; (4) the crop and amount of acreage treated; (5) the name of the manufacturer and the product registration number assigned by the United States Environmental Protection Agency of each pesticide; and (6) the invoice or purchase receipt of the pesticide. Such records shall be maintained by the person engaged in agriculture for not less than twenty years after the date of application.

(e) Any plan prepared under subsection (a) of this section shall be appropriate for the agricultural activities conducted on the land and shall minimize the potential for groundwater contamination from pesticides. Such plan shall include provisions for integrated pest management, if available, proper amounts and rates of pesticide applications, calibration of equipment and timing and frequency of pesticide application. The plan shall be prepared and revised as necessary in accordance with guidelines issued or approved by the College of Agriculture and Natural Resources at The University of Connecticut.

(P.A. 88-211, S. 2, 4; 88-364, S. 119, 123; P.A. 05-288, S. 110.)

History: P.A. 88-364 made technical change in Subsec. (b); P.A. 05-288 made technical changes, effective July 13, 2005.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-471b. “Person engaged in agriculture” defined. As used in subsection (f) of section 22a-471 and section 22a-471a, “person engaged in agriculture” means a person operating a farm, as defined in subsection (q) of

section 1-1, that produces agricultural products for sale from which annual gross sales of one thousand dollars or more from agricultural products were realized during each calendar year during which pesticides were applied to an agricultural or horticultural product or to the land.

(P.A. 88-211, S. 3, 4; P.A. 90-271, S. 16, 24; P.A. 00-196, S. 19.)

History: P.A. 90-271 corrected an internal reference; P.A. 00-196 made a technical change.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-472. Hydraulic fracturing waste. Definitions. Prohibitions. Permits. Information requests by Commissioner of Energy and Environmental Protection. Oil and gas exploration. Regulations. (a) For the purposes of this section:

(1) “Dispose” means the discharge, deposit, injection, dumping, spilling, leaking or placing of any waste into or on any land or water so that such waste, or any constituent of such waste, may enter the environment, be emitted into the air or discharged into any waters of the state;

(2) “Fluid” means any material or substance that flows or moves whether in semisolid, liquid, sludge, gas or any other form or state;

(3) “Gas” means all natural gas, whether hydrocarbon or nonhydrocarbon, including, but not limited to, hydrogen sulfide, helium, carbon dioxide, nitrogen, hydrogen and casinghead gas;

(4) “Hydraulic fracturing” means the process of pumping a fluid into or under the surface of the ground in order to create fractures in rock for exploration, development, production or recovery of gas. “Hydraulic fracturing” does not include the drilling or repair of a geothermal water well or any other well drilled or repaired for drinking water purposes;

(5) “Person” means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, agency or political or administrative subdivision of the state;

(6) “Radioactive materials” means any material, solid, liquid or gas, including, but not limited to, waste that emits ionizing radiation spontaneously;

(7) “Store” means holding waste for a temporary period, at the end of which the waste is treated, disposed of or stored elsewhere;

(8) “Transfer” means to move from one vehicle to another or to move from one mode of transportation to another;

(9) “Treat” means any method, technique or process designed to change the physical, chemical or biological character or composition of any waste, including, but not limited to, the reclaiming or rendering of waste from hydraulic fracturing as suitable for use or reuse; and

(10) “Waste from hydraulic fracturing” means any wastewater, wastewater solids, brine, sludge, drill cuttings or any other substance used for or generated secondarily to the purpose of hydraulic fracturing.

(b) No person may accept, receive, collect, store, treat, transfer or dispose of waste from hydraulic fracturing, including, but not limited to, the discharge of wastewaters into or from a pollution abatement facility, until the Commissioner of Energy and Environmental Protection adopts regulations, in accordance with the provisions of chapter 54, including approval of such regulations by the standing legislative regulation review committee, to: (1) Eliminate the exemption in the state's hazardous waste management regulations, adopted pursuant to subsection (c) of section 22a-449 for the wastes identified in 40 CFR 261.4(b)(5) and to provide that such wastes

shall be subject to the state's hazardous waste management regulations, as applicable, as set forth in sections 22a-449(c)-100 to 22a-449(c)-119, inclusive, and section 22a-449(c)-11 of the regulations of Connecticut state agencies, (2) ensure that any radioactive materials that may be present in wastes from hydraulic fracturing do not create or will not reasonably be expected to create a source of pollution to the air, land or waters of the state and do not otherwise pose a threat to the human health or the environment of this state, and (3) require disclosure of the composition of the waste from hydraulic fracturing. The commissioner shall not submit regulations authorized by this subsection to the standing legislative regulation review committee earlier than July 1, 2017, provided the commissioner shall submit such regulations to said committee not later than July 1, 2018.

(c) After the adoption of the regulations, including the approval of such regulations by the legislative regulation review committee, required by subsection (b) of this section, no person shall collect or transport waste from hydraulic fracturing for receipt, acceptance or transfer in this state unless such person obtains a permit, prior to any such collection or transport, issued in accordance with the provisions of section 22a-454. Such permit shall be required even if such collection or transportation is undertaken by a person whose principal business is not the management of such wastes. In any such permit the commissioner shall require, in addition to any other conditions, that records be maintained concerning the origins and all intermediate and final delivery points of such wastes from hydraulic fracturing.

(d) No person may sell, offer for sale, offer, barter, manufacture, distribute or use any product for anti-icing, de-icing, pre-wetting or dust suppression that is derived from or that contains waste from hydraulic fracturing until the commissioner adopts regulations in accordance with the provisions of chapter 54, including approval of such regulations by the legislative regulation review committee, authorizing such sale, offer, barter, manufacture, distribution or use. Such regulations shall either prohibit any such products or shall contain any conditions that the commissioner deems necessary to protect human health and the environment and to ensure that the sale, offer, barter, manufacture, distribution or use of any such product does not create or will not reasonably be expected to create a source of pollution to the air, land or waters of the state. Such conditions may include, but are not limited to, a written statement to accompany such product indicating that such product contains or is derived from wastes from hydraulic fracturing.

(e) In implementing the provisions of this section, the commissioner shall request of any person information, including, but not limited to, whether and to what extent an anti-icing, de-icing, pre-wetting or dust suppression product is or may be derived from or contain wastes from hydraulic fracturing, where the materials used to manufacture any such product were obtained, and the chemical composition of such product or waste from hydraulic fracturing. If any person fails to provide the information requested by the commissioner pursuant to this subsection, such failure shall provide a basis for the commissioner to prohibit the sale, offering for sale, bartering, manufacturing, distribution or use of such anti-icing, de-icing, pre-wetting or dust suppression product or to not adopt regulations required pursuant to subsection (b) or (d) of this section, as applicable.

(f) Any information acquired by the commissioner under this section shall be subject to disclosure in accordance with the provisions of chapter 14.

(g) Until the adoption of regulations in accordance with subsection (b) of this section, the commissioner may approve, in writing, not more than three requests to allow a person, who the commissioner determines to be professionally qualified, to treat waste from hydraulic fracturing, provided such treatment is solely for the purpose of conducting research to determine whether such waste can be treated to make such waste suitable for use or reuse. The commissioner shall prescribe the form to be used for submitting any such request, including any information that the commissioner deems necessary for evaluating any such request. In approving any such request, the commissioner shall prescribe any conditions or requirements the commissioner deems necessary to prevent pollution to the air, land or waters of the state or to protect human health or the environment and shall include requirements regarding the disposal of any waste from any such research. From July 1, 2014, until the adoption of regulations in accordance with subsection (b) of this section, no person whose request is approved pursuant to this section shall: (1) Apply for or obtain more than three such approvals pursuant to this subsection, and (2) treat more than three hundred thirty gallons of waste from hydraulic fracturing in accordance with this subsection, regardless of the number of approvals issued to such person. The commissioner may authorize a single treatment in excess of such gallon limitation by one person provided such authorization allows for the

treatment of not more than five hundred gallons of waste from hydraulic fracturing. For the purposes of this subsection, all wastes from hydraulic fracturing shall be considered to be hazardous waste, as defined in section 22a-448, regardless of the state's incorporation by reference of 40 CFR 261.4(b)(5).

(h) Any person exploring for oil or gas on or after the effective date of regulations required by this subsection shall register with the Commissioner of Energy and Environmental Protection on a form prescribed by him. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 setting forth (1) standards for oil and gas exploration and production wells, including, but not limited to, standards for the abandonment of exploration and production activities, and (2) the amount of a fee to be paid by registrants which shall be sufficient to pay the cost of administering the registration program.

(P.A. 85-88, S. 1, 3; P.A. 11-80, S. 1; P.A. 14-200, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011; P.A. 14-200 designated existing provision re oil and gas exploration as Subsec. (h) and made a technical change therein, added Subsec. (a) re definitions, added Subsec. (b) re prohibition on accepting, receiving, collecting, storing, treating, transferring or disposing of waste from hydraulic fracturing until commissioner adopts regulations, added Subsec. (c) re permit to collect or transport waste after adoption of regulations, added Subsec. (d) re prohibition on selling, offering, bartering, manufacturing, distributing or using product for anti-icing, de-icing, pre-wetting or dust suppression that is derived from hydraulic fracturing waste until commissioner adopts regulations, added Subsec. (e) re authority of commissioner to request information concerning composition and origin of products derived from hydraulic fracturing waste, added Subsec. (f) re disclosure of information obtained by commissioner and added Subsec. (g) re commissioner's authority to approve 3 requests for treatment of hydraulic fracturing waste, effective July 1, 2014.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-473. Exploratory drilling for oil or gas restricted. No person may engage in exploratory drilling for oil or gas until the regulations required by section 22a-472 are adopted.

(P.A. 85-88, S. 2, 3; P.A. 87-589, S. 27, 87.)

History: P.A. 87-589 substituted reference to Sec. 22a-472 for reference to Sec. 22a-473.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-474. Regulations re storage of road salt. The Commissioner of Energy and Environmental Protection, after consultation with the Commissioners of Transportation and Public Health, shall adopt regulations in accordance with the provisions of chapter 54 establishing standards for the storage and application of road salt for the purpose of minimizing water supply contamination from such storage and application.

(P.A. 85-450, S. 2; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 11-80, S. 1.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-475. Clean Water Fund: Definitions. As used in this section and sections 22a-476 to 22a-483, inclusive, the following terms shall have the following meanings unless the context clearly indicates a different meaning or intent:

(1) “Bond anticipation note” means a note issued by a municipality in anticipation of the receipt of the proceeds of a project loan obligation or a grant account loan obligation.

(2) “Clean Water Fund” means the fund created under section 22a-477.

(3) “Combined sewer projects” means any project undertaken to mitigate pollution due to combined sewer and storm drain systems, including, but not limited to, components of regional water pollution control facilities undertaken to prevent the overflow of untreated wastes due to collection system inflow, provided the state share of the cost of such components is less than the state share of the estimated cost of eliminating such inflow by means of physical separation at the sources of such inflow.

(4) “Commissioner” means the Commissioner of Energy and Environmental Protection.

(5) “Department” means the Department of Energy and Environmental Protection.

(6) “Disadvantaged communities” means the service area of a public water system that meets affordability criteria established by the Office of Policy and Management in accordance with applicable federal regulations.

(7) “Drinking water federal revolving loan account” means the drinking water federal revolving loan account of the Clean Water Fund created under section 22a-477.

(8) “Drinking water state account” means the drinking water state account of the Clean Water Fund created under section 22a-477.

(9) “Eligible drinking water project” means the planning, design, development, construction, repair, extension, improvement, remodeling, alteration, rehabilitation, reconstruction or acquisition of all or a portion of a public water system approved by the Commissioner of Public Health, under sections 22a-475 to 22a-483, inclusive.

(10) “Eligible project” means an eligible drinking water project or an eligible water quality project, as applicable.

(11) “Eligible water quality project” means the planning, design, development, construction, repair, extension, improvement, remodeling, alteration, rehabilitation, reconstruction or acquisition of a water pollution control facility approved by the commissioner under sections 22a-475 to 22a-483, inclusive.

(12) “Eligible project costs” means the total costs of an eligible project which are determined by (A) the commissioner, or (B) if the project is an eligible drinking water project, the Commissioner of Public Health, and in consultation with the Public Utilities Regulatory Authority when the recipient is a water company, as defined in section 16-1, to be necessary and reasonable. The total costs of a project may include the costs of all labor, materials, machinery and equipment, lands, property rights and easements, interest on project loan obligations and bond anticipation notes, including costs of issuance approved by the commissioner or by the Commissioner of Public Health if the project is an eligible drinking water project, plans and specifications, surveys or estimates of costs and revenues, engineering and legal services, auditing and administrative expenses, and all other expenses approved by the commissioner or by the Commissioner of Public Health if the project is an eligible drinking water project, which are incident to all or part of an eligible project.

(13) “Eligible public water system” means a water company, as defined in section 25-32a, serving twenty-five or more persons or fifteen or more service connections year round and nonprofit noncommunity water systems.

(14) “Grant account loan” means a loan to a municipality by the state from the water pollution control state account of the Clean Water Fund.

(15) “Grant account loan obligation” means bonds or other obligations issued by a municipality to evidence the permanent financing by such municipality of its indebtedness under a project funding agreement with respect to a grant account loan, made payable to the state for the benefit of the water pollution control state account of the Clean Water Fund and containing such terms and conditions and being in such form as may be approved by the commissioner.

(16) “Grant anticipation note” means any note or notes issued in anticipation of the receipt of a project grant.

(17) “Interim funding obligation” means any bonds or notes issued by a recipient in anticipation of the issuance of project loan obligations, grant account loan obligations or the receipt of project grants.

(18) “Intended use plan” means a document if required, prepared by the Commissioner of Public Health, in accordance with section 22a-478.

(19) “Municipality” means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district or public authority and each municipal organization having authority to levy and collect taxes or make charges for its authorized function.

(20) “Pollution abatement facility” means any equipment, plant, treatment works, structure, machinery, apparatus or land, or any combination thereof, which is acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, and includes, but is not limited to: Pumping and ventilating stations, facilities, plants and works; outfall sewers, interceptor sewers and collector sewers; and other real or personal property and appurtenances incident to their use or operation.

(21) “Priority list of eligible drinking water projects” means the priority list of eligible drinking water projects established by the Commissioner of Public Health in accordance with the provisions of sections 22a-475 to 22a-483, inclusive.

(22) “Priority list of eligible projects” means the priority list of eligible drinking water projects or the priority list of eligible water quality projects, as applicable.

(23) “Priority list of eligible water quality projects” means the priority list of eligible water quality projects established by the commissioner in accordance with the provisions of sections 22a-475 to 22a-483, inclusive.

(24) “Program” means the municipal water quality financial assistance program, including the drinking water financial assistance program, created under sections 22a-475 to 22a-483, inclusive.

(25) “Project grant” means a grant made to a municipality by the state from the water pollution control state account of the Clean Water Fund or the Long Island Sound clean-up account of the Clean Water Fund.

(26) “Project loan” means a loan made to a recipient by the state from the Clean Water Fund.

(27) “Project funding agreement” means a written agreement between the state, acting by and through the commissioner or, if the project is an eligible drinking water project, acting by and through the Commissioner of Public Health, in consultation with the Public Utilities Regulatory Authority when the recipient is a water company, as defined in section 16-1, and a recipient with respect to a project grant, a grant account loan and a project loan as provided under sections 22a-475 to 22a-483, inclusive, and containing such terms and conditions as may be approved by the commissioner or, if the project is an eligible drinking water project, by the Commissioner of Public Health.

(28) “Project obligation” or “project loan obligation” means bonds or other obligations issued by a recipient to evidence the permanent financing by such recipient of its indebtedness under a project funding agreement with respect to a project loan, made payable to the state for the benefit of the water pollution control federal revolving loan account, the drinking water federal revolving loan account or the drinking water state account, as

applicable, of the Clean Water Fund and containing such terms and conditions and being in such form as may be approved by the commissioner or, if the project is an eligible drinking water project, by the Commissioner of Public Health.

(29) “Public water system” means a public water system, as defined for purposes of the federal Safe Drinking Water Act, as amended or superseded.

(30) “Recipient” means a municipality or eligible public water system, as applicable.

(31) “State bond anticipation note” means any note or notes issued by the state in anticipation of the issuance of bonds.

(32) “State grant anticipation note” means any note or notes issued by the state in anticipation of the receipt of federal grants.

(33) “Water pollution control facility” means a pollution abatement facility which stores, collects, reduces, recycles, reclaims, disposes of, separates or treats sewage, or disposes of residues from the treatment of sewage.

(34) “Water pollution control state account” means the water pollution control state account of the Clean Water Fund created under section 22a-477.

(35) “Water pollution control federal revolving loan account” means the water pollution control federal revolving loan account of the Clean Water Fund created under section 22a-477.

(36) “Long Island Sound clean-up account” means the Long Island Sound clean-up account created under section 22a-477.

(P.A. 86-420, S. 1, 12; P.A. 87-571, S. 1, 7; P.A. 89-377, S. 1, 8; P.A. 91-344, S. 2; P.A. 96-181, S. 108, 121; P.A. 10-117, S. 34; P.A. 11-80, S. 1.)

History: P.A. 87-571 defined “grant account loan”, “grant account loan obligation”, “grant anticipation note”, “interim funding obligations”, “project grant”, “project loan”, “water pollution control grant account” and “water pollution control revolving loan”, revising prior definitions accordingly; P.A. 89-377 changed the water pollution control grant account to the water pollution control state account and changed the water pollution control revolving loan fund account to the water pollution control federal revolving loan account, added definitions of state bond anticipation note, state grant anticipation note and Long Island Sound clean-up account and made various technical changes; P.A. 91-344 amended Subdiv. (3) to include in the definition of “combined sewer projects” certain components of regional water pollution control facilities; P.A. 96-181 added definitions of “disadvantaged communities”, “drinking water federal revolving loan account”, “drinking water state account”, “eligible drinking water project”, “eligible project”, “eligible public water system”, “intended use plan”, “priority list of eligible drinking water projects”, “priority list of eligible projects”, “public water system”, and “recipient” and made other technical, conforming and renumbering changes, effective July 1, 1996; P.A. 10-117 redefined “eligible drinking water project” in Subdiv. (9), “eligible project costs” in Subdiv. (12), “intended use plan” in Subdiv. (18), “project funding agreement” in Subdiv. (27) and “project obligation” or “project loan obligation” in Subdiv. (28); pursuant to P.A. 11-80, “Commissioner of Environmental Protection”, “Department of Environmental Protection” and “Department of Public Utility Control” were changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, “Department of Energy and Environmental Protection” and “Public Utilities Regulatory Authority”, respectively, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-476. Legislative finding. It is hereby found and declared that the establishment of a municipal water quality financial assistance program to provide funds for grants for projects to improve Long Island Sound and to establish a low interest revolving loan fund and grant assistance fund to finance one hundred per cent of

eligible project costs is necessary to ensure a continuing source of funds to finance the future needs of the state and is a matter of state-wide concern affecting the health, safety and welfare of the inhabitants of the state and the quality of the environment of the state, including the purity and adequacy of its drinking water, and that the establishment of such a program to encourage and support the planning, development and construction of water pollution control facilities and of necessary improvements to eligible public water systems serves an essential public purpose. It is further found and declared that, since the federal Water Quality Act of 1987 restructures the federal grant program for municipal water pollution control projects as a program in which grant proceeds must be used to provide financial assistance in a manner which promotes preservation of the corpus of such proceeds for continuing reapplication to the purposes for which the grants were provided, since financial assistance for municipal water pollution control projects can be more effectively provided through state participation in the federal program of capitalization grants to states as set forth in Section 212 of said act and compliance with requirements for eligibility to receive capitalization grants under such program, and since the act also permits states to use a revolving fund and its chief assets as a basis for issuing bonds for further revolving fund activity, and under such an arrangement a state is able to leverage outstanding loans made from an initial set of capitalization grants and make available significant amounts of money much sooner than would otherwise have been possible, it is in the interests of the state to make use of this mechanism. It is further found and declared that the federal government intends to establish a similar revolving fund program, funded in part with federal capitalization grants, which may be established and operated by states as part of the Clean Water Fund program, in order to provide financial assistance to develop and implement drinking water projects, and that therefore it is in the interests of the state to participate in such program. It is further found and declared that it is in the best interests of the state to plan to authorize, in addition to any other funds contemplated, the following amounts for the Long Island Sound clean-up account: Not less than five million dollars in 1991, not less than sixteen million dollars in 1992, not less than twenty million dollars in 1993, not less than sixteen million dollars in 1994, not less than twelve million dollars in 1995, not less than thirty-four million dollars in 1996, and not less than seven million dollars in 1997.

(P.A. 86-420, S. 2, 12; P.A. 87-571, S. 2, 7; P.A. 89-377, S. 2, 8; June Sp. Sess. P.A. 90-1, S. 1, 10; P.A. 96-181, S. 109, 121.)

History: P.A. 87-571 added provisions regarding the federal Water Quality Act of 1987; P.A. 89-377 inserted a reference to projects to improve Long Island Sound; June Sp. Sess. P.A. 90-1 added the listing of planned bond authorizations for the Long Island Sound clean-up account; P.A. 96-181 made additions re the purity and adequacy of drinking water and federal revolving fund program and made technical changes, effective July 1, 1996.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-477. Clean Water Fund: Accounts and subaccounts. (a) There is established and created a fund to be known as the “Clean Water Fund”. There is established and created within the Clean Water Fund a water pollution control federal revolving loan account, a water pollution control state account, a Long Island Sound clean-up account, a drinking water federal revolving loan account, a drinking water state account and a river restoration account, which accounts shall be held separate and apart from each other.

(b) There shall be deposited in the water pollution control federal revolving loan account of the Clean Water Fund: (1) The proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein and use in accordance with the permissible uses thereof; (2) federal capitalization grants and awards or other federal assistance received by the state pursuant to Title VI of the federal Water Pollution Control Act; (3) funds appropriated by the General Assembly for the purpose of deposit therein and use in accordance with the permissible uses thereof; (4) payments received from any municipality in repayment of a project loan made with moneys on deposit in the water pollution control federal revolving loan account; (5) interest or other income earned on the investment of moneys in the water pollution control federal revolving loan account; (6) any additional moneys made available from any sources, public or private, for the purposes for which the water pollution control federal revolving loan account has been established and for the purpose of deposit therein; and

(7) on and after July 1, 1990, and annually thereafter, any moneys forfeited to the state by any person for a violation of a permit which results in a discharge into a municipal sewage treatment system, as determined by the commissioner, which are in excess of the total moneys forfeited to the state for such violations for the fiscal year ending June 30, 1990.

(c) Within the water pollution control federal revolving loan account there are established the following subaccounts: (1) A federal receipts subaccount, into which shall be deposited federal capitalization grants and awards or other federal assistance received by the state pursuant to Title VI of the federal Water Pollution Control Act, (2) a state bond receipts subaccount into which shall be deposited the proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein, (3) a state General Fund receipts subaccount into which shall be deposited funds appropriated by the General Assembly for the purpose of deposit therein, (4) a federal loan repayment subaccount into which shall be deposited payments received from any municipality in repayment of a project loan made from any moneys deposited in the water pollution control federal revolving loan account. Moneys in each subaccount created under this subsection may be expended by the commissioner for any of the purposes of the water pollution control federal revolving loan account and investment earnings of any subaccount shall be deposited in such account.

(d) There shall be deposited in the water pollution control state account of the Clean Water Fund: (1) The proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein and use in accordance with the permissible uses thereof; (2) funds appropriated by the General Assembly for the purpose of deposit therein and use in accordance with the permissible uses thereof; (3) interest or other income earned on the investment of moneys in the water pollution control state account; (4) payments received from any municipality as repayment for a grant account loan made with moneys on deposit in the water pollution control state account; and (5) any additional moneys made available from any sources, public or private, for the purposes for which the water pollution control state account has been established other than moneys on deposit in the federal receipts subaccount of the water pollution control federal revolving loan account.

(e) Within the water pollution control state account there are established the following subaccounts: (1) A state bond receipts subaccount, into which shall be deposited the proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein; (2) a General Fund receipts subaccount into which shall be deposited funds appropriated by the General Assembly for the purpose of deposit therein; (3) a state loan repayment subaccount into which shall be deposited payments received from any municipality in repayment of a project loan made from any moneys deposited in the water pollution control state account; (4) a state administrative and management subaccount into which shall be deposited amounts for administration and management of the Clean Water Fund which amounts shall be determined by the commissioner in consultation with the Secretary of the Office of Policy and Management; and (5) a state grant subaccount, into which shall be deposited (A) the proceeds of notes, bonds or other obligations issued by the state for the purposes of deposit therein; (B) funds appropriated by the General Assembly for the purpose of deposit therein; and (C) payments received from a municipality in repayment of a grant account loan.

(f) Moneys deposited in the Clean Water Fund shall be held separate and apart from all other moneys, funds and accounts. Investment earnings credited to the assets of such fund and to any account and subaccount thereof shall become part of the assets of such fund, account and subaccount. Any balance remaining in the Clean Water Fund at the end of any fiscal year shall be carried forward in such fund, account and subaccount for the fiscal year next succeeding.

(g) Amounts in the water pollution control federal revolving loan account of the Clean Water Fund shall be available to the commissioner to provide financial assistance (1) to any municipality for construction of eligible water quality projects, and (2) for any other purpose authorized by Title VI of the federal Water Pollution Control Act. In providing such financial assistance to municipalities, amounts in such account may be used only: (A) By the commissioner to make loans to municipalities at an interest rate of two per cent per annum, provided such loans shall not exceed a term of twenty years and shall have principal and interest payments commencing not later than one year after scheduled completion of the project, and provided the loan recipient will establish a dedicated source of revenue for repayment of the loan; (B) by the commissioner to guarantee, or purchase insurance for, local obligations, where such action would improve credit market access or reduce interest rates;

(C) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds have been deposited in such account; (D) to be invested by the Treasurer of the state and earn interest on moneys in such account; (E) by the commissioner to pay for the reasonable costs of administering such account and conducting activities under Title VI of the federal Water Pollution Control Act; and (F) by the Treasurer to be transferred to the water pollution control state account for the purpose of meeting federal requirements for subsidization.

(h) Amounts in the water pollution control state account of the Clean Water Fund shall be available: (1) To be invested by the Treasurer of the state to earn interest on moneys in such account; (2) for the commissioner to make grants to municipalities in the amounts and in the manner set forth in a project funding agreement; (3) for the commissioner to make loans to municipalities in amounts and in the manner set forth in a project funding agreement for planning and developing eligible projects prior to construction and permanent financing; (4) for the commissioner to make loans to municipalities, for terms not exceeding twenty years, for an eligible water quality project; (5) for the commissioner to pay the costs of environmental studies and surveys to determine water pollution control needs and priorities and to pay the expenses of the department in administering the program; (6) for the payment of costs for administration and management of the Clean Water Fund; (7) provided such amounts are not required for the purposes of such fund, for the Treasurer of the state to pay debt service on bonds of the state issued to fund the Clean Water Fund, or for the purchase or redemption of such bonds; (8) for the commissioner to make grants to municipalities for the development and installation of structural improvements to secondary clarifier operations including, but not limited to, flow distribution mechanisms, baffle-type devices, feed well design and sludge withdrawal mechanisms. Grants under this subdivision shall be for one hundred per cent of the construction cost and not more than three million dollars from the fund shall be used for such grants; (9) for the commissioner to pay the costs for the establishment, administration and management of the nitrogen credit exchange program described in section 22a-524, including, but not limited to, the purchase of equivalent nitrogen credits from publicly-owned treatment works in the event that the account of state funds established pursuant to section 22a-524 is exhausted; and (10) for any other purpose of the Clean Water Fund and the program relating thereto.

(i) The Treasurer may establish such accounts and subaccounts within the Clean Water Fund as he deems desirable to effectuate the purposes of sections 22a-475 to 22a-483, inclusive, including, but not limited to, accounts (1) to segregate a portion or portions of the corpus of the water pollution control federal revolving loan account or the drinking water federal revolving loan account or as security for revenue bonds issued by the state for deposit in either of such accounts, (2) to segregate investment earnings on all or a portion of the water pollution control federal revolving loan account, the water pollution control state account, the drinking water federal revolving loan account or the drinking water state account, or (3) to segregate moneys in the fund that have previously been expended for the benefit of an eligible project from moneys that are initial deposits in the account.

(j) There shall be deposited in the Long Island Sound clean-up account (1) the proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein and use in accordance with the permissible uses thereof, (2) funds appropriated by the General Assembly for the purpose of deposit therein and use in accordance with the permissible uses thereof, and (3) any additional moneys made available from any sources, public or private, for the purposes for which the Long Island Sound clean-up account has been established other than moneys on deposit in the federal revolving loan account.

(k) Amounts in the Long Island Sound clean-up account shall be available: (1) To be invested by the Treasurer of the state to earn interest on moneys in such account; (2) for the commissioner to make grants to municipalities who undertake the construction of combined sewer projects which are found by the commissioner to impact Long Island Sound or which are part of a system under construction by a municipality prior to July 1, 1990, to mitigate effects of inflow on treatment processes and on Long Island Sound, provided such grants shall be fifty per cent of the eligible water quality project costs of such project and be made in accordance with the provisions of section 22a-478; (3) for the commissioner to make grants to municipalities for eligible water quality projects for which the commissioner has required nutrient removal to protect Long Island Sound provided the amount of the grant shall be twenty per cent of the eligible water quality costs and be made in accordance with the

provisions of said section 22a-478; (4) for the commissioner to make grants to agencies, institutions or persons to conduct research related to Long Island Sound in accordance with procedures established by the commissioner; (5) for the commissioner to provide funds for (A) sediment, dredging and disposal activities for Long Island Sound, including necessary studies, (B) physical improvements to coves, embayments, coastal wetlands and salt marshes in physical proximity to Long Island Sound, and (C) harbor water quality programs to enhance the sediment and water quality of harbors, coves, embayments and wetlands of Long Island Sound; (6) for the commissioner to provide funds for the restoration and rehabilitation of tidal coves, embayments and salt marshes degraded by physical modification, development or the effect of pollution, following a feasibility assessment which shall form the basis for the commissioner's determination of eligible restoration practices; (7) for the commissioner to provide funds for laboratory development to aid analysis of water quality samples collected as part of the Long Island Sound ambient monitoring program; (8) for the commissioner to make grants to municipalities for each municipally-owned wastewater treatment facility which discharges into coastal waters, for interim improvements to remove total nitrogen from such discharges in a manner which ensures that the total nitrogen load does not exceed the amount discharged during 1990, provided such grants shall be one hundred per cent of the eligible project costs of such projects; and (9) for the commissioner to provide grants on a competitive basis for demonstration projects to reduce nonpoint source pollution of Long Island Sound, following establishment by the commissioner of criteria for the awarding of such grants. The funds authorized for deposit in the Long Island Sound clean-up account pursuant to section 22a-483 shall, in addition to any use under subdivision (1) of this subsection, be expended in accordance with the following minimums: (i) For the purposes of subdivision (2) of this subsection, not less than twenty million five hundred thousand dollars; (ii) for the purposes of subdivision (4) of this subsection, not less than one million dollars; (iii) for the purposes of subdivision (6) of this subsection, not less than three million dollars; (iv) for the purposes of subdivision (7) of this subsection, not less than five hundred thousand dollars; and (v) for the purposes of subdivision (8) of this subsection, not less than fifteen million dollars.

(l) There shall be deposited in the river restoration account (1) the proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein and use in accordance with the permissible uses thereof, (2) funds authorized by the General Assembly for the purpose of deposit therein and use in accordance with the permissible uses thereof, and (3) any additional moneys made available from any sources, public or private, for the purposes for which the river restoration account has been established, except that in no case shall the funds authorized to be deposited in this account from the Clean Water Fund exceed three million dollars per year.

(m) Amounts in the river restoration account shall be available: (1) To be invested by the Treasurer of the state to earn interest on moneys in such account; (2) for the payment of costs incurred by the Department of Energy and Environmental Protection for the administration and management of the rivers protection programs of the department; (3) for the commissioner to provide assistance to river committees established by municipalities for purposes of protection of rivers; (4) for the commissioner to make grants to municipalities or such river committees for the physical improvement and restoration of rivers degraded by modification, development or the effects of pollution, including but not limited to actions to (A) restore water quality, (B) provide minimum stream flows, or (C) restore or enhance the recreational, economic or environmental value of rivers and riverfront land; and (5) for the payment of costs incurred by the department of environmental protection for the physical improvement and restoration of rivers degraded by modification, development or the effects of pollution, including but not limited to actions to (A) restore water quality, (B) provide minimum stream flows, or (C) restore or enhance the recreational, economic or environmental value of rivers and riverfront lands by, for example, planting vegetation, removing physical impediments to river access, stabilizing stream banks, deepening stream channels, installing fish ladders and removing sediment; and (6) for the commissioner to make grants to provide matching funds for riparian zone restoration projects funded under the federal Agricultural Conservation Program pursuant to 16 USC Section 590g et seq. Amounts in the river restoration fund shall not be used for acquisition of land or interests in land, for construction or maintenance of parking lots, or for construction or maintenance of boat ramps or other structures, with the exception of restoration or repair of historic river-related structures.

(n) (1) The commissioner shall maintain a priority list of eligible river restoration projects and shall establish a system setting the priority for making project grants. In establishing such priority list and ranking system, the

commissioner shall consider all factors he deems relevant, including but not limited to, the following: (A) The public health and safety; (B) protection of environmental resources; (C) attainment of state water quality goals and standards; (D) funds expended on water quality improvements; (E) consistency with basin planning; and (F) state and federal statutes and regulations. In dispersing funds from the Rivers Restoration Account, the commissioner shall give priority to providing matching funds for riparian zone restoration projects funded under the federal Agricultural Conservation Program pursuant to 16 USC Section 590g et seq., and regulations adopted thereunder. The priority list of eligible river restoration projects shall include a description of each project and its purpose, and an explanation of the manner in which priorities were established.

(2) In each fiscal year the commissioner may make grants to municipalities and river committees established for river protection in the order of priority under subdivision (1) of this subsection to the extent of moneys available therefor in the appropriate accounts of the Clean Water Fund.

(3) The funding of a project shall be pursuant to a project funding agreement between the state, acting by and through the commissioner, and the municipality, river commission or river committee undertaking the project. A project funding agreement shall be in a form prescribed by the commissioner.

(4) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

(o) There shall be deposited in the drinking water federal revolving loan account of the Clean Water Fund: (1) The proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein and use in accordance with the permissible uses thereof; (2) federal capitalization grants and federal capitalization awards received by the state pursuant to the federal Safe Drinking Water Act or other related federal acts; (3) funds appropriated by the General Assembly for the purpose of deposit therein and use in accordance with the permissible uses thereof; (4) payments received from any recipient in repayment of a project loan made with moneys on deposit in the drinking water federal revolving loan account; (5) interest or other income earned on the investment of moneys in the drinking water federal revolving loan account; and (6) any additional moneys made available from any sources, public or private, for the purposes for which the drinking water federal revolving loan account has been established and for the purpose of deposit therein.

(p) Within the drinking water federal revolving loan account there are established the following subaccounts: (1) A federal receipts subaccount, into which shall be deposited federal capitalization grants and federal capitalization awards received by the state pursuant to the federal Safe Drinking Water Act or other related federal acts; (2) a state bond receipts subaccount into which shall be deposited the proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein; (3) a state General Fund receipts subaccount into which shall be deposited funds appropriated by the General Assembly for the purpose of deposit therein; and (4) a federal loan repayment subaccount into which shall be deposited payments received from any recipient in repayment of a project loan made from any moneys deposited in the drinking water federal revolving loan account. Moneys in each subaccount created under this subsection may be expended by the Commissioner of Public Health for any of the purposes of the drinking water federal revolving loan account and investment earnings of any subaccount shall be deposited in such account.

(q) There shall be deposited in the drinking water state account of the Clean Water Fund: (1) The proceeds of notes, bonds or other obligations issued by the state for the purpose of deposit therein and use in accordance with the permissible uses thereof; (2) funds appropriated by the General Assembly for the purpose of deposit therein and use in accordance with the permissible uses thereof; (3) interest or other income earned on the investment of moneys in the drinking water state account; (4) payments received from any recipient as repayment for a project loan made with moneys on deposit in the drinking water state account; and (5) any additional moneys made available from any sources, public or private, for the purposes for which the drinking water state account has been established other than moneys on deposit in the federal receipts subaccount of the drinking water federal revolving loan account.

(r) Within the drinking water state account there are established the following subaccounts: (1) A state bond receipts subaccount, into which shall be deposited the proceeds of notes, bonds or other obligations issued by the

state for the purpose of deposit therein; (2) a General Fund receipts subaccount into which shall be deposited funds appropriated by the General Assembly for the purpose of deposit therein; and (3) a state loan repayment subaccount into which shall be deposited payments received from any recipient in repayment of a project loan made from any moneys deposited in the drinking water state account.

(s) Amounts in the drinking water federal revolving loan account of the Clean Water Fund shall be available to the Commissioner of Public Health to provide financial assistance (1) to any recipient for construction of eligible drinking water projects approved by the Department of Public Health, and (2) for any other purpose authorized by the federal Safe Drinking Water Act or other related federal acts. In providing such financial assistance to recipients, amounts in such account may be used only: (A) By the Commissioner of Public Health in conjunction with the State Treasurer to make loans to recipients at an interest rate not exceeding one-half the rate of the average net interest cost as determined by the last previous similar bond issue by the state of Connecticut as determined by the State Bond Commission in accordance with subsection (t) of section 3-20, provided such loans shall not exceed a term of twenty years, or such longer period as may be permitted by applicable federal law, and shall have principal and interest payments commencing not later than one year after scheduled completion of the project, and provided the loan recipient shall establish a dedicated source of revenue for repayment of the loan, except to the extent that the priority list of eligible drinking water projects allows for the making of project loans upon different terms, including reduced interest rates or an extended term, if permitted by federal law; (B) by the Commissioner of Public Health to guarantee, or purchase insurance for, local obligations, where such action would improve credit market access or reduce interest rates; (C) as a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the state if the proceeds of the sale of such bonds have been deposited in such account; (D) to be invested by the State Treasurer and earn interest on moneys in such account; (E) by the Department of Public Health to pay for the reasonable costs of administering such account and conducting activities under the federal Safe Drinking Water Act or other related federal acts; and (F) by the Commissioner of Public Health to provide additional forms of subsidization, including grants, principal forgiveness or negative interest loans or any combination thereof, if permitted by federal law and made pursuant to a project funding agreement in accordance with subsection (k) of section 22a-478.

(t) Amounts in the drinking water state account of the Clean Water Fund shall be available: (1) To be invested by the State Treasurer to earn interest on moneys in such account; (2) for the Commissioner of Public Health to provide additional forms of subsidization, including grants, principal forgiveness or negative forgiveness loans or any combination thereof to recipients in a manner provided under the federal Safe Drinking Water Act in the amounts and in the manner set forth in a project funding agreement; (3) for the Commissioner of Public Health to make loans to recipients in amounts and in the manner set forth in a project funding agreement for planning and developing eligible drinking water projects prior to construction and permanent financing; (4) for the Commissioner of Public Health to make loans to recipients, for terms not exceeding twenty years, for an eligible drinking water project; (5) for the Commissioner of Public Health to pay the costs of studies and surveys to determine drinking water needs and priorities and to pay the expenses of the Department of Public Health in undertaking such studies and surveys and in administering the program; (6) for the payment of costs as agreed to by the Department of Public Health after consultation with the Secretary of the Office of Policy and Management and the office of the State Treasurer for administration and management of the drinking water programs within the Clean Water Fund; (7) for the State Treasurer to pay debt service on bonds of the state issued to fund the drinking water programs within the Clean Water Fund, or for the purchase or redemption of such bonds; and (8) for any other purpose of the drinking water programs within the Clean Water Fund and the program relating thereto.

(P.A. 86-420, S. 3, 12; P.A. 87-571, S. 3, 7; P.A. 89-377, S. 3, 8; P.A. 90-297, S. 22, 24; 90-301, S. 6–8; June Sp. Sess. P.A. 90-1, S. 2, 3, 10; P.A. 91-246, S. 1; 91-344, S. 3; P.A. 92-209; 92-219; P.A. 94-154, S. 2, 3; May 25 Sp. Sess. P.A. 94-1, S. 115, 130; P.A. 96-181, S. 110–112, 121; June Sp. Sess. P.A. 98-1, S. 52, 121; P.A. 01-180, S. 7, 9; P.A. 09-12, S. 2, 3; P.A. 10-117, S. 35, 36; P.A. 11-80, S. 1.)

History: P.A. 87-571 essentially replaced prior provisions re clean water fund with new provisions establishing water pollution control revolving loan fund account and water pollution control grant account; P.A. 89-377

changed the water pollution control grant account to the water pollution control state account, changed the water pollution control revolving loan fund account to the water pollution control federal revolving loan account and added a Long Island Sound clean-up account and made various changes throughout to allocate funds to the appropriate accounts; P.A. 90-297 added Subsec. (k)(16), concerning tidal coves and embayments, and (k)(7), concerning analysis of water quality samples, and added a provision allocating moneys within the Long Island Sound clean-up account; P.A. 90-301 added Subsec. (b)(7) re deposit of moneys forfeited for permit violations and added Subsec. (h)(8) re grants for improvements to clarifier operations and renumbered the remaining Subdiv. accordingly; June Sp. Sess. P.A. 90-1 deleted Subsec. (c)(5) which created a federal administrative and management subaccount and added Subsec. (k)(8) concerning removal of total nitrogen from discharges and reworded the allocations of funds for the Long Island Sound clean-up account; P.A. 91-246 added Subsec. (k)(9) authorizing commissioner to provide grants on a competitive basis for certain projects to reduce nonpoint source pollution; P.A. 91-344 amended Subsec. (k) to include in grants authorized under that subsection grants to certain municipal sewer systems under construction prior to July 1, 1990; P.A. 92-209 amended Subsec. (k) to allow up to $15,000,000 of the Long Island Sound clean-up account to be used for certain nitrogen removal projects, deleting $100,000 limit for each municipality's facilities; P.A. 92-219 amended Subsec. (k) to allow use of the funds in the Long Island Sound clean-up account for physical improvements to, and restoration of, salt marshes; P.A. 94-154 amended Subsec. (a) to establish river restoration account and added Subsecs. (l), (m) and (n) detailing river restoration account and projects; May 25 Sp. Sess. P.A. 94-1 amended Subsec. (m) by making technical change; (Revisor's note: In 1995 the reference in Subsec. (n)(1)(F) to “16 USC Section 550” was changed editorially by the Revisors to “16 USC Section 590g” in conformance with the amendment to Subsec. (m)); P.A. 96-181 amended Subsecs. (a) and (i) to add drinking water federal revolving loan account and drinking water state account and made technical changes and added Subsecs. (o) to (t), inclusive, re drinking water federal revolving loan account and drinking water state account, effective July 1, 1996; June Sp. Sess. P.A. 98-1 made a technical change in Subsec. (e), effective June 24, 1998; P.A. 01-180 amended Subsec. (h) to add new Subdiv. (9) re amounts in water pollution control state account available for commissioner to pay costs of nitrogen credit exchange program and to redesignate existing Subdiv. (9) as Subdiv. (10), effective July 1, 2001; P.A. 09-12 amended Subsec. (g) by adding Subpara. (F) re transfer for meeting federal subsidization requirements, and Subsec. (s) by adding Subpara. (F) re additional forms of subsidization, effective April 23, 2009; P.A. 10-117 amended Subsec. (p) by changing “commissioner” to “Commissioner of Public Health”, amended Subsec. (s) by deleting references to Commissioner of Environmental Protection, by changing “commissioner” to “Commissioner of Public Health” or “Commissioner of Public Health in conjunction with the State Treasurer”, by deleting provision re disadvantaged communities and by making a technical change, amended Subsec. (t) by replacing provisions re Commissioner and Department of Environmental Protection with provisions re Commissioner and Department of Public Health, by deleting provisions re concurrence of Commissioner of Public Health, by replacing “make grants” with “provide additional forms of subsidization, including grants, principal forgiveness or negative forgiveness loans or any combination thereof” in Subdiv. (2), by adding “and the Office of the State Treasurer” in Subdiv. (6) and by deleting “provided such amounts are not required for the purposes of such fund” in Subdiv. (7); pursuant to P.A. 11-80, “Department of Environmental Protection” was changed editorially by the Revisors to “Department of Energy and Environmental Protection” in Subsec. (m)(2), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-478. Eligible water quality projects. Eligible drinking water projects. Project grants. Grant account loans. (a) The commissioner shall maintain a priority list of eligible water quality projects and shall establish a system setting the priority for making project grants, grant account loans and project loans. In establishing such priority list and ranking system, the commissioner shall consider all factors he deems relevant, including but not limited to the following: (1) The public health and safety; (2) protection of environmental resources; (3) population affected; (4) attainment of state water quality goals and standards; (5) consistency with the state plan of conservation and development; (6) state and federal regulations; (7) the formation in municipalities of local housing partnerships pursuant to the provisions of section 8-336f; and (8) the necessity and feasibility of implementing measures designed to mitigate the impact of a rise in sea level over the projected life span of such project. The priority list of eligible water quality projects shall include a description of each project and its

purpose, impact, cost and construction schedule, and an explanation of the manner in which priorities were established. The commissioner shall adopt an interim priority list of eligible water quality projects for the purpose of making project grants, grant account loans and project loans prior to adoption of final regulations, which priority list shall be the priority list currently in effect under subsection (c) of section 22a-439.

(b) In each fiscal year the commissioner may make project grants, grant account loans and project loans to municipalities in the order of the priority list of eligible water quality projects to the extent of moneys available therefor in the appropriate accounts of the Clean Water Fund. Each municipality undertaking an eligible water quality project may apply for and receive a project grant and loan or project grants and loans in an amount equal to one hundred per cent of the eligible water quality project costs.

(c) The funding of an eligible water quality project shall be pursuant to a project funding agreement between the state, acting by and through the commissioner, and the municipality undertaking such project and shall be evidenced by a project fund obligation or grant account loan obligation, or both, or an interim funding obligation of such municipality issued in accordance with section 22a-479. A project funding agreement shall be in a form prescribed by the commissioner. Eligible water quality projects shall be funded as follows:

(1) A nonpoint source pollution abatement project shall receive a project grant of seventy-five per cent of the cost of the project determined to be eligible by the commissioner.

(2) A combined sewer project shall receive (A) a project grant of fifty per cent of the cost of the project, and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(3) A construction contract eligible for financing awarded by a municipality on or after July 1, 2012, as a project undertaken for nutrient removal shall receive a project grant of thirty per cent of the cost of the project associated with nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs. Nutrient removal projects under design or construction on July 1, 2012, and projects that have been constructed but have not received permanent, Clean Water Fund financing, on July 1, 2012, shall be eligible to receive a project grant of thirty per cent of the cost of the project associated with nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(4) If supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean-up of Long Island Sound that are funded on or after July 1, 2012, a distressed municipality, as defined in section 32-9p, may receive a combination of state and federal grants in an amount not to exceed fifty per cent of the cost of the project associated with nutrient removal, a twenty per cent grant for the balance of the cost of the project not related to nutrient removal, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the allowable water quality project costs.

(5) A municipality with a water pollution control project, the construction of which began on or after July 1, 2003, which has (A) a population of five thousand or less, or (B) a population of greater than five thousand which has a discrete area containing a population of less than five thousand that is not contiguous with the existing sewerage system, shall be eligible to receive a grant in the amount of twenty-five per cent of the design and construction phase of eligible project costs, and a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs.

(6) Any contract entered into by a municipality prior to, on or after May 26, 2016, but before July 1, 2019, that is eligible for financing as a project undertaken for phosphorus removal to at or below thirty-one one hundredths milligrams per liter, provided such amount is specified as the average monthly effluent total phosphorous limit in a discharge permit issued to such municipality by the commissioner pursuant to section 22a-430, shall receive (A) a project grant of fifty per cent of the cost of the project associated with such phosphorus removal, (B) except as provided in subdivision (3) of this subsection, a twenty per cent grant for the balance of the cost of the

project, and (C) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs, provided nothing in this subdivision shall affect any requirement or schedule in any discharge permit issued by the commissioner pursuant to said section.

(7) A municipality with a 2012 population of not less than forty thousand but not more than forty-two thousand with a municipal sewerage system that provides a regional sewerage treatment capacity to not less than five abutting communities, each with 2012 populations of less than five thousand, shall receive funding levels consistent with subdivisions (1) to (6), inclusive, of this subsection plus an additional five per cent for the design and construction phase costs of an eligible water quality project and a loan for the remainder of the costs of such eligible water quality project, provided such loan shall not exceed one hundred per cent of the costs of such eligible water project.

(8) Any other eligible water quality project shall receive (A) a project grant of twenty per cent of the eligible cost, and (B) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible project cost.

(9) Project agreements to fund eligible project costs with grants from the Clean Water Fund that were executed during or after the fiscal year beginning July 1, 2003, shall not be reduced according to the provisions of the regulations adopted under section 22a-482.

(10) On or after July 1, 2002, an eligible water quality project that exclusively addresses sewer collection and conveyance system improvements may receive a loan for one hundred per cent of the eligible costs provided such project does not receive a project grant. Any such sewer collection and conveyance system improvement project shall be rated, ranked, and funded separately from other water pollution control projects and shall be considered only if it is highly consistent with the state's conservation and development plan, or is primarily needed as the most cost effective solution to an existing area-wide pollution problem and incorporates minimal capacity for growth.

(11) All loans made in accordance with the provisions of this section for an eligible water quality project shall bear an interest rate of two per cent per annum. The commissioner may allow any project fund obligation, grant account loan obligation or interim funding obligation for an eligible water quality project to be repaid by a borrowing municipality prior to maturity without penalty.

(d) Each project loan and grant account loan for an eligible water quality project shall be made pursuant to a project funding agreement between the state, acting by and through the commissioner, and such municipality, and each project loan for an eligible water quality project shall be evidenced by a project loan obligation, each grant account loan for an eligible water quality project shall be evidenced by a grant account loan obligation, or either may be evidenced by an interim funding obligation of such municipality issued in accordance with sections 22a-475 to 22a-483, inclusive. Except as otherwise provided in said sections, each project funding agreement shall contain such terms and conditions, including provisions for default which shall be enforceable against a municipality, as shall be approved by the commissioner. Each project loan obligation, grant account loan obligation or interim funding obligation issued pursuant to a project funding agreement for an eligible water quality project shall bear interest at a rate of two per cent per annum. Except as otherwise provided in sections 22a-475 to 22a-483, inclusive, each project loan obligation, grant account loan obligation and interim funding obligation shall be issued in accordance with the terms and conditions set forth in the project funding agreement. Notwithstanding any other provision of the general statutes, public act or special act to the contrary, each project loan obligation and grant account loan obligation for an eligible water quality project shall mature no later than twenty years from the date of completion of the construction of the project and shall be paid in monthly installments of principal and interest or in monthly installments of principal unless a finding is otherwise made by the Treasurer of the state requiring a different payment schedule. Interest on each project loan obligation and grant account loan obligation for an eligible water quality project shall be payable monthly unless a finding is otherwise made by the Treasurer of the state requiring a different payment schedule. Principal and interest on interim funding obligations issued under a project funding agreement for an eligible water quality project shall be payable at such time or times as provided in the project funding agreement, not exceeding six months after the date of completion of the planning and design phase or the construction phase, as applicable, of the eligible

water quality project, as determined by the commissioner, and may be paid from the proceeds of a renewal note or notes or from the proceeds of a project loan obligation or grant account loan obligation. The commissioner may allow any project loan obligation, grant account loan obligation or interim funding obligation for an eligible water quality project to be repaid by the borrowing municipality prior to maturity without penalty.

(e) (1) The commissioner may make a project grant or a grant account loan or both to a municipality pursuant to a project funding agreement for the planning and design phase of an eligible water quality project. Principal and interest on a grant account loan for the planning and design phases of an eligible water quality project may be paid from and included in the principal amount of a loan for the construction phase of an eligible water quality project.

(2) In lieu of a grant and loan pursuant to subsection (b) of this section, the commissioner, upon written request by a municipality, may make a project grant to such municipality in the amount of fifty-five per cent of the cost approved by the commissioner for the planning phase of an eligible water quality project.

(3) If supplemental federal grant funds are available for Clean Water Fund projects specifically related to the clean-up of Long Island Sound that are funded on or after July 1, 2003, a distressed municipality, as defined in section 32-9p, may receive a combination of state and federal grants in an amount not to exceed one hundred per cent of the cost, approved by the commissioner, for the planning phase of an eligible water quality project for nitrogen removal.

(f) A project grant, a grant account loan and a project loan for an eligible water quality project shall not be made to a municipality unless:

(1) In the case of a project grant, grant account loan and project loan for the construction phase, final plans and specifications for such project are approved by the commissioner;

(2) Each municipality undertaking such project provides assurances satisfactory to the commissioner that the municipality shall undertake and complete such project with due diligence and, in the case of a project loan for the construction phase, that it shall own such project and shall operate and maintain the eligible water quality project for a period and in a manner satisfactory to the commissioner after completion of such project;

(3) Each municipality undertaking such project has filed with the commissioner all applications and other documents prescribed by the commissioner within time periods prescribed by the commissioner;

(4) Each municipality undertaking such project has established separate accounts for the receipt and disbursement of the proceeds of such project grant, grant account loan and project loan and has agreed to maintain project accounts in accordance with generally accepted government accounting standards;

(5) In any case in which an eligible water quality project shall be owned or maintained by more than one municipality, the commissioner has received evidence satisfactory to the commissioner that all such municipalities are legally required to complete their respective portions of such project;

(6) Each municipality undertaking such project has agreed to comply with such audit requirements as may be imposed by the commissioner;

(7) In the case of a project grant, grant account loan and project loan for the construction phase, each municipality shall assure the commissioner that it has adequate legal, institutional, managerial and financial capability to construct and operate the pollution abatement facility for the design life of the facility; and

(8) In the case of a project grant, grant account loan and project loan for the construction phase awarded after July 1, 1991, each municipality shall demonstrate, to the satisfaction of the commissioner, that it has implemented an adequate operation and maintenance program for the municipal sewerage system for the design life of the facility.

(g) Notwithstanding any provision of sections 22a-475 to 22a-483, inclusive, to the contrary, the commissioner may make a project grant or project grants and a grant account loan or loans in accordance with the provisions of subsection (c) of this section with respect to an eligible water quality project without regard to the priority list of eligible water quality projects if a public emergency exists which requires that the eligible water quality project be undertaken to protect the public health and safety or the natural and environmental resources of the state.

(h) The Department of Public Health shall establish and maintain a priority list of eligible drinking water projects and shall establish a system setting the priority for making project loans to eligible public water systems. In establishing such priority list and ranking system, the Commissioner of Public Health shall consider all factors which he deems relevant, including but not limited to the following: (1) The public health and safety; (2) protection of environmental resources; (3) population affected; (4) risk to human health; (5) public water systems most in need on a per household basis according to applicable state affordability criteria; (6) compliance with the applicable requirements of the federal Safe Drinking Water Act and other related federal acts; (7) applicable state and federal regulations. The priority list of eligible drinking water projects shall include a description of each project and its purpose, impact, cost and construction schedule, and an explanation of the manner in which priorities were established. The Commissioner of Public Health shall adopt an interim priority list of eligible drinking water projects for the purpose of making project loans prior to adoption of final regulations, and in so doing may utilize existing rules and regulations of the department relating to the program. To the extent required by applicable federal law, the Department of Public Health shall prepare any required intended use plan with respect to eligible drinking water projects; (8) consistency with the plan of conservation and development; (9) consistency with the policies delineated in section 22a-380; and (10) consistency with the coordinated water system plan in accordance with subsection (f) of section 25-33d.

(i) In each fiscal year the Commissioner of Public Health may make project loans to recipients in the order of the priority list of eligible drinking water projects to the extent of moneys available therefor in the appropriate accounts of the Clean Water Fund. Each recipient undertaking an eligible drinking water project may apply for and receive a project loan or loans in an amount equal to one hundred per cent of the eligible project costs.

(j) The funding of an eligible drinking water project shall be pursuant to a project funding agreement between the state, acting by and through the Commissioner of Public Health, and the recipient undertaking such project and shall be evidenced by a project fund obligation or an interim funding obligation of such recipient issued in accordance with section 22a-479. A project funding agreement shall be in a form prescribed by the Commissioner of Public Health. Any eligible drinking water project shall receive a project loan for the costs of the project. All loans made in accordance with the provisions of this section for an eligible drinking water project shall bear an interest rate not exceeding one-half the rate of the average net interest cost as determined by the last previous similar bond issue by the state of Connecticut as determined by the State Bond Commission in accordance with subsection (t) of section 3-20. The Commissioner of Public Health may allow any project fund obligation or interim funding obligation for an eligible drinking water project to be repaid by a borrowing recipient prior to maturity without penalty.

(k) Each project loan for an eligible drinking water project shall be made pursuant to a project funding agreement between the state, acting by and through the Commissioner of Public Health, and such recipient, and each project loan for an eligible drinking water project shall be evidenced by a project loan obligation or by an interim funding obligation of such recipient issued in accordance with sections 22a-475 to 22a-483, inclusive. Except as otherwise provided in said sections 22a-475 to 22a-483, inclusive, each project funding agreement shall contain such terms and conditions, including provisions for default which shall be enforceable against a recipient, as shall be approved by the Commissioner of Public Health. Each project loan obligation or interim funding obligation issued pursuant to a project funding agreement for an eligible drinking water project shall bear an interest rate not exceeding one-half the rate of the average net interest cost as determined by the last previous similar bond issue by the state of Connecticut as determined by the State Bond Commission in accordance with subsection (t) of section 3-20. Except as otherwise provided in said sections 22a-475 to 22a-483, inclusive, each project loan obligation and interim funding obligation shall be issued in accordance with the terms and conditions set forth in the project funding agreement. Notwithstanding any other provision of the general statutes, public act or special act to the contrary, each project loan obligation for an eligible drinking

water project shall mature no later than twenty years from the date of completion of the construction of the project and shall be paid in monthly installments of principal and interest or in monthly installments of principal unless a finding is otherwise made by the State Treasurer requiring a different payment schedule. Interest on each project loan obligation for an eligible drinking water project shall be payable monthly unless a finding is otherwise made by the State Treasurer requiring a different payment schedule. Principal and interest on interim funding obligations issued under a project funding agreement for an eligible drinking water project shall be payable at such time or times as provided in the project funding agreement, not exceeding six months after the date of completion of the planning and design phase or the construction phase, as applicable, of the eligible drinking water project, as determined by the Commissioner of Public Health, and may be paid from the proceeds of a renewal note or notes or from the proceeds of a project loan obligation. The Commissioner of Public Health may allow any project loan obligation or interim funding obligation for an eligible drinking water project to be repaid by the borrowing recipient prior to maturity without penalty.

(l) The Commissioner of Public Health may make a project loan to a recipient pursuant to a project funding agreement for an eligible drinking water project for the planning and design phase of an eligible project, to the extent provided by the federal Safe Drinking Water Act, as amended. Principal and interest on a project loan for the planning and design phases of an eligible drinking water project may be paid from and included in the principal amount of a loan for the construction phase of an eligible drinking water project.

(m) A project loan for an eligible drinking water project shall not be made to a recipient unless: (1) In the case of a project loan for the construction phase, final plans and specifications for such project are approved by the Commissioner of Public Health, and when the recipient is a water company, as defined in section 16-1, with the concurrence of the Public Utilities Regulatory Authority, and with the approval of the Commissioner of Public Health for consistency with financial requirements of the general statutes, regulations and resolutions; (2) each recipient undertaking such project provides assurances satisfactory to the Commissioner of Public Health that the recipient shall undertake and complete such project with due diligence and, in the case of a project loan for the construction phase, that it shall own such project and shall operate and maintain the eligible drinking water project for a period and in a manner satisfactory to the Department of Public Health after completion of such project; (3) each recipient undertaking such project has filed with the Commissioner of Public Health all applications and other documents prescribed by the Public Utilities Regulatory Authority and the Commissioner of Public Health within time periods prescribed by the Commissioner of Public Health; (4) each recipient undertaking such project has established separate accounts for the receipt and disbursement of the proceeds of such project loan and has agreed to maintain project accounts in accordance with generally accepted government accounting standards or uniform system of accounts, as applicable; (5) in any case in which an eligible drinking water project shall be owned or maintained by more than one recipient, the Commissioner of Public Health has received evidence satisfactory to him that all such recipients are legally required to complete their respective portions of such project; (6) each recipient undertaking such project has agreed to comply with such audit requirements as may be imposed by the Commissioner of Public Health; and (7) in the case of a project loan for the construction phase, each recipient shall assure the Public Utilities Regulatory Authority, as required, and the Commissioner of Public Health that it has adequate legal, institutional, technical, managerial and financial capability to ensure compliance with the requirements of applicable federal law, except to the extent otherwise permitted by federal law.

(n) Notwithstanding any provision of sections 22a-475 to 22a-483, inclusive, to the contrary, the Commissioner of Public Health may make a project loan or loans in accordance with the provisions of subsection (j) of this section with respect to an eligible drinking water project without regard to the priority list of eligible drinking water projects if a public drinking water supply emergency exists, pursuant to section 25-32b, which requires that the eligible drinking water project be undertaken to protect the public health and safety.

(o) The commissioner shall prepare an annual report to the Governor within ninety days after the completion of each fiscal year which includes a list of project funding agreements entered into during the fiscal year then ended, the estimated year that funding will be available for specific projects listed on each priority list of eligible projects and a financial report on the condition of the Clean Water Fund for the fiscal year then ended, which

shall include a certification by the commissioner of any amounts to become available for payment of debt service or for the purchase or redemption of bonds during the next succeeding fiscal year.

(P.A. 86-420, S. 4, 12; P.A. 87-571, S. 4, 7; P.A. 88-305, S. 3, 4; P.A. 89-377, S. 4, 8; P.A. 90-301, S. 3, 8; June Sp. Sess. P.A. 90-1, S. 4, 10; P.A. 91-246, S. 2; P.A. 94-108, S. 2; P.A. 96-181, S. 113, 121; P.A. 99-241, S. 13, 66; May 9 Sp. Sess. P.A. 02-5, S. 11: P.A. 03-218, S. 1, 2; P.A. 04-185, S. 1; P.A. 05-288, S. 111; P.A. 10-117, S. 37; P.A. 11-80, S. 1; P.A. 12-155, S. 3.; P.A. 13-15, S. 1; 13-239, S. 64; P.A. 14-13, S. 1; 14-217, S. 86; P.A. 16-57, S. 1.)

History: P.A. 87-571 amended Subsec. (b) to provide for cost determination based on cost used by the federal Environmental Protection Agency to make water pollution control construction grants and made other technical changes; P.A. 88-305 added Subsec. (a)(7) re formation of local housing partnerships; P.A. 89-377 amended Subsec. (d) to provide for monthly, rather than annual, payment of principal and interest, unless the treasurer determines otherwise; P.A. 90-301 added Subsec. (f)(7) and (8) re grants and loans for construction phase and re project grants; June Sp. Sess. P.A. 90-1 amended Subsec. (d) to provide that the maturation date of loan obligations shall be determined from the date of completion of construction rather than from issuance of the loan obligation; P.A. 91-246 amended Subsec. (c) to allow certain nonpoint source pollution abatement projects to receive grants of up to 75% of the cost of such projects approved by the commissioner; P.A. 94-108 amended Subsec. (e) to add new Subdiv. (2) re optional project grant for planning for eligible water quality projects; P.A. 96-181 added new Subsecs. (h) to (n), inclusive, re public drinking water projects, relettered existing Subsec. (h) as Subsec. (o) and made conforming changes, effective July 1, 1996; P.A. 99-241 amended Subsec. (c) to provide 30% grants for certain nitrogen removal projects, effective July 1, 1999 (Revisor's note: In codifying P.A. 99-241 the Revisors editorially changed the phrase "... but have nor received payment, ..." to "but have not received payment, ..." for accuracy); May 9 Sp. Sess. P.A. 02-5 amended Subsec. (c) to add provisions re loans for projects that exclusively address sewer collection and conveyance system improvements and to make a technical change, effective July 1, 2002; P.A. 03-218 amended Subsec. (c) by designating existing provisions re amounts, etc. as Subdivs. (1) to (3), inclusive, (6), and (8) to (10), inclusive, deleting language in Subdiv. (2) and (6) re the cost the Environmental Protection Agency uses in making grants, adding provision in Subdiv. (3) re 20% grant for the balance of the cost of the project not related to nitrogen removal for projects prior to and on or after July 1, 1999, and provision re loan for the remainder of the costs, not exceeding 100% of the costs for projects prior to July 1, 1999, adding new Subdiv. (4) re projects related to the clean-up of Long Island Sound in a distressed municipality, adding new Subdiv. (5) re project in a municipality with a population of 5,000 or less or such a population in a discrete area, replacing "cost" with "eligible cost" in Subdiv. (6)(A), adding new Subdiv. (7) re project agreements executed during or after the 2003 fiscal year, and amending Subdiv. (9) to replace "and shall" with "provided such project does", and added new Subsec. (e)(3) re supplemental federal grant funds for Long Island Sound projects in a distressed municipality, effective July 1, 2003; P.A. 04-185 deleted Subsec. (c)(8) re loan for 100% of the eligible costs on or after July 1, 2006, and redesignated existing Subdivs. (9) and (10) as new Subdivs. (8) and (9); P.A. 05-288 made technical changes in Subsec. (c)(8), effective July 13, 2005; P.A. 10-117 amended Subsec. (h)(7) by deleting "Commissioner of Environmental Protection", amended Subsec. (i) by replacing "commissioner" with "Commissioner of Public Health", amended Subsec. (j) by deleting "Commissioner of Environmental Protection" and by replacing "commissioner" with "Commissioner of Public Health", amended Subsec. (k) by deleting "Commissioner of Environmental Protection", by replacing "commissioner" with "Commissioner of Public Health" and by deleting "with the concurrence of the Commissioner of Public Health", amended Subsec. (l) by deleting "Commissioner of Environmental Protection", amended Subsec. (m) by replacing "Commissioner of Environmental Protection" with "Commissioner of Public Health" in Subdiv. (1), by deleting "Commissioner of Environmental Protection" in Subdivs. (2), (3) and (7) and by replacing "commissioner" with "Commissioner of Environmental Protection" in Subdivs. (5) and (6) and amended Subsec. (n) by deleting "with the concurrence of the Commissioner of Environmental Protection"; pursuant to P.A. 11-80, "Department of Public Utility Control" was changed editorially by the Revisors to "Public Utilities Regulatory Authority" in Subsec. (m), effective July 1, 2011; P.A. 12-155 amended Subsec. (c) by changing "nitrogen removal" to "nutrient removal" in Subdivs. (3) and (4), changing "July 1, 1999" to "July 1, 2012" in Subdiv. (3) and changing "July 1, 2003" to "July 1, 2012" in Subdiv. (4), effective June 15, 2012; P.A. 13-15 amended Subsec. (a) to add Subdiv. (8) re necessity and feasibility of implementing measures designed to mitigate the impact of a rise in sea level over the projected life

span of the project; P.A. 13-239 amended Subsec. (c) by adding new Subdiv. (6) re financing for phosphorus removal and redesignating existing Subdivs. (6) to (9) as Subdivs. (7) to (10), effective July 1, 2013; P.A. 14-13 amended Subsec. (c)(6) by replacing reference to first 3 construction contracts with reference to any contract and making technical and conforming changes, effective May 12, 2014; P.A. 14-217 amended Subsec. (c) by adding Subdiv. (7) re funding for municipality with 2012 population of not less than 40,000 but not more than 42,000 with a municipal sewerage system that provides a regional sewerage treatment capacity to not less than 5 abutting communities, each with 2012 populations of less than 5,000 and by redesignating existing Subdivs. (7) to (10) as Subdivs. (8) to (11), effective July 1, 2014; P.A. 16-57 amended Subsec. (c)(6) by replacing "on or before July 1, 2018" with "prior to, on or after May 26, 2016, but before July 1, 2019", replacing "two-tenths milligrams per liter effluent discharge" with "thirty-one one hundredths milligrams per liter", adding provision re amount specified as average monthly effluent total phosphorus limit in permit issued to municipality by commissioner pursuant to Sec. 22a-430, and replacing provision re funding priority to be given by commissioner with provision re nothing in Subdiv. to effect any requirement or schedule in any discharge permit issued by commissioner, effective May 26, 2016.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-479. Municipal approval of project funding agreements and obligations. Municipal bonds. (a) A municipality may authorize and approve (1) the execution and delivery of project funding agreements, and (2) the issuance and sale of project obligations, grant account loan obligations and interim funding obligations, in accordance with such statutory and charter requirements as govern the authorization and approval of borrowings and the making of contracts generally by the municipality or in accordance with the provisions of subsection (e) of this section. Project loan obligations, grant account loan obligations and interim funding obligations shall be duly executed and accompanied by an approving legal opinion of bond counsel of recognized standing in the field of municipal law whose opinions are generally accepted by purchasers of municipal bonds and shall be subject to the debt limitation provisions of section 7-374; except that project loan obligations, grant account loan obligations and interim funding obligations issued in order to meet the requirements of any abatement order of the commissioner shall not be subject to the debt limitation provisions of section 7-374, provided the municipality files a certificate, signed by its chief fiscal officer, with the commissioner demonstrating to the satisfaction of the commissioner that the municipality has a plan for levying a system of charges, assessments or other revenues which are sufficient, together with other available funds of the municipality, to repay such obligations as the same become due and payable.

(b) Each recipient which enters into a project funding agreement shall protect, defend and hold harmless the state, its agencies, departments, agents and employees from and against any and all claims, suits, actions, demands, costs and damages arising from or in connection with the performance or nonperformance by the recipient, or any of its officers, employees or agents, of the recipient's obligations under any project funding agreement as such project funding agreement may be amended or supplemented from time to time. Each such recipient may insure against the liability imposed by this subsection through any insurance company organized within or without this state authorized to write such insurance in this state or may elect to act as self-insurer of such liability, provided such indemnity shall not be limited by any such insurance coverage.

(c) Whenever a recipient has entered into a project funding agreement and has authorized the issuance of project loan obligations or grant account loan obligations, it may authorize the issuance of interim funding obligations. Proceeds from the issuance and sale of interim funding obligations shall be used to temporarily finance an eligible project pending receipt of the proceeds of a project loan obligation, a grant account loan obligation or project grant. Such interim funding obligations may be issued and sold to the state for the benefit of the Clean Water Fund or issued and sold to any other lender on such terms and in such manner as shall be determined by a recipient. Such interim funding obligations may be renewed from time to time by the issuance of other notes, provided the final maturity of such notes shall not exceed six months from the date of completion of the planning and design phase or the construction phase, as applicable, of an eligible project, as determined by the commissioner or, if the project is an eligible drinking water project, by the Commissioner of Public Health. Such notes and any renewals of a municipality shall not be subject to the requirements and limitations set forth in

sections 7-378, 7-378a and 7-264. The provisions of section 7-374 shall apply to such notes and any renewals thereof of a municipality; except that project loan obligations, grant account loan obligations and interim funding obligations issued in order to meet the requirements of an abatement order of the commissioner shall not be subject to the debt limitation provisions of section 7-374, provided the municipality files a certificate, signed by its chief fiscal officer, with the commissioner demonstrating to the satisfaction of the commissioner that the municipality has a plan for levying a system of charges, assessments or other revenues sufficient, together with other available funds of the municipality, to repay such obligations as the same become due and payable. The officer or agency authorized by law or by vote of the recipient to issue such interim funding obligations shall, within any limitation imposed by such law or vote, determine the date, maturity, interest rate, form, manner of sale and other details of such obligations. Such obligations may bear interest or be sold at a discount and the interest or discount on such obligations, including renewals thereof, and the expense of preparing, issuing and marketing them may be included as a part of the cost of an eligible project. Upon the issuance of a project loan obligation or grant account loan obligation, the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and interest on all interim funding obligations issued in anticipation thereof and upon receipt of a project grant, the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and interest on all grant anticipation notes issued in anticipation thereof or, in either case, shall be deposited in trust for such purpose with a bank or trust company, which may be the bank or trust company, if any, at which such obligations are payable.

(d) Project loan obligations, grant account loan obligations, interim funding obligations or any obligation of a municipality that satisfies the requirements of Title VI of the federal Water Pollution Control Act or the federal Safe Drinking Water Act or other related federal act may, as determined by the commissioner or, if the project is an eligible drinking water project, by the Commissioner of Public Health, be general obligations of the issuing municipality and in such case each such obligation shall recite that the full faith and credit of the issuing municipality are pledged for the payment of the principal thereof and interest thereon. To the extent a municipality is authorized pursuant to sections 22a-475 to 22a-483, inclusive, to issue project loan obligations or interim funding obligations, such obligations may be secured by a pledge of revenues and other funds derived from its sewer system or public water supply system, as applicable. Each pledge and agreement made for the benefit or security of any of such obligations shall be in effect until the principal of, and interest on, such obligations have been fully paid, or until provision has been made for payment in the manner provided in the resolution authorizing their issuance or in the agreement for the benefit of the holders of such obligations. In any such case, such pledge shall be valid and binding from the time when such pledge is made. Any revenues or other receipts, funds or moneys so pledged and thereafter received by the municipality shall immediately be subject to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the municipality, irrespective of whether such parties have notice thereof. Neither the project loan obligation, interim funding obligation, project funding agreement nor any other instrument by which a pledge is created need be recorded. All securities or other investments of moneys of the state permitted or provided for under sections 22a-475 to 22a-483, inclusive, may, upon the determination of the State Treasurer, be purchased and held in fully marketable form, subject to provision for any registration in the name of the state. Securities or other investments at any time purchased, held or owned by the state may, upon the determination of the State Treasurer and upon delivery to the state, be accompanied by such documentation, including approving bond opinion, certification and guaranty as to signatures and certification as to absence of litigation, and such other or further documentation as shall from time to time be required in the municipal bond market or required by the state.

(e) Notwithstanding the provisions of the general statutes, any special act or any municipal charter governing the authorization of bonds, notes or obligations or the appropriation of funds, or governing the application for, and expenditure of, grants or loans, or governing the authorization of contracts or financing agreements or governing the pledging of sewer or water revenues or funds, a municipality may, by resolution approved by its legislative body and by (1) its water pollution control authority or sewer authority, if any, authorize a project loan and project grant agreement between the municipality and the state pursuant to sections 22a-475 to 22a-483, inclusive, and appropriate funds and authorize project loan obligations and interim funding obligations of the municipality paid and secured solely by a pledge of revenues, funds and moneys of the municipality and the

water pollution control authority or sewer authority, if any, derived from its sewer system, to pay for and finance the total project costs of an eligible water quality project, pursuant to a project loan and project grant agreement between the municipality and the state pursuant to sections 22a-475 to 22a-483, inclusive, or (2) by its water authority, if any, authorize a project loan and project grant agreement between the municipality and the state pursuant to sections 22a-475 to 22a-483, inclusive, and appropriate funds and authorize project loan obligations and interim funding obligations of the municipality paid and secured solely by a pledge of revenues, funds and moneys of the municipality and the water authority, if any, derived from its public water supply system, to pay for and finance the total project costs of an eligible water quality project, pursuant to a project loan agreement between the municipality and the state pursuant to sections 22a-475 to 22a-483, inclusive. The provisions of chapter 103 shall apply to the obligations authorized by this section, to the extent such section is not inconsistent with this subsection. A project loan and project grant agreement authorized by such resolution may contain covenants and agreements with respect to, and may pledge the revenues, funds and moneys derived from, the sewer system or public water system to secure such project loan obligations and interim funding obligations, including, but not limited to, covenants and agreements with respect to holding or depositing such revenues, funds and moneys in separate accounts and agreements described in section 7-266. As used in this subsection, "legislative body" means (A) the board of selectmen in a town that does not have a charter, special act or home rule ordinance relating to its government, (B) the council, board of aldermen, representative town meeting, board of selectmen or other elected legislative body described in a charter, special act or home rule ordinance relating to government in a city, consolidated town and city, consolidated town and borough or a town having a charter, special act, consolidation ordinance or home rule ordinance relating to its government, (C) the board of burgesses or other elected legislative body in a borough, or (D) the district committee or other elected legislative body in a district, metropolitan district or other municipal corporation.

(f) Any recipient which is not a municipality shall execute and deliver project loan obligations and interim financing obligations in accordance with applicable law and in such form and with such requirements as may be determined by the commissioner or by the Commissioner of Public Health if the project is an eligible drinking water project. The Commissioner of Public Health and the Public Utilities Regulatory Authority as required by section 16-19e shall review and approve all costs that are necessary and reasonable prior to the award of the project funding agreement with respect to an eligible drinking water project. The Public Utilities Regulatory Authority, where appropriate, shall include these costs in the recipient's rate structure in accordance with section 16-19e.

(P.A. 86-420, S. 5, 12; P.A. 87-571, S. 5, 7; P.A. 89-377, S. 5, 8; June Sp. Sess. P.A. 90-1, S. 5, 6, 10; P.A. 92-201, S. 1, 2; P.A. 96-181, S. 114, 121; May Sp. Sess. P.A. 04-2, S. 69; P.A. 10-117, S. 38, 39; P.A. 11-80, S. 1.)

History: P.A. 87-571 added provisions re interim funding obligations; P.A. 89-377 added provisions concerning opinions of bond counsel, exempted obligations issued in order to meet abatement orders from limits in Sec. 7-374, added Subsec. (b) concerning hold harmless provisions and amended Subsec. (d) to provide that obligations may, as determined by the commissioner, rather than shall, be general obligations of the municipality and to add provisions concerning marketability; June Sp. Sess. P.A. 90-1 amended Subsecs. (a) and (c) to provide that the exemption from the debt limitation of Sec. 7-374 for projects under abatement orders will be allowed only when the municipality has satisfied the commissioner that it has a repayment plan for such debt; P.A. 92-201 amended Subsec. (d) to clarify the nature of the pledge of revenues and the lien of any such pledge and added Subsec. (e) concerning pledges of revenues; P.A. 96-181 added Subsec. (f) re review and approval of costs of a recipient which is not a municipality by the Commissioner of Public Health and the Department of Public Utility Control and made technical and conforming changes related to inclusion of the federal Safe Drinking Water Act, effective July 1, 1996; May Sp. Sess. P.A. 04-2 amended Subsec. (c) to provide that notes of a municipality under section shall not be subject to Sec. 7-264, amended Subsec. (d) to authorize the securing of obligations of municipalities under section by other funds derived from water or sewer systems and to add provision re pledges and agreements for the benefit or security of obligations under section, amended Subsec. (e) to qualify the provisions of law that are not applicable to the municipal powers under section, to authorize project loan and project grant agreements and to specify the provisions which such agreements may include, and made technical and conforming changes, effective May 12, 2004, and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which was in existence on October 1, 2003, or created after

October 1, 2003; P.A. 10-117 amended Subsecs. (c) and (d) by adding "or, if the project is an eligible drinking water project, by the Commissioner of Public Health" and amended Subsec. (f) by adding provisions re responsibilities of Commissioner of Public Health if project is an eligible drinking water project; pursuant to P.A. 11-80, "Department of Public Utility Control" was changed editorially by the Revisors to "Public Utilities Regulatory Authority" in Subsec. (f), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-480. Construction of provisions. No provision of sections 22a-475 to 22a-483, inclusive, shall be construed or deemed to supersede or limit the authority granted the commissioner and the Commissioner of Public Health pursuant to this chapter.

(P.A. 86-420, S. 6, 12; P.A. 10-117, S. 40.)

History: P.A. 10-117 added "and the Commissioner of Public Health".

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-481. Projects with prior funding. (a) Eligible water quality projects which have received advances for planning and design pursuant to subsection (b) of section 22a-439 or section 22a-443 shall be eligible for project grants and loans under this program. No interest shall be charged on a grant advance prior to the time it is converted to a project grant and loan.

(b) Contractual obligations of the state to municipalities for grant assistance commitments made prior to July 1, 1986, shall be funded pursuant to sections 22a-439 to 22a-443, inclusive.

(P.A. 86-420, S. 7, 12.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-482. Regulations. The Commissioner of Energy and Environmental Protection shall adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of sections 22a-475 to 22a-483, inclusive, except that the Commissioner of Public Health shall adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of sections 22a-475 to 22a-483, inclusive, pertaining to the drinking water accounts, as defined in subdivisions (7) and (8) of section 22a-475, and eligible drinking water projects. Pending the adoption of regulations concerning the drinking water accounts, as defined in subdivisions (7) and (8) of section 22a-475, the regulations in effect and applicable to the management and operation of the Clean Water Fund shall be utilized by the Commissioner of Public Health with the operation of the drinking water accounts, as defined in subdivisions (7) and (8) of said section 22a-475.

(P.A. 86-420, S. 8, 12; P.A. 96-181, S. 115, 121; P.A. 10-117, S. 41; P.A. 11-80, S. 1.)

History: P.A. 96-181 added Commissioner of Public Health and made regulations applicable to the operation of drinking water accounts, effective July 1, 1996; P.A. 10-117 added provision re responsibilities of Commissioner of Public Health re adoption of regulations pertaining to drinking water accounts and eligible drinking water projects and made conforming changes; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-483. Bond issue for Clean Water Fund projects. General obligation bonds. Revenue bonds. (a) For the purposes of sections 22a-475 to 22a-483, inclusive, the State Bond Commission shall have the power, from time to time to authorize the issuance of bonds of the state in one or more series and in principal amounts, not exceeding in the aggregate one billion seven hundred fifteen million one hundred twenty-five thousand nine hundred seventy-six dollars, provided eighty-five million dollars of said authorization shall be effective July 1, 2018.

(b) The proceeds of the sale of any bonds, state bond anticipation notes or state grant anticipation notes issued pursuant to sections 22a-475 to 22a-483, inclusive, shall be deposited in the Clean Water Fund and not less than fifty million dollars of such proceeds shall be deposited in the Long Island Sound clean-up account of said fund.

(c) All provisions of section 3-20, or the exercise of any right or power granted thereby which are not inconsistent with the provisions of sections 22a-475 to 22a-483, inclusive, are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to said sections, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization, which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to sections 22a-475 to 22a-483, inclusive, may be general obligations of the state and in such case the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the Treasurer shall pay such principal and interest as the same become due. Such general obligation bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such general obligation bonds. The state, acting by and through the State Bond Commission, is hereby authorized to issue from time to time general obligation bonds in such sums as is appropriate and necessary to meet the state's matching requirement for eligibility pursuant to the federal Water Quality Act of 1987 or the federal Safe Drinking Water Act or other similar federal act, provided such sums shall not exceed the aggregate principal amounts of bonds authorized pursuant to subsection (a) of this section. Whenever such bonds are so authorized, the state's obligations shall be issued on such terms and conditions as shall be determined and established by the Treasurer. Such bonds shall bear such rate of interest as the treasurer shall determine, by reference to such open market indices for obligations having similar terms and characteristics as the Treasurer shall determine relevant, in order to arrive at a taxable rate of interest on the obligations of the state issued and sold to the Clean Water Fund. The Treasurer shall deliver such bonds to the Clean Water Fund upon the receipt of evidence from the Environmental Protection Agency evidencing satisfaction by the state of its federal matching requirement pursuant to the federal Water Quality Act of 1987 or the federal Safe Drinking Water Act or other similar federal act.

(d) Notwithstanding the foregoing, nothing herein shall preclude the State Bond Commission from authorizing the issuance of revenue bonds, in principal amounts not exceeding in the aggregate three billion eight hundred eighty-four million eighty thousand dollars, provided three hundred fifty million three hundred thousand dollars of said authorization shall be effective July 1, 2018, that are not general obligations of the state of Connecticut to which the full faith and credit of the state of Connecticut are pledged for the payment of the principal and interest. Such revenue bonds shall mature at such time or times not exceeding thirty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such revenue bonds. The revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes authorized to be issued under sections 22a-475 to 22a-483, inclusive, shall be special obligations of the state and shall not be payable from nor charged upon any funds other than the revenues or other receipts, funds or moneys pledged therefor as provided in said sections 22a-475 to 22a-483, inclusive, including the repayment of municipal loan obligations; nor shall the state or any political subdivision thereof be subject to any liability thereon except to the extent of such pledged revenues or the receipts, funds or moneys pledged therefor as provided in said sections 22a-475 to 22a-483, inclusive. The issuance of revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes under the provisions of said

sections 22a-475 to 22a-483, inclusive, shall not directly or indirectly or contingently obligate the state or any political subdivision thereof to levy or to pledge any form of taxation whatever therefor or to make any appropriation for their payment. The revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes shall not constitute a charge, lien or encumbrance, legal or equitable, upon any property of the state or of any political subdivision thereof, except the property mortgaged or otherwise encumbered under the provisions and for the purposes of said sections 22a-475 to 22a-483, inclusive. The substance of such limitation shall be plainly stated on the face of each revenue bond, revenue state bond anticipation note and revenue state grant anticipation note issued pursuant to said sections 22a-475 to 22a-483, inclusive, shall not be subject to any statutory limitation on the indebtedness of the state and such revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes, when issued, shall not be included in computing the aggregate indebtedness of the state in respect to and to the extent of any such limitation. As part of the contract of the state with the owners of such revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes, all amounts necessary for the punctual payment of the debt service requirements with respect to such revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes shall be deemed appropriated, but only from the sources pledged pursuant to said sections 22a-475 to 22a-483, inclusive. The proceeds of such revenue bonds or notes may be deposited in the Clean Water Fund for use in accordance with the permitted uses of such fund. Any expense incurred in connection with the carrying out of the provisions of this section, including the costs of issuance of revenue bonds, revenue state bond anticipation notes and revenue state grant anticipation notes may be paid from the accrued interest and premiums or from any other proceeds of the sale of such revenue bonds, revenue state bond anticipation notes or revenue state grant anticipation notes and in the same manner as other obligations of the state. All provisions of subsections (g), (k), (l), (s) and (u) of section 3-20 or the exercise of any right or power granted thereby which are not inconsistent with the provisions of said sections 22a-475 to 22a-483, inclusive, are hereby adopted and shall apply to all revenue bonds, state revenue bond anticipation notes and state revenue grant anticipation notes authorized by the State Bond Commission pursuant to said sections 22a-475 to 22a-483, inclusive. For the purposes of subsection (o) of section 3-20, “bond act” shall be construed to include said sections 22a-475 to 22a-483, inclusive.

(e) Any pledge made by the state pursuant to sections 22a-475 to 22a-483, inclusive, is a statutory pledge and shall be valid and binding from the time when the pledge is made, and any revenues or other receipts, funds or moneys so pledged and thereafter received by the state shall be subject immediately to the lien of such pledge without any physical delivery thereof or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the state, irrespective of whether such parties have notice thereof. Neither the resolution nor any other instrument by which a pledge is created need be recorded. Any pledge made by the state pursuant to sections 22a-475 to 22a-483, inclusive, to secure revenue bonds issued to finance eligible water quality projects shall secure only revenue bonds issued for such purpose and any such pledge made by the state to secure revenue bonds issued to finance eligible drinking water projects shall secure only revenue bonds issued for such purpose.

(f) Whenever the General Assembly has authorized the State Bond Commission to authorize bonds of the state for clean water projects and uses and has found that such projects and uses are for any of the purposes set forth in sections 22a-475 to 22a-483, inclusive, and whenever the State Bond Commission finds that the authorization of such bonds will be in the best interests of the state, the State Bond Commission shall authorize the issuance of such bonds from time to time in one or more series and in principal amounts not exceeding the aggregate amount authorized by the General Assembly.

(g) Whenever the state has a written commitment to receive a grant-in-aid or similar form of assistance with respect to a project or program for which the issuance of bonds has been authorized pursuant to sections 22a-475 to 22a-483, inclusive, the Treasurer may issue state grant anticipation notes in anticipation of the issuance of such a grant-in-aid or other assistance provided (1) the total amount of such notes shall not exceed the amount of the grant commitment which has not been paid to the state and (2) all grant payments with respect to such project or program received by the state, to the extent required, shall be applied promptly toward repayment of such temporary notes as the same shall become due and payable, or shall be deposited in trust for such purpose. Notes evidencing such borrowings shall be signed by the manual or facsimile signature of the Treasurer or his deputy. The principal of and interest on any state grant anticipation notes issued pursuant to this subsection may

be repaid from the proceeds of renewals thereof, from grants-in-aid or other assistance pledged for the payment thereof, or from the proceeds of a credit facility including, but not limited to, a letter of credit or policy of bond insurance.

(h) Bonds, state bond anticipation notes and state grant anticipation notes issued pursuant to sections 22a-475 to 22a-483, inclusive, are hereby made securities in which public officers and public bodies of the state and its political subdivisions, all insurance companies, credit unions, building and loan associations, investment companies, banking associations, trust companies, executors, administrators, trustees and other fiduciaries and pension, profit-sharing and retirement funds may properly and legally invest funds, including capital in their control or belonging to them. Such bonds, state bond anticipation notes and state grant anticipation notes are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds, state bond anticipation notes, state grant anticipation notes or other obligations of the state is now or may hereafter be authorized by law.

(i) The proceedings under which bonds are authorized to be issued may, subject to the provisions of the general statutes, contain any or all of the following: (1) Provisions respecting custody of the proceeds from the sale of the bonds and any bond anticipation notes, including any requirements that such proceeds be held separate from or not be commingled with other funds of the state; (2) provisions for the investment and reinvestment of bond proceeds utilized to pay project costs and for the disposition of any excess bond proceeds or investment earnings thereon; (3) provisions for the execution of reimbursement agreements or similar agreements in connection with credit facilities, including, but not limited to, letters of credit or policies of bond insurance, remarketing agreements and agreements for the purpose of moderating interest rate fluctuations, and of such other agreements entered into pursuant to section 3-20a; (4) provisions for the collection, custody, investment, reinvestment and use of the pledged revenues or other receipts, funds or moneys pledged therefor as provided in sections 22a-475 to 22a-483, inclusive; (5) provisions regarding the establishment and maintenance of reserves, sinking funds and any other funds and accounts as shall be approved by the State Bond Commission in such amounts as may be established by the State Bond Commission, and the regulation and disposition thereof, or the establishment of a reserve fund of the state into which may be deposited any moneys appropriated and made available by the state for such fund, any proceeds of the sale of bonds or notes, to the extent provided in the resolution of the state authorizing the issuance thereof, and any other moneys which may be made available to the state for the purpose of such fund from any source whatever and, in lieu of the deposit of any such moneys, evidence by the state of the satisfaction of a federal matching requirement on the part of the state pursuant to the federal Water Quality Act of 1987 or the federal Safe Drinking Water Act or other related federal act, as applicable, including requirements that any such funds and accounts be held separate from or not be commingled with other funds of the state; (6) covenants for the establishment of pledged revenue coverage requirements for the bonds and state bond anticipation notes; (7) provisions for the issuance of additional bonds on a parity with bonds theretofore issued, including establishment of coverage requirements with respect thereto as herein provided; (8) provisions regarding the rights and remedies available in case of a default to bondowners, noteowners or any trustee under any contract, loan agreement, document, instrument or trust indenture, including the right to appoint a trustee to represent their interests upon occurrence of an event of default, as defined in said proceedings, provided that if any bonds or state bond anticipation notes shall be secured by a trust indenture, the respective owners of such bonds or notes shall have no authority except as set forth in such trust indenture to appoint a separate trustee to represent them; (9) provisions for the payment of rebate amounts; and (10) provisions or covenants of like or different character from the foregoing which are consistent with sections 22a-475 to 22a-483, inclusive, and which the State Bond Commission determines in such proceedings are necessary, convenient or desirable in order to better secure the bonds or state bond anticipation notes, or will tend to make the bonds or state bond anticipation notes more marketable, and which are in the best interests of the state. Any provision which may be included in proceedings authorizing the issuance of bonds hereunder may be included in an indenture of trust duly approved in accordance with sections 22a-475 to 22a-483, inclusive, which secures the bonds and any notes issued in anticipation thereof, and in such case the provisions of such indenture shall be deemed to be a part of such proceedings as though they were expressly included therein.

(j) Whether or not any bonds, state bond anticipation notes or state grant anticipation notes issued pursuant to sections 22a-475 to 22a-483, inclusive, are of such form and character as to be negotiable instruments under the terms of title 42a, such bonds, state bond anticipation notes and state grant anticipation notes are hereby made negotiable instruments within the meaning of and for all purposes of title 42a, subject only to the provisions of such bonds, state bond anticipation notes and state grant anticipation notes for registration.

(k) The state covenants with the purchasers and all subsequent owners and transferees of bonds, state bond anticipation notes and state grant anticipation notes issued by the state pursuant to sections 22a-475 to 22a-483, inclusive, in consideration of the acceptance of and payment for the bonds, state bond anticipation notes and state grant anticipation notes, that such bonds, state bond anticipation notes and state grant anticipation notes shall be free at all times from taxes levied by any municipality or political subdivision or special district having taxing powers of the state and the principal and interest of any bonds, state bond anticipation notes and grant anticipation notes issued under the provisions of sections 22a-475 to 22a-483, inclusive, their transfer and the income therefrom, including revenues derived from the sale thereof, shall at all times be free from taxation of every kind by the state of Connecticut or under its authority, except for estate or succession taxes. The Treasurer is authorized to include this covenant of the state in any agreement with the owner of any such bonds, state bond anticipation notes or state grant anticipation notes.

(l) Pending the use and application of any bond proceeds, such proceeds may be invested by, or at the direction of the State Treasurer, in obligations listed in section 3-20 or in investment agreements rated within the top rating categories of any nationally recognized rating service or in investment agreements secured by obligations, of or guaranteed by, the United States or agencies or instrumentalities of the United States.

(m) Any revenue bonds issued under the provisions of sections 22a-475 to 22a-483, inclusive, and at any time outstanding may, at any time and from time to time, be refunded by the state by the issuance of its revenue refunding bonds in such amounts as the State Bond Commission may deem necessary, but not to exceed an amount sufficient to refund the principal of the revenue bonds to be so refunded, to pay any unpaid interest thereon and any premiums and commissions necessary to be paid in connection therewith and to pay costs and expenses which the Treasurer may deem necessary or advantageous in connection with the authorization, sale and issuance of refunding bonds. Any such refunding may be effected whether the revenue bonds to be refunded shall have matured or shall thereafter mature. All revenue refunding bonds issued hereunder shall be payable solely from the revenues or other receipts, funds or moneys out of which the revenue bonds to be refunded thereby are payable and shall be subject to and may be secured in accordance with the provisions of this section.

(n) The Treasurer shall have power, out of any funds available therefor, to purchase revenue bonds, state revenue bond anticipation notes and state revenue grant anticipation notes of the state issued pursuant to sections 22a-475 to 22a-483, inclusive. The Treasurer may hold, pledge, cancel or resell such bonds or notes, subject to and in accordance with agreements with bondholders or noteholders, as applicable.

(P.A. 86-420, S. 9, 12; P.A. 87-405, S. 22, 26; 87-571, S. 6, 7; P.A. 88-343, S. 14, 32; P.A. 89-331, S. 21, 30; 89-377, S. 6, 8; P.A. 90-297, S. 14, 24; June Sp. Sess. P.A. 90-1, S. 7, 10; June Sp. Sess. P.A. 91-4, S. 16, 17, 25; P.A. 92-113, S. 1, 2; May Sp. Sess. P.A. 92-7, S. 17, 18, 36; June Sp. Sess. P.A. 93-1, S. 12, 13, 36, 45; May Sp. Sess. P.A. 94-2, S. 10, 11, 203; P.A. 95-272, S. 11, 12, 29; P.A. 96-181, S. 116–118, 121; June 5 Sp. Sess. P.A. 97-1, S. 15, 16, 20; P.A. 98-124, S. 9, 12; 98-259, S. 11, 17; P.A. 99-241, S. 14, 15, 66; June Sp. Sess. P.A. 01-7, S. 6, 7, 28; May 9 Sp. Sess. P.A. 02-5, S. 12; May Sp. Sess. P.A. 04-1, S. 8; May Sp. Sess. P.A. 04-2, S. 58; June Sp. Sess. P.A. 05-5, S. 10, 11; June Sp. Sess. P.A. 07-7, S. 50, 51; Sept. Sp. Sess. P.A. 09-2, S. 5, 6; P.A. 10-44, S. 25, 35; P.A. 11-57, S. 72, 73; P.A. 13-239, S. 65, 66; June Sp. Sess. P.A. 15-1, S. 63, 64; May Sp. Sess. P.A. 16-4, S. 252; June Sp. Sess. P.A. 17-2, S. 447, 448.)

History: P.A. 87-405 increased the bond authorization from $40,000,000 to $80,000,000; P.A. 87-571 added Subsec. (d) regarding issuance of bonds that are not general obligations of the state; P.A. 88-343 increased the bond authorization to $120,000,000; P.A. 89-331 increased the bond authorization to $220,000,000 and provided that $25,000,000 of the proceeds be deposited in the Long Island Sound account; P.A. 89-377 would have changed aggregate total in Subsec. (a) from $120,000,000 to $145,000,000 but for precedence of P.A. 89-331, reiterated provision of P.A. 89-331 re addition of $25,000,000 to the Long Island Sound clean-up account,

provided that the obligations may, rather than shall, be general obligations of the state and added Subdivs. (e) to (l), inclusive; P.A. 90-297 amended Subsec. (a) to increase the bond authorization from $220,000,000 to $345,000,000, amended Subsec. (b) to increase the minimum deposit in the clean water fund from $25,000,000 to $50,000,000, amended Subsec. (c) to require that requests for authorizations be signed by the secretary of the office of policy and management rather than by the commissioner of environmental protection and amended Subsec. (d) to limit revenue bonds to principal amounts not exceeding in the aggregate $100,000,000; June Sp. Sess. 90-1 amended Subsec. (c) to include provisions regarding the issuance of general obligation bonds to meet the matching requirements of federal law and to be delivered to the clean water fund, amended Subsec. (d) to clarify the status and method of issuance of revenue bonds, amended Subsec. (h) to remove credit unions, building and loan associations and investment companies from the list of possible investors, amended Subsec. (i)(3) to clarify the extent to which and manner in which reserve funds could be used, amended Subsec. (k) to reword the provisions concerning state tax exemption and added Subsec. (m), concerning revenue refunding bonds, and Subsec. (n), concerning repurchase of revenue obligations; June Sp. Sess. P.A. 91-4, in Subsec. (a), increased the bond authorization from $345,000,000 to $395,000,000 and in Subsec. (d), increased the bond authorization from $100,000,000 to $300,000,000; P.A. 92-113 amended Subsec. (c) to provide that the rate determined by the treasurer shall be a taxable, rather than tax-exempt, rate; May Sp. Sess. P.A. 92-7 amended Subsec. (a) to increase the bond authorization from $395,000,000 to $425,000,000 and amended Subsec. (d) to increase the bond authorization from $300,000,000 to $330,000,000; June Sp. Sess. P.A. 93-1 amended Subsec. (a) to increase bond authorization to $558,870,000, provided $75,020,000 of said authorization shall be effective July 1, 1994, amended Subsec. (d) to increase bond authorization from $320,000,000 to $475,400,000, provided $51,600,000 of said authorization shall be effective July 1, 1994, and further amended Subsec. (c) to move provision re bond maturity and amended Subsec. (d) to provide that bonds shall mature not more than 30 years from their dates and that expenses of carrying out provisions may be paid from accrued interest and premiums or other sale proceeds, effective July 1, 1993; May Sp. Sess. P.A. 94-2 in Subsec. (a) decreased bond authorization from $558,870,000 to $536,270,000 and in Subsec. (d) decreased bond authorization from $475,400,000 to $466,900,000, effective July 1, 1994; P.A. 95-272 amended Subsec. (a) to increase authorization amount from $536,270,000 to $576,330,000, effective July 1, 1995, provided $23,580,000 shall be effective July 1, 1996, and amended Subsec. (d) to increase authorization amount from $466,900,000 to $633,300,000, effective July 1, 1995, provided $41,000,000 shall be effective July 1, 1996; P.A. 96-181 amended Subsec. (c) and (i) to add federal Safe Drinking Water Act or similar federal act, and amended Subsec. (e) to add provision re securing revenue bonds issued to finance eligible drinking water projects, effective July 1, 1996; June 5 Sp. Sess. P.A. 97-1 amended Subsec. (a) to increase bond authorization from $576,330,000 to $635,330,000 provided $14,000,000 of that authorization is effective July 1, 1998, and amended Subsec. (d) to increase bond authorization from $633,300,000 to $867,900,000 provided $83,300,000 of that authorization is effective July 1, 1998, effective July 31, 1997; P.A. 98-124 amended Subsec. (i)(3) to add agreements entered into pursuant to Sec. 3-20a, effective May 27, 1998; P.A. 98-259 amended Subsec. (a) to decrease authorization from $635,330,000 to $621,330,000 and deleted proviso re use of $14,000,000, effective July 1, 1998; P.A. 99-241 amended Subsec. (a) to increase authorization from $621,330,000 to $717,830,000, effective July 1, 1999, provided $53,100,000 is effective July 1, 2000 and amended Subsec. (d) to increase authorization from $867,900,000 to $999,400,000, effective July 1, 1999, provided $66,900,000 is effective July 1, 2000; June Sp. Sess. P.A. 01-7 amended Subsec. (a) to increase authorization from $717,830,000 to $797,830,000 provided $40,000,000 is effective July 1, 2002, and amended Subsec. (d) to increase authorization from $999,400,000 to $1,238,400,000 provided $158,000,000 is effective July 1, 2002, effective July 1, 2001; May 9 Sp. Sess. P.A. 02-5 amended Subsec. (a) to increase authorization from $797,830,000 to $801,030,000 and to provide that $60,000,000 of said authorization shall be effective July 1, 2003, effective July 1, 2002; May Sp. Sess. P.A. 04-1 amended Subsec. (a) to reduce aggregate authorization to $741,030,000 and deleted provision re funds authorized in 2003, effective July 1, 2004; May Sp. Sess. P.A. 04-2 amended Subsec. (e) to provide that pledges made by the state under Secs. 22a-475 to 22a-483, inclusive, are statutory and not subject to the Uniform Commercial Code, effective May 12, 2004, and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which was in existence on October 1, 2003, or created after October 1, 2003; June Sp. Sess. P.A. 05-5 amended Subsec. (a) to increase the aggregate authorization from $741,030,000 to $781,030,000, of which $20,000,000 is effective July 1, 2006, and amended Subsec. (d) to increase the aggregate authorization from $1,238,400,000 to $1,338,400,000, of which $100,000,000 is effective July 1, 2006, effective July 1, 2005; June Sp. Sess. P.A. 07-7 amended Subsec. (a) by increasing aggregate authorization from $781,030,000 to $961,030,000, of which

$90,000,000 is effective July 1, 2008, and amended Subsec. (d) by increasing aggregate authorization from $1,338,400,000 to $1,753,400,000, of which $180,000,000 is effective July 1, 2008, effective November 2, 2007; Sept. Sp. Sess. P.A. 09-2 amended Subsec. (a) by increasing aggregate authorization from $961,030,000 to $1,066,030,000, of which $40,000,000 is effective July 1, 2010, and amended Subsec. (d) by increasing aggregate authorization from $1,753,400,000 to $1,913,400,000, of which $80,000,000 is effective July 1, 2010, effective September 25, 2009; P.A. 10-44 amended Subsec. (a) by decreasing aggregate authorization from $1,066,030,000 to $1,041,025,976 and by deleting provision re authorization amount effective on July 1, 2010, and amended Subsec. (d) by increasing aggregate authorization from $1,913,400,000 to $1,953,400,000, of which $120,000,000 is effective July 1, 2010, effective July 1, 2010; P.A. 11-57 amended Subsec. (a) to increase authorization from $1,041,025,976 to $1,227,625,976, of which $94,000,000 is effective July 1, 2012, and amended Subsec. (d) to increase authorization from $1,953,400,000 to $2,425,180,000, of which $238,360,000 is effective July 1, 2012, effective July 1, 2011; P.A. 13-239 amended Subsec. (a) to increase aggregate authorization from $1,227,625,976 to $1,512,625,976, of which $218,000,000 is effective July 1, 2014, and amended Subsec. (d) to increase aggregate authorization from $2,425,180,000 to $3,137,580,000, of which $331,970,000 is effective July 1, 2014, effective July 1, 2013; June Sp. Sess. P.A. 15-1 amended Subsec. (a) to increase aggregate authorization from $1,512,625,976, of which $218,000,000 is effective July 1, 2014, to $1,652,625,976, of which $92,500,000 is effective July 1, 2016, and amended Subsec. (d) to increase aggregate authorization from $3,137,580,000, of which $331,970,000 is effective July 1, 2014, to $3,375,580,000, of which $180,000,000 is effective July 1, 2016, effective July 1, 2015; May Sp. Sess. P.A. 16-4 amended Subsec. (a) to decrease aggregate authorization from $1,652,625,976 to $1,630,125,976, effective July 1, 2016; June Sp. Sess. P.A. 17-2 amended Subsec. (a) to increase aggregate authorization from $1,630,125,976 to $1,715,125,976, of which $85,000,000 is effective July 1, 2018, and amended Subsec. (d) to increase aggregate authorization from $3,375,580,000 to $3,884,080,000, of which $350,300,000 is effective July 1, 2018, effective October 31, 2017.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Secs. 22a-483a to 22a-483e. Reserved for future use.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-483f. Public water system improvement program. (a) For the purposes described in subsection (b) of this section, the State Bond Commission shall have the power from time to time to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate twenty million dollars.

(b) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (a) of this section, shall be used by the Department of Public Health for the purpose of providing grants-in-aid, which may be provided in the form of principal forgiveness, to eligible public water systems for eligible drinking water projects for which a project funding agreement is made on or after July 1, 2014, between the Commissioner of Public Health and the eligible public water system pursuant to sections 22a-475 to 22a-483, inclusive, under the public water system improvement program established in subsection (c) of this section.

(c) (1) For purposes of the public water system improvement program established pursuant to this section:

(A) “Eligible drinking water project” has the same meaning as provided in section 22a-475;

(B) “Eligible project costs” has the same meaning as provided in section 22a-475;

(C) “Eligible public water system” has the same meaning as provided in section 22a-475, except “eligible public water system” does not include eligible public water systems that are public service companies, as defined in section 16-1.

(2) All provisions applicable to drinking water projects under sections 22a-475 to 22a-483, inclusive, shall be applicable to the public water system improvement program, including eligibility of public water systems, eligible project costs, application procedures for financial assistance, and procedures for approving and awarding such financial assistance. The department shall comply with all allocation goals for smaller eligible public water systems and with the priorities for awarding financial assistance, as provided in sections 22a-475 to 22a-483, inclusive.

(3) An eligible public water system applying for financial assistance pursuant to this section shall submit to the department, along with the application submitted under sections 22a-475 to 22a-483, inclusive, a fiscal and asset management plan. The department shall provide financial assistance as follows:

(A) Eligible public water systems that serve ten thousand or fewer persons may receive financial assistance pursuant to this section for up to fifty per cent of eligible project costs;

(B) Eligible public water systems that serve more than ten thousand persons may receive financial assistance pursuant to this section for up to thirty per cent of eligible project costs; and

(C) Eligible public water systems that are for-profit companies may not receive additional financial assistance pursuant to this section.

(d) All provisions of section 3-20, or the exercise of any right or power granted thereby, which are not inconsistent with the provisions of this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due.

(P.A. 14-98, S. 46; May Sp. Sess. P.A. 16-4, S. 253.)

History: P.A. 14-98 effective July 1, 2014; May Sp. Sess. P.A. 16-4 amended Subsec. (a) by decreasing aggregate authorization from $50,000,000 to $20,000,000, effective July 1, 2016.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-484. Evaluation of improvements to secondary clarifier operations. Section 22a-484 is repealed, effective October 1, 2002.

(P.A. 90-301, S. 5, 8; S.A. 02-12, S. 1.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-485. Plan required for maintenance of oxygen levels in Long Island Sound. The Commissioner of Energy and Environmental Protection shall prepare a plan to achieve the interim goal for minimum dissolved oxygen in Long Island Sound as provided for in the comprehensive conservation and management plan for the sound. Such plan shall provide for the achievement of such goal within twenty years and shall prioritize actions

necessary to achieve such goal. Such plan shall list necessary sewerage system improvement projects in this state, the time frames for completion of such projects and their cost over the twenty-year period. The commissioner shall submit to the General Assembly on or before February 7, 1996, a preliminary list of such projects, along with their cost and any amount to be disbursed from the Clean Water Fund for such projects.

(P.A. 95-329, S. 30, 31; P.A. 11-80, S. 1.)

History: P.A. 95-329, S. 30 effective July 13, 1995; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Secs. 22a-486 to 22a-496. Reserved for future use.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-497. Municipal stormwater authority pilot program. Priority municipalities. Application. Selection criteria. Grants. (a) Not later than September 1, 2007, the Commissioner of Energy and Environmental Protection shall establish a municipal stormwater authority pilot program to provide grants to not more than four municipalities that border Long Island Sound to enable such municipalities to establish stormwater authorities. Municipalities satisfying the following criteria shall be given priority to participate in the pilot program: A municipality that has a population of more than eighteen thousand and less than eighteen thousand five hundred; a municipality that has a population of more than twenty-six thousand and less than twenty-six thousand five hundred; a municipality that has a population of more than eighty-four thousand and less than eighty-four thousand five hundred; and one municipality that has a population of more than one hundred twenty-five thousand and less than one hundred twenty-five thousand five hundred. For the purposes of this section, "population" means the number of people according to the most recent version of the Connecticut Register and Manual.

(b) In order to be considered for such a grant, each eligible municipality shall submit a grant application on forms prescribed by the commissioner not later than September 15, 2007. The commissioner may reject any grant application that the commissioner determines to be incomplete. The municipality that submitted such rejected application shall be given not more than fifteen days to correct the defects in such application. In the event that a municipality given priority in accordance with subsection (a) of this section is unable to correct such defects to the commissioner's satisfaction, the commissioner shall consider such municipality a nonpriority municipality, as described in subsection (c) of this section. Any municipality that fails to submit a timely application for the grant shall be deemed to have waived such municipality's right to apply for the grant.

(c) In the event that one or more of the municipalities given priority in accordance with subsection (a) of this section waives its right to participate in such pilot program, any municipality required to comply with the requirements of a permit issued pursuant to section 22a-430 or 22a-430b for the discharge of stormwater from, or associated with, a separate storm sewer system owned or operated by such municipality may apply to the commissioner to participate in the pilot program in accordance with procedures prescribed by the commissioner. Timely applications for such grants will be reviewed in the order in which they were received to determine if such municipality meets the selection criteria for nonpriority municipalities. Such selection criteria shall include, but not be limited to: (1) The proximity of the municipality to Long Island Sound or other major river or water body, and (2) whether the inclusion of such municipality will result, in the aggregate of all participating municipalities, in a diverse representation of urban and suburban areas. For the purpose of this section, "separate storm sewer system" means a conveyance for stormwater, including, but not limited to, roads with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels or storm drains that discharge into the waters of the state.

(d) Each municipality selected by the commissioner to participate in such pilot program shall submit a stormwater management program for the commissioner's approval. Such program shall include an estimate of the operational and capital expenses and income required to financially support implementation of the plan over a five-year period, and other such elements as the commissioner may prescribe in accordance with the purposes specified in section 22a-498.

(e) Notwithstanding the provisions of sections 22a-475 to 22a-483, inclusive, the Commissioner of Energy and Environmental Protection may provide grants that in the aggregate do not exceed one million dollars, from any account in the Clean Water Fund established under section 22a-477, to the extent that bond funds are available, to municipalities participating in the pilot program established pursuant to sections 22a-497 to 22a-499, inclusive, for reimbursement of not more than eighty per cent of the costs incurred by such municipalities related to the planning, engineering and legal costs associated with the establishment of an approved stormwater authority and the development of a stormwater program pursuant to sections 22a-497 to 22a-499, inclusive. Any costs associated with the application for participation in the pilot program shall not be eligible for reimbursement. The commissioner shall be reimbursed from the Clean Water Fund for the reasonable costs of administering such grant program.

(P.A. 07-154, S. 1; P.A. 11-80, S. 1.)

History: P.A. 07-154 effective June 25, 2007; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsecs. (a) and (e), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-498. Creation of stormwater authority. Members. Purposes. Powers. (a) Any municipality selected by the commissioner to participate in the pilot program established pursuant to section 22a-497 may, by ordinance adopted by its legislative body, designate any existing board or commission or establish a new board or commission as the stormwater authority for such municipality. If a new board or commission is created, such municipality shall, by ordinance, determine the number of members thereof, their compensation, if any, whether such members shall be elected or appointed, the method of their appointment, if appointed, and removal and their terms of office, which shall be so arranged that not more than one-half of such terms shall expire within any one year.

(b) The purposes of the stormwater authority shall be to: (1) Develop a stormwater management program, including, but not limited to, (A) a program for construction and post-construction site stormwater runoff control, including control detention and prevention of stormwater runoff from development sites; or (B) a program for control and abatement of stormwater pollution from existing land uses, and the detection and elimination of connections to the stormwater system that threaten the public health, welfare or the environment; (2) provide public education and outreach in the municipality relating to stormwater management activities and to establish procedures for public participation; (3) provide for the administration of the stormwater management program; (4) establish geographic boundaries of the stormwater authority district; and (5) recommend to the legislative body of the municipality in which such district is located the imposition of a levy upon the taxable interests in real property within such district, the revenues from which may be used in carrying out any of the powers of such district. In accomplishing the purposes of this section, the stormwater authority may plan, layout, acquire, construct, reconstruct, repair, maintain, supervise and manage stormwater control systems.

(c) Any stormwater authority created by a municipality pursuant to subsection (a) of this section may levy fees from property owners of the municipality for the purposes described in subsection (b) of this section. In establishing fees for any property in its district, the stormwater authority may consider criteria, including, but not limited to, the following: The area of the property containing impervious surfaces from which stormwater runoff is generated, land use types that result in higher concentrations of stormwater pollution and the grand list

valuation of the property. The stormwater authority may reduce or defer such fees for land classified as, or consisting of, farm, forest or open space land.

(d) The authority may adopt municipal regulations to implement the stormwater management program.

(e) The authority may, subject to the commissioner's approval, enter into contracts with any municipal or regional entity to accomplish the purposes of this section.

(P.A. 07-154, S. 2.)

History: P.A. 07-154 effective June 25, 2007.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-498a. Municipal stormwater authority located in a distressed municipality. Powers. A municipal stormwater authority created pursuant to section 22a-498 and located in a distressed municipality, as defined in subsection (b) of section 32-9p, having a population of not more than twenty-eight thousand shall constitute a body politic and corporate and the ordinance establishing such authority may confer upon such authority the following powers: (1) To sue and be sued; (2) to acquire, hold and convey any estate, real or personal; (3) to contract; (4) to borrow money, including by the issuance of bonds, provided the issuance of such bonds is approved by the legislative body of the municipality in which such authority district is located; (5) to recommend to the legislative body of such municipality the imposition of a levy upon the taxable interests in real property within such authority district, the revenues from which may be used in carrying out any of the powers of such authority; (6) to deposit and expend funds; and (7) to enter property to make surveys, soundings, borings and examinations to accomplish the purposes of section 22a-498.

(P.A. 13-222, S. 1.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-498b. Delinquent charges due to municipal stormwater authority. Liens. Any charge due to a municipal stormwater authority and not paid within thirty days of the due date shall thereupon be delinquent and shall bear interest from the due date at the rate charged by the municipality's tax collector for delinquent property taxes. Any such unpaid charge shall constitute a lien upon the real estate against which such charge was levied from the date it became delinquent. Each such lien may be continued, recorded and released in the manner provided by the general statutes for continuing, recording and releasing property tax liens.

(P.A. 13-222, S. 2.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-499. Joint report re pilot program. On or before February 11, 2008, the municipalities participating in the pilot program established in section 22a-497 shall submit a joint report in accordance with the provisions of section 11-4a to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on the status of the pilot program. Such report shall include, but not be limited to: (1) The municipalities' recommendation on whether further legislation is necessary to grant stormwater authorities the additional powers to issue bonds, notes or other evidences of debt, (2) a map showing the geographic boundaries of the stormwater authority district, (3) information concerning the purpose and amount of any assessments recommended to fund the municipal stormwater authority, and (4) any other information that the commissioner requests pursuant to the grant agreement entered into between the commissioner and the municipality in accordance with section 22a-498.

(P.A. 07-154, S. 3; June Sp. Sess. P.A. 07-5, S. 37.)

History: P.A. 07-154 effective September 1, 2007; June Sp. Sess. P.A. 07-5 made technical changes, effective September 1, 2007.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-499a. Water pollution control authority located in a distressed municipality. Levy re stormwater control systems. Notwithstanding any provision of the general statutes, the ordinance establishing a water pollution control authority created pursuant to section 7-246 and located in a distressed municipality, as defined in subsection (b) of section 32-9p, having a population of not less than one hundred forty thousand, may confer upon such authority the power to recommend to the municipality's legislative body a levy on taxable real property within the area of such authority for the planning, laying out, acquisition, construction, reconstruction, repair, maintenance, supervision and management of stormwater control systems. In imposing any such levy, such municipality may consider (1) the amount of impervious surfaces generating stormwater runoff, (2) land use types that result in higher concentrations of stormwater pollution, and (3) the property's grand list valuation.

(P.A. 13-247, S. 85.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-499b. Delinquent charges due to water pollution control authority located in a distressed municipality. Liens. Any charge due to a water pollution control authority, as described in section 22a-499a, and not paid within thirty days of the due date shall thereupon be delinquent and shall bear interest from the due date at the rate charged by the municipality's tax collector for delinquent property taxes. Any such unpaid charge shall constitute a lien upon the real estate against which such charge was levied from the date it became delinquent. Each such lien may be continued, recorded and released in the manner provided by the general statutes for continuing, recording and releasing property tax liens.

(P.A. 13-247, S. 86.)

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-500. Regional water pollution control authorities: Definitions. Authorization. Directors. Membership. Termination. (a) As used in sections 22a-500 to 22a-519, inclusive, the following words and terms shall have the following meanings unless the context clearly indicates another meaning or intent:

(1) “Authority” means a regional water pollution authority created under the provisions of this section or any entity which is a successor of an authority;

(2) “Bonds” means any bonds, notes and other obligations issued by an authority pursuant to the provisions of section 22a-507 and any bonds issued to refund such bonds;

(3) “Cost” or “costs” as applied to any system means the cost of acquisition or construction, the cost of any subsequent additions or expansion of a wastewater system, the cost of the acquisition of all land and interests in land including rights-of-way, easements and other property rights acquired by the authority for such construction, addition or expansion, the cost of demolition or removal of any building or structure on land so acquired, including the cost of acquiring any lands to which such building or structures may be moved, the cost of dredging and filling underwater areas, all equipment, financing, insurance, interest, administrative and operating costs incurred prior to and during such construction of any addition or expansion, and, if deemed advisable by the authority, for a period not exceeding one year after completion of such construction, addition or

expansion, any survey, engineering, architectural, legal, administrative, operating, research, development, operating capital and other such costs or expenses of the authority as may be necessary or incidental to the construction of the wastewater system and any component of any wastewater system, and of such subsequent addition or expansion, and the cost of financing such construction, addition or expansion and placing the project and such additions or expansion in operation;

(4) “Constituent municipality” means one of two or more municipalities which have adopted the provisions of this section and sections 22a-501 to 22a-519, inclusive, and which have created an authority by concurrent ordinances of their legislative bodies;

(5) “Municipality” means any town, city, borough, consolidated town and city or consolidated town and borough;

(6) “Sewage” shall be as defined in section 22a-423; and

(7) “Wastewater system” means any device, equipment, appurtenance, plant facility and method for receiving, collecting, transporting, reducing, treating, reclaiming, disposing, separating or discharging sewage, or the residue from the treatment of sewage, including any component of any of the foregoing, which the authority is authorized to acquire, plan, design, construct, manage, operate, maintain and finance under the provisions of this section and sections 22a-501 to 22a-519, inclusive, and which the authority may establish as its wastewater system pursuant to the provisions of this section and sections 22a-501 to 22a-519, inclusive, including any interest in real estate and improvements thereto and the extension or provision of utilities and other appurtenant facilities and projects deemed necessary or desirable by the authority for the purpose of establishing and operating wastewater management and water pollution control services.

(b) Notwithstanding the provisions of any special act or municipal charter, any two or more municipalities may, by concurrent ordinances of their legislative bodies, adopt and exercise the powers granted to a municipality by the provisions of this section and sections 22a-501 to 22a-519, inclusive, and designate any existing board, commission or agency, or create a new board, commission, agency or regional authority to be designated, as its regional authority and thereupon be a constituent municipality of such authority. Such ordinance shall contain a brief statement of the purpose of the authority and shall set forth the article or incorporation of the authority as follows: (1) The name of the authority and address of its principal office; (2) a statement that the authority is created an authority under this section; and (3) the names, addresses and terms of office of the first directors of the authority.

(c) The constituent municipalities of any authority shall, by concurrent ordinances, determine the number of directors thereof, the number of votes to be cast by each director, the method of determining the directors' compensation, if any, the method of their appointment and removal and their terms of office, which shall be so arranged that not more than one-half of such terms shall expire within any one year. The constituent municipalities shall prepare and submit a preliminary plan of operation for an authority which they propose to form to the Commissioner of Energy and Environmental Protection and the State Treasurer for their review and approval in accordance with this section. Each plan of operation shall include the procedure by which bonds of such authority shall be approved. The Commissioner of Energy and Environmental Protection shall review and may approve any preliminary plan of operation, after consultation with the Secretary of the Office of Policy and Management, if he finds that such plan of operations is in furtherance of the environmental protection laws of the state. The State Treasurer shall review and may approve any preliminary plan of operation if he finds a wastewater system undertaken by an authority operating under such plan of operation is eligible to apply for financing under sections 22a-477 to 22a-483, inclusive. Upon the adoption of such ordinances by the legislative bodies of each constituent municipality designating or creating an authority under this section, and the approval of a preliminary plan of operation for such authority by the Commissioner of Energy and Environmental Protection and the State Treasurer, the authority created thereby shall constitute a public body politic and corporate of the state, and a political subdivision of the state established and created for the performance of an essential public and governmental function. Any rejection of a preliminary plan of operation shall not preclude the submission of a revised plan. The approval of the preliminary plan of operation by the Commissioner of Energy and Environmental Protection and the Treasurer in accordance with this section shall constitute

conclusive evidence of the state's approval of the creation of an authority under this section. An authority shall not change the procedure for approving the issuance of its bonds as prescribed by its plan of operations without the approval of each constituent municipality, the Commissioner of Energy and Environmental Protection and the State Treasurer.

(d) By ordinance of its legislative body, or by such other body as permitted by section 7-157, any municipality may become a member of an authority upon such terms and conditions as the authority may determine and thereupon be a constituent municipality of such authority.

(e) Any constituent municipality may elect to withdraw from such authority by the adoption of an ordinance by its legislative body or such other authority as permitted by section 7-157. Such withdrawal shall be effective only after compliance with the terms and conditions contained in any contracts between such constituent municipality and the authority or the holders of any bonds of the authority. No such withdrawal shall relieve such constituent municipality of any liability, responsibility or obligation incurred by it as a member of the authority or as a user of any of its wastewater system.

(f) Any authority and its corporate existence shall continue until terminated by law or the withdrawal of one of the last two constituent municipalities of such authority, provided no such law shall take effect as long as the authority shall have bonds, notes or other obligations outstanding unless adequate provision has been made for the payment or satisfaction of such obligations. Upon termination of the existence of the authority, all of the rights and properties of the authority then remaining shall pass to and vest in the constituent municipality in which it is located unless otherwise provided in an agreement of the authority and except as otherwise may be specified in such law.

(P.A. 95-329, S. 10, 31; P.A. 06-196, S. 262; P.A. 07-217, S. 117; P.A. 11-80, S. 1.)

History: P.A. 95-329, S. 10 effective July 13, 1995; P.A. 06-196 made technical changes in Subsec. (f), effective June 7, 2006; P.A. 07-217 made a technical change in Subsec. (a)(2), effective July 12, 2007; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (c), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-501. Regional water pollution control authorities: Powers. (a) An authority created pursuant to section 22a-500 may:

(1) Make and revise bylaws and rules governing the administration of its property and the conduct of its affairs and may revise its plan of operation to better fulfill the purposes of sections 22a-500 to 22a-519, inclusive. A copy of all bylaws, and amendments thereto, duly certified, shall be filed in the offices of the clerks of the constituent municipalities and with the Secretary of the State. Any revision of the bylaws of an authority shall be initiated by the adoption of a resolution by a two-thirds vote of the entire board of directors of such authority and such resolution shall contain the complete draft of such revision;

(2) Establish offices where necessary in any constituent municipality or the region;

(3) Employ a staff and fix their duties, compensation and benefits;

(4) Have a seal;

(5) Contract and be contracted with, sue and be sued and institute, prosecute, maintain and defend any action or proceeding in any court or before any agency or tribunal of competent jurisdiction;

(6) Retain by contract or employ legal counsel, accountants, engineers, private consultants and other professional advisers;

(7) Conduct such hearings, examinations and investigations as may be necessary or convenient to the conduct of its operations and the fulfillment of its responsibilities;

(8) Obtain access to public records and apply for the process of subpoena if necessary to produce books, papers, records and other data;

(9) Establish and impose fees, rates, charges and penalties and levy assessments on property benefited by the wastewater system of such authority, including municipal users and property owned by any municipality, including without limitation a constituent municipality, in accordance with sections 22a-500 to 22a-519, inclusive, for the services it performs and waive, suspend, reduce or otherwise modify such fees, rates, charges, penalties or assessments provided each such fee, rate, charge, penalty or assessment shall apply uniformly to all users and benefited properties within the constituent municipalities with respect to a given type or category of wastewater, in accordance with criteria established by the authority, and further provided no change may be made in user fees without at least sixty days prior notice to the users affected thereby;

(10) Purchase, lease or otherwise acquire the right to use such real and personal property and any interest in such property as it may deem necessary or convenient;

(11) Appoint such advisory councils as it may deem advisable to benefit the people of a constituent municipality within the region of the authority or the region generally;

(12) Own, manage and use real property or any interest therein;

(13) Determine the location and character of any wastewater system to be developed under the provisions of sections 22a-500 to 22a-519, inclusive, subject to applicable statutes and regulations, and establish a wastewater treatment and disposal system;

(14) Purchase, receive by gift or otherwise, lease, exchange or otherwise acquire and construct, reconstruct, improve, maintain, equip and furnish any wastewater system as required by the Commissioner of Energy and Environmental Protection or this chapter;

(15) Sell or lease to any person all or any portion of a wastewater system of the authority whenever, in the opinion of the authority, such action is deemed to be in furtherance of the purposes of sections 22a-500 to 22a-519, inclusive;

(16) Mortgage or otherwise encumber all or any portion of the authority whenever, in the opinion of the authority, such action is deemed to be in furtherance of the purposes of sections 22a-500 to 22a-519, inclusive;

(17) Grant options to purchase, or to renew a lease for, any wastewater system of the authority on such terms as the authority may determine to be reasonable;

(18) Acquire, by purchase, gift, transfer or by condemnation for public purposes, and manage and operate, hold and dispose of real property and, subject to agreements with lessors or lessees, develop or alter such property by making improvements and betterments with the purpose of enhancing the value and usefulness of such property;

(19) Make plans, surveys, studies and investigations necessary or desirable in conformity with the state plan and the plan of operation of such authority;

(20) Design or provide for the design of any wastewater system of the authority, including design for the alteration, reconstruction, improvement, enlargement or extension of any existing wastewater system acquired by such authority;

(21) Construct, erect, build, acquire, alter, reconstruct, improve, enlarge or extend any wastewater system of the authority including provision for the inspection and supervision thereof and the engineering, architectural, legal, fiscal and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures and any other actions incidental thereto;

(22) Open the ground in any public street or way or public grounds for the purpose of laying, installing, maintaining or replacing pipes and conduits provided the grounds shall be restored to their previous conditions upon the completion of such work;

(23) Own, operate and maintain the wastewater systems of the authority and make provision for their management;

(24) Enter upon lands and waters, as may be necessary, to make surveys, soundings, borings and examinations in order to accomplish the purposes of sections 22a-500 to 22a-519, inclusive;

(25) Contract with municipalities, municipal, state and regional authorities, and state and federal agencies to provide waste management and water pollution control services in accordance with the provisions of sections 22a-500 to 22a-519, inclusive, and to plan, design, construct, manage, operate and maintain facilities on their behalf;

(26) Design and construct improvements or alterations on properties which it owns or which it operates by contract on behalf of other municipal or regional authority, state agency or municipality, including without limitation any constituent municipality, and restore sewers to beneficial public or private use;

(27) Contract for architectural, engineering and design, and construction supervision, wastewater system management and facility management services, and for such other professional or technical services as may require either the prequalification of a contractor or the submission by any individual, firm or consortium or association of individuals or firms of a proposal in response to an official request for proposal or similar written communication of such authority, deemed necessary, desirable or convenient in carrying out the purposes of such authority;

(28) Contract for the construction, operation or management of wastewater systems of the authority with private persons or firms, or consortia of such persons or firms, pursuant to applicable provisions of sections 22a-500 to 22a-519, inclusive, the requirements of applicable regulations and the state plan and in accordance with such specifications, terms and conditions as the authority may deem necessary or advisable;

(29) Accept gifts, grants or loans of funds, property or service from any source, public or private, and comply, subject to the provisions of sections 22a-500 to 22a-519, inclusive, with the terms and conditions thereof;

(30) Receive funds from the sale of the authority's bonds and of its real and personal properties;

(31) Contract for and receive revenues in the form of rents, fees and charges paid by units or agencies of any municipality, including without limitation any constituent municipality, by the state and by any private person or entity, to compensate the authority for the use of its facilities or the performance of its services;

(32) Accept from the state and any federal agency any loan or grant for use in carrying out its purposes and enter into agreements with such agency respecting any such loan or grant;

(33) Make a loan of the proceeds of its bonds, notes or other funds to any private person or entity, any municipality, including without limitation any constituent municipality, any municipal authority, any state agency or authority or any regional authority for the planning, design, acquisition, construction, reconstruction, improvement, equipping and furnishing of a wastewater system of the authority, which loans may be secured by loan agreements, contracts or any other instruments or agreements containing such terms and conditions as the authority shall determine necessary or desirable, including provisions for the establishment and maintenance of reserve funds, and for the construction, use, operation and maintenance and the payment of operating and other costs of a wastewater system. In connection with the making of any such loan, an authority may purchase, acquire and take assignments of any note or bond of any municipality, including without limitation any constituent municipality, any municipal, state or regional authority and any private entity or person and may receive other forms of security and evidence of indebtedness, and in furtherance of the purposes of sections 22a-500 to 22a-519, inclusive, and in order to assure the payment of the principal of and interest on such loans, and

in order to assure the payment of the principal of and interest on bonds of the authority issued to provide funding for such loans, may attach, seize, purchase, acquire, accept or take title to any wastewater system, and may sell, lease or rent any wastewater system for a use specified in sections 22a-500 to 22a-519, inclusive;

(34) Indemnify and hold harmless any person in connection with the financing of a wastewater system;

(35) In connection with the sale, purchase, receipt, lease, exchange, other disposition, acquisition, improvement or expansion of a wastewater system of the authority or of real property, indemnify and hold harmless any person or entity including, without limitation, indemnification against taxation by the federal and state governments respecting any state or local property taxes and any realization of tax benefits or incentives associated with ownership of a wastewater system or of real property; and

(36) Otherwise do all things necessary for the performance of its duties, the fulfillment of its obligations, the conduct of its operations and the maintenance of its working relationships with the state, other municipalities, regions and persons.

(b) An authority shall have the powers accorded to and the duties of a municipality or a municipal authority under the general statutes for the purpose of assessing benefits; imposing rates, fees, fines, and charges; issuing orders to connect; collecting assessments, rates, fees, fines and charges; and receiving grants and loans under the Clean Water Fund.

(c) Any authority created under section 22a-500 shall have all powers necessary to fulfill the purposes of sections 22a-500 to 22a-519, inclusive, and to carry out its assigned responsibilities and that the provisions of sections 22a-500 to 22a-519, inclusive, are to be construed liberally in furtherance of such purposes. The constituent municipalities of any authority shall be deemed to have delegated to such authority all of their respective municipal powers consistent with the preliminary and final plan of operation and necessary and convenient to own and operate a water pollution control system and an authority shall have all of the powers of a municipality and a municipal water pollution control authority necessary and convenient to fulfill the purposes of sections 22a-500 to 22a-519, inclusive, to conduct a comprehensive program for water pollution control and for water pollution control management services in accordance with applicable law.

(d) Any contracts authorized by sections 22a-500 to 22a-519, inclusive, to be entered into by an authority may be entered into on either a negotiated or an open-bid basis, and the authority in its discretion may select the type of contract it deems most prudent, considering the scope of work, the management complexities associated therewith, the extent of current and future technological development requirements and the best interests of the region. The terms and conditions of such contracts and the fees or other compensation to be paid to any contracting persons pursuant to such contracts shall be determined by the authority.

(P.A. 95-329, S. 11, 31; P.A. 11-80, S. 1.)

History: P.A. 95-329, S. 11 effective July 13, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (a)(14), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-502. Regional water pollution control authorities: Budgets. The fiscal year of an authority shall commence on July first of each year and continue to and including June thirtieth of the next succeeding year. Each authority shall be a municipality for purposes of chapters 55b, 111, and 112 and shall have such rights accorded to municipalities thereby and be subject to all provisions, requirements and limitations pertaining to municipalities contained therein. The chief executive officer of any authority created under sections 22a-500 to 22a-519, inclusive, shall submit one copy of the annual operating budget of the authority to the Secretary of the Office of Policy and Management and such related budgetary material as the Secretary of the Office of Policy

and Management may request in accordance with the provisions of chapter 54. The budget shall be submitted by July first of each year or within thirty days after the adoption of the budget, whichever is later.

(P.A. 95-329, S. 12, 31.)

History: P.A. 95-329, S. 12 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-503. Regional water pollution control authorities: Employees. Benefits. (a) In conformity with applicable state and federal law, the board of directors of an authority may adopt a method of selection and promotion of its employees in accordance with which it shall select and promote its employees and the board of directors of an authority shall make rules to carry out such purpose and shall investigate the enforcement and effect of such rules. The board of directors of an authority may also establish insurance, health care, retirement and other employee benefits as it deems necessary and convenient to the effective administration of the authority and may enter into contracts with any municipality, including without limitation a constituent municipality, the state, the federal government and private entities, to provide or facilitate the provision of such benefits.

(b) An authority shall be a municipality for purposes of part II of chapter 113 and shall have all rights accorded to municipalities thereby and be subject to all provisions, requirements and limitations pertaining to municipalities contained therein. Without a referendum, an authority may accept said part II of chapter 113 by resolution adopted by its board of directors and such authority shall be deemed a participating municipality for purposes of said part II of chapter 113.

(c) Whenever an authority acquires the property and franchises of any public or private entity operating a wastewater system within its jurisdiction, all employees of such entity that such authority deems necessary for the operation of the authority may become employees of the authority and may be credited by the authority with all rights that have accrued as of the date of such acquisition with respect to seniority, sick leave, vacation, insurance and pensions benefits in accordance with the records, personnel policies or labor agreements of the acquired entity or entities and may accept all funding for such liability to the date of such credit.

(d) Such authority may assume and observe all accrued pension obligations of such acquired entity or entities and may accept all funding for such liability to the date of such assumption. Members and beneficiaries of any pension, retirement or other employee benefit system established by the acquired entity or entities may continue to have such rights, privileges, benefits, obligations and status with respect to such established systems as have accrued as of the date of such acquisition. The authority may enter into agreements with representatives of its employees relative to the inclusion of its employees in any applicable retirement plan or plans, and the authority may constitute a municipality eligible to participate in such retirement plans.

(e) The relations between an authority and its employees with respect to collective bargaining and the arbitration of labor disputes, if any, shall be governed by sections 7-467 to 7-477, inclusive.

(P.A. 95-329, S. 13, 31.)

History: P.A. 95-329, S. 13 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-504. Regional water pollution control authorities: Acquisition of property. Construction of system. Notice. Hearing. An authority may enter upon and take and hold by purchase, condemnation or otherwise the whole or any part of any real property or interest therein which it determines is necessary or desirable for use in connection with a wastewater system. No authority shall acquire or construct all or any part of a wastewater system until after a public hearing at which the affected property owners shall have an opportunity to be heard

concerning the proposed acquisition or construction. Notice of the time, place and purpose of such hearing shall be mailed not later than fifteen days before the date of the hearing by certified mail, return receipt requested, to the owner of any property to be taken for the proposed acquisition or construction at such owner's address as shown in the last-completed grand list of the municipality in which such property is located or at any later address of which the authority may have knowledge, and shall be published at least ten days before the date thereof in a newspaper having a general circulation in the municipality in which such property is located.

(P.A. 95-329, S. 14, 31.)

History: P.A. 95-329, S. 14 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-505. Regional water pollution control authorities: Determination of compensation for taking of real property. Whenever an authority is unable to agree with the owner of any property as to the compensation to be paid for the taking of such property, in its own name and in the manner specified for a redevelopment agency in accordance with sections 8-129 to 8-133, inclusive, an authority may determine such compensation and proceed in the acquisition and use of such property as provided therein.

(P.A. 95-329, S. 15, 31.)

History: P.A. 95-329, S. 15 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-506. Regional water pollution control authorities: Assessments, rates, fees, charges and penalties. (a) An authority may (1) levy and collect benefit assessments upon the lands and buildings within its jurisdiction that, in its judgment, are especially benefited by a wastewater system; (2) establish, revise and collect rates, fees, charges, penalties and assessments for the use and benefits of a wastewater system; and (3) order the owner of any building which is accessible to a wastewater system to connect to such system, all in the manner provided in sections 7-249 to 7-257, inclusive, and sections 22a-416 to 22a-599, inclusive.

(b) Any assessment of benefits, including any installment thereof, and any charge, fee, fine or other amount that is not paid within thirty days after the due date shall be delinquent, shall be subject to interest and shall constitute a lien upon the premises served and a charge upon the owner thereof all in the manner provided both by the provisions of the general statutes for delinquent property taxes and by section 7-258. The rules and regulations of the authority may provide for the discontinuance of water pollution control service for nonpayment of taxes, special assessments, fees, rates, penalties or other charges therefor imposed under sections 22a-500 to 22a-519, inclusive. Such lien shall take precedence over all other liens or encumbrances except taxes and may be foreclosed against the lot or building served in the same manner as a lien for taxes, provided all such liens shall continue until such time as they shall be discharged or foreclosed by the authority without the necessity of filing certificates of continuation, but in no event for longer than ten years. The authority may institute a civil action against such owner to recover the amount of any such fee or charge which remains due and unpaid for thirty days along with interest thereon at the same rate as unpaid taxes and with reasonable attorneys' fees.

(P.A. 95-329, S. 16, 31.)

History: P.A. 95-329, S. 16 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-507. Regional water pollution control authorities: Issuance of bonds. Use of proceeds. (a) An authority created pursuant to sections 22a-500 to 22a-519, inclusive, may issue bonds from time to time and use the proceeds thereof for the purposes and powers of the authority and to accomplish the purposes of sections 22a-500 to 22a-519, inclusive, or for the purpose of refunding such bonds, including providing for payment of the costs of its wastewater system or any wastewater system of the authority, providing for payment of any and all costs of the authority incident to or otherwise necessary to the construction thereof, including administrative, legal and financing expenses, and providing for the establishment and maintenance of reserves, sinking funds and any other funds and accounts for such bonds. The authority shall secure such bonds as to both principal and interest by any or all of the following: From its revenues generally, a pledge of the revenues to be derived from the operation of its wastewater system or a facility from which the revenues so pledged may be derived or a pledge of any lease of such system or facility or of the payments on any loan of the proceeds of such bonds. Prior to the preparation of definitive bonds the authority may authorize the issuance of interim receipts or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. If any of the officers whose signatures appear on the bonds cease to be officers before the delivery of any such bonds, such signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if such officers had remained in office until delivery.

(b) An authority may, to provide for the issuance of its bonds for the purpose of refunding any bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the earliest or any subsequent date of redemption, purchase or maturity of such bonds, and if deemed advisable by the authority, for the additional purpose of paying all or any part of the cost of a wastewater system. The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or retirement at maturity or redemption of such outstanding bonds either on their earliest or any subsequent redemption date, and may, pending such application, be placed in escrow to be applied to such purchase or retirement at maturity or at redemption on such date as may be determined by the authority.

(c) Whenever the issuance of bonds has been authorized pursuant to sections 22a-500 to 22a-519, inclusive, an authority, pending the issuance thereof and subject to any applicable terms or provisions of the proceedings authorizing such issuance, may issue bond anticipation notes and any renewals thereof. The principal of and interest on any bond anticipation notes issued pursuant to sections 22a-500 to 22a-519, inclusive, may be repaid from pledged revenues or other pledged receipts, funds or moneys, to the extent not paid from the proceeds of renewals thereof or of bonds. Upon the sale of bonds, the proceeds thereof, to the extent required, shall be applied forthwith to the payment of the principal of and interest on any bond anticipation notes or shall be deposited in trust for such purpose. The date or dates of such bond anticipation notes, the maturities, denominations, form, details and other particulars of such bond anticipation notes, including the method, terms and conditions for the issue and sale thereof, shall be determined by the authority.

(d) An authority created under sections 22a-500 to 22a-519, inclusive, shall not be subject to the bond limitation provided in section 7-374. No provision of any special act enacted prior to July 13, 1995, shall be construed to prohibit the issuance of bonds or notes under the terms of said sections. Any bonds reciting that they are issued under sections 22a-500 to 22a-519, inclusive, shall, in any action or proceeding involving their validity, be conclusively deemed to be fully authorized by sections 22a-500 to 22a-519, inclusive, and to have been issued, sold, executed and delivered in conformity with this section and with all provisions of statutes applicable thereto and shall be incontestable unless service of process of such action or proceedings are served within sixty days after the approval of their sale.

(e) Bonds issued pursuant to sections 22a-500 to 22a-519, inclusive, may be issued pursuant to a resolution or indenture, which resolution or indenture shall specify the dates of principal and interest payments, the rate or rates of interest for each issue of bonds or the manner of determining such rate or rates, the manner of issuance and sale of such bonds and by whom such bonds shall be signed or countersigned and all other particulars thereof and may contain for the benefit of bondholders from time to time and as a contract therewith any agreements and the provisions deemed necessary or appropriate by the authority in connection with the issuance of such bonds and may provide for the terms and security thereof, including, without limitation, terms respecting

the fixing and collection of all revenues from any wastewater system covered by such indenture; provisions respecting custody of the proceeds from the sale of such bonds, including any requirements that such proceeds be held separate from or not to be commingled with other funds of the authority; provisions for the investment and reinvestment of bond proceeds until used to pay costs of a wastewater system and for the disposition of any excess bond proceeds or investment earnings thereon; provisions for the execution of reimbursement agreements or similar agreements in connection with credit facilities, including, but not limited to, letters of credit or policies of bond insurance, remarketing agreements and agreements for the purpose of moderating interest rate fluctuations; provisions for the collection, custody, investment, reinvestment and use of revenues or other receipts, funds or moneys pledged therefor as provided in sections 22a-500 to 22a-519, inclusive; provisions regarding the establishment and maintenance of reserves, sinking funds and any other funds and accounts as shall be approved by the authority in such amounts as the authority may establish and the regulation and disposition thereof, including requirements that any such funds and accounts be held separate from or not be commingled with other funds of the authority; covenants for the establishment of pledged revenue coverage requirements for such bonds; covenants for the establishment of maintenance and insurance requirements with respect to a wastewater system or facility or facilities; provision for the issuance of additional bonds on a parity with bonds theretofore issued, including establishment of coverage requirements with respect thereto as provided in this section; the terms to be incorporated in any loan of the proceeds of such bonds and in any lease of a wastewater system or facility or facilities; the creation and maintenance of special funds from the revenues of a wastewater system or facility or facilities; the rights and remedies available in the event of default, the vesting in a trustee or trustees of such property, rights, powers and duties in trust as the authority may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds and notes and limiting or abrogating the right of the holders of any bonds and notes of the authority to appoint a trustee under sections 22a-500 to 22a-519, inclusive, or limiting the rights, powers and duties of such trustee; provision for a trust indenture by and between the authority and a corporate trust which may be any trust company or bank having the powers of a trust company within or without the state, which agreement may provide for the pledging or assigning of any assets or income from assets to which or in which the authority has any rights or interest, and may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds or notes and not otherwise in violation of law, and such agreement may provide for the restriction of the rights of any individual holder of bonds or notes of the authority and may contain any further provisions which are reasonable to delineate further the respective rights, duties, safeguards, responsibilities and liabilities of the authority, persons and collective holders of bonds or notes of the authority and the trustee; covenants to do or refrain from doing such acts and things as may be necessary or convenient or desirable in order to better secure any bonds or notes of the authority, or which, in the discretion of the authority, will tend to make any bonds or notes to be issued more marketable notwithstanding that such covenants, acts or things may not be enumerated in this section; and any other matters of like or different character, which in any way affect the security or protection of the bonds or notes, all as the authority shall deem advisable and not in conflict with the provisions hereof.

(P.A. 95-329, S. 17, 31.)

History: P.A. 95-329, S. 17 effective July 13, 1995; (Revisor's note: In 1999 a reference in Subsec. (a) to Sec. “22-500” was changed editorially by the Revisors to Sec. “22a-500” to correct a clerical error).

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-508. Regional water pollution control authorities: Sale of bonds. Bonds issued under authority of sections 22a-500 to 22a-519, inclusive, shall be sold by the authority at public or private sale at a price determined by the issuer thereof. The bonds may bear a single or variable rate of interest and may bear different rates of interest for different maturities. The proceeds arising from the sale of any bonds issued under the authority of sections 22a-500 to 22a-519, inclusive, by an authority shall be kept in accounts separate from other funds of the authority and shall be expended only for the purposes and subject to the provisions of sections 22a-500 to 22a-519, inclusive.

(P.A. 95-329, S. 18, 31.)

History: P.A. 95-329, S. 18 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-509. Regional water pollution control authorities: Bonding obligations. (a) Bonds issued by an authority under sections 22a-500 to 22a-519, inclusive, may be issued under an indenture of trust or bond resolution, shall be general obligations of the authority, for which its full faith and credit shall be pledged, payable out of any revenues or other assets, receipts, funds or moneys of the authority and may be additionally secured by a pledge of revenues to be derived from the operation of a facility or wastewater system and other assets including a mortgage on real property and facilities, revenues, receipts, moneys and funds pledged therefor, subject only to any agreements with the holders of particular bonds pledging any particular assets, revenues, receipts, funds or moneys, unless the authority shall otherwise expressly provide by the indenture or resolution that such bonds shall be special obligations of the authority payable solely from any revenues or other assets including a mortgage on real property and facilities, receipts, funds or moneys of the authority pledged therefor, subject only to any agreements with the holders of particular bonds pledging any particular revenues, receipts, funds or moneys.

(b) Any constituent municipality may enter into any agreement or agreements with such authority or with any person or persons to whom the proceeds of bonds issued pursuant to sections 22a-500 to 22a-519, inclusive, have been loaned, for such periods and containing such terms and conditions as the municipality shall determine to be necessary or convenient to aid and cooperate in the planning, undertaking, construction, operation or financing of a wastewater system by such constituent municipality or by an authority, including, but not limited to, the guarantee by such constituent municipality of the punctual payment of all or some of the principal and interest on any bonds issued by an authority and the pledge of the full faith and credit of such constituent municipality to the payment thereof. As part of the guarantee of such constituent municipality for payment of principal and interest on the bonds, such constituent municipality may pledge to and agree with the owners of the bonds issued under sections 22a-500 to 22a-519, inclusive, and with those persons who may enter into contracts with the authority or any successor agency pursuant to the provisions of sections 22a-500 to 22a-519, inclusive, that it will not limit or alter the rights thereby vested in the bondowners, the authority or any contracting party until such bonds, together with the interest thereon are fully met and discharged and such contracts are fully performed on the part of the authority, provided nothing contained in sections 22a-500 to 22a-519, inclusive, shall preclude such limitation or alteration if and when adequate provision shall be made by law for the protection of the owners of such bonds of the authority or those entering into such contracts with the authority. The authority may include this pledge and undertaking of a constituent municipality in such bonds or contracts. To the extent provided in such agreement or agreements, the obligations of such constituent municipality thereunder shall be obligatory upon such constituent municipality and the inhabitants and property thereof. Thereafter such constituent municipality shall appropriate in each year during the term of such agreement, and there shall be available on or before the date when the same are payable, an amount of money which, together with other revenues available for such purpose, shall be sufficient to meet such obligation. Any such agreement shall be valid, binding and enforceable against such constituent municipality if approved by an ordinance adopted by the legislative body of such constituent municipality or such other body as permitted by section 7-157.

(c) Any authority created pursuant to sections 22a-500 to 22a-519, inclusive, may enter into long-term contracts or agreements with any municipality or any person or persons for water pollution control services whereby such contracting municipality or person agrees to connect its municipal wastewater facilities with the wastewater system of the authority for wastewater treatment and disposal service and to make payments of fees or charges based on a percentage of actual or projected flow or such other formula as such contract or agreement shall provide. Any such contract or agreement may require the continuation of such payments by such contracting municipality whether or not the agreed services are being provided but only until all bonds issued by any of the contracting parties for development and construction of water pollution control facilities or regional water

pollution control facilities have been paid or the payment of such bonds shall have been duly provided for. Such contract may further require or permit one or more of the contracting municipalities to pay obligations of another contracting municipality in the event such other contracting municipality fails to make such payments and to bring appropriate legal action against the defaulting municipality to recover the amounts so paid, together with the costs and expenses of such action. The obligation of a contracting municipality to make payments pursuant to any such agreement shall not be included in the aggregate indebtedness of the contracting municipality for the purposes of any state statutory provision limiting the aggregate indebtedness of the municipality. Any such agreement shall be valid, binding and enforceable against the contracting municipality if approved by the adoption of an ordinance by the legislative body of such contracting municipality or by such other body as permitted by section 7-157. The municipality may but need not be a member of the authority to execute any agreement under this subsection.

(d) Any constituent municipality may enter into an agreement with the authority for the transfer to the authority, for use in the exercise of its corporate powers and purposes hereunder, of any water pollution control facilities or wastewater system of such constituent municipality as the same then shall be owned by such constituent municipality. Any such agreement may provide for the transfer of title of said facilities or wastewater system by deed, lease or other arrangement to the authority. To the extent it is not inconsistent with sections 22a-500 to 22a-519, inclusive, any such agreement may impose such limitations or conditions as may be agreed upon with respect to the power thereafter to sell or otherwise dispose of any property acquired pursuant to such agreement and may provide for or authorize the authority to return property no longer required for water pollution control purposes. Notwithstanding the provisions of any other general, special or local law or charter, any action taken by such constituent municipality pursuant to this subsection shall not be subject to referendum. Any such agreement shall set forth the liabilities of such constituent municipality which are contemplated to be paid by the authority from moneys available to it, unless such agreement does not require the authority to assume any such liabilities. Notwithstanding the provisions of any other general, special or local law or charter, any moneys received by any constituent municipality in consideration for the transfer of such water pollution control facilities or wastewater system to the authority may be deposited in the general fund of such constituent municipality and used for any lawful municipal purpose or may be deposited in a special fund for the purpose of paying or redeeming any existing indebtedness issued for water pollution control purposes. A constituent municipality and the authority may make or enter into any contracts, agreements, deeds, leases, conveyances or other instruments as may be necessary or appropriate to effectuate the purposes of sections 22a-500 to 22a-519, inclusive, and they shall have the power and authority to do so and to authorize the doing of all things incidental, desirable or necessary to implement the provisions of said sections. Upon the filing by the authority with the clerk of the constituent municipality and the Secretary of the State of a copy of the instruments or documents effectuating the transfer authorized by sections 22a-500 to 22a-519, inclusive, the authority shall take possession of the water pollution control facilities or wastewater system of the constituent municipality. Any application filed or proceeding heretofore commenced in relation to the water pollution control facility or wastewater system transferred to the authority pending with the Department of Energy and Environmental Protection, the Department of Public Health or any other state agency or with the United States Environmental Protection Agency or any other federal agency or instrumentality shall inure to and for the benefit of the authority and be binding upon the authority to the same extent and in the same manner as if the authority had been a party to such application or proceeding from its inception, and the authority shall be deemed a party thereto to the extent not prohibited by any federal law. Any license, approval, permit or decision heretofore or hereafter issued or granted pursuant to or as a result of any such application or proceeding shall inure to the benefit of and be binding upon the authority and shall be assigned and transferred by the municipality to the authority unless such assignment and transfer is prohibited by federal law. If the municipality has outstanding general obligation bonds issued for acquiring or constructing water pollution control facilities acquired by the authority, whether or not the bonds are also payable from revenues, special assessments or taxes, the municipality may authorize the authority pursuant to the agreement to issue bonds under sections 22a-500 to 22a-519, inclusive, for the purpose of retiring the outstanding bonds or alternatively, the authority may agree to pay the principal of and interest on such bonds until the obligation of such constituent municipality is discharged. No such agreement under the provisions of this subsection shall be executed until such constituent municipality shall have held a public hearing at which users of the water pollution control system and residents of such constituent municipality shall

have had the opportunity to be heard concerning the proposed provisions thereof. Notice of such hearing shall be published at least thirty days in advance in the official newspaper or newspapers of the municipality.

(e) The rates, fees, charges, penalties and assessments established by an authority under sections 22a-500 to 22a-519, inclusive, shall be established so as to provide funds sufficient in each year, with other revenues, if any, available therefore (1) to pay the cost of maintaining, repairing and operating its wastewater system and each and every portion thereof, to the extent that adequate provision for the payment of such cost has not otherwise been made, (2) to pay the principal of and the interest on outstanding bonds of the authority as the same shall become due and payable, (3) to meet any requirements of any resolution authorizing, or trust indenture securing, such bonds or notes of the authority, including coverage requirements, (4) to make agreed upon payments in lieu of taxes, as the same become due and payable, upon the properties of the authority to the municipalities in which such properties are situated, (5) to provide for the maintenance, conservation and appropriate use of the land of the authority, and (6) to pay all other reasonable and necessary expenses of the authority. No such rate, fee, charge, penalty or assessment shall be established until it has been approved by the authority and after the authority has held a public hearing at which all the users of its wastewater system, the owners of property served or to be served and benefited or to be benefited and other interested persons have had an opportunity to be heard concerning such proposed rate, fee, charge, penalty and assessment. The authority shall not approve such rates, fees, charges, penalties and assessments unless it finds that such rates, fees, charges, penalties and assessments will provide funds in excess of the amounts required for the purposes described previously in this section, or unless it finds that such rates, fees, charges, penalties and assessments will provide funds sufficient for such purposes. The rates, fees, charges, penalties and assessments so established for any class of user or property served or to be served shall be extended to any additional user or property thereafter benefited or owned which are within the same class, without the necessity of a hearing thereon. Any change in such rates, fees, charges, penalties and assessments shall be made in the same manner in which they were established.

(f) All required payments of rates, fees, charges, penalties and assessments, interest on loans, principal of loans and necessary fees and assessments related thereto required under any contract or agreement entered into pursuant to the provisions of this section, shall be considered expenditures for public purposes by a municipality and, notwithstanding the provisions of any other law, any necessary general or special assessments, fees, rates, charges, penalties and assessments or cost sharing or other assessments authorized to be levied, charged or assessed and collected by municipalities within the state or with respect to fees, rates, charges, penalties and assessments by an authority in accordance with sections 22a-500 to 22a-519, inclusive, may be levied, charged, assessed or collected by said municipality or an authority without limitation as to rate or amount for the purpose of making such required payments.

(P.A. 95-257, S. 12, 21, 58; 95-329, S. 19, 31; P.A. 03-278, S. 83; P.A. 11-80, S. 1.)

History: P.A. 95-329, S. 19 effective July 13, 1995 (Revisor's note: P.A. 95-257 authorized substitution of “Commissioner of Public Health” for “Commissioner of Public Health and Addiction Services”, effective July 1, 1995); P.A. 03-278 made technical changes in Subsec. (d), effective July 9, 2003; pursuant to P.A. 11-80, “Department of Environmental Protection” was changed editorially by the Revisors to “Department of Energy and Environmental Protection” in Subsec. (d), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-510. Regional water pollution control authorities: Bonds or notes executed by former officers. Any bonds or notes issued by an authority pursuant to sections 22a-500 to 22a-519, inclusive, if properly executed and signed by the appropriate officers of such authority in office on the date of execution, shall be valid and binding according to their terms notwithstanding that before the delivery thereof and payment therefor such officers have ceased to be officers of the authority.

(P.A. 95-329, S. 20, 31.)

History: P.A. 95-329, S. 20 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-511. Regional water pollution control authorities: Execution, delivery and maturation of bonds. Bonds issued under sections 22a-500 to 22a-519, inclusive, shall be executed and delivered in such manner and at such times, may be in such form and denominations, bear such date or dates, be sold at such price or prices and mature at such time or times not exceeding thirty years from the date thereof as the authority shall determine. All bonds issued under sections 22a-500 to 22a-519, inclusive, shall be serial bonds maturing in annual or semiannual installments of principal that substantially equalize the aggregate amount of principal and interest due in each annual period, commencing with the first annual period in which an installment of principal is due, or maturing in annual or semiannual installments of principal no one of which shall exceed by more than fifty per cent the amount of any prior installment or shall be term bonds with mandatory deposit of sinking fund payments into a sinking fund of amounts sufficient to redeem or amortize the principal of the bonds in annual or semiannual installments which shall substantially equalize the aggregate amount of principal redeemed or amortized and interest due in each annual period commencing with the first annual period in which a mandatory sinking fund payment becomes due, or sufficient to redeem or amortize the principal of the bonds in annual or semiannual installments no one of which shall exceed by more than fifty per cent the amount of any prior installment. The first installment of principal of any series of bonds shall mature or the sinking fund payment of any series of bonds shall be due not later than three years from the date of issue of such series of bonds and the last installment maturing shall mature or the last sinking fund payment of such series shall be due not later than thirty years therefrom. The bonds may be issued as serial bonds or as term bonds or as a combination thereof. The bonds shall be in such denominations, be in such form, either bearer or registered as to principal and interest or as to principal alone or in book entry form, carry such exchange, transfer and registration privileges, be executed in such manner, be payable in such medium of payment, at such place or places whether within or without the state, and be subject to such terms of redemption as the body having power to authorize such bonds shall determine. The proceeds from the sale of the bonds may be invested and reinvested in such obligations, securities and other investments or deposited or redeposited in such bank or banks as the body having power to authorize such bonds shall determine.

(P.A. 95-329, S. 21, 31.)

History: P.A. 95-329, S. 21 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-512. Regional water pollution control authorities: Effect of bonds on municipal indebtedness. Bonds and notes issued by an authority pursuant to sections 22a-500 to 22a-519, inclusive, shall not be subject to any statutory limitation on the indebtedness of any municipality, including without limitation any constituent municipality, and such bonds and notes when issued shall not be included for purposes of computing the aggregate indebtedness of any municipality, including without limitation any constituent municipality, with respect to and to the extent of any such statutory limitation.

(P.A. 95-329, S. 22, 31.)

History: P.A. 95-329, S. 22 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-513. Regional water pollution control authorities: State not to impair obligations of authorities. The state of Connecticut does hereby pledge to and agree with the holders of any bonds and notes issued under sections 22a-500 to 22a-519, inclusive, and with those parties who may enter into contracts with an authority or its successor agency pursuant to the provisions of sections 22a-500 to 22a-519, inclusive, that the state will not

limit or alter the rights hereby vested in the authority until such obligations, together with the interest thereon, are fully met and discharged and such contracts are fully performed on the part of the authority, provided nothing contained in this section shall preclude such limitation or alteration if and when adequate provisions shall be made by law for the protection of the holders of such bonds and notes of the authority or those entering into such contracts with the authority. Any authority may include this pledge and undertaking for the state in such bonds and notes or contracts.

(P.A. 95-329, S. 23, 31.)

History: P.A. 95-329, S. 23 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-514. Regional water pollution control authorities: Tax exemption. (a) The exercise of the powers granted by sections 22a-500 to 22a-519, inclusive, shall constitute the performance of an essential governmental function and the authority shall not be required to pay any taxes or assessments upon or in respect of a wastewater system, or any property or moneys of the authority, levied by any municipality or political subdivision or special district having taxing powers of the state, nor shall the authority be required to pay state taxes of any kind, and the authority, its wastewater system, property and money and any bonds issued under the provisions of sections 22a-500 to 22a-519, inclusive, their transfer and the income therefrom, including revenues derived from the sale thereof, shall at all times be free from taxation, except for estate and gift taxes imposed by the state or any political subdivision thereof but the interest on such bonds shall be included in the computation of any excise or franchise tax. Nothing in this section shall prevent the authority from entering into agreements to make payments in lieu of taxes with respect to property acquired by it or by any person leasing a wastewater system from the authority or operating or managing a wastewater system on behalf of the authority and neither the authority nor its wastewater systems, properties, money or bonds shall be obligated, liable or subject to lien of any kind for the enforcement, collection or payment thereof. If and to the extent the proceedings under which the bonds authorized to be issued under the provisions of sections 22a-500 to 22a-519, inclusive, so provide, the authority may agree to cooperate with the lessee or operator of a wastewater system in connection with any administrative or judicial proceedings for determining the validity or amount of such payment and may agree to appoint or designate and reserve the right in and for such lessee or operators to take all action which the authority may lawfully take in respect of such payments and all matters related thereto, providing such lessee or operator shall bear and pay all costs and expenses of the authority thereby incurred at the request of such lessee or operator or by reason of any such action taken by such lessee or operator on behalf of the authority. Notwithstanding any other provision of law, any lessee or operator of a wastewater system for which a payment in lieu of taxes has been made under this section shall not be required to pay any taxes in which a payment in lieu thereof has been made to the state or to any such municipality or other political subdivision or special district having taxing powers.

(b) Any real or personal property leased by the authority in connection with the operation of a wastewater system under the provisions of sections 22a-500 to 22a-519, inclusive, which would otherwise be subject to taxation under chapter 203 shall be exempt from the assessment of property taxes permitted and required under said chapter if such real or personal property is the subject of an agreement to make payments in lieu of taxes with respect to such property between the authority or the lessee of such system and the municipality in which such system is located. Any lessee or operator of such system from such authority who has made any payment of taxes due under such agreement shall not be required to make any payment of taxes of which a payment in lieu thereof has been made to the municipality.

(P.A. 95-329, S. 24, 31.)

History: P.A. 95-329, S. 24 effective July 13, 1995.

(Return to Chapter (Return to (Return to

Table of Contents) List of Chapters) List of Titles)

Sec. 22a-515. Regional water pollution control authorities: Other municipal powers not affected. Any power granted to a municipality by sections 22a-500 to 22a-519, inclusive, shall be in furtherance of its borrowing power and shall be in addition to, and not in derogation of, any power granted to any municipality under the provisions of any special act or of any general statute.

(P.A. 95-329, S. 25, 31.)

History: P.A. 95-329, S. 25 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-516. Regional water pollution control authorities: Bonds to be securities and negotiable instruments. (a) Bonds issued by an authority under the provisions of sections 22a-500 to 22a-519, inclusive, are hereby made securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, credit unions, building and loan associations, investment companies, banking associations, trust companies, executors, administrators, trustees and other fiduciaries and pension, profit-sharing and retirement funds may properly and legally invest funds, including capital in their control or belonging to them. Such bonds are hereby made securities which may properly and legally be deposited with and received by any state or municipal officer or any agency or political subdivision of the state for any purpose for which the deposit of bonds or obligations of the state is now or may hereafter be authorized.

(b) Whether or not the bonds of an authority created pursuant to sections 22a-500 to 22a-519, inclusive, are of such form and character as to be negotiable instruments under article 8 of title 42a, such bonds shall be and are hereby made negotiable instruments within the meaning of and for all the purposes of said article 8 of title 42a, subject only to the provisions of the bonds for registration.

(c) Any pledge made by a municipality or an authority pursuant to the provisions of sections 22a-500 to 22a-519, inclusive, shall be valid and binding from the time when the pledge is made, and any revenues or other receipts, funds or moneys so pledged and thereafter received by such municipality or authority shall be subject immediately to the lien of such pledge without any physical delivery thereof, filing or further act. The lien of any such pledge shall be valid and binding as against all parties having claims of any kind in tort, contract, or otherwise against the municipality or the authority, irrespective of whether such parties have notice thereof and shall be a statutory lien. Neither the resolution nor any other instrument by which a pledge is created shall be required to be recorded.

(P.A. 95-329, S. 26, 31; May Sp. Sess. P.A. 04-2, S. 66.)

History: P.A. 95-329, S. 26 effective July 13, 1995; May Sp. Sess. P.A. 04-2 amended Subsec. (c) to delete a provision subjecting liens of pledges under section to the Uniform Commercial Code, effective May 12, 2004, and applicable to any pledge, lien or security interest of this state or any political subdivision of this state, which was in existence on October 1, 2003, or created after October 1, 2003.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-517. Regional water pollution control authorities: Receipt of Clean Water Fund disbursements. (a) An authority created under sections 22a-500 to 22a-519, inclusive, shall be a public authority having power to make charges for its authorized function and shall be considered a municipality as defined in section 22a-475.

(b) The initial project undertaken by a new authority shall receive (1) a grant of twenty-five per cent of the cost of the project, unless such project is a combined sewer project, in which case a new authority shall receive a

grant of fifty-five per cent of the cost of the project. In either case such cost shall be the cost the United States Environmental Protection Agency uses in making grants pursuant to Part 35 of the federal Construction Grant Regulations Act and Titles II and VI of the federal Water Pollution Control Act, as amended; and (2) a loan for the remainder of the costs of the project, not exceeding one hundred per cent of the eligible water quality project costs. All loans made in accordance with the provisions of this section shall bear an interest rate of two per cent per annum. The Commissioner of Energy and Environmental Protection may allow any project fund obligation to be repaid by a borrowing authority prior to maturity without penalty.

(P.A. 95-329, S. 27, 31; P.A. 07-154, S. 5; P.A. 11-80, S. 1.)

History: P.A. 95-329, S. 27 effective July 13, 1995; P.A. 07-154 amended Subsec. (b) to delete provision barring eligible projects that receive a loan from receiving a project grant, effective June 25, 2007; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsec. (b), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-518. Regional water pollution control authorities: Jurisdiction. (a) An authority shall have jurisdiction over all or such portions of the constituent municipalities as may be jointly agreed upon by such municipalities.

(b) Any superior court located within a judicial district that includes any area within the jurisdiction of an authority shall have jurisdiction over any dispute involving an authority except actions commenced pursuant to subsection (b) of section 22a-506.

(P.A. 95-329, S. 28, 31; P.A. 02-85, S. 1.)

History: P.A. 95-329, S. 28 effective July 13, 1995; P.A. 02-85 amended Subsec. (a) to replace provisions re jurisdiction congruent with outermost boundaries of constituent municipalities with provisions re jurisdiction over all or portions of constituent municipalities as may be jointly agreed upon by such municipalities and amended Subsec. (b) to add “within a judicial district that includes any area”.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-519. Regional water pollution control authorities: Indemnification of officers. Representation of authority by Attorney General. Legal fees of officers. (a) The authority shall protect, save harmless and indemnify its directors, officers and employees from financial loss and expense, including legal fees and costs, if any, arising out of any claim, demand, suit or judgment by reason of alleged negligence or alleged deprivation of any person's civil rights or any other act or omission resulting in damage or injury, if the director, officer or employee is found to have been acting in the discharge of his duties or within the scope of his office or employment and such act or omission is not found to have been wanton, reckless, wilful or malicious.

(b) The state through the Attorney General shall provide for the defense of any such director, officer or employee in any civil action or proceeding in any state or federal court or alternative dispute resolution proceeding arising out of any alleged act, omission or deprivation which occurred or is alleged to have occurred while the director, officer or employee was acting in the discharge of his duties or in the scope of his employment, except that the state shall not be required to provide for such defense whenever the Attorney General, based on his investigation of the facts and circumstances of the case, determines that it would be inappropriate to do so and he so notifies the director, officer or employee in writing.

(c) Legal fees and costs incurred as a result of the retention by such director, officer or employee of an attorney to defend his interests in any civil action or proceeding shall be paid by the state in those cases where (1) the Attorney General has stated in writing to the director, officer or employee pursuant to this subsection, that the state shall not provide an attorney to defend the interests of such director, officer or employee and (2) the

director, officer or employee is found to have acted in the discharge of his duties or within the scope of his employment and not to have acted wantonly, recklessly, wilfully or maliciously. Such legal fees and costs incurred by such director, officer or employee shall be paid to such director, officer or employee only after the final disposition of the suit, claim, demand or alternative dispute resolution proceeding and only in such amounts as determined by the Attorney General to be reasonable. In determining whether such amounts are reasonable, the Attorney General may consider whether it was appropriate for a group of directors, officers or employees to be represented by the same attorney.

(P.A. 95-329, S. 29, 31.)

History: P.A. 95-329, S. 29 effective July 13, 1995.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-520. Reserved for future use.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-521. Nitrogen reduction in state waters: Definitions. As used in sections 22a-522 to 22a-525, inclusive:

(1) “Equivalency factor” means a ratio of the unit response of dissolved oxygen to nitrogen in Long Island Sound for each publicly-owned treatment works based on the geographic location of the specific publicly-owned treatment works' discharge point divided by the unit response of the geographic area with the highest impact;

(2) “Equivalent nitrogen credit” means a nitrogen credit multiplied by the equivalency factor;

(3) “Equivalent pounds” means the actual pounds of nitrogen discharged by a publicly-owned treatment works multiplied by the equivalency factor for that publicly-owned treatment works;

(4) “Individual waste load allocation” means that portion of the state-wide waste load allocation apportioned to an individual publicly-owned treatment works;

(5) “Nitrogen” means the total of ammonia nitrogen, organic nitrogen, nitrite nitrogen and nitrate nitrogen;

(6) “Nitrogen Credit Advisory Board” means the board appointed by the Commissioner of Energy and Environmental Protection pursuant to section 22a-523;

(7) “Nitrogen credit exchange program” means the program within the Department of Energy and Environmental Protection established pursuant to section 22a-524;

(8) “Nitrogen credit” means the difference between the annual total nitrogen load specified for a publicly-owned treatment works in the general permit for nitrogen discharges and the annual total nitrogen load discharged by that publicly-owned treatment works expressed as pounds of nitrogen per day;

(9) “Nonpoint source” means any source of nitrogen originating from other than a readily discernible end of pipe source;

(10) “Publicly-owned treatment works” means a system used for the collection, treatment or disposal of sewage from one or more parcels of land and that discharges to the waters of the state and is owned by a municipality or the state;

(11) “State-owned equivalent nitrogen credits” means the difference between the annual state-wide waste load allocation established in the total maximum daily load and the sum of the annual discharges for all publicly-

owned treatment works;

(12) “State-wide waste load allocation” means the maximum allowable nitrogen load from publicly-owned treatment works into Long Island Sound that will meet water quality standards as specified in the total maximum daily load;

(13) “Total maximum daily load” means the total maximum daily load analysis to achieve water quality standards for dissolved oxygen in Long Island Sound, as established by the Department of Energy and Environmental Protection and as approved by the United States Environmental Protection Agency; and

(14) “Unit response” means the reaction of dissolved oxygen in Long Island Sound to a change in nitrogen loading of 1.0 pound.

(P.A. 01-180, S. 1, 9; P.A. 11-80, S. 1; P.A. 14-122, S. 40.)

History: P.A. 01-180 effective July 1, 2001; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” and “Department of Environmental Protection” were changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” and “Department of Energy and Environmental Protection”, respectively, effective July 1, 2011; P.A. 14-122 made a technical change in Subdiv. (9).

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-522. General permit establishing effluent units for nitrogen. Notwithstanding any provision of section 22a-430 or 22a-430b and notwithstanding nitrogen limits specified in individual discharge permits issued pursuant to said section 22a-430, the Commissioner of Energy and Environmental Protection shall issue a general permit for publicly-owned treatment works specifying effluent limits for nitrogen in accordance with the total maximum daily load and may issue a general permit for private-sector entities that discharge nitrogen into state waters that may include, but not be limited to, marketable permits, effluent reduction credits or other economic incentives. In order to meet water quality standards, the commissioner may incorporate compliance schedules into permits issued under this section and said sections 22a-430 and 22a-430b. The general permit shall establish effluent limits for nitrogen and shall establish an annual compliance schedule for nitrogen for each publicly-owned treatment works and for each private-sector entity that discharges nitrogen into state waters. Under the general permit, the commissioner may require publicly-owned treatment works to (1) meet effluent limits and other conditions for discharging nitrogen to the waters of the state pursuant to their individual waste load allocations, (2) comply with monitoring requirements as set forth in the general permit, and (3) comply with any other requirements as determined by the commissioner necessary to carry out the provisions of this section. Publicly-owned treatment works may participate in the nitrogen credit exchange program in order to comply with effluent limits for nitrogen specified in the general permit.

(P.A. 01-180, S. 2, 9; P.A. 06-82, S. 1; P.A. 11-80, S. 1.)

History: P.A. 01-180 effective July 1, 2001; P.A. 06-82 inserted “for publicly-owned treatment works” re general permit and added language re private-sector entities; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-523. Nitrogen Credit Advisory Board. (a) The Commissioner of Energy and Environmental Protection shall establish a Nitrogen Credit Advisory Board to assist and advise the commissioner in administering the nitrogen credit exchange program. The board shall consist of the Commissioner of Energy and Environmental Protection or the commissioner's designee, the Secretary of the Office of Policy and Management or the secretary's designee, the State Treasurer or the Treasurer's designee and nine public members to be appointed in

accordance with this section. The nine public members shall include an official of a major publicly-owned treatment works appointed by the speaker of the House of Representatives, a municipal public works official appointed by the president pro tempore of the Senate, a representative from a municipality with a population of greater than twenty thousand that purchases nitrogen credits and a representative from a municipality with a population of less than twenty thousand that sells credits appointed by the majority leader of the House of Representatives, a representative from a municipality with a population of greater than twenty thousand that sells nitrogen credits and a representative from a municipality with a population of less than twenty thousand that purchases nitrogen credits appointed by the majority leader of the Senate, and three persons having experience in either wastewater treatment, environmental law or finance, one to be appointed by the minority leader of the House of Representatives, one to be appointed by the minority leader of the Senate, and one to be appointed by the Governor. All initial appointments shall be made not later than August 1, 2001, and shall be made so the composition of the board is, to the extent possible, balanced with regard to buyers and sellers of credits, large and small municipalities and representatives from different geographic regions of the state.

(b) The Commissioner of Energy and Environmental Protection, or the commissioner's designee, shall serve as chairperson of the board and shall schedule the first meeting of such board not later than September 1, 2001. A majority of the members shall constitute a quorum for the transaction of business. The principal office of such board shall be the office of the Commissioner of Energy and Environmental Protection. At its first meeting, the board shall determine by lot which members shall serve for one, two or three years, provided the terms of office of not more than fifty per cent of the board shall expire in any one year. Thereafter, each term of office shall be for three years. The board shall choose a secretary by ballot from its membership.

(c) Not later than September thirtieth, annually, the board shall submit to the joint standing committee of the General Assembly having cognizance of matters relating to the environment its findings that address the following:

(1) A summary of the nitrogen credit exchange program's progress in achieving the total maximum daily load;

(2) The adequacy of the Clean Water Fund financing pursuant to section 22a-477 to support the nitrogen credit exchange program and the total maximum daily load;

(3) Recommendations for changes to the program including, but not limited to: (A) Exchanging nitrogen credits with entities outside the state; (B) expanding the general permit for nitrogen discharges and the nitrogen credit exchange program to include additional point and nonpoint sources; and (C) exchange transactions executed outside of the nitrogen credit exchange program;

(4) Identification of any other issues that need to be resolved; and

(5) Recommendations relating to the use of federal funding to assist distressed municipalities in the planning, design and construction of nitrogen removal facilities in implementing the provisions of subsection (h) of section 22a-477 and sections 22a-521 to 221-527, inclusive.

(P.A. 01-180, S. 3, 9; P.A. 11-80, S. 1.)

History: P.A. 01-180 effective July 1, 2001; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-524. Nitrogen credit exchange program. (a) The Commissioner of Energy and Environmental Protection shall establish a nitrogen credit exchange program to assist in the implementation of the total maximum daily load. The nitrogen credit exchange program shall apply to all publicly-owned treatment works included in the general permit issued pursuant to section 22a-522.

(b) The commissioner, in consultation with the Nitrogen Credit Advisory Board, shall:

(1) Establish a schedule and monitor all nitrogen removal construction projects;

(2) Establish an equivalency factor for each publicly-owned treatment works, which may be revised at the commissioner's discretion consistent with the total maximum daily load. The equivalency factor and any proposed revisions shall be made available for public comment at least thirty days prior to being implemented in the nitrogen credit exchange program;

(3) Establish the individual waste load allocation for each publicly-owned treatment works utilizing the equivalency factors and taking into consideration the schedule for nitrogen removal construction projects;

(4) Monitor annual progress in meeting the fifteen-year implementation schedule in the total maximum daily load;

(5) Propose modifications, as may be necessary, to the general permit for nitrogen discharges;

(6) Oversee and execute all equivalent nitrogen credit exchanges;

(7) Maintain a separate account of state-owned equivalent nitrogen credits;

(8) Not later than August 14, 2015, purchase all equivalent nitrogen credits created through December 31, 2014, by publicly-owned treatment works at the annually established value. Not later than August 14, 2016, purchase all equivalent nitrogen credits created through December 31, 2015, by publicly-owned treatment works at the annually established value. On or after August 15, 2016, purchase the equivalent nitrogen credits created by publicly-owned treatment works that are necessary to meet the nitrogen limits specified in the general permit for nitrogen discharges, issued pursuant to section 22a-522, at the annually established value;

(9) Sell available state-owned equivalent nitrogen credits including nitrogen credits purchased from publicly-owned treatment works at the annually established value to enable publicly-owned treatment works to meet nitrogen limits specified in the general permit for nitrogen discharges;

(10) Whenever practicable, sell remaining state-owned equivalent nitrogen credits to any other public or private entity;

(11) Establish accounts of funds created from the purchase and sale of equivalent nitrogen credits to be used for administration of the nitrogen credit exchange program and which may be used for nitrogen removal projects, habitat restoration projects and research;

(12) Establish any other policies or procedures the commissioner may deem necessary to carry out the nitrogen credit exchange program; and

(13) Establish a technical assistance program to educate and assist municipalities in implementing the nitrogen credit exchange program.

(c) (1) Not later than March thirty-first, annually, the commissioner shall audit the performance of each publicly-owned treatment works operating from January first to December thirty-first of the preceding year and shall (A) determine the number of equivalent nitrogen credits for sale and the number of equivalent nitrogen credits to be purchased, (B) publish the annual value of equivalent nitrogen credits as determined by the procedure established in section 22a-527, and (C) notify each publicly-owned treatment works of its equivalent nitrogen credit balance.

(2) Not later than July thirty-first, annually, each publicly-owned treatment works shall purchase equivalent nitrogen credits necessary to meet its nitrogen limits. Such purchase shall be paid by check, or money order or other form of payment acceptable to the Treasurer made payable to the “nitrogen credit exchange program”. The check, or money order or other such form of payment shall state on its face “nitrogen credit purchase”.

(3) Not later than August fourteenth, annually, until August 14, 2016, the commissioner shall purchase all available equivalent nitrogen credits. On or after August 15, 2016, annually, the commissioner shall purchase the equivalent nitrogen credits created by publicly-owned treatment works that are necessary to meet the nitrogen limits specified in the general permit for nitrogen discharges, issued pursuant to section 22a-522.

(P.A. 01-180, S. 4, 9; P.A. 03-19, S. 65; P.A. 04-151, S. 8; P.A. 11-80, S. 1; P.A. 15-38, S. 1.)

History: P.A. 01-180 effective July 1, 2001; P.A. 03-19 made a technical change in Subsec. (c)(1)(C), effective May 12, 2003; P.A. 04-151 amended Subsec. (c)(2) to revise form of payment from certified bank check or money order to check or money order or other form of payment acceptable to the Treasurer, effective May 21, 2004; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011; P.A. 15-38 amended Subsec. (b)(8) by replacing provision re purchase of all equivalent nitrogen credits created by publicly-owned treatment works with provisions re purchase of all equivalent nitrogen credits not later than August 14, 2015, and August 14, 2016, and adding provision re purchase of credits needed to meet nitrogen limits specified in general permit for nitrogen discharges on or after August 15, 2016, and amended Subsec. (c)(3) by adding provision requiring only purchase of credits needed to meet nitrogen limits specified in general permit for nitrogen discharges on or after August 15, 2016, and making a conforming change, effective June 5, 2015.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-525. Audit of annual operating data. The Commissioner of Energy and Environmental Protection may audit the annual operating data of publicly-owned treatment works participating in the nitrogen credit exchange program in order to assess permit compliance. Publicly-owned treatment works that do not meet permit limits through treatment or the purchase of credits shall be subject to the enforcement provisions of this chapter.

(P.A. 01-180, S. 5, 9; P.A. 11-80, S. 1.)

History: P.A. 01-180 effective July 1, 2001; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-526. Regulations. The Commissioner of Energy and Environmental Protection may, in consultation with the Treasurer, adopt regulations, in accordance with chapter 54, to carry out the provisions of sections 22a-522 to 22a-525, inclusive. Such regulations may provide for programs for municipalities or the private sector including, but not limited to, marketable permits, effluent reduction credits or other economic incentives.

(P.A. 01-180, S. 6, 9; P.A. 06-82, S. 2; P.A. 11-80, S. 1.)

History: P.A. 01-180 effective July 1, 2001; P.A. 06-82 added "in consultation with the Treasurer" and provision re programs for municipalities or the private sector; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Sec. 22a-527. Annual value of equivalent nitrogen credits. (a) As used in this section:

(1) “Eligible capital costs” means all costs associated with improvements beyond local water quality needs (A) the actual planning, design and construction costs for a nitrogen removal facility, except for costs related to the modification of a facility for purposes other than the enhancement of the nitrogen treatment process, and (B) costs of equipment and land that is necessary for nitrogen treatment. The Commissioner of Energy and Environmental Protection, with the approval of the Nitrogen Credit Advisory Board, may designate other eligible capital costs associated with the improvement of existing secondary sewage treatment facilities;

(2) “Total eligible annual operation and maintenance cost” means the incremental increase in the cost of labor administration, electricity, and chemicals to remove nitrogen;

(3) “Total eligible capital cost” means one hundred per cent of the eligible capital costs, based on a thirty per cent grant provided to the facility pursuant to section 22a-478 and the loan to finance the remaining seventy per cent of the eligible capital costs;

(4) “Total annual capital cost” means the total amount of the facility's loan attributable to the total eligible capital cost divided by a twenty-year loan repayment period; and

(5) “Total annual project cost” means the total annual capital cost and the total eligible annual operation and maintenance cost.

(b) The Nitrogen Credit Advisory Board, established pursuant to section 22a-523, shall propose the annual value of equivalent nitrogen credits by dividing the total annual project cost by the reduction of equivalent pounds of nitrogen. Upon proposing such value, the board shall notify each municipality with sewage treatment facilities, in writing, of such proposal.

(c) The Commissioner of Energy and Environmental Protection shall issue a draft ruling on the proposal pursuant to subsection (b) of this section. Such draft opinion shall become final if no municipality or group of municipalities petition for a review of the proposal pursuant to this section.

(d) No later than fifteen business days after the issuance of the draft ruling of the commissioner, a municipality or a group of municipalities may petition the board to review the proposed value of the credits.

(e) No later than ten business days following the submission of a petition for review, the board shall appoint an arbitration panel comprised of (1) a municipal official from a municipality that is expected to sell credits in the upcoming fiscal year, (2) a municipal official from a municipality that is expected to purchase credits in the upcoming fiscal year, and (3) a third member selected by mutual agreement by such officials.

(f) No later than ten business days after the appointing of an arbitration panel, the board shall convene the arbitration meeting of the petitioners and the commissioner.

(g) No later than ten business days after the convening of the arbitration meeting, the arbitration panel shall issue a final ruling on the annual value of equivalent nitrogen credits.

(P.A. 01-180, S. 8, 9; P.A. 11-80, S. 1.)

History: P.A. 01-180 effective July 1, 2001; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsecs. (a)(1) and (c), effective July 1, 2011.

(Return to Chapter Table of Contents) (Return to List of Chapters) (Return to List of Titles)

Secs. 22a-528 to 22a-599. Reserved for future use.

(Return to Chapter (Return to (Return to

Table of Contents) List of Chapters) List of Titles)