R-39 Rev. 08/2012
(Title page)

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State of Connecticut
REGULATION
of

NAME OF AGENCY
Department of Energy and Environmental Protection

Concerning

SUBJECT MATTER OF REGULATION
State Board of Examiners of Environmental Professionals

Section 1. Sections 22a-133v-1 to 22a-133v-7, inclusive, of the Regulations of Connecticut State Agencies are amended to read as follows:

Sec. 22a-133v-1. Definitions

For the purposes of section 22a-133v-1 through 22a-133v-8, inclusive, of the Regulations of Connecticut State Agencies:

(a) "Accredited college or university" means a college or university which is fully accredited by a nationally recognized regional accrediting association.

(b) "Applicant" means an individual who submits an application to the Board.

(c) "Application" means an application for a license or for renewal of a license or for reinstatement of a license which was revoked.

(d) "Board" means the State Board of Examiners of Environmental Professionals established pursuant to section 22a-133v of the Connecticut General Statutes.

(e) "Client" means any person, other than an employer, who retains a licensed environmental professional to provide professional services.

(f) "College or advanced degree level course" means a course offered by an accredited college or university, provided that such course may be taken for a grade and the course meets on a regular weekly schedule on a semester, trimester or quarterly basis.

(g) "Commissioner" means the Commissioner of Energy and Environmental Protection or his designated agent.

(h) "Contingent fee arrangement" means any arrangement whereby the payment or non-payment of a fee or compensation of any kind, in whole or in part, is paid or provided to a licensed environmental professional dependent upon a specified finding or the outcome of a matter.

(i) "Course" means a body of prescribed studies taken by any means including, but not limited to, distance learning.

[(i)] (j) "Day" means a calendar day.

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[(j)] (k) "Department" means the Department of Energy and Environmental Protection.

(l) "Distance learning" means structured study administered by a provider of a continuing education course as described in section 22a-133v-2(e) of the Regulations of Connecticut State Agencies, that is based on audio, audio-visual, written, on-line, or other media, and does not include live instruction, transmitted in person or otherwise, during which the student may communicate and interact with the instructor and other students.

(m) "Distance learning provider" or "provider" is a person or organization that has been approved by the Board or a sponsor to offer continuing education in the form of distance learning courses.

(n) "Distance learning sponsor" or "sponsor" is a person or organization that has been approved by the Board to approve a provider or the number of continuing education credits to be awarded to a course offered by a provider.

[(k)] (o) "Employee" means an individual who is a full or part-time staff member on the payroll of an employer.

[(l)] (p) "Examination" means a licensing test administered by the State Board of Examiners of Environmental Professionals.

[(m)] (q) "Hazardous waste" means hazardous waste as defined in section 22a-134 of the Connecticut General Statutes.

[(n)] (r) "Individual" means a natural person.

[(o)] (s) "License" means a license issued by the Commissioner under section 22a-133v of the Connecticut General Statutes to provide services as a licensed environmental professional.

[(p)] (t) "Licensed environmental professional" or "licensee" means an environmental professional who is licensed pursuant to section 22a-133v of the Connecticut General Statutes.

[(q)] (u) "Parcel" means a piece, tract or lot of land, together with the buildings and other improvements situated thereon, a legal description of which piece, parcel, tract or lot is contained in a deed or other instrument of conveyance.

[(r)] (v) "Person" means a person as defined in section 22a-423 of the Connecticut General Statutes.

[(s)] (w) "Individual placed on a list of environmental professionals" means an individual placed on a list of environmental professionals by the Commissioner as provided for in section 22a-133v of the Connecticut General Statutes.

[(t)] (x) "Petroleum" means petroleum as defined in section 22a-449a of the Connecticut General Statutes.

[(u)] (y) "Pollution" means pollution as defined in section 22a-423 of the Connecticut General Statutes.

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[(v)] (z) "Professional services" means the providing of environmental services including, but not limited to, services relating to the investigation or remediation of the release of hazardous waste or petroleum products into soil or groundwater, preparing studies or reports regarding any such investigation or remediation, or rendering of a verification or the production of other documents pertaining to any verification by a licensed environmental professional.

[(w)] (aa) "Remediate" means remediate as defined in section 22a-134 of the Connecticut General Statutes.

[(x)] (bb) "Remediation standards" means sections 22a-133k-1 through 22a-133k-3, inclusive, and section 22a-133q-1 of the Regulations of Connecticut State Agencies.

[(y)] (cc) "Technical advisor" means a provider of technical advice or assistance to the independent testing service that is developing or has developed the Board's licensing examination.

[(z)] (dd) "Verification" means verification as defined in section 22a-134 of the Connecticut General Statutes or any written opinion which a licensed environmental professional is authorized by law to render (i) regarding an investigation, remediation, environmental land use restriction or (ii) pursuant to sections 22a-133o, 22a-133x, 22a-133y, and 22a-134a of the Connecticut General Statutes, sections 22a-133k-1 through 22a-133k-3, inclusive, and 22a-133q-1 of the Regulations of Connecticut State Agencies, or any other law, regulation, order, permit, license or approval.

Sec. 22a-133v-2. Requirements for Licensure

(a) Required Information

Each applicant shall, through the submission of complete and accurate information to the Board, demonstrate that such applicant meets the qualifications for licensure.

(b) Education and Experience Requirements

(1) No license shall be issued to an applicant unless such applicant demonstrates to the satisfaction of the Board that such applicant has (A) for a minimum of eight (8) years engaged in the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater, including a minimum of four (4) years in responsible charge of such investigation and remediation, and holds a bachelor's or advanced degree from an accredited college or university in a science or engineering field specified by subparagraph (2)(A) of this subsection, or in a related science or engineering field found by the Board to be fundamentally equivalent to one or more thereof, or is a professional engineer licensed in accordance with Chapter 391 of the Connecticut General Statutes, or (B) for a minimum of fourteen (14) years engaged in the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater, including a minimum of seven (7) years in responsible charge of such investigation and remediation.

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(2) For purposes of subdivision (1) of this subsection the following shall apply:

(A) A bachelor's or advanced degree from an accredited college or university shall be in one or more of the following fields or in a related science or engineering field found by the Board to be fundamentally equivalent to one of the following: biology, chemistry, earth sciences, ecology, engineering (civil, environmental, mechanical, chemical, or agricultural), environmental sciences, environmental studies, geology, hydrogeology, hydrology, natural resources management, soil sciences, toxicology, water resources, and wetland science.

Upon the written request from an applicant, the Board shall determine whether an applicant's degree, or undergraduate, graduate or postgraduate education is fundamentally equivalent to a degree listed in the paragraph above. Such request shall identify the bachelor's or advanced degree issued to the applicant, the accredited college or university which issued such degree, courses that the applicant took and any other information that the Board may request. The Board may consider all such applicant's course work, including but not limited to, undergraduate, graduate or postgraduate course work when making such determination.

(B) Except as is provided in this subparagraph, experience that an applicant obtains when such applicant is enrolled as a full-time undergraduate or graduate student at an accredited college or university shall not be counted toward satisfaction of the experience requirement of subdivision (1) of this subsection provided that upon written request, the Board may count toward satisfaction of such requirements full-time work performed by an applicant for at least three (3) consecutive months during any time when such applicant was enrolled as a full-time student in an accredited graduate degree program.

(C) Engaged-in experience shall be professional experience for which the Board determines that an applicant's primary duties have consistently involved both the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater. The Board shall consider the following in determining whether an applicant's professional experience qualifies as engaged-in experience: the description of work activities; the diversity of work and types of activities performed; the field or fields of activities performed; the duration of employment; the reports, studies or documents prepared; and any other factors the Board deems relevant.

Engaged-in experience does not include experience primarily involving or associated with:

(i) non-scientific or non-technical activities regarding the investigation or remediation of releases of hazardous waste or petroleum products into soil or groundwater, including but not limited to, activities such as contract management, budget control, legal analysis, regulatory compliance audits, or other similar activities; and

(ii) landfill design and management, except for closure of a hazardous waste landfill; septic systems or similar non-hazardous material disposal facilities;

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water supply systems; waste water treatment systems; complying with hazardous waste requirements; activities generally subcontracted, such as drilling, geophysical surveying, surveying, geotechnical analysis, laboratory analysis and risk assessment or similar activities.

(D) Responsible charge experience shall be professional experience for which the Board determines that an applicant's primary duties consistently involve a high level of responsibility and decision making regarding both the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater. The Board shall consider the following in determining whether an applicant's professional experience qualifies as responsible charge experience:

(i) the level of independent decision making exercised by the applicant;
(ii) the number of individuals and the disciplines of the other professionals that the applicant supervised or coordinated;
(iii) the extent to which an applicant's responsibilities consistently involved both the investigation and remediation of releases of hazardous waste or petroleum products into soil or groundwater and whether such responsibilities were an integral and substantial component of the applicant's position;
(iv) the nature of an applicant's employer's primary business interests and the relation of those interests to conducting investigations and remediation of releases of hazardous waste or petroleum products into soil or groundwater;
(v) the extent to which an applicant has engaged in the evaluation and selection of scientific or technical methodologies for conducting investigations and remediation of releases of hazardous waste or petroleum products into soil or groundwater;
(vi) the extent to which an applicant drew technical conclusions, made recommendations, and issued opinions based on the results of investigations and remediation of releases of hazardous waste or petroleum products into soil or groundwater; or
(vii) any other factor that the Board deems relevant.

(c) Passing Grade on an Examination

No license shall be issued to an applicant unless such applicant achieves a passing score on the environmental professional licensing examination administered by the Board under section 22a-133v-3 of the Regulations of Connecticut State Agencies.

(d) Good Moral Character

No license shall be issued to an applicant unless such applicant demonstrates to the satisfaction of the Board that such applicant possesses good moral character. Evidence of a lack of such character may include conviction in any jurisdiction of a felonious act, the submission of false or incomplete information on any application, acts involving dishonesty, fraud or deceit which have substantial connection to the professional responsibilities of a licensed environmental professional, or engaging in

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professional misconduct of the type proscribed in section 22a-133v(g) of the Connecticut General Statutes or section 22a-133v-4(b)(3) of the Regulations of Connecticut State Agencies.

(c) Continuing Education Requirements

(1) Basic Requirements

(A) Every odd numbered calendar year following the issuance of a license to a licensee, such licensee shall demonstrate in writing on a form prescribed by the Board, that such licensee has earned a minimum of [24] twenty four (24) continuing education credits during the previous two (2) years, or a minimum of [12] twelve (12) continuing education credits if the elapsed time since issuance of the license has been one (1) year. For the purposes of this subsection, continuing education consists of successful completion of courses or seminars devoted to the subjects set forth in subdivision (2) of this subsection, provided such courses or seminars are reasonably likely to maintain or enhance a licensee's competence. Health and safety training courses required pursuant to the Occupational Safety and Health Act (29 U.S.C. §651 et seq.) shall not be deemed continuing education.

Except as provided in section 22a-133v-4(e) of the Regulations of Connecticut State Agencies, no licensee may apply continuing education credits earned during one (1) biennial license period toward the continuing education requirements of another biennial license period.

(B) The continuing education credits required by this subsection shall be calculated as follows:

(i) one (1) continuing education credit for each contact hour of a seminar that a licensee attends;
(ii) one (1) continuing education credit for each semester hour of a college or advanced degree level course that a licensee audits at an accredited college or university;
(iii) two (2) continuing education credits for each semester hour of a college or advanced degree level course that a licensee takes for a pass/fail at an accredited college or university provided the licensee passes such course;
(iv) four (4) continuing education credits for each semester hour of a college or advanced degree level course that a licensee takes for a grade at an accredited college or university provided the licensee passes such course with a grade of C or its equivalent or better;
(v) one (1) continuing education credit for each hour assigned for a distance learning course.

For purposes of this subparagraph and subdivision (3)(A) of this subsection, a "contact hour" means an hour that a licensee spends attending an instructional seminar, exclusive of registration, meals, administrative activities or social functions.

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(C) Upon the request of the Board or the Commissioner, a licensee shall provide:

(i) attendance records demonstrating the licensee's compliance with the attendance requirements of this subsection, or for distance learning courses, a certification that the licensee has successfully completed the course and an assessment of learning to demonstrate comprehension of the subject matter taught in the course;
(ii) documentation that a course or seminar was taught by a competent instructor knowledgeable in the subject matter presented;
(iii) a written outline or syllabus, prepared by the instructor, of the course or seminar;
(iv) any other information regarding a course or seminar which the Board or the Commissioner requests.

(2) Credit Minimums/Maximums

(A) The continuing education credits required by subparagraph (1)(A) of this subsection shall include credits from courses or seminars on technical subjects or regulatory subjects which will enhance the licensee's ability to competently perform, supervise and/or coordinate the scientific and/or technical components of the investigation and remediation of releases of petroleum products and hazardous waste into soil or groundwater in Connecticut. For the purposes of this subsection, a licensee may earn up to, but no more than, [12] twelve (12) continuing education credits by taking or auditing a college or advanced degree level course during any biennial period, and may earn up to, but no more than, twelve (12) continuing education credits by taking distance learning courses during any biennial period.

(B) If a licensee is unable to obtain the required number of continuing education credits in a biennial period in a classroom setting, the licensee may apply to the Board to allow additional credits to be obtained through distance learning beyond the twelve (12) credit maximum. The Board shall only allow additional distance learning credits in hardship cases when the Board determines that the licensee is physically unable to obtain classroom credits due to military service, severe illness or other significant circumstances, excluding any financial circumstance. The licensee shall apply to the Board no later than thirty (30) days prior to the expiration of the current license to request a waiver to allow additional distance learning credits be approved beyond the twelve (12) credit maximum.

(3) Attendance Requirements

(A) To satisfy the continuing education requirements of this subsection, a licensee shall attend at least [90%] 90 percent of the contact hours of an applicable course or seminar for courses other than distance learning courses. Distance learning courses shall be

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successfully completed in accordance with subparagraph (C) of subdivision (1) of this subsection.

(B) Once a licensee has received continuing education credit under this subsection for a course or seminar, such licensee may retake such course or seminar for credit provided that at least two (2) biennial periods have passed since the licensee took such course or seminar.

(4) General Course Requirements

[Attendance] Completion of a course or seminar shall not be deemed to meet the continuing education requirements of this subsection unless:

(A) [attendance] Attendance records for such course or seminar or distance learning are maintained by the provider of such course or seminar;

(B) [the] The licensee attends at least [2 (two)] two (2) consecutive hours of instruction if the course or seminar is not a college or advanced degree level course, or successfully completes a minimum of two (2) continuing education credits for a distance learning course and provides the Board an assessment of learning in accordance with subparagraph (C) of subdivision (1) of this subsection;

(C) [such] Such course or seminar is taught by a competent instructor knowledgeable in the subject matter presented;

(D) [the] The instructor follows a written outline or syllabus of such course or seminar; [and]

(E) [such] Such course or seminar is completed; and

(F) For distance learning courses, the course and assessment of learning are provided to the Board and are satisfactorily completed in full.

(5) Required Courses

Upon written notice from the Commissioner or the Board, a licensee shall complete or attend a specific course or seminar within the time period identified in such notice. Such course or seminar shall be counted toward fulfilling the continuing education requirements of this subsection.

(6) Course/Seminar Approval/Disapproval

(A) The Board may, upon written request from a licensee, course provider, or other person, determine that a specific course or seminar meets the continuing education requirements of this subsection. A request to the Board under this subdivision shall be made on a form prescribed by the Board and shall provide at least: a written outline or

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syllabus of such course or seminar; a detailed description of such course or seminar; a copy of any instructional materials used; the length of the course or seminar; and the names and qualifications of the course or seminar instructor. Upon receipt of all the information it deems necessary to make a decision, the Board shall determine whether such course or seminar meets the continuing education requirements of this subsection and shall provide written notice of that determination to the person who requested it. A request under this subdivision may be submitted to the Board either before or after a course or seminar has been given or taken.

(B) If the Board determines that a course or seminar does not meet the continuing education requirements of this subsection, the Board shall deny a licensee all or a portion of the continuing education credits sought and may take any other appropriate action including, but not limited to, requiring that such licensee obtain additional continuing education credits in a subsequent continuing education requirement license renewal period, or a shorter term as the Board deems appropriate.

(7) Distance Learning Sponsor Requirements/Application

(A) The Board may approve sponsors of distance learning, who may approve providers of distance learning courses. Approval of a provider by a sponsor means that the Board will accept the number of continuing education credits for courses offered by such provider. Any person or organization desiring to be a sponsor shall submit an application to the Board for approval as a sponsor. The application shall be on a form prescribed by the Board and shall include, but not be limited to, documentation that the sponsor:

(i) Has a consistent, documented method of determining contact hours that are to be awarded to participants who successfully complete a provider's distance learning course including, but not limited to:

(I) the use of independent course evaluators who take the distance learning course and document time spent to complete the course;

(II) assuring the provider is an Accredited College or University; or

(III) the use of a certified third party such as or equivalent to the International Association for Continuing Education and Training or the New York State Practicing Institute of Engineering;

(ii) has a process and standard to be used to gauge and approve a provider's assessment of learning of participants which is based upon individualized testing of such participant's knowledge and comprehension of the distance learning course materials, including, but not limited to assuring the use of:

(I) a written exam evaluated by the instructor with a passing grade of at least 70 percent;

(II) written work materials or projects evaluated by an instructor and an assessed passing grade of at least 70 percent;

(III) automated test questions with a passing score of at least 70 percent if retaking the knowledge test is not allowed; or

(IV) automated test questions with a passing score of at least 70 percent if participants are allowed to retake the knowledge test after recycling

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through the relevant distance learning course materials before retaking the testing element;

(iii) requires all records be maintained for at least six (6) years, including, but not limited to, a record of the names of the providers that were approved by such sponsor; and

(iv) requires that all providers approved by such sponsor maintain records for at least six (6) years from the date of completion of coursework, which shall include, but not be limited to, a record of the name and license number of each licensed environmental professional who has completed the provider's course, a record of the learning assessment for each licensed environmental professional, and the date each licensed environmental professional completed the course.

(B) At any time during its review of an application, the Board may require the applicant to submit any additional information as may be requested by the Board in writing.

(C) Sponsors that are approved by the Board pursuant to the requirements of this subsection shall be approved for no more than a five-year term.

(D) In the event a sponsor discontinues operation, such sponsor shall notify the Board and all records required herein shall be transferred to the possession of the Board.

(8) Distance Learning Course Approval/Disapproval

(A) For distance learning courses that have sponsor approved credit hours, a licensed environmental professional or the provider may submit an application to the Board for approval of the content if such course meets the criteria of this subsection.

(B) A provider may apply directly to the Board for approval of a distance learning course without applying for approval by a sponsor. In such case, the provider shall document or certify that:

(i) the course meets the criteria of this subsection;

(ii) the provider has and uses a consistent method of determining contact hours that are to be awarded to participants who successfully complete a provider's distance learning course, including but not limited to:

(I) use of independent course evaluators who take the distance learning course and document time spent to complete the course;

(II) is an accredited College or University; or

(III) uses a certified third party such as or equivalent to the International Association for Continuing Education and Training or the New York State Practicing Institute of Engineering;

(iii) the provider has a process and standard to be used to assess the learning of participants based upon individualized testing of each participant's knowledge and comprehension of the distance learning course materials, including but not limited to:

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(I) a written exam evaluated by the instructor with a passing grade of at least 75 percent;
(II) written work materials or projects evaluated by an instructor and an assessed passing grade of at least 70 percent;
(III) automated test questions with a passing score of at least 70 percent if retaking the knowledge test is not allowed; or
(IV) automated test questions with a passing score of at least 70 percent if participants are allowed to retake the knowledge test after recycling through the relevant distance learning course materials before retaking the testing element; and

(iv) that the provider has a document retention policy that requires that records including, but not limited to, a record of the name and license number of each licensed environmental professional who has completed the course, a record of the learning assessment for each licensed environmental professional, and the date each licensed environmental professional completed the course be maintained for at least six (6) years from the date of completion of coursework.

(C) A sponsor or provider may apply for approval of a maximum of ten (10) distance learning courses per year from the Board.

(D) The Board may conduct audits of, or request information from, a sponsor or provider. Such sponsor or provider shall fully cooperate with the Board in accommodating such audit and in providing such information in a timely manner.

(E) A determination by the Board that a sponsor or provider is not meeting the standards set forth in this section shall result in the termination of the approved status of such sponsor or provider.

[7] (9) Alternative Means to Obtain Continuing Education Credits
The Board may, upon written request from a licensee, determine that such licensee may receive up to, but no more than, [12] twelve (12) continuing education requirements, in any biennial period, for activities such as teaching a course or seminar. A request under this subdivision shall be in writing and shall include at least: a detailed description of the activities for which continuing education is sought, a copy of any instructional materials involved; the length of the activity; and the names and qualifications of persons involved. The Board may request any additional information it deems necessary regarding such activities. The Board shall determine whether such activities meet the continuing education requirements of this subsection and the Board shall provide written notice of its determination to the person who requested it. A request under this subdivision may be made either before or after such licensee has engaged in such activities.

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Sec. 22a-133v-3. Application and Examination Procedures

(a) Form and Filing of Applications

(1) Every application shall be filed with the Board. Said application shall be in writing on a current form prescribed by the Board. The applicant shall completely and accurately provide the information required on such application.

(2) An applicant may not be considered for admittance to the next scheduled examination unless at least [90] ninety (90) days before the date of such examination such applicant files with the Board a complete application. An application which is incomplete, illegible or not completed according to the instructions, or which fails to meet any other applicable requirement, shall be rejected by the Board. At any time during its review of an application, the Board may require the applicant to submit references and other information related to the applicant's moral character, employment history, education, experience, and any other matters reasonably deemed relevant by the Board.

(3) An application is not complete unless accompanied by a $235.00 examination fee. Such fee shall be paid by check or money order payable to the Department of Energy and Environmental Protection. This fee is non-refundable.

(4) Each application, including but not limited to any attachments thereto, shall be certified by the applicant who shall state in writing: "I have personally examined and am familiar with the information submitted in this document and all attachments thereto, and I certify that based upon a reasonable investigation, the submitted information is true and complete to the best of my knowledge and belief. I understand that a false statement in the submitted information may be punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes or any other applicable statute."

(5) Each application, and such copies thereof as the Board may require, shall be deemed filed with the Board on the date such application is received by the Board.

(6) Required Education/Engineering Information

Each applicant shall cause to be filed with the Board, a verification of education to demonstrate that such applicant has the minimum education requirements for licensure or a notarized verification of current licensure in Connecticut as a professional engineer in accordance with Chapter 391 of the Connecticut General Statues. Any such verification of education shall be on a form prescribed by the Board and shall be completed, certified and submitted by the educational institution(s) which issued a degree to the applicant.

(7) Review of Applications

Upon determining that an applicant is eligible for examination, the Board shall notify such applicant of the date, time, and place of the examination, the materials that may be brought into the examination and any other necessary information. Upon finding that an applicant is ineligible

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for examination, the Board shall so notify such applicant at least [30] thirty (30) days before the next scheduled examination date. An applicant determined by the Board to be ineligible for examination may reapply in accordance with the procedures set forth in subsection (a) of this section.

(8) Interviews

The Board may, in its discretion, require an applicant to appear for a personal interview regarding such applicant's application. If an applicant fails to appear for a personal interview scheduled with the Board, such applicant shall be deemed ineligible for the next scheduled examination unless the Board determines that such failure to appear was due to circumstances reasonably beyond the applicant's control.

(b) Examination

(1) Frequency and Scheduling

The Board shall establish the date, place, and time of each examination.

(2) Examination Procedures and Rules

(A) Each applicant shall be required to present at the examination:

(i) a current motor vehicle operator's license or other government-issued form of identification that contains a photograph of the applicant;
(ii) a passport; or
(iii) any other form of official identification that has been approved in advance by the Board.

(B) Applicants shall not be allowed to bring any books, notes, memoranda, scratch paper, calculators, computers, or other equipment or any other materials into the examination room unless the Board has given prior written authorization to do so.

(C) The following rules shall govern administration of the examination. Violation of any rule by an applicant shall be considered grounds for denial of a license to such applicant and may be considered grounds for disqualification of such applicant from a subsequent examination or all subsequent examinations. The following rules are not intended to be exclusive; prior to the giving of each examination, the Board may establish other rules or procedures as it deems reasonable or necessary regarding the administration of the examination.

(i) [An] an applicant shall not at any time copy an examination question or make notes relative thereto, or engage in any activity that could or would otherwise compromise the integrity of the examination.
(ii) [During] during the examination, an applicant shall not discuss the examination with anyone other than a proctor.

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(iii) [An] an applicant shall not read or copy an answer of any other applicant and shall not knowingly permit any of his answers to be read or copied by any other applicant.
(iv) [An] an applicant shall not leave the examination room at any time with anything except such items as such applicant brought into the examination room. Any note, scratch paper, or calculation made or used by an applicant during the examination shall be turned in to a proctor along with the applicant's examination and answer sheet prior to leaving the examination room.

(3) Passing Score

The Board shall establish the passing score for each environmental professional licensing examination using accepted psychometric procedures and based upon its determination of the score that should be obtained by an individual who has the requisite level of overall technical and regulatory knowledge that the Board deems reasonably necessary to carry out the responsibilities of a licensed environmental professional. The passing score established by the Board may vary from examination to examination.

(4) Examination Results

The Board shall mail the results of the examination to each individual who took it.

(5) Reapplication for Examination

An applicant who fails to achieve a passing score on the examination may take a subsequent examination if no less than [60] sixty (60) days before such examination, he files with the Board:

(A) A form prescribed by the Commissioner stating such applicant's intention to take the next scheduled examination;

(B) Payment of the $235.00 examination fee; and

(C) [(i) Certification] A certification, on a form prescribed by the Commissioner, stating that the information in the applicant's most recent application remains current and accurate, or [ii] information regarding any changes to the information in the applicant's most recent application, together with the certification set forth in subdivision (a)(4) of this section.

(c) Individuals Assisting With Examination Development

Any technical advisor or Board member participating in developing the examination may not take such examination within [2] two (2) years of participating in exam development.

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Sec. 22a-133v-4. Licensing and Delicensing Procedures

(a) Issuance of License

(1) The Board shall authorize the Commissioner to issue a license, with or without appropriate conditions, to each applicant who achieves a passing score on an examination and who otherwise in the Board's judgment satisfies the requirements of Section 22a-133v-2 of the Regulations of Connecticut State Agencies.

(2) Each license shall be effective on the date of issuance by the Commissioner and shall expire on July 1 following the date of issuance.

(b) Suspension, Revocation, Sanction or Denial of a License

(1) In addition to any other reason provided by law, including the reasons set out in section 22a-3a-5(d)(2) of the Regulations of Connecticut State Agencies, the Board may deny an application for failure to meet any of the requirements of section 22a-133v-2 of the Regulations of Connecticut State Agencies, or for any reason specified in section 22a-133v(g) of the Connecticut General Statutes, and may authorize the Commissioner to suspend or revoke a license, or impose any other sanctions that the Board deems appropriate for any reason specified in section 22a-133v-1 through 22a-133v-8, inclusive, of the Regulations of Connecticut State Agencies or section 22a-133v of the Connecticut General Statutes. All hearings regarding the denial of an application for licensure, the suspension or revocation of a license, or any sanction of a licensee shall be conducted in accordance with section 22a-133v-7 of the Regulations of Connecticut State Agencies.

(2) Any person may file a written complaint with the Board concerning the conduct of any applicant or licensee, and the Board may investigate such complaint.

(3) For the purpose of denying an application, suspending or revoking a license, or sanctioning a licensee the term "professional misconduct," as that term is used in section 22a-133v(g) of the Connecticut General Statutes shall include, but not be limited to, an action or omission which:

(A) [violates] Violates any statute, regulation, permit, or other license relevant to the activities for which such licensee is responsible;

(B) [endangers] Endangers or may endanger human health, safety, welfare or the environment;

(C) [falsifies] Falsifies, misrepresents or negligently fails to disclose any relevant fact at any time, including, without limitation, in an application for a license or license renewal, in response to a request for information by the Board, or in a report, opinion or verification;

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(D) [fails] Fails to comply with a reasonable request by the Board for any information relevant to any application, license, report or other documents submitted to the Commissioner or the Board;

(E) [demonstrates] Demonstrates a lack of good moral character, evidence of which may include, conviction in any jurisdiction of a felonious act, the submission of false or incomplete information on any application, acts involving dishonesty, fraud or deceit which have substantial connection to the professional responsibilities of a licensed environmental professional, or any act specified in section 22a-133v(g) of the Connecticut General Statutes.

(c) Clerical Errors in Licenses

(1) At any time after the issuance of a license, the Commissioner may correct clerical error(s) in a license.

(2) If at any time after the issuance of a license, any information, such as the address of the licensee, contained in such license changes, the licensee shall, within fourteen (14) days after such change, advise the Board in writing of such change.

(d) License Renewals

(1) To remain valid and effective, a licensee's license shall be renewed annually in accordance with subdivision (2) of this subsection. The provisions of subdivision (a)(4) and (a)(5) of section 22a-133v-3 of the Regulations of Connecticut State Agencies regarding the required certification and date of filing of applications, shall apply to a license renewal application. The Board may also request whatever additional information it deems necessary and may request a personal interview as is provided for in subdivision (a)(8) of section 22a-133v-3 of the Regulations of Connecticut State Agencies regarding the renewal of a licensee's license.

(2) The following specific provisions apply to license renewal and applications therefor:

(A) [an] An application to renew a license shall be made on a form prescribed by the Board and shall be filed with the Board no later than [30] thirty (30) days prior to the expiration of the current license;

(B) [an] An application to renew a license shall be accompanied by a fee of $425.00 in the form of a check or money order made payable to the Department of Energy and Environmental Protection. Such fee is non-refundable; and

(C) [in] In odd numbered calendar years, an application to renew a license shall be accompanied by documentation, on a form prescribed by the Board, that such licensee has fulfilled the continuing education requirements set forth in section 22a-133v-2(e) of the Regulations of Connecticut State Agencies.

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(e) Expired Licenses

(1) Where an individual with an expired license applies for a new license within six (6) months following license expiration, the Board may recommend to the Commissioner that a new license be granted to such individual without such individual retaking and passing the examination required under section 22a-133v-2(c) of these regulations, provided:

(A) [the] The applicant's license has not expired on more than two (2) occasions; and

(B) [the] The applicant complies with the following:

(i) if the application is being made in an odd calendar year, the applicant shall meet all the continuing education credit requirements from the last biennial period. If such applicant had a deficiency in the continuing education credit requirements for the last biennial period, the applicant shall meet the continuing education credit requirements for the last biennial period prior to applying to the Board for reinstatement. In any event, such credits shall not be used to satisfy the continuing education requirements of the new biennial period.
(ii) the application to renew the license is accompanied by the renewal fee and an additional fee of 1.5 times the fee required by section 22a- 133v-4(d)(2)(B) of the Regulations of Connecticut State Agencies;
(iii) the applicant submits an affidavit on a form prescribed by the Board on which the applicant certifies, under penalties of perjury, that the applicant has not affixed his or her seal, or allowed his or her seal to be affixed, to any document following the expiration date of the license.

(2) During the period when a license has expired and before the [commissioner] Commissioner has granted a new license in accordance with the above criteria and procedures, the individual with an expired license shall not be included on the roster of environmental professionals, shall not present themselves as a licensed environmental professional and shall not perform professional services as a licensed environmental professional.

Sec. 22a-133v-5. Design and Use of Licensed Environmental Professional's Seal

(a) Design and Procurement of a Seal

(1) Each licensee shall procure a rubber stamp or embossing device for a seal, the design, individual number, size and working of which shall conform with the specifications prescribed by the Board.

(2) Within fifteen (15) days of procuring said seal, a licensee shall stamp or emboss it upon [his] such licensee's signature on two (2) sheets of such licensee's letterhead stationery and submit the two (2) sheets to the Board.

(3) A licensee's seal is not transferable to any other person. A licensee shall report a loss or theft of [his] such licensee's seal in writing to the Board and the Commissioner no later than [15]

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fifteen (15) days after discovery. Misuse of the lost or stolen seal by others shall remain the responsibility of the licensee until notification of such loss or theft is received by both the Board and the Commissioner.

(b) Use of a Seal

(1) A licensee's seal shall only be used by such licensee in connection with verifications or other documents pertaining to verifications for which such licensee is responsible. A licensee shall only use a seal during the time when such licensee has been issued a currently valid effective license issued by the Commissioner.

(2) A licensee shall use a seal to attest that in such licensee's professional judgment, the verification, and the professional services rendered in connection with such verification, comply with the provisions of sections 22a-133o, 22a-133w, 22a-133x, 22a-133y, 22a-133aa, 22a-133bb, 22a-133ee and 22a-134a of the Connecticut General Statutes, sections 22a-133k-1 through 22a-133k-3, inclusive, section 22a-133q-1, and sections 22a-133v-1 through 22a-133v-8, inclusive, of the Regulations of Connecticut State Agencies.

(3) A licensee shall not affix such licensee's seal to any document other than a verification or other document pertaining to a verification. Where documents are bound together, the application of the seal on one sheet or page shall be considered applied to all such sheets or pages.

(4) A licensee may seal, or sign and seal, a verification or other document pertaining to a verification, provided such licensee shall prepare, and retain for a period of not less than six (6) years, records pertaining to such verification sufficient to reconstruct the basis for such verification including all alternatives considered. Such records shall clearly identify the project and the documents to which it relates, and the name of the person or organization for which the verification was conducted and the date of such verification.

(5) A licensee shall not affix, or allow such licensee's seal to be affixed, on any verification for a parcel in which the licensee or licensee's employer has a financial interest, exclusive of professional services fees.

(6) A licensee shall not affix, or allow such licensee's seal to be affixed, to any verification or any other document in any manner other than is provided for in this subsection.

Sec. 22a-133v-6. Rules of Professional Conduct

(a) Definitions

As used in this section, the term licensed environmental professional or licensee shall also include all individuals placed on an interim list of environmental professionals pursuant to section 22a-133v of the Connecticut General Statutes.

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(b) General

(1) In order to establish and maintain a high standard of integrity, skills and practice in the environmental profession and to safeguard the environment and the health, safety, property, and welfare of the public, the following rules of professional conduct shall apply to every licensed environmental professional. The Board may conduct investigations regarding the professional conduct of any licensee.

(2) Each licensee and applicant shall be deemed to be thoroughly familiar with all the provisions of this section.

(3) This section shall apply to all professional services provided by a licensee in Connecticut, even if a license issued pursuant to section 22a-133v of the Connecticut General Statutes is not required to provide such services.

(c) Professional Competency

(1) In providing professional services, a licensee shall act with reasonable care and diligence and shall apply the knowledge and skill of a licensee in good standing practicing in the applicable field at the time such services are performed.

(2) A licensee may perform professional services only when qualified by education or experience, and only to the extent such services involve activities with respect to which such licensee is so qualified. In rendering professional services, a licensee may rely, in part, upon the advice of one or more persons whom such licensee determines are qualified by education or experience to the extent that such reliance is consistent with the common and accepted practice of a licensed environmental professional.

(d) Professional Conduct

(1) In the rendering of professional services, a licensee shall, at all times, hold paramount the health, safety and welfare of the public and the environment.

(2) In rendering professional services, a licensee shall at all times:

(A) [exercise] Exercise professional judgment;

(B) [follow] Follow the requirements and procedures set forth in the applicable provisions of sections 22a-133o, 22a-133x, 22a-133y and 22a-134a of the Connecticut General Statutes, sections 22a-133k-1 through 22a-133k-3, inclusive, sections 22a-133v-1 through 22a-133v-8, inclusive, and 22a-133q-1 of the Regulations of Connecticut State Agencies, and any other statute, regulation, permit or other license, approval, or order of the Board or the Commissioner; and

(C) [make] Make a good faith and reasonable effort to identify and obtain the relevant data and other information evidencing conditions at a parcel and identify and obtain such

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additional data and other information as necessary to discharge such licensee's obligations under sections 22a-133o, 22a-133x and 22a-133y and 22a-134a of the Connecticut General Statutes, and sections 22a-133v-1 through 22a-133v-8, inclusive, and 22a-133q-1 of the Regulations of Connecticut State Agencies.

(3) If after rendering professional services at a parcel, a licensee learns that a condition at such parcel, relevant data or other information which existed at the time such services were rendered, leads to a conclusion or recommendation contrary to, or significantly different from, the one previously expressed by such licensee, such licensee shall promptly:

(A) [notify] Notify his or her client in writing of such, and

(B) [notify] Notify the Commissioner if such conclusion or recommendation was expressed to the Commissioner in a verification or other document pertaining to a verification.

(4) A licensee shall not allow the use of his name by, or associate in a business venture with, any person or firm which such licensee knows or reasonably should know is engaging in fraudulent business or professional practices.

(5) A licensee shall not, whether orally or in writing, falsify, omit or misrepresent relevant facts concerning such licensee's:

(A) [past] Past accomplishments or the academic or other qualifications of such licensee; and

(B) [employers] Employers, employees, associates, joint ventures and their past accomplishments or academic or professional qualifications.

(6) A licensee or applicant shall cooperate fully in an investigation conducted by the Commissioner or the Board.

(7) No licensee whose license has expired, and any other individual who does not have a license, shall render or offer to render professional services or represent himself as being a licensed environmental professional.

(e) Conflict of Interest

(1) A licensee shall not accept monetary or other compensation or render professional services, pertaining to a parcel, from persons having or potentially having conflicting or potentially conflicting interests, unless such licensee fully discloses in writing to each such person such conflict or potential conflict and each such person agrees in writing to utilize the services of such licensee notwithstanding such conflicting or potentially conflicting interests.

(2) A licensee shall not permit any person, other than an employer, partner, employee, or associate in a professional firm, to share in the fees for professional services [he] such licensee

renders or will render, unless the fee splitting arrangement between such licensee and any other person has been fully disclosed to and agreed to in writing by the client engaging the services of such licensee.

(3) A licensee shall conscientiously avoid a conflict or potential conflict of interest with [his] such licensee's client, but when unavoidable shall immediately upon learning of such conflict or potential conflict, fully disclose in writing to the client the nature and source of such conflict or potential conflict. If the conflict or potential conflict is irresolvable, such licensee shall terminate the rendering of professional services to such client.

(4) A licensee shall not [involve himself] be involved in any way, or in any way attempt to influence, the making of a decision by a public body on which such licensee serves regarding any work such licensee or such licensee's firm has been retained to perform.

(5) A licensee shall not directly or indirectly solicit or accept a gift, loan or other benefit other than a fee from any person, including, but not limited to a client, contractor, or subcontractor if such benefit:

(A) [influences] Influences, or reasonably gives the appearance that it could influence the judgment or findings of such licensee; or

(B) [could] Could give rise to the appearance of a conflict or impropriety.

(6) A licensee shall not solicit or accept a contract to render professional services for or from a public body on which he or she serves as a member, employee, or advisor. Such licensee shall not participate as a member, advisor, or employee of a public body with respect to actions or deliberations which pertain to services provided to such body by such licensee.

(7) A licensee shall not affix, or allow his or her seal to be affixed, on a verification for a parcel in which his or her employer has a financial interest, exclusive of professional services fees.

(8) A licensee shall not offer, directly or indirectly, to give to a person, except to a full time employee of such licensee or of such licensee's employer, or a public body any commission, political contribution, loan, gift or other consideration in order to secure work.

(f) Contingent Fees

A licensee shall not solicit, offer or render professional services pursuant to any contingent fee arrangement.

Sec. 22a-133v-7. Hearings

(a) Definitions

For the purposes of this section, the following terms shall be defined as they are defined in section 4-166 of the Connecticut General Statutes: contested case, final decision, hearing officer, presiding officer,

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intervenor, license, licensing, party and proposed final decision. The following terms shall be defined as they are defined in section 22a-133v-1 of the Regulations of Connecticut State Agencies: applicant, application, Board, examination, licensee, licensed environmental professional, and person. For the purposes of this section, the term "Board" shall, unless the context indicates otherwise, include a designee appointed by the Board to conduct a hearing.

(b) Scope and Applicability

(1) Unless otherwise provided by law, this section governs all hearings to be conducted by the Board.

(2) Notwithstanding the action of any person acting as its agent, the Board shall retain its authority to take any action authorized by law including the authority to take any action a presiding officer may take. Any action of the Board shall preempt the action of the hearing officer or other agent of the Board.

(c) Commencement and Termination of Proceedings

(1) Pursuant to section 22a-133v of the Connecticut General Statutes, a proceeding commences when the Board issues notice of the proposed revocation or suspension of a license, notice of the proposed sanction of a licensee or notice proposing to deny a license to an applicant on grounds other than the applicant's failure to pass the examination required by section 22a-133v of the Connecticut General Statutes.

(2) A proceeding terminates when (A) the Commissioner takes action in conformance with a final decision of the Board regarding the revocation, suspension or denial of a license or any other sanctions imposed upon a licensee; (B) a licensee or applicant withdraws a request for hearing filed pursuant to subsection (r) of this section; (C) the lawful time for filing a request for hearing pursuant to subsection (r) of this section has expired without the filing of such request; or (D) the Board otherwise determines that the proceeding has terminated.

(d) Computation of Time

In computing any period of time prescribed under this section for a ruling, a proposed final decision, an approval, or other action of the Board, the day of the act, event or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included unless it is a Saturday, a Sunday, or a Connecticut or federal holiday, in which case such period runs until the end of the next day which is not a Saturday, a Sunday, or a Connecticut or federal holiday.

(e) Media

Any hearing conducted pursuant to this section which is open to the public may be recorded, photographed, broadcast, or recorded for broadcast in accordance with the provisions of subsection (a) of section 1-21a of the Connecticut General Statutes, provided the hearing is not so disturbed as to impair any person's ability to hear or be heard or to present evidence or argument. In order to minimize

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disruption of a hearing, the hearing officer or Board may impose reasonable limits on any person engaged in recording, photographing, broadcasting, or recording for broadcast.

(f) Attendance

Any person who attends a hearing conducted pursuant to this section but who is not a party or a witness for a party and who does not intend to speak shall not be required to give his name or any other information or to satisfy any condition precedent to his attending the hearing.

(g) Recording of Hearings

Hearings conducted pursuant to this section shall be recorded either stenographically or electronically. The recording of a hearing or any part thereof shall be transcribed by or through the Board (1) on request of any person, provided such person shall pay the cost of transcription and recording, or (2) in accordance with section 22a-6d of the Connecticut General Statutes. Subject to the reasonable control of the Board, a party or an intervenor may record any portion of a hearing in which the Board participates. Settlement discussions conducted under subsection (s) of this section do not constitute a portion of a hearing under these regulations and shall not be recorded unless all of the participants in such discussions consent to recording.

(h) Suspension and Reconvening of Hearings

Except as provided in subdivision (s)(2) and subparagraph (hh)(3)(B) of this section, the Board, as it deems appropriate, may continue a hearing to another time and place.

(i) Disruption of Hearings

If any person disrupts a hearing or otherwise interferes with the orderly conduct of such hearing, the Board may order such person to leave such hearing or may suspend the hearing and reconvene it at an appropriate place and time.

(j) Electronic Filing

Except as provided for in subdivision (k)(8) of this section, no document submitted to the Board and no petition, request or motion may be electronically filed without the Board's consent and the consent of all parties to such proceeding.

(k) Filing, Service, and Form of Pleadings

(1) Except as otherwise provided in this subdivision, the original of any pleading which is required or allowed to be filed under this section shall be filed with the Board.

(2) The first page of every pleading shall contain a caption identifying the applicant or licensee and the application or license number or any other designation prescribed by the Board.

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(3) Every pleading shall be signed by the person filing or by his attorney or other representative, if any. The signature constitutes a representation by the signer that he has read the pleading, that to the best of his knowledge, information and belief the statements made therein are true and complete, and that the pleading is not filed for the purpose of delay or harassment.

(4) The initial pleading filed by any person shall contain the name, address and telephone number of the person filing and of his attorney or other representative, if any. Any change in this information shall, within seven (7) days after such person becomes aware of such change, be communicated in writing to the Board and to all persons upon whom pleadings shall be served under subdivision (5) of this subsection.

(5) A copy of every pleading shall be served personally or by mail upon all parties and intervenors and upon any person who, to the knowledge of the pleader, has filed a request for status as a party or intervenor but whose request has not yet been disposed of. Every pleading filed shall be accompanied by a certification in substantially the following form:

> I [name] hereby certify that a copy hereof was [personally delivered]
> [mailed in a properly addressed, first-class postage pre-paid envelope] on
> [date] to the following persons at the following addresses:
> [signature of person making service]

(6) Service of pleadings shall be complete upon personal delivery or mailing. When a pleading is served by mail, three (3) days shall be added to any time allowed for the filing of a responsive pleading.

(7) The date of the filing of any pleading required or allowed under this section shall be the date such pleading is received by the Board.

(8) No pleading shall be filed electronically without the consent of the Board and the other parties and intervenors, and no pleading shall be served electronically on any party or other person without the consent of such party or person.

(9) The Board may reject any filing for failure to comply with any requirement of this subsection.

(l) Orders, Rulings and Decisions

(1) Unless otherwise provided by law, the notice or order regarding the suspension, revocation or denial of a license, or any other sanctions imposed upon a licensee under section 22a-133v of the Connecticut General Statutes shall be served by personal delivery, by a sheriff or other indifferent person, by certified mail, return receipt requested, by first-class mail, or in the manner provided by law for service of civil process. A written ruling shall, unless distributed to all parties and intervenors at the hearing, pre-hearing conference, or oral argument, be issued by first-class mail, and three (3) days shall be added to any time allowed for the filing of a pleading responding to a ruling which has been mailed.

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(2) Unless otherwise provided by law, a ruling, proposed final decision, or final decision shall be deemed issued upon mailing or personal delivery.

(m) Powers and Duties of the Board

(1) The Board shall conduct a fair and impartial hearing, assure that the relevant facts are fully elicited, adjudicate issues of law and fact, and prevent delay and harassment.

(2) In addition to any other powers provided by law, the Board or its designee shall have the power to:

(A) Determine the scope of the hearing;

(B) Dispose of motions and requests and make all necessary or appropriate rulings;

(C) Administer oaths and affirmations;

(D) Subpoena witnesses and evidence, examine witnesses, and control the examination of witnesses;

(E) Admit or exclude evidence and rule on objections to evidence;

(F) Impose sanctions in accordance with subsection (n) of this section;

(G) Consolidate proceedings or portions thereof;

(H) Issue final decisions, or as appropriate, proposed final decisions; and

(I) Do any other acts and take any other measures appropriate to administer this section, expedite proceedings, and maintain order.

(n) Hearing Sanctions

If a party or intervenor or the attorney or other representative of a party or intervenor fails to comply with the [regulations in section 22a-133v-7 of the Regulations of Connecticut State Agencies] provisions of this section governing the conduct of hearings or with a ruling of the Board, the Board may, on motion or on its own initiative, impose sanctions, including but not limited to continuance or termination of the proceeding, exclusion of testimony or other evidence, the drawing of an adverse inference against the non-complying party or intervenor.

(o) Burdens of Proof

Unless otherwise provided by law, in a hearing to revoke, suspend or deny a license, or impose any other sanctions upon a licensee the Board shall have the burden of going forward with evidence and the burden of persuasion. In a hearing to deny an applicant a license, the applicant shall have the burden of going forward with evidence and the burden of persuasion with respect to each issue which the Board is

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required by law to consider in deciding whether to authorize the Commissioner to issue or deny such license. Each factual issue in controversy shall be determined upon a preponderance of the evidence.

(p) Representatives

A party or intervenor may appear in person or by an attorney or other representative. Attorneys shall conform to the standards of conduct and ethics required of practitioners before the courts of Connecticut.

(q) Motions

(1) A motion is any request to the Board.

(2) All motions shall (A) be in writing unless made orally on the record, (B) state with particularity the grounds therefor, and (C) set forth the relief or ruling sought.

(3) Within seven (7) days of service of a written motion or such other time as the Board may prescribe, any party or intervenor may file a response supporting or opposing the motion. The movant shall have no right to reply except as permitted by the Board.

(4) The movant shall have the burden of demonstrating that the relief or ruling sought in the motion should be granted.

(r) Requests for Hearing

(1) A request for a hearing regarding the Board's issuance of a notice to revoke, suspend or deny a license, or impose any other sanctions upon a licensee shall be filed with the Board within twenty (20) days of the Board's issuance of such notice. The request for a hearing shall be in writing and shall include a copy of the Board's notice of revocation, suspension, or denial of a license.

(2) A request for hearing shall state specifically any findings to which the licensee or applicant objects and any other grounds for contesting the Board's action to revoke, suspend or deny a license or impose any other sanctions upon a licensee. The Board may require, or any party or intervenor may file a motion requesting, a more particular statement from the licensee or applicant if the request for hearing does not give adequate notice of the grounds for contesting the Board's action to revoke, suspend, or deny a license.

(3) An application by a licensee or applicant for a more definite and detailed statement pursuant to subsection 4-177(b) of the Connecticut General Statutes shall be made no later than the date by which the request for hearing shall be filed under subdivision (1) of this subsection. The filing of such an application shall not stop the running of the time period for filing a request for hearing. The applicant may amend his or her request for hearing within twenty (20) days after the Board serves a more definite and detailed statement.

(4) Any applicant or licensee may withdraw any such request for a hearing at any time.

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(s) Scheduling Hearings and Settlement Conferences

(1) (A) Unless the notice to revoke, suspend or deny a license or impose any other sanctions upon a licensee includes notice of a scheduled hearing date, the Board may, upon the filing of a request for hearing under subdivision (1) of subsection (r) of this section, solicit comments from the parties and intervenors concerning an appropriate date and location for a hearing. Upon receipt of comments the Board shall set a date for hearing, taking into consideration any threat to public health, safety, welfare or the environment posed by the violations or conditions alleged in the notice and the parties' and intervenors' schedules.

(B) Upon scheduling the hearing, the Board shall mail notice of the time, place, and nature of the hearing to all parties and intervenors and to any person who has filed a request for status as a party or intervenor but whose request has not yet been disposed of.

(C) Upon scheduling the hearing, the Board may schedule a settlement conference. The purpose of the settlement conference is to determine whether the dispute can be resolved without a hearing and to facilitate such a resolution.

(D) If the Board determines during the settlement conference that resolution of the dispute without a hearing is likely, it may reschedule the hearing.

(E) Each party and intervenor shall appear at any settlement conference which is scheduled. If any party fails without good cause to appear, the Board may proceed with the conference.

(F) At least one of the attorneys or other representatives for each party and intervenor participating in the settlement conference shall have authority to enter into agreements and stipulations regarding all matters that the participants should reasonably anticipate may be discussed at the settlement conference.

(G) If no appearance is made by or on behalf of a party or intervenor at the settlement conference, or if a party or intervenor or his attorney or other representative is substantially unprepared or is unauthorized to participate fully in the conference or fails to participate in good faith, the Board may impose sanctions in accordance with subsection (n) of this section.

(H) Nothing in this subsection shall preclude the Board from meeting, whether on request or on its own initiative, with the parties and intervenors at any time for the purpose of facilitating settlement.

(2) Neither a settlement conference nor a hearing shall be continued at the request of a party or intervenor except upon motion demonstrating that there is good cause for a continuance. In ruling on such a motion, the Board shall consider whether a continuance would prejudice the public health, safety or welfare, or the environment. Any continuance granted shall be for a specific length of time.

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(t) Intervention

(1) A person shall be granted status as an intervening party if:

(A) A statute, including but not limited to sections 22a-19 and 22a-99 of the Connecticut General Statutes, confers a right to such status, provided that any conditions for party status specified in such statute have been satisfied; or

(B) Such person has filed a written request stating facts which demonstrate that

(i) such person's legal rights, duties or privileges will or may reasonably be expected to be affected by the decision in the proceeding,
(ii) such person will or may reasonably be expected to be significantly affected by the decision in the proceeding, or
(iii) such person's participation is necessary to the proper disposition of the proceeding.

(2) A person may be granted status as an intervenor if such person has filed a written request stating facts which demonstrate that such person's participation is in the interests of justice and will not impair the orderly conduct of the proceeding.

(3) A request for status as a party or intervenor under this subsection shall be filed no later than five (5) days before the date of the hearing, if one has been scheduled, except that such five-day requirement may be waived by the Board at any time before or after the commencement of the hearing for good cause shown. The request shall be served upon all parties and intervenors and any person known to have filed a request for status as a party or intervenor but whose request has not yet been disposed of.

(4) Unless otherwise provided by the Board, any objections to a request for party or intervenor status shall be filed within seven (7) days of the service of the request for party or intervenor status.

(5) The ruling on a request for status as a party or intervenor shall be provided to the person filing the request, all parties and intervenors, and any person who has filed a request for status as a party or intervenor but whose request has not yet been disposed of.

(6) The Board may restrict the participation in the proceeding of a person granted intervenor status under subdivision (2) of this subsection, although only to the extent necessary to promote justice and the orderly conduct of the proceeding. If a request for intervenor status under subdivision (2) of this subsection is granted, the Board shall in its ruling on the request define (A) the issues with respect to which the intervenor may participate and (B) the intervenor's rights to discovery, to introduce evidence and offer argument, and to cross-examine witnesses. The Board may at any time amend its initial ruling concerning an intervenor's participation.

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(7) Except for good cause shown, a person granted status as a party or intervenor under this subsection is bound by the Board's rulings issued as of the time such person files a request for party or intervenor status. Unless otherwise restricted pursuant to subdivision (6) of this subsection, after a person's request for party or intervenor has been granted, such person shall have the same rights, obligations, and privileges as all other parties and intervenors.

(u) Notices to Appear and Subpoenas for Hearing

(1) A party or intervenor may compel the appearance at a hearing of, or the production of documents at a hearing by, another party or intervenor by serving upon such party or intervenor a notice to appear or produce. The notice, if a notice to produce, shall state with particularity the documents which are to be produced. A copy of a notice served under this subdivision shall be filed concurrently with the Board. Except for good cause shown, a notice under this subdivision shall be ineffective unless it is received by the Board or the person to whom it is directed at least five (5) days before the time designated in the notice to appear or produce.

(2) A party or intervenor may compel the appearance at a hearing of, or the production of documents at a hearing by, any person who is not a party or intervenor by the issuance of a subpoena in accordance with the following:

(A) If the party or intervenor is represented by an attorney, the attorney may issue such subpoena pursuant to section 51-85 of the Connecticut General Statutes. To prevent harassment or unnecessary inconvenience to a subpoenaed witness, the Board may exclude the testimony of such a witness if he or she did not receive the subpoena at least five (5) days before the time designated therein to appear or produce.

(B) If the party or intervenor is not represented by an attorney, he or she may move the Board or, if the Board has designated another person to conduct the hearing, such other person to issue a subpoena requiring the appearance of the person or the production of the documents at the hearing. Except for good cause shown, such a motion shall be filed no later than [14] fourteen (14) days before the hearing commences. Such a motion shall include the name and address of the person and a description of any documents to be subpoenaed, and shall state the reason for the motion. Unless the requested subpoena would be subject to quashing under subdivision (9) of this subsection and unless the Board or its designee finds that the testimony or documents sought are clearly inadmissible, he or she shall issue the subpoena and mail or deliver it to the party or intervenor requesting it, which party or intervenor shall arrange for its service. Except for good cause shown, a subpoena issued under this subparagraph shall be ineffective unless it is received by the person to whom it is directed no later than five (5) days before the hearing commences.

(3) A subpoena issued by the Board or its designee shall contain the name of the Board and the title of the proceeding, and shall command the person to whom it is directed to appear to produce specified documents at a designated time and place.

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(4) Upon notice to the parties and intervenors, the Board or its designee may on its own initiative issue a notice or subpoena requiring the appearance of a party, intervenor, or other person or the production of documents at a hearing. The form and service of such notice or subpoena shall be as described in subdivision (1) or (3) of this subsection, as the case may be, of this subsection, and such notice or subpoena shall be subject to the provisions of subdivision (5) of this subsection.

(5) On motion made or on his or her own initiative, the Board or its designee may: (A) quash, modify, or issue a protective order with respect to a subpoena to appear or produce issued by the Board or its designee or a notice to appear if such notice or subpoena is unreasonable or requests evidence that is irrelevant or immaterial or (B) condition denial of the motion on such terms as the Board or its designee deems appropriate.

(6) A subpoena to appear or produce issued by the Board or its designee shall advise that such subpoena may be quashed, modified, or subjected to a protective order in accordance with subdivision (5) of this subsection.

(7) A notice to appear or produce shall be personally served by a sheriff or other indifferent person or by certified mail, return receipt requested. A subpoena to appear or produce issued by the Board or its designee shall be personally served by a sheriff or other indifferent person.

(8) If any party or intervenor fails to comply with a notice to appear or produce, the Board or its designee may impose sanctions in accordance with subsection (n) of this section. If any person fails to comply with a subpoena it issues, the Board may apply to the superior court for enforcement of the subpoena in accordance with section 4-177b of the Connecticut General Statutes.

(9) A subpoena or notice to appear directed to any member of the Board shall be quashed unless there is a clear showing by the party or intervenor who served the notice to appear or on whose behalf the subpoena was issued that such member of the Board has personal knowledge of relevant and material facts, that no other person has knowledge of such facts, and that it would work an injustice if such member of the Board did not testify.

(v) Discovery

(1) A party or intervenor may obtain discovery only as provided in this subsection. Nothing in this subsection shall require the disclosure of materials protected from disclosure under section 1-19 of the Connecticut General Statutes or any other provision of law.

(2) Discovery under this subsection may commence after the filing of a request for hearing under subsection (r) of this section or the scheduling of a hearing by the Board.

(3) (A) Except as provided in subparagraph (B) of this subdivision, a party or intervenor may serve upon any other party or intervenor a request to inspect, copy, photograph or otherwise reproduce designated documents (including but not limited to writings, drawings, graphs, charts, photographs, audio or video recordings, or computer records)

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which are relevant and material to the subject of the proceeding, which are in the possession, custody or control of the party, intervenor, or other person upon whom the request is served, and which can be provided by the disclosing party, intervenor, or person with substantially greater facility than they could otherwise be obtained by the party or intervenor seeking disclosure. The request shall clearly designate the documents to be inspected and copied and shall specify a reasonable place and manner of making the inspection and copies. A copy of the request shall be concurrently filed with the Board and served on all other parties and intervenors. Unless the parties and intervenors agree otherwise or the Board provides otherwise, the cost of copying documents shall be borne by the party or intervenor requesting discovery. Nothing in this section shall be construed to require that a party or intervenor conduct any analysis or other manipulation of computer data.

(B) A party or intervenor may serve a discovery request upon another party or intervenor who is not represented by counsel only with the Board's prior approval. A motion to the Board seeking such approval shall:

(i) include a copy of the proposed discovery request, which request shall conform to the provisions of subparagraph (A) of this subdivision; and
(ii) demonstrate that such request is genuinely necessary and appropriate to achieve a just and expeditious resolution of the proceeding.

(4) A party or intervenor upon whom a request for discovery is served shall either:

(A) [comply] Comply with the request within [14] fourteen (14) days of service thereof; or

(B) [file] File an objection to the request or any part thereof within seven (7) days of service thereof.

It shall not be ground for objection that the documents sought will be inadmissible at hearing if they appear reasonably calculated to lead to the discovery of admissible evidence. Compliance with a request for discovery shall consist, at the discretion of the complying party or intervenor, either of allowing inspection and copying or of providing the requester with clean, legible copies of the originals, together with an affidavit by a person with knowledge stating that the copies are true and accurate copies of the originals. Objection to certain parts of a request for discovery shall not relieve the objecting party or intervenor of the obligation to comply with those parts of the request to which no objection has been made. An objection shall state with particularity the grounds therefor. The party or intervenor making the request, and any other party or intervenor, may file a response to an objection within five (5) days of service thereof. If the Board overrules an objection, compliance with the request shall be made at a time set by the Board.

(5) All evidentiary privileges recognized at common law or provided by the Connecticut General Statutes, as well as the work product privilege as set forth in Chapter 8 of the Connecticut Superior Court Rules, shall apply to discovery under this subsection.

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(6) Whether compliance with a request to inspect and copy documents is made by providing copies of documents or by allowing inspection and copying, the complying party or intervenor shall at the time of compliance furnish the requesting party or intervenor with an affidavit by a person with knowledge stating that the documents produced constitute a full and complete response to the request.

(7) If at any time after complying with a request for discovery, the complying party or intervenor discovers that there are or may be additional or new documents responsive to the request, within five (5) days of such discovery he or she shall supplement his prior document production response.

(8) If a party or intervenor upon whom a request for discovery has been served neither objects to the request nor complies with it in good faith, or does not obey a ruling on an objection made under subdivision (4) of this subsection, the Board may impose sanctions in accordance with subsection (n) of this section. Except for good cause shown, the Board shall not enforce multiple discovery requests by the same party or intervenor.

(9) A party or intervenor may move the Board or, if the Board has designated another person to conduct the hearing, such other person to issue a subpoena requiring that a person who is not a party or intervenor produce documents for the purpose of discovery. Such motion shall include the name and address of the person to whom the subpoena is to be directed and a description of the documents to be subpoenaed, and shall state the reason for the motion. A motion under this subdivision prepared by an attorney shall include a draft of the subpoena requested. Any party or intervenor making a motion under this subdivision shall serve a copy of such motion upon the person who is the subject of the requested subpoena and shall give notice in the motion that such person may, within seven (7) days of service thereof, file an objection to issuance of the subpoena. Unless the Board or its designee finds that the material sought is irrelevant and immaterial, it shall issue the subpoena and mail or deliver it to the party or intervenor requesting it, which party or intervenor shall arrange for its service. Except for good cause shown, a subpoena issued under this subdivision shall be ineffective unless it is received by the person to whom it is directed no later than five (5) days before the date prescribed for production of the documents. A subpoena issued under this subdivision shall contain the information described in subdivisions (3) and (6) of subsection (u) of this section, shall be served in accordance with subdivision (7) of subsection (u) of this section, and may be quashed, modified, or subjected to a protective order in accordance with subdivision (5) of subsection (u) of this section. The Board may enforce a subpoena issued under this subdivision in accordance with subdivision (8) of subsection (u) of this section.

(w) Preservation of Evidence

The Board may provide by any appropriate means, including the taking of oral testimony by deposition, for the preservation of relevant and material evidence when the Board determines that there is a serious likelihood that such evidence will be unavailable at the time of the hearing. The Board or its designee may issue subpoenas as necessary to carry out the provisions of this subsection.

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(x) Prehearing Conferences

(1) The Board may encourage prehearing conferences to simplify the hearing and aid in a speedy and fair disposition of the proceeding. To those ends, the Board may, on motion or on its own initiative, schedule and hold a prehearing conference among the parties and intervenors to:

(A) Clarify and simplify the factual issues for hearing, identify the legal issues in dispute, and determine whether any legal issues should be briefed before the hearing;

(B) Stipulate to facts and the admissibility of testimony and other evidence;

(C) Identify and, as appropriate, limit witnesses to be called and documents to be offered at the hearing, and identify the matters about which each witness will testify;

(D) Mark exhibits to be admitted or offered into evidence;

(E) Dispose of pending motions and disputes about discovery; and

(F) Take such other actions as may aid in the orderly and expeditious disposition of the proceeding.

(2) The prehearing conference shall, unless impracticable, be held at least fourteen (14) days before the hearing commences.

(3) Each party and intervenor shall appear at the prehearing conference. If any party or intervenor fails without good cause to appear, the Board may proceed with the conference and may make decisions concerning all matters for which the conference was scheduled, which decisions shall bind all parties and intervenors.

(4) At least one of the attorneys or other representatives for each party and intervenor participating in the prehearing conference shall have authority to enter into stipulations and to make admissions regarding all matters that the participants should reasonably anticipate may be discussed at the prehearing conference.

(5) After the prehearing conference, the Board may, and at the request of any party or intervenor shall, issue a prehearing conference order reciting the actions taken at the prehearing conference. The prehearing conference order shall, unless modified by the Board on the record, control the subsequent course of the proceeding. A prehearing conference order shall be modified only for good cause.

(6) If no appearance is made by or on behalf of a party or intervenor at a prehearing conference, or if a party or intervenor or his attorney or other representative is substantially unprepared or is unauthorized to participate fully in the conference or fails to participate in good faith, or if a party or intervenor or his attorney or other representative fails to obey a prehearing conference order, the Board may impose sanctions in accordance with subsection (n) of this section or may grant an appropriate continuance to any party or intervenor prejudiced by the disobedience, or both.

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(y) Advance Submission of Proposed Evidence

(1) In a proceeding on an application the applicant shall, regardless whether a prehearing conference is held and unless an earlier filing is required by the Board or a later filing is allowed for good cause shown, file no later than fifteen (15) days before the hearing:

(A) A copy of all documents, including the application and any amendments thereto, which the applicant plans to offer into evidence at the hearing;

(B) A list of witnesses the applicant plans to call at the hearing and a summary of the matters about which each witness will testify; and

(C) For each expert witness the applicant plans to call, a resume and a statement of the facts and opinions about which the expert will testify and a summary of the grounds for each opinion.

At the time the applicant files the foregoing papers, he or she shall serve a copy thereof on all parties and intervenors.

(2) Prior to any hearing the Board may, on motion or its own initiative, direct any party or intervenor to file before the hearing the following materials, provided that a party or intervenor planning to offer written testimony on direct examination shall be required to file such testimony no later than ten (10) days before the hearing:

(A) A copy of all documents which the party or intervenor plans to offer into evidence at the hearing;

(B) A list of witnesses the party or intervenor plans to call at the hearing and a summary of the matters about which each witness will testify;

(C) For each expert witness the party or intervenor plans to call, a resume and a statement of the facts and opinions about which the expert will testify and a summary of the grounds for each opinion; and

(D) Any other or additional material.

(3) Upon objection by a party or intervenor, the Board shall not admit into evidence any document or testimony which was not submitted or identified before the hearing, in accordance with subdivision (1) of this subsection or a ruling under subdivision (2) of this subsection, unless the party or intervenor offering the document or testimony demonstrates good cause for the failure to submit or identify it earlier. If the Board admits such document or testimony, [he or she] the Board may grant an appropriate continuance to any party or intervenor prejudiced thereby.

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(z) Oaths

The Board shall administer the oath or affirmation, in accordance with Chapter 4 of the Connecticut General Statutes, to each witness, including a speaker who gives sworn testimony pursuant to subsection (bb) of this section, before any evidence is taken from such witness.

(aa) Evidence, Objections, Offers of Proof

(1) Evidence shall be received in accordance with section 4-178 of the Connecticut General Statutes. The Board shall not admit any evidence which is irrelevant, immaterial, unduly repetitious, untrustworthy, or unreliable.

(2) Subject to the reasonable control of the Board, all parties shall have the right to cross-examine any witness, including any speaker who gives sworn testimony pursuant to subsection (bb) of this section.

(3) The Board may admit into evidence, in lieu of oral testimony on direct examination, a written statement of fact or opinion prepared by a witness, other than a speaker who gives sworn testimony pursuant to subsection (bb) of this section, provided that any requirements for prehearing submission of documents have been satisfied. The admissibility of the contents of the statement shall be subject to the same evidentiary rules as if such contents were presented as oral testimony. Before any such statement is read or admitted into evidence, the witness shall provide a copy of the statement to the Board, the court reporter if there is one, and all parties and intervenors. The witness presenting the statement shall swear to or affirm the statement and shall be subject to cross-examination on the contents thereof.

(4) Any objection to the admission of evidence shall be supported by a concise statement of the grounds therefor. The Board's ruling on the objection shall be part of the record.

(5) Whenever evidence is excluded, the party or intervenor offering the evidence may make an offer of proof. An offer of proof for excluded testimony shall consist, at the discretion of the Board, of either the excluded testimony or a summary thereof. An offer of proof for excluded documents shall consist of the insertion in the record of the documents excluded. At the discretion of the Board, an offer of proof may be subject to cross-examination.

(bb) Speakers

Any person who is not a party or intervenor nor called by a party or intervenor as a witness may make an oral or written statement at the hearing. Such a person shall be called a speaker. If the Board is going to consider a speaker's statement of evidence or if the speaker wants his or her statement to be considered evidence, the Board shall require that the statement be made under oath or affirmation and shall permit the parties and intervenors to cross-examine the speaker and to challenge or rebut the statement. A speaker may decline to be cross-examined, but the Board shall strike from the record any comments by such speaker relating to the subject on which he or she declines to be cross-examined. The Board may control the time and duration of a speaker's presentation, and may exclude irrelevant, immaterial, or

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unduly repetitious comments by a speaker. A speaker shall not be entitled to cross-examine parties, intervenors, or other speakers or to object to evidence or procedure.

(cc) Failure to Appear

(1) If an applicant or a licensee fails to appear at a scheduled hearing, the request for hearing filed under subdivision (1) of subsection (r) of this section shall be deemed withdrawn and any right to a hearing waived. The applicant or licensee may, within no more than fourteen (14) days after the scheduled hearing date, move the Board to reopen the proceeding. Any such motion shall be denied unless the movant demonstrates that there was compelling reason for his or her failure to appear.

(2) If an applicant or a licensee does not appear at a scheduled hearing and does not file a timely motion to reopen, or files a timely motion to reopen but the motion is denied, the Board shall authorize the Commissioner to revoke, suspend or deny such license, as the case may be.

(3) If a party or intervenor does not appear at an oral argument scheduled upon his or her request, such request shall be deemed withdrawn and any right to oral argument waived. Such party may, within no more than fourteen (14) days after the scheduled oral argument date, move the Board to reschedule oral argument. The motion shall be denied unless the movant demonstrates that there was compelling reason for the failure to appear, and the Board may proceed to issue the final decision.

(dd) The Record

(1) In addition to the items specified in section 4-177(d) of the Connecticut General Statutes, for the purposes of a Board proceeding the record shall include:

(A) [any] Any briefs or exceptions filed before or after issuance of the proposed final decision, and

(B) [any] Any correspondence between the Board and any party, intervenor, or other person concerning the proceeding.

(2) The evidentiary record shall be maintained separately from the rest of the record. The evidentiary record shall consist, in addition to the recording of the hearing, of all documents offered into evidence (exhibits), regardless whether they are admitted. Exhibits which are not admitted shall be marked "for identification."

(3) The Board shall not deem a transcript of a hearing to be part of the record, and shall not transmit a transcript of a hearing to the superior court in the event of an appeal from a Board proceeding, unless such transcript was prepared by or through the Board and the sealed original of such transcript, if not prepared by the Board, was delivered directly by the transcriber to the Board.

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(ee) Voluntary Termination of Proceedings

The Board may voluntarily terminate proceedings by revoking a notice issued in accordance with subsection (c) of this section at any time before a final decision is issued, provided that it shall give notice to the parties and intervenors of its intent to terminate any such proceedings. Objections to such revocation may be filed with the Board within seven (7) days of the service of such notice. Nothing herein shall preclude the Board from revoking a notice issued in accordance with subsection (c) of this section after a proceeding has terminated.

(ff) New Evidence

Unless the Board rules otherwise, after the hearing no further evidence shall be admitted unless it is relevant and material and there was good cause for the failure to offer it at the hearing. Whenever new evidence is admitted after the hearing, the other parties and intervenors shall be allowed an opportunity to respond to the evidence, including, if appropriate, an opportunity to cross-examine the person offering the evidence. Nothing in this subsection shall affect the provisions and requirements of subsection (ii) of this section.

(gg) Post-Hearing Legal Submissions

The Board may require or allow the parties and intervenors to file post-hearing briefs and proposed findings of fact and conclusions of law. Any assertions of fact in such briefs and findings should be supported by reference to specific portions of the evidentiary record supporting any such assertion(s).

(hh) Proposed Final Decisions and Final Decisions

(1) After the hearing and the filing of any post-hearing legal submissions, the Board shall issue a final decision in accordance with section 4-180 of the Connecticut General Statutes and subparagraph (3)(D) of this subsection authorizing action by the Commissioner, provided that if a designee of the Board conducted the hearing, the designee shall issue a proposed final decision in accordance with section 4-179 of the Connecticut General Statutes; provided further that if the Board has authorized such designee to issue a final decision, he shall issue a final decision in accordance with such section and subparagraph authorizing action by the Commissioner.

(2) At any time after issuance of a proposed final decision but before oral argument held pursuant to subdivision (3) of this subsection, the Board may correct such decision for clerical errors and for errors of fact or law.

(3) (A) Unless otherwise specified by the Board, within fifteen (15) days after personal delivery or mailing of the proposed final decision any party or intervenor may file with the Board exceptions thereto. Exceptions shall state with particularity the party's or intervenor's objections to the proposed final decision, and may not raise legal issues or, subject to subsection (gg) of this section, factual issues which could have been, but were not raised at the hearing. Exceptions may be accompanied by a request for oral argument.

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(B) Upon receipt of timely-filed exceptions or on its own initiative, the Board shall send notice to all parties and intervenors of the date by which they may file briefs concerning the proposed final decision. Upon receipt of a timely request for oral argument or on its own initiative, the Board shall schedule oral argument and send notice of the time and place thereof to all [parties and intervenors; such notice] parties and intervenors. Such notice shall also specify the date by which the parties and intervenors may file briefs concerning the proposed final decision. Any assertions of fact in briefs filed pursuant to this subparagraph should be supported by reference to specific portions of the evidentiary record. The date for filing briefs or for oral argument shall not be continued at the request of any party or intervenor except upon motion demonstrating that there is good cause for a continuance and that a continuance will not prejudice public health, safety, or welfare or the environment.

(C) Unless the Board rules otherwise, oral argument shall be limited to the issues raised in timely-filed exceptions. The Board may control the oral argument so as to allow all parties and intervenors a reasonable opportunity to present argument.

(D) After the issuance of the proposed final decision, the filing of any exceptions and briefs, and presentation of any oral argument, the Board shall issue a written final decision in accordance with section 4-180 of the Connecticut General Statutes authorizing action by the Commissioner. In its final decision the Board may affirm, modify, or reverse the proposed final decision, in whole or in part, or may remand to the Board for further proceedings, including the taking of further evidence. Any such further proceedings shall be governed by this section. Any final decision by the Board may contain whatever conditions the Board deems appropriate, including, but not limited to, conditions to be imposed by a license that the Board authorizes the Commissioner to issue to an applicant or to a licensee.

(ii) Reconsideration

(1) On motion made or its own initiative, the Board may reconsider, reverse, modify, or correct a final decision in accordance with section 4-181a of the Connecticut General Statutes. In addition, the Board may open a final decision upon a showing that:

(A) [the] The final decision was prejudiced by fraud, misrepresentation, or other misconduct of a party or intervenor, or

(B) [there] There is [other] another compelling reason for opening the final decision.

(2) Any further proceedings required by a ruling under subdivision (1) of this subsection shall be conducted in accordance with this section.

[parties and intervenors; such notice]

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(Statement of Purpose page)

Statement of Purpose

Pursuant to CGS Section 4-170(b)(3), "Each proposed regulation shall have a statement of its purpose following the final section of the regulation." Enter the statement here.

Statement of Purpose

STATE BOARD OF EXAMINERS OF ENVIRONMENTAL PROFESSIONALS

The purpose of the proposed amendments to the regulations regarding the State Board of Examiners of Environmental Professionals (the LEP Board), section 22a-133v-1 and 22a-133v-2 of the Regulations of Connecticut State Agencies ("RCSA") and new subsection 22a-133v-2(e)(7) and (8) of the RCSA, is to allow for the taking of distance learning courses to comply with continuing education requirements of the regulations. This provides definitions and allows the Board the flexibility within the regulations to approve distance learning courses and provides the structure such courses would need to maintain in order to be approved by the Board ensuring the integrity of the continuing education requirements.

The Department has worked closely with the LEP Board to develop the referenced amendments.

The proposed amendments will not affect any other existing laws or regulations.

The proposal contains the following regulatory amendments in addition to several technical changes for consistency throughout the regulations:

Section 22a-133v-1

Added several definitions. Defined course, distance learning, distance learning provider and distance learning sponsor.

Section 22a-133v-2

Amendments to subsection 22a-133v-2 are proposed to allow the board of examiners the flexibility to consider distance learning courses to comply with the continuing education requirements in the LEP regulations.

(NEW) Subsection 22a-133v-2(e)(7)and (8)

Amendment to add new subsections 22a-133v-2(e)(7) and (8) is proposed to define the requirements and the process that distance learning course providers and sponsors must follow to apply for continuing education credit and to ensure the structure of the course provides for accountability and maintains the integrity of the continuing course approval process.

R-39 Rev. 08/2012
(Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

1) **I hereby certify that the above** *(check one)* ☒ Regulations ☐ Emergency Regulations

2) **are** *(check all that apply)* ☒ adopted ☒ amended ☐ repealed **by this agency pursuant to the following authority(ies):** *(complete all that apply)*

a. *Connecticut General Statutes* section(s) 22a-6 and 22a-133v.

b. Public Act Number(s) not applicable.
(Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)

3) **And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the *Connecticut Law Journal* on** October 12, 2010;
(Insert date of notice publication if publication was required by CGS Section 4-168.)

4) **And that a public hearing regarding the proposed regulations was held on** July 23, 2014;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)

5) **And that said regulations are EFFECTIVE** *(check one, and complete as applicable)*

☒ When filed with the Secretary of the State

OR ☐ on *(insert date)* _____

DATE	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZED
6/26/15		Robert J. Klee

***APPROVED** by the **Attorney General** as to legal sufficiency in accordance with CGS Section 4-169, as amended*

DATE	SIGNED *(Attorney General or AG's designated representative)*	OFFICIAL TITLE, DULY AUTHORIZED
6/29/15	Joseph Rubin	Associate Attorney General

*Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.*

(For Regulation Review Committee Use ONLY)

☐ Approved ☐ Rejected without prejudice

☒ Approved with technical corrections and deletions ☐ Disapproved in part, *(Indicate Section Numbers disapproved only)*

☐ Deemed approved pursuant to CGS Section 4-170(c) or (for emergency regulations) CGS Section 4-168(f)(2)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED *(Administrator, Legislative Regulation Review Committee)*
	7-28-15	

Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED *(Secretary of the State)*	BY

(For Secretary of the State Use ONLY)

R-39 Rev. 02/2012
(Certification page—see Instructions on back)

CERTIFICATION

This certification statement must be completed in full, including items 3 and 4, if they are applicable.

1) **I hereby certify that the above** *(check one)* ☒ Regulations ☐ Emergency Regulations

2) **are** *(check all that apply)* ☒ adopted ☒ amended ☐ repealed **by this agency pursuant to the following authority(ies):** *(complete all that apply)*

   a. *Connecticut General Statutes* section(s) 22a-6 and 22a-133v.

   b. Public Act Number(s) not applicable.
   (Provide public act number(s) if the act has not yet been codified in the Connecticut General Statutes.)

3) **And I further certify that notice of intent to adopt, amend or repeal said regulations was published in the *Connecticut Law Journal* on** October 12, 2010;
(Insert date of notice publication if publication was required by CGS Section 4-168.)

4) **And that a public hearing regarding the proposed regulations was held on** July 23, 2015;
(Insert date(s) of public hearing(s) held pursuant to CGS Section 4-168(a)(7), if any, or pursuant to other applicable statute.)

5) **And that said regulations are EFFECTIVE** *(check one, and complete as applicable)*
   ☒ When filed with the Secretary of the State

   OR ☐ on *(insert date)* _____

DATE	SIGNED *(Head of Board, Agency or Commission)*	OFFICIAL TITLE, DULY AUTHORIZED
February 27, 2015		Robert J. Klee, Commissioner

***APPROVED** by the **Attorney General** as to legal sufficiency in accordance with CGS Section 4-169, as amended*

DATE	SIGNED *(Attorney General or AG's designated representative)*	OFFICIAL TITLE, DULY AUTHORIZED
3/11/15	Joseph Rubin	ASSOC. ATTY. GENERAL

*Proposed regulations are **DEEMED APPROVED** by the Attorney General in accordance with CGS Section 4-169, as amended, if the attorney General fails to give notice to the agency of any legal insufficiency within thirty (30) days of the receipt of the proposed regulation.*

(For Regulation Review Committee Use ONLY)

☐ Approved ☒ Rejected without prejudice

☐ Approved with technical corrections ☐ Disapproved in part, *(Indicate Section Numbers disapproved only)*

☐ Deemed approved pursuant to CGS Section 4-170(c)

By the Legislative Regulation Review Committee in accordance with CGS Section 4-170, as amended	DATE	SIGNED *(Administrator, Legislative Regulation Review Committee)*
	5-26-15	

Two certified copies received and filed and one such copy forwarded to the Commission on Official Legal Publications in accordance with CGS Section 4-172, as amended.

DATE	SIGNED *(Secretary of the State)*	BY

(For Secretary of the State Use ONLY)