

**Additions from PA 07-81 (the LEP Bill, effective 10/1/07)**

**Sec. 22a-134(19) reads as follows:**

(19) "Verification" means the rendering of a written opinion by a licensed environmental professional on a form prescribed by the commissioner that an investigation of the parcel has been performed in accordance with prevailing standards and guidelines and that the establishment has been remediated in accordance with the remediation standards.

**Additions from PA 07-233 (the Brownfields Bill, effective 7/1/07)**

**CGS Section 22a-134a now reads as follows:**

(a) No person shall transfer an establishment except in accordance with the provisions of sections 22a-134 to 22a-134e, inclusive, as amended by this act. Notwithstanding any provision of sections 22a-134 to 22a-134e, inclusive, as amended by this act, a person appointed by the Superior Court or any other court to sell, convey or partition real property or a person appointed as a trustee in bankruptcy shall not be deemed a party associated with the transfer of an establishment and shall not be required to comply with the provisions of sections 22a-134 to 22a-134e, inclusive, as amended by this act.

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

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

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

(e) Not later than thirty days after receipt of a Form III or Form IV, the commissioner shall notify the certifying party whether the form is complete or incomplete. The

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

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

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

investigate the parcel and remediate the establishment in accordance with the proposed schedule or the schedule specified by the commissioner. When remediation of the entire establishment is complete, the certifying party shall submit to the commissioner a final verification by a licensed environmental professional. Any such final verification may include and rely upon a verification for a portion of the establishment submitted pursuant to subdivision (2) of this subsection. Verifications shall be submitted on a form prescribed by the commissioner.

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

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

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

(C) The commissioner shall not conduct an audit of a final verification of an entire establishment after three years from receipt of such verification pursuant to this subdivision unless (i) the commissioner has reason to believe that a verification was obtained through the submittal of materially inaccurate or erroneous information, or otherwise misleading information material to the verification or that misrepresentations were made in connection with the submittal of the verification, (ii) a verification is submitted pursuant to an order of the commissioner pursuant to subdivision (j) of section 22a-134a, (iii) any post-verification monitoring, or operations and maintenance, is required as part of a verification and which has not been done, (iv) a verification that

relies upon an environmental land use restriction was not recorded on the land records of the municipality in which such land is located in accordance with section 22a-133o and applicable regulations, (v) the commissioner determines that there has been a violation of sections 22a-134 to 22a-134e, or (vi) the commissioner determines that information exists indicating that the remediation may have failed to prevent a substantial threat to public health or the environment.

(h) (1) If the commissioner notifies the certifying party to a Form III or Form IV that the commissioner's review and written approval of the investigation of the parcel and remediation of the establishment is required, such certifying party shall, on or before thirty days of the receipt of such notice or such later date as may be approved in writing by the commissioner, submit for the commissioner's review and written approval a proposed schedule for: (A) Investigating the parcel and remediating the establishment; (B) submitting to the commissioner scopes of work, technical plans, technical reports and progress reports related to such investigation and remediation; and (C) providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Upon the commissioner's approval of such schedule, such certifying party shall, in accordance with the approved schedule, submit scopes of work, technical plans, technical reports and progress reports to the commissioner for the commissioner's review and written approval. Such certifying party shall perform all actions identified in the approved scopes of work, technical plans, technical reports and progress reports in accordance with the approved schedule. The commissioner may approve in writing any modification proposed in writing by such certifying party to such schedule or investigation and remediation. The commissioner may, at any time, notify such certifying party in writing that the commissioner's review and written approval is not required and that a licensed environmental professional may verify that the remediation has been performed in accordance with the remediation standards.

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

(i) The certifying party to a Form III or Form IV shall (1) publish notice of the remediation, in accordance with the schedule submitted pursuant to this section, in a newspaper having a substantial circulation in the area affected by the establishment, (2)

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

(j) The commissioner may issue an order to any person who fails to comply with any provision of sections 22a-134 to 22a-134e, inclusive, [as amended by this act](#), including, but not limited to, any person who fails to file a form, or files an incomplete or incorrect form or to any person who fails to carry out any activities to which that person agreed in a Form III or Form IV. If no form is filed or if an incomplete or incorrect form is filed for a transfer of an establishment, the commissioner may issue an order to the transferor, the transferee, or both, requiring a filing. The commissioner may also request that the Attorney General bring an action in the superior court for the judicial district of Hartford to enjoin any person who fails to comply with any provision of sections 22a-134 to 22a-134e, inclusive, [as amended by this act](#), including, but not limited to, any person who fails to file a form, improperly files a Form I, Form II, Form III or Form IV or the certifying party to a Form III or Form IV to take any actions necessary to prevent or abate any pollution at, or emanating from, the subject establishment. Any person to whom such an order is issued may appeal such order in accordance with the procedures set forth in sections 22a-436 and 22a-437.

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

(l) Notwithstanding any other provisions of this section, no person shall be required to comply with the provisions of sections 22a-134 to 22a-134e, inclusive, [as amended by this act](#), when transferring real property (1) (A) for which a Form I or Form II has been filed for the transfer of the parcel on or after October 1, 1995, or (B) for which parcel a Form III or Form IV has been filed and which has been remediated and such remediation has been approved in writing by the commissioner or has been verified in writing in accordance with this section by a licensed environmental professional that an investigation has been performed in accordance with prevailing standards and guidelines and that the remediation has been performed in accordance with the remediation standards, and (2) at which no activities described in subdivision (3) of section 22a-134 have been conducted since the date of such approval or verification or the date on which the Form I or Form II was filed.

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