

**2009 Changes to the Connecticut General Statutes Affecting
Remediation Division Programs**
[\[PA 09-235\]](#) and [\[PA 09-3\]](#)

Eight sections of the CGS administered by the Remediation Division and three sections of the CGS affecting Brownfields were revised as a result of the 2009 Legislative session. Two additional sections in PA 09-235 created a new Abandoned Brownfield Cleanup Program and changed requirements for contracts for remediating Brownfields, respectively.

CGS § 22a-133v

(as amended by Section 404 of PA 09-3)

(a) As used in this section: (1) "Environmental professional" means a person who is qualified by reason of his knowledge, as specified in subsection (e) of this section, to engage in activities associated with the investigation and remediation of pollution and sources of pollution including the rendering or offering to render to clients professional services in connection with the investigation and remediation of pollution and sources of pollution; (2) "pollution" means pollution, as defined in section 22a-423; and (3) "commissioner" means the Commissioner of Environmental Protection or his designated agent.

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

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

(d) The commissioner shall receive and account for all moneys derived under the provisions of this section and shall deposit such moneys in the [General Fund](#). The board shall keep a register of all applications for licenses with the actions of the board thereon. A roster showing the names of all licensees shall be prepared each year. A copy of such roster shall be placed on file with the Secretary of the State.

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

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

(g) The board may conduct investigations concerning the conduct of any licensed environmental professional. The commissioner may conduct audits of any actions authorized by law to be performed by a licensed environmental professional. The board shall authorize the commissioner to: (1) Revoke the license of any environmental professional; (2) suspend the

license of any environmental professional; (3) impose any other sanctions that the board deems appropriate; or (4) deny an application for such licensure if the board, after providing such professional with notice and an opportunity to be heard concerning such revocation, suspension, other sanction or denial, finds that such professional has submitted false or misleading information to the board or has engaged in professional misconduct including, without limitation, knowingly or recklessly making a false verification of a remediation under section 22a-134a, or violating any provision of this section or regulations adopted under the provisions of this section.

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

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

Effective October 1, 2009

CGS § 22a-133x

(as amended by Section 10 of PA 09-235 and Section 405 of PA 09-3)

(a) [For the purposes of this section, "applicant" means the person who submits the environmental condition assessment form to the commissioner pursuant to this section.](#) Except as provided in section 22a-133y, [any person](#) may, at any time, submit to the commissioner an environmental condition assessment form for real property and an initial review fee in accordance with subsection (e) of this section. [Such applicant](#) shall use a licensed environmental professional to verify the investigation and remediation, unless not later than thirty days after the commissioner's receipt of such form, the commissioner notifies [such applicant](#), in writing, that review and written approval of any remedial action at such property by the commissioner will be required. The commissioner shall not process any such form submitted pursuant to this section unless such form is accompanied by the required initial review fee.

(b) The [applicant](#) shall, on or before ninety days after the submission of an environmental condition assessment form, submit a statement of proposed actions for investigating and remediating the parcel or a release area, as defined in the regulations adopted by the commissioner pursuant to section 22a-133k, and a schedule for implementing such actions. The commissioner may require the [applicant](#) to submit to the commissioner copies of technical plans and reports related to investigation and remediation of the parcel or release area. Notwithstanding any other provision of this section, the commissioner may determine that the commissioner's review and written approval of such technical plans and reports is necessary at any time, and in such case the commissioner shall notify the [applicant](#) of the need for the commissioner's review and written approval. The commissioner shall require that the certifying party submit to the commissioner all technical plans and reports related to the investigation and remediation of the parcel or release area if the commissioner receives a written request from any person for such information. The [applicant](#) shall advise the commissioner of any modifications to the proposed schedule. Upon receipt of a verification by a licensed environmental professional that the parcel or release area has been investigated in accordance with prevailing standards and guidelines and remediated in accordance with the remediation standards, the [applicant](#) shall submit such verification to the commissioner on a form prescribed by the commissioner.

(c) If the commissioner notifies the [applicant](#) that the commissioner will formally review and approve in writing the investigation and remediation of the parcel, the [applicant](#) 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: (1) Investigating and remediating the parcel or release area; and (2) submitting to the commissioner technical plans, technical reports and progress reports related to such investigation and remediation. Upon the commissioner's approval of such schedule, the [applicant](#) shall, in accordance with the approved schedule, submit technical plans, technical reports and progress reports to the commissioner for the commissioner's review and written approval. The [applicant](#) shall perform all actions identified in the approved 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 the [applicant](#) to such schedule or investigation and remediation and may notify the [applicant](#), in writing, if the commissioner determines that it is appropriate to discontinue formal review and approval of the investigation or remediation.

(d) If, in accordance with the provisions of this section, the commissioner has approved in writing or, as applicable, a licensed environmental professional has verified, that the parcel or release area has been remediated in accordance with the remediation standards, such approval or verification may be used as the basis for submitting a Form II pursuant to sections 22a-134 to 22a-134e, inclusive, as [amended by this act](#), provided there has been no additional discharge, spillage, uncontrolled loss, seepage or filtration of hazardous waste at or on the parcel subsequent to the date of the commissioner's approval or verification by a licensed environmental professional.

(e) The fee for submitting an environmental condition assessment form to the commissioner pursuant to this section shall be three thousand two hundred fifty¹ dollars and shall be paid at the time the environmental condition assessment form is submitted. Any fee paid pursuant to this section shall be deducted from any fee required by subsection (m) or (n) of section 22a-134e for the transfer of any parcel for which an environmental condition assessment form has been submitted within three years of such transfer.

(f) Nothing in this section shall be construed to affect or impair the voluntary site remediation process provided for in section 22a-133y.

(g) Prior to commencement of remedial action taken under this section, the **applicant** 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 parcel 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 parcel, 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 last-known address of such owner on the last-completed grand list of the municipality where the parcel is located.

Effective October 1, 2009

CGS § 22a-133dd

(as amended by Section 6 of PA 09-235)

(a) Any municipality or **any** licensed environmental professional employed or retained by a municipality may enter, without liability upon any property within such municipality for the purpose of performing an environmental site assessment or investigation on behalf of the municipality if: (1) The owner of such property cannot be located; (2) such property is encumbered by a lien for taxes due such municipality; (3) upon a filing of a notice of eminent domain; (4) the municipality's legislative body finds that such investigation is in the public interest to determine if the property is underutilized or should be included in any undertaking of development, redevelopment or remediation pursuant to this chapter or chapter 130, 132 or 581; or (5) any official of the municipality reasonably finds such investigation necessary to determine if such property presents a risk to the safety, health or welfare of the public or a risk to the environment. The municipality shall give at least forty-five days' notice of such entry before the first such entry by certified mail to the property owner's last known address of record.

¹ Fee increased from \$3,000 to \$3,250 by PA 09-3, Sec 405, effective October 1, 2009

(b) A municipality accessing or entering a property to perform an investigation pursuant to this section shall not be liable for preexisting conditions pursuant to section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act, or to the property owner or any third party, provided the municipality (1) did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution; (2) does not negligently or recklessly exacerbate the conditions; and (3) complies with reporting of significant environmental hazard requirements pursuant to section 22a-6u. To the extent that any conditions are negligently or recklessly exacerbated, the municipality shall only be responsible for responding to contamination exacerbated by its activities.

(c) The owner of the property may object to such access and entry by the municipality by filing an action in the Superior Court not later than thirty days after receipt of the notice provided pursuant to subsection (a) of this section, provided any objection be limited to the issue of whether access is necessary and only upon proof by the owner that the owner has (1) completed or is in the process of completing in a timely manner a comprehensive environmental site assessment or investigation report; (2) provided the party seeking access with a copy of the assessment or report or will do so not later than thirty days after the delivery of such assessment or report to the owner; and (3) paid any delinquent property taxes assessed against the property for which access is being sought.

(d) For purposes of this section, "municipality" includes any municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or nonstock corporation or limited liability company established and controlled by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132.

Effective upon passage (July 9, 2009)

CGS §22a-134

(as amended by Section 8 of PA 09-235)

(28) "Interim verification" means a written opinion by a licensed environmental professional, on a form prescribed by the commissioner, that (A) the investigation has been performed in accordance with prevailing standards and guidelines, (B) the remediation has been completed in accordance with the remediation standards, except that, for remediation standards for groundwater, the selected remedy is in operation but has not achieved the remediation standards for groundwater, (C) identifies the long-term remedy being implemented to achieve groundwater standards, the estimated duration of such remedy, and the ongoing operation and maintenance requirements for continued operation of such remedy, and (D) there are no current exposure pathways to the groundwater area that have not yet met the remediation standards.

Effective October 1, 2009

CGS § 22a-134(1)

(as amended by Section 2 of PA 09-235)

(B) Conveyance of an establishment through a foreclosure, as defined in subsection (b) of section 22a-452f, foreclosure of a municipal tax lien or through a tax warrant sale pursuant to section 12-157, an exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or purchase pursuant to a resolution by the legislative body of a municipality authorizing the acquisition through eminent domain for establishments that also meet the definition of a brownfield as defined in section 32-9kk or a subsequent transfer by such municipality that has foreclosed on the property, foreclosed municipal tax liens or that has acquired title to the property through section 12-157, or is within the pilot program established in subsection (c) of section 32-9cc, or has acquired such property through the exercise of eminent domain pursuant to section 8-128, 8-169e or 8-193 or by condemnation pursuant to section 32-224 or a resolution adopted in accordance with this subparagraph, provided (i) the party acquiring the property from the municipality did not establish, create or contribute to the contamination at the establishment and is not affiliated with any person who established, created or contributed to such contamination or with any person who is or was an owner or certifying party for the establishment, and (ii) on or before the date the party acquires the property from the municipality, such party or municipality enters and subsequently remains in the voluntary remediation program administered by the commissioner pursuant to section 22a-133x, as amended by this act, and remains in compliance with schedules and approvals issued by the commissioner. For purposes of this subparagraph, subsequent transfer by a municipality includes any transfer to, from or between a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, a nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132;

Effective upon passage (July 9, 2009)

CGS § 22a-134a

(as amended by Section 9 of PA 09-235)

(g) (1) (A) Except as provided in subsection (h) of this section, the certifying party to a Form III shall, not later than seventy-five days after the receipt of the notice that such form is complete or such later date as may be approved in writing by the commissioner, submit a schedule for the investigation of the 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, remediation shall be initiated not later than three years after the date of receipt of such notice and remediation shall be completed sufficient to support either a verification or interim verification within a time frame set forth in subparagraphs (B) and (C) of this subdivision. The schedule shall also include a schedule for providing public notice of the remediation prior to the initiation of such remediation in accordance with subsection (i) of this section. Not later than two years after the

date of the receipt of the notice that the Form III is complete, unless the commissioner has specified a later day, in writing, the certifying party shall submit to the commissioner documentation, approved in writing by a licensed environmental professional and in a form prescribed by the commissioner, that the investigation has been completed in accordance with prevailing standards and guidelines. Not later than three years after the date of the receipt of the notice that the Form III is complete, unless the commissioner has specified a later day in writing, the certifying party shall notify the commissioner in a form prescribed by the commissioner that the remediation has been initiated, and shall submit to the commissioner a remedial action plan approved in writing by a licensed environmental professional in a form prescribed by the commissioner. Notwithstanding any other provision of this section, the commissioner may determine at any time that the commissioner's review and written approval is necessary and in such case shall notify the certifying party that the commissioner's review and written approval is necessary. Such certifying party shall investigate the parcel and remediate the establishment in accordance with the schedule or the schedule specified by the commissioner.

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

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

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

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

Effective October 1, 2009

CGS §Section 22a-134b

(as amended by Section 5 of PA 09-235)

(a) Failure of the transferor to comply with any of the provisions of sections 22a-134 to 22a-134e, inclusive, [as amended by this act](#), entitles the transferee to recover damages from the transferor, and renders the transferor of the establishment strictly liable, without regard to fault, for all remediation costs and for all direct and indirect damages.

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

(c) This section shall apply to any action brought for the reimbursement or recovery of costs associated with investigation and remediation, as defined in subsection (n) of section 22a-452, as amended by this act, and all direct and indirect damages, except any action that becomes final and is no longer subject to appeal on or before October 1, 2009.

Effective upon passage (July 9, 2009)

CGS §22a-134e

(as amended by Section 406 of PA 09-3)

(a) As used in this section, "cost of remediation" shall include total costs related to the complete investigation of pollution on-site and off-site, evaluation of remediation alternatives, design and implementation of approved remediation, operation and maintenance costs for the remediation and post remediation monitoring.

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

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

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

this section; for a Form III filed between October 1, 1987, and September 30, 1988, the fee shall be sixty per cent of the amount specified in subsection (c) of this section; for a Form III filed between October 1, 1988, and September 30, 1989, the fee shall be eighty per cent of the amount specified in subsection (c) of this section and for a Form III filed between October 1, 1989, and July 1, 1990, the fee shall be ninety per cent of the amount specified in said subsection (c).

(e) If a Form II is filed after July 1, 1990, and before October 1, 1995, and within three years following completion of remedial measures as approved by the Commissioner of Environmental Protection, the fee for such transfer shall be the fee specified in subsection (c) of this section.

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

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

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

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

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

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

twenty-five thousand dollars but less than fifty thousand dollars; and (6) two thousand dollars if the cost of remediation is less than twenty-five thousand dollars.

(l) The fee specified in subsection (k) of this section shall be due in accordance with the following schedule: (1) Two thousand dollars shall be paid upon the filing of the notification required under section 22a-134a if the cost of remediation is less than one hundred thousand dollars; (2) six thousand dollars shall be paid upon filing of the notification required under section 22a-134a if the cost of remediation is equal to or greater than one hundred thousand dollars; (3) the balance, if any, shall be paid within thirty days of receipt from the commissioner of written approval of a remedial action plan or within thirty days of the issuance of an order, consent agreement or stipulated judgment, whichever is earlier; (4) any remaining balance shall be paid within thirty days after receipt of written notice from the commissioner that it is due; [and](#) (5) any refund, if applicable, will be paid after receipt of a letter from the commissioner stating that no further action is required or after receipt of a letter of compliance. After the deposit of any appropriated funds, funds from the sale of bonds of the state or any contribution pursuant to section 22a-16a, 22a-133t or 22a-133u or section 3 of public act 96-250* to the Special Contaminated Property Remediation and Insurance Fund established under section 22a-133t, any amount received by the commissioner pursuant to this section shall be deposited into said fund.

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

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

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

if the total cost of remediation is greater than or equal to one hundred thousand dollars but less than five hundred thousand dollars; (4) three thousand [six hundred twenty-five](#) dollars if the total cost of remediation is equal to or greater than fifty thousand dollars but less than one hundred thousand dollars; and (5) three thousand [two hundred fifty](#) dollars if the total cost of remediation is less than fifty thousand dollars.

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

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

Effective October 1, 2009

CGS §25-68d

(as amended by Section 1 of PA 09-235)

(a) No state agency shall undertake an activity or a critical activity within or affecting the floodplain without first obtaining an approval or approval with conditions from the commissioner of a certification submitted in accordance with subsection (b) of this section or exemption by the commissioner from such approval or approval with conditions in accordance with subsection (d) of this section.

(b) Any state agency proposing an activity or critical activity within or affecting the floodplain shall submit to the commissioner information certifying that:

(1) The proposal will not obstruct flood flows or result in an adverse increase in flood elevations, significantly affect the storage or flood control value of the floodplains, cause an adverse increase in flood velocities, or an adverse flooding impact upon upstream, downstream or abutting properties, or pose a hazard to human life, health or property in the event of a base flood or base flood for a critical activity;

(2) The proposal complies with the provisions of the National Flood Insurance Program (44 CFR 59 et seq.), and any floodplain zoning requirements adopted by a municipality in the area of the proposal and the requirements for stream channel encroachment lines adopted pursuant to the provisions of section 22a-342;

(3) The agency has acquired, through public or private purchase or conveyance, easements and property in floodplains when the base flood or base flood for a critical activity is elevated above the increment authorized by the National Flood Insurance Program or the flood storage loss would cause adverse increases in such base flood flows;

(4) The proposal promotes long-term nonintensive floodplain uses and has utilities located to

discourage floodplain development;

(5) The agency has considered and will use to the extent feasible flood-proofing techniques to protect new and existing structures and utility lines, will construct dikes, dams, channel alterations, seawalls, breakwaters or other structures only where there are no practical alternatives and will implement stormwater management practices in accordance with regulations adopted pursuant to section 25-68h; and

(6) The agency has flood forecasting and warning capabilities consistent with the system maintained by the National Weather Service and has a flood preparedness plan.

(c) The commissioner shall make a decision either approving, approving with conditions or rejecting a certification not later than ninety days after receipt of such certification, except that in the case of an exemption any decision shall be made ninety days after the close of the hearing. If a certification is rejected, the agency shall be entitled to a hearing in accordance with the provisions of sections 4-176e, 4-177, 4-177c and 4-180.

(d) Any state agency proposing an activity or critical activity within or affecting the floodplain may apply to the commissioner for exemption from the provisions of subsection (b) of this section. Such application shall include a statement of the reasons why such agency is unable to comply with said subsection and any other information the commissioner deems necessary. The commissioner, at least thirty days before approving, approving with conditions or denying any such application, shall publish once in a newspaper having a substantial circulation in the affected area notice of: (1) The name of the applicant; (2) the location and nature of the requested exemption; (3) the tentative decision on the application; and (4) additional information the commissioner deems necessary to support the decision to approve, approve with conditions or deny the application. There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the commissioner shall make a final determination to either approve the application, approve the application with conditions or deny the application. The commissioner may hold a public hearing prior to approving, approving with conditions or denying any application if in the discretion of the commissioner the public interest will be best served thereby, and the commissioner shall hold a public hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected. The commissioner may approve or approve with conditions such exemption if the commissioner determines that (A) the agency has shown that the activity or critical activity is in the public interest, will not injure persons or damage property in the area of such activity or critical activity, complies with the provisions of the National Flood Insurance Program, and, in the case of a loan or grant, the recipient of the loan or grant has been informed that increased flood insurance premiums may result from the activity or critical activity. An activity shall be considered to be in the public interest if it is a development subject to environmental remediation regulations adopted pursuant to section 22a-133k and is in or adjacent to an area identified as a regional center, neighborhood conservation area, growth area or rural community center in the State Plan of Conservation and Development pursuant to chapter 297, or (B) in the case of a flood control project, such project meets the criteria of subparagraph (A) of this subdivision and is more cost-effective to the state

and municipalities than a project constructed to or above the base flood or base flood for a critical activity. Following approval for exemption for a flood control project, the commissioner shall provide notice of the hazards of a flood greater than the capacity of the project design to each member of the legislature whose district will be affected by the project and to the following agencies and officials in the area to be protected by the project: The planning and zoning commission, the inland wetlands agency, the director of civil defense, the conservation commission, the fire department, the police department, the chief elected official and each member of the legislative body, and the regional planning agency. Notice shall be given to the general public by publication in a newspaper of general circulation in each municipality in the area in which the project is to be located.

(e) The use of a mill that is located on a brownfield, as defined in section 32-9kk, shall be exempt from the certification requirements of subdivision (4) of subsection (b) of this section, provided the agency demonstrates: (1) The activity is subject to the environmental remediation requirements of the regulations adopted pursuant to section 22a-133k, (2) the activity is limited to the areas of the property where historical mill uses occurred, (3) any critical activity is above the five hundred year flood elevation, and (4) the activity complies with the provisions of the National Flood Insurance Program

(f) The failure of any agency to comply with the provisions of this section or any regulations adopted pursuant to section 25-68c shall be grounds for revocation of the approval of the certification.

(g) The provisions of this section shall not apply to any proposal by the Department of Transportation for a project within a drainage basin of less than one square mile.

Effective upon passage (July 9, 2009)

CGS §32-9dd

(as amended by Section 3 of PA 09-235)

Upon remediation as approved by the Department of Environmental Protection of the brownfield property by the municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132, such entity may transfer the property to any person provided such a person is not otherwise liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act. The person who acquires title pursuant to this section shall not be liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act, provided that such person does not cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material or waste and such person is not a member, officer, manager, director, shareholder, subsidiary, successor of, related to, or affiliated with, directly or indirectly, the person who is otherwise liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act. In addition, the Commissioner of Environmental

Protection shall also provide such person with a covenant not to sue pursuant to section 22a-133 and shall not require the prospective purchaser or owner to pay a fee. The municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 shall distribute the proceeds from any sale as follows: (1) Twenty per cent shall be retained by the municipality, economic development agency, nonprofit economic development corporation or nonstock corporation or limited liability company and used for capital improvements for economic development, and (2) eighty per cent shall be transferred to the Office of Brownfield Remediation and Development and deposited in the account established pursuant to section 32-9ff.

Effective upon passage (July 1, 2009)

CGS §32-9ee

(as amended by Section 4 of PA 09-235)

(a) Any municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 that receives grants through the Office of Brownfield Remediation and Development or the Department of Economic and Community Development, including those municipalities designated by the Commissioner of Economic and Community Development as part of the pilot program established in subsection (c) of section 32-9cc for the investigation and remediation of a brownfield property shall be considered an innocent party and shall not be liable under section 22a-432, 22a-433, 22a-451 or 22a-452, as amended by this act, for conditions pre-existing or existing on the brownfield property as of the date of acquisition or control as long as the municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-kind services, in part by a municipality, or a nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 did not establish, cause or contribute to the discharge, spillage, uncontrolled loss, seepage or filtration of such hazardous substance, material, waste or pollution that is subject to remediation under section 22a-133k and funded by the Office of Brownfield Remediation and Development or the Department of Economic and Community Development; does not exacerbate the conditions; and complies with reporting of significant environmental hazard requirements in section 22a-6u. To the extent that any conditions are exacerbated, the municipality, economic development agency or entity established under chapter 130 or 132, nonprofit economic development corporation formed to promote the common good, general welfare and economic development of a municipality that is funded, either directly or through in-

kind services, in part by a municipality, or nonstock corporation or limited liability company controlled or established by a municipality, municipal economic development agency or entity created or operating under chapter 130 or 132 shall only be responsible for responding to contamination exacerbated by its negligent or reckless activities.

Effective upon passage (July 1, 2009)

Section 7 of PA 09-235 - NEW

(a) There is established an abandoned brownfield cleanup program. The Commissioner of Economic and Community Development shall determine, in consultation with the Commissioner of Environmental Protection, properties and persons eligible for said program. For a person and a property to be eligible, the Commissioner of Economic and Community Development shall determine if (1) the property is a brownfield, as defined in section 32-9kk of the general statutes and such property has been unused or significantly underused since October 1, 1999; (2) such person intends to acquire title to such property for the purpose of redeveloping such property; (3) the redevelopment of such property has a regional or municipal economic development benefit; (4) such person did not establish or create a facility or condition at or on such property that can reasonably be expected to create a source of pollution to the waters of the state for the purposes of section 22a-432 of the general statutes and is not affiliated with any person responsible for such pollution or source of pollution through any direct or indirect familial relationship or any contractual, corporate or financial relationship other than a relationship by which such owner's interest in such property is to be conveyed or financed; (5) such person is not otherwise required by law, an order or consent order issued by the Commissioner of Environmental Protection or a stipulated judgment to remediate pollution on or emanating from such property; (6) the person responsible for pollution on or emanating from the property is indeterminable, is no longer in existence or is otherwise unable to perform necessary remediation of such property; and (7) the property and the person meet any other criteria said commissioner deems necessary.

(b) Upon designation by the Commissioner of Economic and Community Development of an eligible person who holds title to such property, such eligible person shall (1) enter and remain in the voluntary remediation program established in section 22a-133x of the general statutes, as amended by this act, provided such person will not be a certifying party for the property pursuant to section 22a-134 of the general statutes, as amended by this act, when acquiring such property; (2) investigate pollution on such property in accordance with prevailing standards and guidelines and remediate pollution on such property in accordance with regulations established for remediation adopted by the Commissioner of Environmental Protection and in accordance with applicable schedules; and (3) eliminate further emanation or migration of any pollution from such property. An eligible person who holds title to an eligible property designated to be in the abandoned brownfields cleanup program shall not be responsible for investigating or remediating any pollution or source of pollution that has emanated from such property prior to such person taking title to such property.

(c) Any applicant seeking a designation of eligibility for a person or a property under the abandoned brownfields cleanup program shall apply to the Commissioner of Economic and Community Development at such times and on such forms as the commissioner may prescribe.

(d) Not later than sixty days after receipt of the application, the Commissioner of Economic and Community Development shall determine if the application is complete and shall notify the applicant of such determination.

(e) Not later than ninety days after determining that the application is complete, the Commissioner of Economic and Community Development shall determine whether to include the property and applicant in the abandoned brownfields cleanup program.

(f) Designation of a property in the abandoned brownfields cleanup program by the Commissioner of Economic and Community Development shall not limit the applicant's or any other person's ability to seek funding for such property under any other brownfield grant or loan program administered by the Department of Economic and Community Development, the Connecticut Development Authority or the Department of Environmental Protection.

Effective October 1, 2009

Section 11 of PA 09-235 - NEW

Notwithstanding any other provisions of the general statutes, whenever a state agency or quasi-public agency, as defined in section 1-120 of the general statutes, solicits bids, makes a request for proposals or negotiates a contract for the environmental remediation of a brownfield property, such bid, proposal or contract shall include a provision whereby the employment and utilization of green remediation technologies shall be accorded due consideration.

Effective October 1, 2009