



JULY 2010

2010 Connecticut Environmental Legislative Review

Robinson & Cole's Environmental and Utilities Practice Group has compiled the following list of significant new laws relating to environmental law issues that were recently enacted out of the 2010 legislative session in Connecticut.

P.A. 10-64: AN ACT CONCERNING CONNECTICUT QUALIFIED BIODIESEL PRODUCER GRANTS

- Establishes a onetime start-up grant of up to \$3 million to qualified biodiesel producers not yet actively engaged in the production of biodiesel.
- Limits the size of the grants available under the existing biodiesel producer grant program, which provides grants to producers already engaged in the production of biodiesel.
- Requires the DEP to offer for sale carbon allowances from the combined heat and power long-term power purchase agreement set-aside account. The act sets a price for the allowances and provides that, in order to be eligible, the entities cannot pass along the cost of purchasing the allowances to customers.
- Effective: May 18, 2010

P.A. 10-74: AN ACT REQUIRING BIODIESEL BLENDED HEATING OIL AND LOWERING THE SULFUR CONTENT OF HEATING OIL SOLD IN THE STATE

- Establishes a cap, that decreases over time, on the amount of sulfur that can be contained in number two heating oil. The act also provides for a phasing in of a biodiesel blend heating oil, providing that by 2020 all heating oil sold in Connecticut must contain at least 20 percent biodiesel. These provisions will not take effect until New York, Massachusetts, and Rhode Island have enacted similar laws. In addition, the Department of Consumer Protection must determine whether there is sufficient in-state production of biodiesel for compliance with the law.
- Effective: October 1, 2010, except for sulfur cap, which is effective on July 1, 2010

P.A. 10-86: AN ACT CONCERNING THE REMEDIATION ACCOUNT FOR DRY CLEANING ESTABLISHMENTS AND REGULATED ACTIVITY ON CERTAIN SITES UNDERGOING REMEDIAL ACTION

- For sites where hazardous waste is being cleaned up at the time an area is designated as an Aquifer Protection Area (APA), this act allows a regulated activity, or one that involves the production, handling, use, storage, or disposal of material that may threaten groundwater

in the APA, to be carried out as long as (1) the regulated activity did not substantially begin or operate for the 5 years before the area was designated and (2) anyone conducting the regulated activity for the 10-year period, starting on the date of the designation, registers with the DEP.

- This act also allows owners of properties formerly used for dry cleaning operations to be eligible for funding under the Dry Cleaning Establishment Remediation Account.
- Effective: Upon passage

P.A. 10-106: AN ACT CONCERNING LONG ISLAND SOUND, COASTAL PERMITTING AND CERTAIN GROUP FISHING LICENSES AND PERMITS FOR SOLID WASTE FACILITIES

- Requires anyone receiving a wetlands-regulated activity permit, a dredging permit, a certificate of permission for routine maintenance, or emergency authorization for corrective action on or after October 1, 2010, to file a certified copy of such document on the land records of the municipality where the property is located. The act also requires a property owner transferring land for which such a document is issued to record the document in the land records before the transfer.
- Establishes a fee to build for retaining a structure that is (1) built without the required building or dredging permit and (2) ineligible for a certificate of permission. The fee is four times the fee of a permit to build, but it can be reduced by the DEP under certain circumstances.
- Expands the activities eligible for a certificate of permission to conduct certain activities in state tidal, coastal, or navigable waters.
- With regard to wetlands and watercourses, the act adds to the list of individuals that may petition for a hearing on a regulated activity permit. It also eliminates the deadline for holding wetlands hearings, which used to be between 30 and 60 days after receipt of an application.
- Prohibits the DEP from making a determination of need or approving any permit application, pending or filed as of the act's passage, for a new solid waste facility or the expansion of an existing facility located within 1,000 feet of a primary or secondary aquifer until the need for additional capacity is determined by the Solid Waste Management Plan.
- Effective: Oct. 1, 2010, except for certain provisions effective upon passage

P.A. 10-135: AN ACT CONCERNING BROWNFIELD REMEDIATION LIABILITY

- Expands the Urban Site Remediation Fund to reimburse for costs to obtain directors and officers liability and general liability insurance for municipal and nonprofit economic development entities.
- Allows municipalities to forgive back taxes on a brownfield or to fix the assessment of property, before the start of remediation, for up to seven years.
- Amends Conn. Gen. Stat. § 22a-134b (relating to liability under the Transfer Act) by clarifying the actions that fall within the scope of "investigation and remediation."
- Effective: Upon passage; July 1, 2010; or October 1, 2010

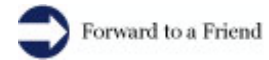
P.A. 10-158: AN ACT CONCERNING THE PERMIT AND REGULATORY AUTHORITY OF THE DEPARTMENT OF ENVIRONMENTAL PROTECTION AND ESTABLISHING AN OFFICE OF THE PERMIT OMBUDSMAN WITHIN THE DEPARTMENT OF ECONOMIC AND COMMUNITY DEVELOPMENT

- Requires the Department of Economic and Community Development (DECD) commissioner to establish an office of permit ombudsman to expedite the review of applications for state licenses and permits for significant economic development projects.
- Sets timeframes for completing specific tasks in the environmental permitting process.

- Requires the DEP commissioner to propose pilot plan for an expedited permit process, to propose changes to the DEP's individual permit application review schedules, and to identify additional resources to implement the changes. A report on these findings is due by September 30, 2010.
- Effective: October 1, 2010, except for certain provisions effective upon passage, and provisions regarding water quality standards, which are effective March 1, 2011

For more information on any of the newly enacted legislation and potential impacts on you or your business or organization, please contact [Earl W. Phillips Jr.](#), [John A. Poakeart](#), [Megan E. Baroni](#) or any of the attorneys in Robinson & Cole's [Environmental Practice Group](#).

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