Sec. 22a-2a-2. Delegation of authority for the abatement of water pollution

(a) **Definitions**

For purposes of this section:

"Blowdown from Heating and Cooling Equipment" means wastewaters generated by heating and cooling equipment that recycles water.

"Building Floor Drain Wastewaters" means wastewaters generated from periodic washdown of floors.

"Commercial laundry wastewaters" means wastewaters generated by laundromats and commercial laundries.

"Cooling Water (Non-Contact)" means wastewater which has been used for cooling purposes which does not come into direct contact with a product or process.

"Designee" means a Director of Health who has entered into a memorandum of agreement under this section.

"Director of Health" means a local or district director of health appointed under the provisions of sections 19a-200, 19a-201a, or 19a-242 of the General Statutes.

"District Department of Health" means a district department of health established in accordance with section 19a-241 of the General Statutes.

"Domestic Sewage" means sewage that consists of water and human excretions or other waterborne wastes incidental to the occupancy of a residential building or a non-residential building but not including manufacturing process water, cooling water, wastewater from water softening equipment, commercial laundry wastewater, blowdown from heating or cooling equipment, water from cellar or floor drains or surface water from roofs, paved surface or yard drains.

"Investigation" means observation, inquiry, the collection of samples for analysis or the recording of any pertinent facts relative to any existing or potential source of pollution of the waters of the state which may or may not be operating under a permit issued by the commissioner.

"Stormwater" means wastewater consisting of precipitation runoff generated by residential, commercial, or industrial land use.

"Swimming Pool Backwash" means wastewaters generated from the back-washing of swimming pool filters.

"Water Production Wastewater" means wastewater generated by the treatment of raw water for potable, industrial process, or commercial process use.

(b) **Scope of delegation**

(1) The commissioner may by memorandum of agreement made pursuant to these regulations delegate all or part of the authority to investigate all points of existing or potential waste discharges as provided for in Section 22a-416 of the General Statutes to any Director of Health. Delegation of such authority shall be limited to the following categories of waste material sources: (1) Sewerage systems for the treatment of domestic sewage which are owned by a person as defined in section 22a-423 of the General Statutes (2) Agriculture as defined in section 1-1q of the General Statutes. (3) Blowdown from heating and cooling equipment, building floor drains, commercial laundry wastewater, cooling water (non-contact), stormwater, swimming pool backwash, and water production wastewater. No authority to investigate any existing or potential source of pollution originating from a

facility or property owned by the state or any instrumentality of the state shall be granted by these regulations.

(2) Within fifteen days of the detection of a suspected violation originating from a source that the designee has been authorized to investigate he or she shall submit a report to the commissioner describing the violation and recommending actions which the commissioner should take to abate the existing or potential pollution, as provided for in Chapter 446k of the General Statutes. The designee shall provide the facility owner with a copy of any investigation report and recommendation, and shall discuss any suspected violation with the facility operator in an effort to gain voluntary compliance. Within thirty days of the receipt of such an investigative report the commissioner shall send written notice to the designee describing the course of action which he or she deems appropriate to abate the actual or potential source of pollution or stating why no action is necessary. In the event that further investigation by the department is required, the commissioner shall so notify the designee and shall, at the completion of the investigation, inform the designee in writing of his or her intended action.

(3) For the purposes set forth in these regulations, any designee shall be considered an agent of the commissioner.

(c) **Procedures for delegation**

(1) A Director of Health may request delegation of all or part of the authority within the scope of these regulations with the consent of the chief executive officer of the municipality or of the board of the district department of health by which he or she is employed. Application for delegation of authority shall be submitted on forms provided by the commissioner and shall include but need not be limited to the following:

(A) the name of the applicant and his or her address and phone number during normal business hours and in the event of an emergency;

(B) the date of appointment of the applicant in accordance with sections 19a-200, 19a-201, or 19a-242 of the General Statutes;

(C) the experience and training of the applicant which is related to the categories or investigation covered by this regulation;

(D) the name of each staff member who will be available to perform delegated duties and the estimated percentage of time that he or she will be able to spend on those duties;

(E) a summary of the experience and training of each staff member specified in response to (D) above, including date of appointment;

(F) the names of one or more staff members who will be considered as alternate designees in the case of the resignation or incapacitation of the Director of Health;

(G) a statement that the applicant agrees that he or she and all staff members who will be performing delegated duties will complete the training required by subsection (d) of this section;

(H) any additional information which the commissioner deems necessary; and

(I) the signature of the applicant and chief executive officer of the municipality or the authorized signature of the board of the district department of health by which he or she is employed.

(2) In making a decision on an application, the commissioner shall consider all factors which he or she deem relevant, including but not limited to:

(A) the level of experience and training of the applicant and his or her staff; and

(B) the nature of the duties to be delegated and the facilities subject to regulation in the municipality or district in question.

(C) At least thirty days prior to granting or denying a request for delegation of authority, the commissioner shall publish once, in a newspaper having general circulation in the municipalities affected, notice of (1) The name and title of the person requesting such delegation (2) The municipality(s) affected by such a request and (3) The scope of the delegation requested. Such notice shall also be sent to the Commissioner of Health Services. Based upon the response to such notice the commissioner may determine that it is in the best public interest to hold a public hearing prior to approving or denying the request for delegation. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the municipality(s) affected.

(3)

(A) The commissioner shall notify the applicant in writing of the decision on the application and if the application is denied, shall state the reasons for the denial. If the commissioner approves the application, he or she shall prepare a memorandum of agreement which shall define the scope of the delegation. The memorandum of agreement shall be effective as stated therein or when signed by the commissioner and the designee, whichever is later, and shall automatically expire as stated therein but no more than three years from the effective date, unless renewed by both parties.

(B) Prior to the expiration on the memorandum of agreement, the commissioner shall review the Director of Health's performance of delegated duties, including but not limited to record keeping, reporting and ability to exercise investigation authority in a timely and efficient manner. If the commissioner is satisfied with the performance of the Director of Health, he or she shall renew the memorandum of agreement for a period not to exceed three years.

(4) An applicant or designee shall notify the commissioner of any changes in the information provided in accordance with subdivision (c) (1) of this section within ten days of such change.

(5) If the designee leaves his or her employment as Director of Health, the memorandum of agreement shall automatically be suspended, unless an alternate designee as provided for in subparagraph (c) (1) (F) of these regulations is available to fulfill the requirements of the memorandum of agreement until a new Director of Health is appointed. The replacement Director of Health, when one is appointed, shall apply for such approval on a form provided by the commissioner and shall include, at a minimum, the information specified in subparagraphs (c) (1) (A) through (C), and (c) (1) (F), (G) and (H) of this section. Upon approval of the replacement, the commissioner may alter the memorandum of agreement as he or she deems necessary. The memorandum of agreement shall be effective as stated therein or when signed by the commissioner and the designee, whichever is later, and shall automatically expire as stated therein but no more than three years from the effective date, unless renewed by both parties.

(6) The scope of delegation stated in a memorandum of agreement shall not be construed to encompass authority for any provision of Chapter 446k which is adopted after the effective date of such agreement. The commissioner and a designee may, with the written

consent of the chief executive officer of the municipality or of the board of the district department of health by which he or she is employed, amend a memorandum of agreement to include additional delegation of authority at any time.

(d) **Training and standards of conduct for designees**

(1) A designee may allow his or her staff to perform delegated duties, provided that the designee oversees and is ultimately responsible for the work of staff members.

(2) Each designee and all members of his or her staff who will perform delegated duties shall complete an initial training course and as the commissioner deems necessary, additional courses on wastewater and wastewater management consistent with the delegation agreement. Such courses may include but not be limited to instruction in methods of administering and enforcing the water pollution control laws, and technical training.

(3) Designees and members of their staffs who perform delegated duties shall abide by the standards of conduct for state employees contained in Chapter 10 of the General Statutes, as amended.

(e) **Records and reporting**

(1) Each designee shall maintain orderly files at his or her central office which shall include but not be limited to the following:

(A) Records of complaints received regarding the categories of discharges covered by these regulations.

(B) Copies of all reports and results of any inspections made pursuant to these regulations.

(C) Copies of laboratory results of any samples of waste or water collected during any investigation made pursuant to these regulations.

(D) Copies of any pertinent correspondence.

(2) During the month of September of each year, a designee shall submit a report to the commissioner summarizing the activities of the designee and his or her staff under the delegated authority. The report shall be on a form provided by the commissioner and shall include but not be limited to the number of inspections conducted, and a summary of the problems encountered in investigations. The report may include recommendations for improvements in the regulation of the types of wastewater covered by the delegation agreement.

(f) **Complaints regarding delegated agents**

The commissioner is empowered to receive and investigate complaints regarding the conduct of delegated agents, and the efficiency of delegated programs. If, in the commissioner's discretion, the consideration of suspension for cause or revocation of delegation as described in subsection (g) or (h) of these regulations is warranted, the commissioner shall hold a hearing prior to undertaking such action. At least thirty days prior to such hearing the commissioner shall provide a notice of such hearing to the delegated agent, to the chief executive officer of the municipality and to any person who has filed a complaint relevant to the inquiry. Following such hearing the commissioner shall decide to (1) continue the delegation agreement, (2) modify the delegation agreement, (3) suspend the delegation agreement or (4) revoke the delegation agreement, and shall provide notice of the decision to all parties in this matter. Such notice is the final decision of the commissioner.

(g) **Suspension of delegation**

The commissioner may at the request of the designee or for cause suspend all or part of any delegation agreement concluded pursuant to these regulations for such periods as he or she deems necessary to achieve effective management of the delegated authority.

(h) **Revocation of delegation**

The commissioner may revoke all or part of a delegation of authority upon written notice to the Director of Health and the chief executive officer of the municipality or the board of the district department of health by which he or she is employed. Revocation shall be effective upon receipt of such notice by both parties.

(i) **Termination by designee**

A designee may relinquish all or part of his or her delegated responsibilities upon thirty days written notice to the commissioner and the chief executive officer of the municipality or the board of the district department of health by which he or she is employed.

(j) **Program review**

The commissioner shall maintain a record of the cost to the Department of Environmental Protection for administering the delegation program under this section. Three years from the effective date of this section, the commissioner shall assess the benefits including any cost reductions and liabilities to the Department of the delegation program, including but not limited to the costs specified above, the number of inspections conducted by designees, and the overall effectiveness of inspections conducted by designees, and the overall effectiveness of delegation in reducing pollution of the waters of the state.

(Effective December 26, 1985)