

By Mr. Straus of Mattapoisett, petition of William M. Straus and others relative to certain violations of the environmental laws of the Commonwealth. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

PETITION OF:

William M. Straus
Anthony J. Verga
James B. Leary

J. James Marzilli, Jr.
Barbara A. L'Italien
Frank I. Smizik

In the Year Two Thousand and Five.

AN ACT PROTECTING THE ENVIRONMENT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 11A of chapter 21E of the General Laws,
2 as appearing in the 2002 Official Edition, is hereby amended by
3 inserting the following new subsection at the end thereof:—

4 (6) Actions brought by the attorney general pursuant to section
5 eleven for civil penalties for violations of this chapter, or of any
6 regulation adopted or order issued thereunder, shall be com-
7 menced by the earlier of:

8 (a) seven years after the date that the department receives a
9 waste site cleanup activity opinion that a permanent solution for
10 the Site has been implemented, or

11 (b) three years after the date that the commonwealth discovers
12 that the person against whom the action is being brought has vio-
13 lated this chapter, or any regulation adopted or order issued there-
14 under.

15 For purposes of this subsection, the commonwealth shall not be
16 deemed to have discovered a violation unless the department has
17 gained actual knowledge that the person against whom the action
18 is being brought has violated this chapter, or any regulation
19 adopted or order issued thereunder. The commonwealth's receipt

20 of a submittal, alone, shall not constitute actual knowledge of the
21 contents of the submittal. Nothing in this subsection shall be
22 interpreted as precluding an action for a continuing violation, or
23 for failure to implement and maintain a permanent solution for the
24 Site.

1 SECTION 2. Said chapter 21E is hereby amended by inserting
2 after section 11A the following new section:—

3 Section 11B. Civil Administrative Penalties.

4 Notwithstanding any other general or special law to the con-
5 trary, civil administrative penalties pursuant to section sixteen of
6 chapter twenty one A for violations of this chapter shall be
7 brought in accordance with the following deadline:

8 (1) The department shall issue any notice of intent to assess a
9 civil administrative penalty under section sixteen of chapter
10 twenty one A for violations of this chapter, or of any regulation
11 adopted or order issued thereunder, by the earlier of:

12 (a) seven years after the date that the department receives a
13 waste site cleanup activity opinion that a permanent solution for
14 the Site has been implemented, or

15 (b) three years after the date that the commonwealth discovers
16 that the person against whom the action is being brought has vio-
17 lated this chapter, or any regulation adopted or order issued there-
18 under.

19 For purposes of this section, the commonwealth shall not be
20 deemed to have discovered a violation unless the department has
21 gained actual knowledge that the person against whom the action
22 is being brought has violated this chapter, or any regulation
23 adopted or order issued thereunder. The commonwealth's receipt
24 of a submittal, alone, shall not constitute actual knowledge of the
25 contents of the submittal. Nothing in this section shall be inter-
26 preted as precluding an action for a continuing violation, or for
27 failure to implement and maintain a permanent solution for the
28 Site.