



General Assembly

Substitute Bill No. 1091

January Session, 2007

* _____SB01091PD____042307_____*

AN ACT CONCERNING DAM SAFETY.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 22a-402 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2007*):

3 (a) The Commissioner of Environmental Protection shall investigate
4 and inspect or cause to be investigated and inspected all dams or other
5 structures which, in his or her judgment, would, by breaking away,
6 cause loss of life or property damage. Said commissioner may require
7 any person owning or having the care and control of any such
8 structure to furnish him or her with such surveys, plans, descriptions,
9 drawings and other data relating thereto and in such form and to such
10 reasonable extent as he or she directs. Any person in possession of
11 such pertinent information shall afford the owner and the
12 commissioner access thereto. The commissioner shall make or cause to
13 be made such periodic inspections of all such structures as may be
14 necessary to reasonably insure that they are maintained in a safe
15 condition. If, after any inspection described herein, the commissioner
16 finds any such structure to be in an unsafe condition, he or she shall
17 order the person owning or having control thereof to place it in a safe
18 condition or to remove it and shall fix the time within which such
19 order shall be carried out. The respondent to such an order shall not be
20 required to obtain a permit under this chapter or chapter 440 or section

21 22a-342 or 22a-368 for any action necessary to comply with such order.
22 If such order is not carried out within the time specified, the
23 commissioner may carry out the actions required by the order
24 provided the commissioner has determined that an emergency exists
25 which presents a clear and present danger to the public safety and said
26 commissioner shall assess the costs of such action against the person
27 owning or having care and control of the structure. When the
28 commissioner in his or her investigation finds that a dam or other
29 structure should be inspected periodically in order to reduce a
30 potential hazard to life and property, the owner of such structure shall
31 cause such inspection to be made by a registered engineer at such
32 intervals as are deemed necessary by the commissioner and shall
33 submit a copy of the engineer's finding and report to the commissioner
34 for his or her action. If the commissioner determines as a result of an
35 inspection that maintenance or repairs to a dam are needed to
36 maintain the dam in a safe condition, the commissioner shall notify the
37 owner, in writing, of such maintenance or repairs as are necessary and
38 request the owner to undertake such repairs within the time period
39 specified in the notice. If the owner does not undertake the necessary
40 maintenance or repairs within the time period indicated in the notice,
41 the commissioner may proceed to order the owner to undertake the
42 necessary maintenance or repairs. As used in this chapter, "person"
43 shall have the same meaning as defined in subsection (c) of section
44 22a-2 and "water company" shall have the some meaning as defined in
45 section 25-32a. The commissioner shall cause a certified copy of a final
46 order issued under this section to be recorded on the land records in
47 the town or towns wherein the dam or such structure is located.

48 (b) The chief executive official of a municipality or such official's
49 designee may inspect a dam that is: (1) Under the jurisdiction of the
50 commissioner, and (2) located within the boundaries of such
51 municipality when such official or designee reasonably believes that a
52 public safety concern exists. Inspection of any such dam owned or
53 operated by a water company or of a dam that is a hydroelectric
54 generating facility shall be controlled by the provisions of subsection

55 (c) of this section. Such official or designee shall have the right to enter
56 private property, within constitutional limits, to undertake such
57 inspection provided such official or designee shall: (A) Notify the
58 commissioner prior to conducting such inspection, (B) make a
59 reasonable attempt to notify the owner of the dam prior to such
60 inspection, and (C) file a report with the commissioner in accordance
61 with the provisions of subsection (f) of this section.

62 (c) When the chief executive official of a municipality or such
63 official's designee reasonably believes that a public safety concern
64 exists with a dam that is a hydroelectric power generating facility or is
65 owned or controlled by a water company, such official shall
66 immediately notify the commissioner and shall notify the water
67 company in accordance with subsection (e) of this section. Such official
68 shall not inspect a dam that is a hydroelectric power generating facility
69 or is owned or operated by a water company unless: (1) (A) Such
70 official has reason to believe there is public safety concerning such a
71 dam, (B) such official has notified the commissioner and has
72 reasonably attempted to notify the water company or the owner of the
73 hydroelectric power generating facility pursuant to subsection (e) of
74 this section, and (C) a representative of the water company is not
75 available; (2) a water company official or representative of the
76 hydroelectric power generating facility accompanies such chief
77 executive official or such official's designee; or (3) the water company
78 has granted permission to such official. A report of the inspection shall
79 be filed with the commissioner in accordance with the provisions of
80 subsection (f) of this section.

81 (d) No provision of subsection (b) or (c) of this section shall restrict
82 the right of a chief elected official or such official's designee to enter
83 upon or inspect water company dams, appurtenances or land under
84 the control or ownership of such municipality.

85 (e) When notifying a water company or owner of a hydroelectric
86 power generating facility pursuant to subsection (c) of this section, the
87 chief executive official of a municipality or such official's designee

88 shall call the contact number that such water company or facility
89 identifies in any emergency operation plan for such dam on file with
90 the municipality. In the event a water company or hydroelectric power
91 generating facility has not prepared an emergency operation plan for a
92 dam under the ownership or control of such water company or facility,
93 such water company or facility may file an emergency notification
94 contact form with such municipality. Not later than October 1, 2008,
95 the commissioner shall develop such an emergency notification contact
96 form. When such form is filed with the municipality such municipal
97 official shall use the information provided in the form to contact the
98 water company or hydroelectric power generating facility pursuant to
99 this section.

100 (f) A report of any inspection performed pursuant to subsection (b)
101 or (c) of this section shall be filed with the commissioner within seven
102 days of such inspection, except when an immediate threat to public
103 safety is discovered in which case such report shall be filed with the
104 commissioner immediately.

105 (g) The provisions of subsections (b) to (f), inclusive, of this section
106 shall not apply to a dam licensed by the Federal Energy Regulatory
107 Commission.

108 Sec. 2. Subsection (a) of section 22a-409 of the general statutes is
109 repealed and the following is substituted in lieu thereof (*Effective*
110 *October 1, 2007*):

111 (a) The commissioner shall cause a survey and maps to be made of
112 each town showing the location of any dams or similar structures
113 within such town, and shall file a copy of such map with the town
114 clerk. On and after December 31, 2007, if an owner of real property
115 where a high hazard or significant hazard dam is located transfers title
116 of the property to another person or entity, the transferring property
117 owner shall cause to be recorded on the land records in the
118 municipality where the property is located a document that identifies
119 the existence of the dam and whether the dam is categorized as a high

120 hazard dam or a significant hazard dam. The commissioner shall
121 publish a standardized form to be used for such purposes.

122 Sec. 3. Subsection (a) of section 22a-411 of the general statutes is
123 repealed and the following is substituted in lieu thereof (*Effective*
124 *October 1, 2007*):

125 (a) The commissioner may issue a general permit for any minor
126 activity regulated under sections 22a-401 to 22a-410, inclusive, except
127 for any activity covered by an individual permit, if the commissioner
128 determines that such activity would cause minimal environmental
129 effects when conducted separately and would cause only minimal
130 cumulative environmental effects. Such activities may include routine
131 maintenance and routine repair of any dam, dike, reservoir or other
132 similar structure, [and the construction if any such structure presents
133 low or negligible safety hazards.] Any person conducting an activity
134 for which a general permit has been issued shall not be required to
135 obtain an individual permit under sections 22a-36 to 22a-45a, inclusive,
136 or section 22a-342, 22a-368 or 22a-403, except as provided in subsection
137 (c) of this section. A general permit shall clearly define the activity
138 covered thereby and may include such conditions and requirements as
139 the commissioner deems appropriate, including but not limited to,
140 management practices and verification and reporting requirements.
141 The general permit may require any person conducting any activity
142 under the general permit to report, on a form prescribed by the
143 commissioner, such activity to the commissioner before it shall be
144 covered by the general permit. The commissioner shall prepare, and
145 shall annually amend, a list of holders of general permits under this
146 section, which list shall be made available to the public.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2007</i>	22a-402
Sec. 2	<i>October 1, 2007</i>	22a-409(a)
Sec. 3	<i>October 1, 2007</i>	22a-411(a)

ENV *Joint Favorable Subst.*

PD *Joint Favorable*