



General Assembly

Substitute Bill No. 124

February Session, 2010

* SB00124PD 042110 *

AN ACT CONCERNING LONG ISLAND SOUND AND COASTAL PERMITTING.

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

1 Section 1. (NEW) (*Effective October 1, 2010*) (a) Any recipient of a
2 permit, certificate or other authorization issued pursuant to sections
3 22a-32, 22a-361, 22a-363b and 22a-363d of the general statutes, as
4 amended by this act, on or after October 1, 2010, shall file on the land
5 records of the municipality in which the subject property is located a
6 certified copy or notice of such permit, certificate or authorization not
7 later than thirty days after the issuance of such permit, certificate or
8 authorization.

9 (b) Prior to transferring any real property on which an activity
10 regulated pursuant to sections 22a-32, 22a-361, 22a-363b and 22a-363d
11 of the general statutes, as amended by this act, exists, the owner of
12 such property shall file a certified copy or notice of the most recent
13 permit, certificate or authorization issued under said sections on the
14 land records of the municipality in which such property is located.

15 Sec. 2. Section 15-170 of the general statutes is repealed and the
16 following is substituted in lieu thereof (*Effective October 1, 2010*):

17 For the purposes of this section and sections 15-171 to 15-175,
18 inclusive:

19 (a) "Discharge" means spill, leak, pump, pour, emit, empty or dump;

20 (b) "Docking facility" means any public, private or commercial
21 marina, yacht club, dock, wharf or in-water mooring used for
22 anchoring, berthing, mooring, serving or otherwise handling vessels,
23 and includes a facility organized as a common interest community;

24 (c) "Marine sanitation device" means any equipment for installation
25 on board a vessel which is designed to receive, retain, treat or
26 discharge sewage;

27 (d) "Sewage" means human [and animal excretions and domestic
28 and manufacturing] body wastes [in an amount which is determined
29 by regulations adopted by the Commissioner of Environmental
30 Protection to be detrimental to the public health] and the wastes from
31 toilets and other receptacles intended to receive or retain body wastes;

32 (e) "Vessel" means every description of watercraft, other than a
33 seaplane on water, used or capable of being used as a means of
34 transportation on water; and

35 (f) "No discharge zone" means [the following: In the town of
36 Greenwich, all waters shoreward of a line running from Byram Point
37 to Great Captain Island and Little Captain Island and from there to
38 Flat Neck Point; in the city of Stamford, Stamford Harbor and Westcott
39 Cove; in the city of Norwalk and the towns of Westport and Fairfield,
40 all waters shoreward of a line running from Bell Island pole to
41 Sheffield Island, to Hammock Island, to Copps Island, to Goose Island,
42 to Cockenoe Island and thence to Cedar Point; in the town of Fairfield
43 and the city of Bridgeport, Ash Creek and all waters shoreward of a
44 line running from the point at Grover Hill to Penfield Reef and thence
45 southwesterly to red bell buoy number 22 off Sunken Island and
46 thence southwesterly to Cockenoe Island in Westport; in the towns of
47 Fairfield and Stratford and in the city of Milford, all waters shoreward
48 of a line running from Penfield Reef to Stratford Point, continuing
49 north to Milford Point, to include all tidal waters of the Housatonic
50 River north to the crossing of Interstate 95; in the city of Milford,

51 Milford Harbor, from the southwest end of Silver Beach to Charles
52 Island to Welsh's Point; in the cities of New Haven and West Haven,
53 all waters shoreward of a line running from Lighthouse Point westerly
54 to Bradley Point; in the town of Branford, Branford Harbor from
55 Johnson Point to Clam Island to Linden Point and Thimble Islands; in
56 the towns of Madison, Clinton and Westbrook, Clinton Harbor and
57 Duck Island Roads; in the town of Groton, all waters shoreward of a
58 line running from Groton Long Point to Morgan Point and thence to
59 Mason Point; and the Connecticut River from the Bissell Bridge
60 between Windsor and East Windsor south to its mouth, north of a line
61 running from Lynde Point in Old Saybrook to Griswold Point in Old
62 Lyme] those bodies of water in this state that the United States
63 Environmental Protection Agency designates as no discharge areas
64 pursuant to 33 USC 1322.

65 Sec. 3. Section 22a-32 of the general statutes is repealed and the
66 following is substituted in lieu thereof (*Effective October 1, 2010*):

67 No regulated activity shall be conducted upon any wetland without
68 a permit. Any person proposing to conduct or cause to be conducted a
69 regulated activity upon any wetland shall file an application for a
70 permit with the commissioner, in such form and with such information
71 as the commissioner may prescribe. Such application shall include a
72 detailed description of the proposed work and a map showing the area
73 of wetland directly affected, with the location of the proposed work
74 thereon, together with the names of the owners of record of adjacent
75 land and known claimants of water rights in or adjacent to the wetland
76 of whom the applicant has notice. The commissioner shall cause a copy
77 of such application to be mailed or sent by electronic means to the
78 chief administrative officer in the town or towns where the proposed
79 work, or any part thereof, is located, and the chairman of the
80 conservation commission and shellfish commission of the town or
81 towns where the proposed work, or any part thereof, is located. [No
82 sooner than thirty days and not later than sixty days after the receipt of
83 such application, the] The commissioner or [his] the commissioner's
84 duly designated hearing officer shall hold a public hearing on such

85 application, provided, whenever the commissioner determines that the
86 regulated activity for which a permit is sought is not likely to have a
87 significant impact on the wetland, [he] the commissioner may waive
88 the requirement for public hearing after publishing notice, in a
89 newspaper having general circulation in each town wherever the
90 proposed work or any part thereof is located, of [his] the
91 commissioner's intent to waive said requirement and of [his] the
92 commissioner's tentative decision regarding the application, except
93 that the commissioner shall hold a hearing on such application upon
94 request of the applicant or upon receipt of a petition, signed by at least
95 twenty-five persons, requesting such a hearing. The following shall be
96 notified of the hearing by mail or by electronic means not less than
97 fifteen days prior to the date set for the hearing: All of those persons
98 and agencies who are entitled to receive a copy of such application in
99 accordance with the terms hereof and all owners of record of adjacent
100 land and known claimants to water rights in or adjacent to the wetland
101 of whom the applicant has notice. The commissioner shall cause notice
102 of [his] the commissioner's tentative decision regarding the application
103 and such hearing to be published at least once not more than thirty
104 days and not fewer than ten days before the date set for the hearing in
105 the newspaper having a general circulation in each town where the
106 proposed work, or any part thereof, is located. All applications and
107 maps and documents relating thereto shall be open for public
108 inspection at the office of the commissioner. At such hearing any
109 person or persons may appear and be heard.

110 Sec. 4. Section 22a-35a of the general statutes is repealed and the
111 following is substituted in lieu thereof (*Effective October 1, 2010*):

112 The Commissioner of Environmental Protection, within available
113 appropriations and bond authorizations, shall conduct wetlands
114 restoration and enhancement projects, including but not limited to,
115 open water marsh management and coastal culvert and tide gate
116 management. Such projects (1) shall maximize successful
117 recolonization of tidal wetland vegetation and long-term control of
118 mosquitoes, mosquito larvae and mosquito habitats, (2) shall be

119 consistent with the provisions of sections 22a-28 to 22a-30, inclusive,
120 and sections 22a-90 to [22a-112] 22a-111, inclusive, as amended by this
121 act, and (3) shall be consistent with preservation, protection and
122 restoration of tidal wetland values.

123 Sec. 5. Section 22a-90 of the general statutes is repealed and the
124 following is substituted in lieu thereof (*Effective October 1, 2010*):

125 Sections 22a-90 to [22a-112] 22a-111, inclusive, as amended by this
126 act, shall be known and may be cited as the "Coastal Management
127 Act".

128 Sec. 6. Section 22a-97 of the general statutes is repealed and the
129 following is substituted in lieu thereof (*Effective October 1, 2010*):

130 (a) The commissioner shall provide, within available
131 appropriations, technical, coordinating and research services to
132 promote the effective administration of this chapter at the federal, state
133 and local levels.

134 (b) The commissioner shall have the overall responsibility for
135 general supervision of the implementation of this chapter and shall
136 monitor and evaluate the activities of federal and state agencies and
137 the activities of municipalities to assure continuing, effective,
138 coordinated and consistent administration of the requirements and
139 purposes of this chapter.

140 [(c) The commissioner shall prepare and submit to the General
141 Assembly and the Governor, on or before December first of each year,
142 a written report summarizing the activities of the department
143 concerning the development and implementation of this chapter
144 during the previous year. Such report shall include, but not be limited
145 to: (1) The department's accomplishments and actions in achieving the
146 goals and policies of this chapter including, but not limited to,
147 coordination with other state, regional, federal and municipal
148 programs established to achieve the purposes of this chapter and
149 research programs established pursuant to subsection (a) of section

150 22a-112; (2) recommendations for any statutory or regulatory
151 amendments necessary to achieve such purposes; (3) a summary of
152 municipal and federal programs and actions which affect the coast; (4)
153 recommendations for any programs or plans to achieve such purposes;
154 (5) any aspects of the program or the chapter which are proving
155 difficult to accomplish, suggested reasons for such difficulties and
156 proposed solutions to such difficulties; (6) a summary of the
157 expenditure of federal and state funds under this chapter; and (7) a
158 request for an appropriation of funds necessary to match federal funds
159 and provide continuing financial support for the program. Such report
160 shall comply with the provisions of section 46a-78. On and after
161 October 1, 1996, the report shall be submitted to the joint standing
162 committee of the General Assembly having cognizance of matters
163 relating to the environment and, upon request, to any member of the
164 General Assembly. A summary of the report shall be submitted to each
165 member of the General Assembly if the summary is two pages or less
166 and a notification of the report shall be submitted to each member if
167 the summary is more than two pages. Submission shall be by mailing
168 the report, summary or notification to the legislative address of each
169 member of the committee or the General Assembly, as applicable.]

170 Sec. 7. Section 22a-113m of the general statutes is repealed and the
171 following is substituted in lieu thereof (*Effective October 1, 2010*):

172 The commission, in consultation with the Commissioners of
173 Environmental Protection and Transportation, shall prepare or cause
174 to be prepared a management plan for the most desirable use of the
175 harbor for recreational, commercial, industrial and other purposes. For
176 those towns in the coastal area as defined in section 22a-94, the plan
177 shall provide for the preservation and use of the coastal resources of
178 the harbor in a manner consistent with the provisions of sections 22a-
179 90 to [22a-112] 22a-111, inclusive, as amended by this act, and any
180 municipal coastal plan adopted pursuant to section 22a-101 by any
181 municipality that is a member of the commission. A copy of the plan
182 shall be forwarded to the U.S. Army Corps of Engineers for review,
183 comments and recommendations. Such plan shall be submitted for

184 approval to the Commissioners of Environmental Protection and
185 Transportation. Said commissioners shall act on the plan not more
186 than sixty days after submission of such plan. Upon approval by said
187 commissioners, the plan may be adopted by ordinance by the
188 legislative body of each municipality establishing the commission. The
189 ordinance shall specify the effective date of the plan. A modification to
190 the plan may be proposed at any time and shall be approved in the
191 same manner as the plan. The plan shall be reviewed annually by the
192 commission and the Commissioners of Environmental Protection and
193 Transportation.

194 Sec. 8. Subsections (a) and (b) of section 22a-361 of the 2010
195 supplement to the general statutes are repealed and the following is
196 substituted in lieu thereof (*Effective October 1, 2010*):

197 (a) (1) No person, firm or corporation, public, municipal or private,
198 shall dredge, erect any structure, place any fill, obstruction or
199 encroachment or carry out any work incidental thereto or retain or
200 maintain any structure, dredging or fill, in the tidal, coastal or
201 navigable waters of the state waterward of the high tide line until such
202 person, firm or corporation has submitted an application and has
203 secured from [said commissioner] the Commissioner of Environmental
204 Protection a certificate or permit for such work and has agreed to carry
205 out any conditions necessary to the implementation of such certificate
206 or permit.

207 [Each] (A) Except as provided in subdivision (3) of this subsection,
208 each application for a permit, except for an emergency authorization,
209 for any structure, filling or dredging which uses or occupies less than
210 five thousand five hundred square feet in water surface area based on
211 the perimeters of the project shall be accompanied by a fee equal to
212 eighty cents per square foot provided such fee shall not be less than six
213 hundred sixty dollars.

214 [Each] (B) Except as provided in subdivision (3) of this subsection,
215 each application for a permit for any structure, filling or dredging

216 which uses or occupies five thousand five hundred square feet or more
217 but less than five acres in water surface area based on the perimeters of
218 the project shall be accompanied by a fee of three thousand five
219 hundred fifty dollars plus ten cents per square foot for each square foot
220 in excess of five thousand five hundred square feet.

221 [Each] (C) Except as provided in subdivision (3) of this subsection,
222 each application for a permit for any structure, filling or dredging
223 which uses or occupies five or more acres in water surface area based
224 on the perimeters of the project shall be accompanied by a fee of
225 nineteen thousand four hundred seventy-five dollars plus five
226 hundred twenty-five dollars per acre for each acre or part thereof in
227 excess of five acres.

228 [Each] (D) Except as provided in subdivision (3) of this subsection,
229 each application for a mooring area or multiple mooring facility,
230 regardless of the area to be occupied by moorings, shall be
231 accompanied by a fee of six hundred sixty dollars provided that such
232 mooring areas or facilities shall not include fixed or floating docks,
233 slips or berths.

234 (E) Application fees for aquaculture activities shall not be based on
235 areal extent.

236 (2) The commissioner may waive or reduce any fee payable [to him]
237 pursuant to subdivision (1) of this subsection for [(1)] (A) a tidal
238 wetlands or coastal resource restoration or enhancement activity, [(2)]
239 (B) experimental activities or demonstration projects, [(3)] (C)
240 nonprofit academic activities, or [(4)] (D) public access activities in
241 tidal, coastal or navigable waters, provided no fee shall be waived or
242 reduced for activities required by statute, regulation, permit, order or
243 enforcement action. The application fee for the retention of a structure
244 built in violation of this subsection where such structure is ineligible
245 for a certificate of permission under section 22a-363b, as amended by
246 this act, shall be four times the fee calculated in accordance with
247 subparagraphs (A) to (D), inclusive, of subdivision (1) of this

248 subsection. The commissioner may lower any such fee based upon the
249 commissioner's finding of significant extenuating circumstances,
250 including, but not limited to, whether the applicant acquired such real
251 estate interest in the work site after the date of the unauthorized
252 activity and is not otherwise liable for the unauthorized activity as a
253 result of actions taken prior to the acquisition and did not know and
254 had no reason to know of the unauthorized activity. As used in this
255 section, "resource restoration or enhancement activity" means an action
256 taken to return a wetland or coastal resource to a prior natural
257 condition or to improve the natural functions or habitat value of such
258 resource, but shall not include actions required pursuant to an
259 enforcement action of the commissioner, and "public access activities"
260 means activities whose principal purpose is to provide or increase
261 access for the general public to tidal, coastal or navigable waters,
262 including, but not limited to, boardwalks, boat ramps, observation
263 areas and fishing piers.

264 (3) The commissioner may adopt regulations in accordance with the
265 provisions of chapter 54 to vary the permit fees described in
266 subdivision (1) of this subsection and the cost of public notice required
267 pursuant to section 22a-6h, provided such regulations shall contain a
268 simplified schedule that promotes expedited approval of applications
269 that are consistent with all applicable standards and criteria. In the
270 event the commissioner adopts such regulations, such permit fees shall
271 be the amount established in such regulations.

272 (b) The commissioner, at least thirty days before approving or
273 denying an application for a permit, shall provide or require the
274 applicant to provide, by certified mail, return receipt requested, or by
275 electronic means to the applicant, to the Commissioner of
276 Transportation, the Attorney General and the Commissioner of
277 Agriculture and to the chief executive officer, the chairmen of the
278 planning, zoning, harbor management and shellfish commissions of
279 each town in which such structure, fill, obstruction, encroachment or
280 dredging is to be located or work to be performed, and to the owner of
281 each franchised oyster ground and the lessee of each leased oyster

282 ground within which such work is to be performed and shall publish
283 once in a newspaper having a substantial circulation in the area
284 affected, notice of (1) the name of the applicant; (2) the location and
285 nature of the proposed activities; (3) the tentative decision regarding
286 the application; and (4) any additional information the commissioner
287 deems necessary. There shall be a comment period following the
288 public notice during which interested persons may submit written
289 comments. The commissioner may hold a public hearing prior to
290 approving or denying an application if, in the commissioner's
291 discretion, the public interest will best be served by holding such
292 hearing. The commissioner shall hold a public hearing if the
293 commissioner receives a petition requesting such hearing that is signed
294 by twenty-five or more persons and an application will: (A)
295 Significantly impact any shellfish area, as determined by the director of
296 the Bureau of Aquaculture at the Department of Agriculture, (B) have
297 interstate ramifications, or (C) involve any project that requires a
298 certificate issued pursuant to section 16-50k or approval by the Federal
299 Energy Regulatory Commission. Following such notice and comment
300 period and public hearing, if applicable, the commissioner may, in
301 whole or in part, approve, modify and approve or deny the
302 application. The commissioner shall provide to the applicant and the
303 persons set forth above, by certified mail, return receipt requested, or
304 by electronic means, notice of [his] the commissioner's decision. If the
305 commissioner requires the applicant to provide the notice specified in
306 this subsection, the applicant shall certify to the commissioner, no later
307 than twenty days after providing such notice, that such notice has been
308 provided in accordance with this subsection.

309 Sec. 9. Subsection (d) of section 22a-361 of the 2010 supplement to
310 the general statutes is repealed and the following is substituted in lieu
311 thereof (*Effective October 1, 2010*):

312 (d) (1) The Commissioner of Environmental Protection may issue a
313 general permit for any minor activity regulated under sections 22a-28
314 to 22a-35, inclusive, as amended by this act, or sections 22a-359 to 22a-
315 363f, inclusive, as amended by this act, if the commissioner determines

316 that such activity would (A) cause minimal environmental effects
317 when conducted separately, (B) cause only minimal cumulative
318 environmental effects, (C) not be inconsistent with the considerations
319 and the public policy set forth in sections 22a-28 to 22a-35, inclusive, as
320 amended by this act, and section 22a-359, as applicable, (D) be
321 consistent with the policies of the Coastal Management Act, and (E)
322 constitute an acceptable encroachment into public lands and waters.
323 Such activities may include routine minor maintenance and routine
324 minor repair of existing structures, fill, obstructions, encroachments or
325 excavations; substantial maintenance consisting of rebuilding,
326 reconstructing or reestablishing to a preexisting condition and
327 dimension any structure, fill, obstruction, encroachment or excavation;
328 maintenance dredging of areas which have been dredged and
329 continuously maintained as serviceable; activities allowed pursuant to
330 a perimeter permit; the removal of structures, derelict vessels, debris,
331 rubbish or similar discarded material or unauthorized fill material;
332 minor alterations or amendments to authorized activities consistent
333 with the authorization for such activities; activities which have been
334 required or allowed by an order of the commissioner; open water
335 marsh management by or under the supervision of the Department of
336 Public Health or Department of Environmental Protection;
337 conservation activities of or under the supervision or direction of the
338 Department of Environmental Protection; construction of individual
339 residential docks which do not create littoral or riparian conflicts,
340 navigational interference, or adverse impacts to coastal resources as
341 defined by section 22a-93, which are not located in tidal wetlands as
342 defined by section 22a-29 and which extend no further than forty feet
343 waterward of mean high water or to a depth of minus four feet mean
344 low water, whichever point is more landward; installation of scientific
345 measuring or monitoring devices; survey activities including
346 excavation of test pits and core sampling and driving of test pilings;
347 construction of utility lines; aquacultural activities; and installation
348 and removal of small seasonal structures including floats and
349 moorings. Any person conducting an activity for which a general
350 permit has been issued shall not be required to obtain an individual

351 permit or certificate under any other provision of sections 22a-28 to
352 22a-35, inclusive, as amended by this act, or sections 22a-359 to 22a-
353 363f, inclusive, as amended by this act, for that activity except as
354 provided in subdivision (3) of this subsection. A general permit shall
355 clearly define the activity covered thereby and may include such
356 conditions and requirements as the commissioner deems appropriate,
357 including, but not limited to, construction timing, methodologies and
358 durations, resource protection practices, management practices, and
359 verification and reporting requirements. The general permit may
360 require any person proposing to conduct any activity under the
361 general permit to register such activity, including obtaining approval
362 from the commissioner, before the general permit becomes effective as
363 to such activity. Registrations and applications for approval under the
364 general permit shall be submitted on forms prescribed by the
365 commissioner. Any approval by the commissioner under a general
366 permit may include conditions specific to the proposed activity to
367 ensure consistency with the requirements for issuance of the general
368 permit. The commissioner shall prepare, and annually amend, a list of
369 holders of general permits under this section, which list shall be made
370 available to the public.

371 (2) Notwithstanding any other procedures specified in sections 22a-
372 28 to 22a-35, inclusive, as amended by this act, and sections 22a-359 to
373 22a-363f, inclusive, as amended by this act, any regulations adopted
374 thereunder, and chapter 54, the commissioner may issue a general
375 permit in accordance with the following procedures: (A) The
376 commissioner shall publish in a newspaper having a substantial
377 circulation in the affected area or areas notice of intent to issue a
378 general permit; (B) the commissioner shall allow a comment period of
379 thirty days following publication of such notice during which
380 interested persons may submit written comments concerning the
381 permit to the commissioner and the commissioner shall hold a public
382 hearing if, within said comment period, he receives a petition signed
383 by at least twenty-five persons; (C) the commissioner may not issue the
384 general permit until after the comment period; (D) the commissioner

385 shall publish notice of any permit issued in a newspaper having
386 substantial circulation in the affected area or areas; and (E) summary
387 suspension may be ordered in accordance with subsection (c) of
388 section 4-182. Any person may request that the commissioner issue,
389 modify or revoke a general permit in accordance with this subsection.

390 (3) Subsequent to the issuance of a general permit, the commissioner
391 may require any person whose activity is or may be covered by the
392 general permit to apply for and obtain an individual permit or
393 certificate under the provisions of sections 22a-28 to 22a-35, inclusive,
394 as amended by this act, or sections 22a-359 to 22a-363f, inclusive, as
395 amended by this act, for all or any portion of the activities covered by
396 the general permit, if the commissioner determines that an individual
397 permit is necessary to assure consistency with purposes and policies of
398 such sections, and the Coastal Management Act. The commissioner
399 may require an individual permit under this subdivision in cases
400 including, but not limited to, the following: (A) The permittee is not in
401 compliance with the conditions of the general permit; (B) an individual
402 permit or certificate is appropriate because of circumstances specific to
403 the site; (C) circumstances have changed since the time the general
404 permit was issued so that the permitted activity is no longer acceptable
405 under the general permit; or (D) a change has occurred in relevant law.
406 The commissioner may require an individual permit or certificate
407 under this section only if the affected person has been notified in
408 writing that an individual permit or certificate is required. The notice
409 shall include a brief statement of the reasons for the decision.

410 (4) The commissioner may adopt regulations, in accordance with the
411 provisions of chapter 54, to carry out the purposes of this section.

412 [(5) Notwithstanding any provision of sections 22a-359 to 22a-363f,
413 inclusive, pending issuance of a general permit for aquaculture
414 activities by the commissioner in accordance with this section, no
415 permit or certificate shall be required for the placement, maintenance
416 or removal of (A) individual structures used for aquaculture, as
417 defined in section 22-416, including, but not limited to, cages or bags,

418 which are located on designated state or municipal shellfish beds
419 which structures create no adverse impacts on coastal resources or
420 navigation over their location or (B) any buoys used to mark such
421 structures. Upon issuance of a general permit for aquaculture activities
422 in accordance with this section, any aquaculture activities shall comply
423 with the terms of such general permit or other applicable provisions of
424 sections 22a-359 to 22a-363f, inclusive.]

425 Sec. 10. Section 22a-363b of the general statutes is repealed and the
426 following is substituted in lieu thereof (*Effective October 1, 2010*):

427 (a) Routine maintenance of permitted structures, fill, obstructions or
428 encroachments or routine maintenance of structures, fill, obstructions
429 or encroachments in place prior to June 24, 1939, and continuously
430 maintained and serviceable since that date shall be exempt from the
431 requirements of obtaining certificates of permission or permits
432 pursuant to section 22a-363a, as amended by this act, this section or
433 section 22a-361, as amended by this act. The following activities may
434 be eligible for a certificate of permission, in accordance with the
435 provisions of subsections (c) and (d) of this section: (1) Substantial
436 maintenance or repair of existing structures, fill, obstructions or
437 encroachments authorized pursuant to section 22a-33 or section 22a-
438 361, as amended by this act; (2) substantial maintenance of any
439 structures, fill, obstructions or encroachments in place prior to June 24,
440 1939, and continuously maintained and serviceable since such time; (3)
441 maintenance dredging of areas which have been dredged and
442 continuously maintained and serviceable as authorized pursuant to
443 section 22a-33 or section 22a-361, as amended by this act; (4) activities
444 allowed pursuant to a perimeter permit and requiring authorization by
445 the commissioner; (5) the removal of derelict structures or vessels; (6)
446 minor alterations or amendments to permitted activities consistent
447 with the original permit; (7) minor alterations or amendments to
448 activities completed prior to June 24, 1939; (8) placement of temporary
449 structures for water-dependent uses, as defined in section 22a-93; (9)
450 open water marsh management, tidal wetland restoration, resource
451 restoration or enhancement activity, as defined in subsection (a) of

452 section 22a-361, as amended by this act, and conservation activities
453 undertaken by or under the supervision of the Department of
454 Environmental Protection; [and] (10) the placement or reconfiguration
455 of piers, floats, docks or moorings within existing waterward
456 boundaries of recreational marinas or yacht clubs which have been
457 authorized pursuant to section 22a-33 or 22a-361, as amended by this
458 act; and (11) substantial maintenance or repair of structures, fill,
459 obstructions or encroachments placed landward of the mean high
460 waterline and waterward of the high tide line completed prior to
461 October 1, 1987, and continuously maintained and serviceable since
462 said date. Notwithstanding the provisions of sections 22a-29 to 22a-35,
463 inclusive, as amended by this act, the commissioner may issue a
464 certificate of permission for activities enumerated in this subsection
465 which are to be conducted in tidal wetlands. Upon issuance, such
466 certificate shall be in lieu of the permit required pursuant to section
467 22a-32, as amended by this act.

468 (b) The commissioner may issue a certificate of permission for
469 activities which [have been] were completed prior to [January 1, 1980]
470 January 1, 1995, for which permits, certificates or emergency
471 authorizations [are] were required pursuant to section 22a-32, as
472 amended by this act, this section, section 22a-361 or 22a-363d, as
473 amended by this act, which [have been] were conducted without such
474 permit, certificate or emergency authorization, provided the applicant
475 demonstrates that such activity [does not interfere with navigation or
476 littoral or riparian rights and does not cause adverse impacts on
477 coastal resources, as defined in section 22a-93] complies with all
478 applicable standards and criteria. In determining the eligibility of
479 activities conducted without prior authorization, the commissioner
480 may consider whether the applicant acquired such real estate interest
481 in the work site after the date of conduct of the unauthorized activity,
482 is not otherwise liable for the unauthorized activity as a result of
483 actions taken prior to the acquisition and did not know and had no
484 reason to know of the unauthorized activity. The commissioner may
485 authorize the maintenance of or minor alterations to unauthorized

486 activities consistent with this subsection. Unauthorized activities
487 which are ineligible for certificates of permission may be subject to
488 applicable enforcement actions by the commissioner.

489 (c) A request for a certificate of permission shall be made to the
490 Commissioner of Environmental Protection. If a proposed activity is
491 within a category listed in subsection (a) or (b) of this section the
492 commissioner may, in whole or in part, approve, modify and approve
493 or deny a certificate. The commissioner shall issue such a certificate if
494 the eligible proposed activity is consistent with a permit issued
495 pursuant to section 22a-33 or 22a-361, as amended by this act, or was in
496 place prior to June 24, 1939, and continuously maintained and
497 serviceable since such time. If the eligible proposed activity does not
498 have a permit or has not received any prior permits, the commissioner
499 shall determine if the information provided is sufficient to determine if
500 the proposed activity complies with the applicable standards and
501 criteria and may (1) issue a certificate of permission if the
502 commissioner finds that the information indicates compliance with all
503 applicable standards and criteria, or (2) require the submittal of a
504 complete application for a permit pursuant to section 22a-32 or 22a-
505 361, as amended by this act, if the commissioner finds that the
506 information is not sufficient to indicate compliance with the standards
507 and criteria. If the commissioner finds that changes in conditions or
508 circumstances associated with a permitted structure, fill, obstruction or
509 encroachment are likely to result in significant impacts to the
510 environment or coastal resources, the commissioner may require an
511 application for a permit pursuant to section 22a-32 or 22a-361, as
512 amended by this act. If the commissioner finds that the structure, fill,
513 obstruction or encroachment is not in substantial compliance with the
514 permit or authorization under which a certificate of permission is
515 requested, and is not consistent with applicable standards and criteria,
516 the commissioner shall not issue a certificate of permission. For the
517 purposes of this [subsection] section, standards and criteria are those
518 specified in sections 22a-33 and 22a-359 and regulations adopted
519 pursuant to section 22a-30, in any regulations adopted pursuant to

520 subsection (c) of said section 22a-361, as amended by this act, in the
521 water quality standards of the Department of Environmental
522 Protection, and in sections 22a-92 and 22a-98 for activities within the
523 coastal boundary, as defined in section 22a-93.

524 (d) The commissioner shall, within forty-five days of receipt of a
525 request for a certificate of permission, issue such certificate or notify
526 the person making such request that (1) additional information or an
527 application for a permit pursuant to section 22a-32 or section 22a-361,
528 as amended by this act, is required, or (2) the structure, fill, obstruction
529 or encroachment is not eligible for a certificate of permission. If the
530 commissioner requests additional information from an applicant, the
531 commissioner shall make a determination on the application no later
532 than ninety days from the date of receipt of the request for a certificate
533 of permission. If the commissioner fails to respond within forty-five
534 days of receipt of a request, the certificate of permission shall be
535 deemed approved, except that no certificate of permission for
536 dredging, activities located within tidal wetlands, as defined in section
537 22a-29, or activities conducted without prior authorization shall be
538 deemed approved by virtue of the commissioner's failure to respond.

539 (e) Notwithstanding the provisions of the general statutes, the
540 commissioner shall not issue a certificate of permission for a pound
541 net, weir or similar fish harvesting structure that was not utilized prior
542 to June 6, 2001. The commissioner may issue a permit for such fish
543 harvesting structure, in accordance with section 22a-361, as amended
544 by this act, provided, if the commissioner receives a petition signed by
545 twenty-five or more persons during the public comment period
546 provided in subsection (b) of section 22a-361, as amended by this act,
547 for the application for any such permit, the commissioner shall hold a
548 public hearing on such permit application.

549 Sec. 11. Section 22a-363a of the general statutes is repealed and the
550 following is substituted in lieu thereof (*Effective October 1, 2010*):

551 For the purposes of this section and sections 22a-361, 22a-361a, 22a-

552 362, and 22a-363a, 22a-363b and 22a-363d to 22a-363f, inclusive, as
 553 amended by this act: "Substantial maintenance" means rebuilding,
 554 reconstructing, or reestablishing to a preexisting condition and
 555 dimension any structure, fill, obstruction or encroachment; [, including
 556 maintenance dredging;] "routine maintenance" means replacement and
 557 repair of out-of-water structures including the surfaces of docks, piers,
 558 wharves and bridges, replacement or repair in any year of up to
 559 twenty-five per cent of all pilings approved in accordance with section
 560 22a-361, as amended by this act, and seasonal installation,
 561 reinstallation or repair of floating docks, provided that all locations,
 562 dimensions, elevations and materials shall remain the same as or
 563 equivalent to that approved in accordance with said section;
 564 "perimeter permit" means a permit issued in accordance with said
 565 section, establishing boundaries waterward of the high tide line within
 566 which recreational marinas layout of in-water slips, docks and
 567 moorings may be reconfigured; "work" means any activity,
 568 construction, or site preparation, erection of structures or placement of
 569 fill, including but not limited to grading, excavating, dredging or
 570 disposing of dredged material, depositing of soil, stones, sand, gravel,
 571 mud, aggregate or construction materials, filling, removing vegetation
 572 or other material, or other modification of a site within the tidal,
 573 coastal or navigable waters of the state waterward of the high tide line.

574 Sec. 12. Subdivision (27) of subsection (a) of section 2c-2b and
 575 sections 22a-112 to 22a-113c, inclusive, of the general statutes are
 576 repealed. (*Effective October 1, 2010*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2010</i>	New section
Sec. 2	<i>October 1, 2010</i>	15-170
Sec. 3	<i>October 1, 2010</i>	22a-32
Sec. 4	<i>October 1, 2010</i>	22a-35a
Sec. 5	<i>October 1, 2010</i>	22a-90
Sec. 6	<i>October 1, 2010</i>	22a-97
Sec. 7	<i>October 1, 2010</i>	22a-113m

Sec. 8	<i>October 1, 2010</i>	22a-361(a) and (b)
Sec. 9	<i>October 1, 2010</i>	22a-361(d)
Sec. 10	<i>October 1, 2010</i>	22a-363b
Sec. 11	<i>October 1, 2010</i>	22a-363a
Sec. 12	<i>October 1, 2010</i>	Repealer section

ENV *Joint Favorable Subst.*

PD *Joint Favorable*