



General Assembly

January Session, 2013

Raised Bill No. 6441

LCO No. 3177



Referred to Committee on ENVIRONMENT

Introduced by:
(ENV)

AN ACT CONCERNING THE DAM SAFETY PROGRAM.

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

1 Section 1. Section 22a-401 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2013*):

3 All dams, dikes, reservoirs and other similar structures, with their
4 appurtenances, without exception and without further definition or
5 enumeration herein, which, by breaking away or otherwise, might
6 endanger life or property, shall be subject to the jurisdiction conferred
7 by this chapter. The Commissioner of Energy and Environmental
8 Protection shall formulate all rules, definitions and regulations
9 necessary to carry out the provisions of this chapter and not
10 inconsistent therewith. The commissioner or his authorized
11 representatives may enter upon private property to make such
12 investigations and gather such data concerning dams, watersheds,
13 sites, structures and general conditions as may be necessary in the
14 public interest for a proper inspection, review and study of the design
15 and construction of such structures and of the environmental impact of
16 such structures on the inland wetlands of the state. The commissioner

17 may, when necessary, employ or make such agreements with
18 geologists, other engineers, expert consultants and such assistants as
19 may be reasonably necessary to carry out the provisions of this
20 chapter. [The owner of any dam, dike or similar structure under the
21 jurisdiction conferred by this chapter shall notify the commissioner, by
22 registered or certified mail return receipt requested, of the transfer of
23 ownership of any such dam, dike or similar structure not later than ten
24 days after the date of such transfer.]

25 Sec. 2. Subsection (b) of section 22a-403 of the general statutes is
26 repealed and the following is substituted in lieu thereof (*Effective*
27 *October 1, 2013*):

28 (b) The commissioner or his representative, engineer or consultant
29 shall determine the impact of the construction work on the
30 environment, on the safety of persons and property and on the tidal
31 wetlands and inland wetlands and watercourses of the state in
32 accordance with the provisions of sections [22a-36] 22a-28 to 22a-45,
33 inclusive, and shall further determine the need for a fishway in
34 accordance with the provisions of section 26-136, and shall examine the
35 documents and inspect the site, and, upon approval thereof, the
36 commissioner shall issue a permit authorizing the proposed
37 construction work under such conditions as the commissioner may
38 direct. The commissioner shall send a copy of the permit to the town
39 clerk in any municipality in which the structure is located or any
40 municipality which will be affected by the structure. An applicant for a
41 permit issued under this section to alter, rebuild, repair or remove an
42 existing dam shall not be required to obtain a permit under sections
43 [22a-36] 22a-28 to 22a-45a, inclusive, or section 22a-342, 22a-361 or 22a-
44 368. An applicant for a permit issued under this section to construct a
45 new dam shall not be required to obtain a permit under sections [22a-
46 36] 22a-28 to 22a-45a, inclusive, for such construction. An applicant for
47 a dam safety permit shall not be required to obtain approval of a
48 certification under section 25-68d.

49 Sec. 3. Section 22a-404 of the general statutes is repealed and the
50 following is substituted in lieu thereof (*Effective October 1, 2013*):

51 The [commissioner or his representative] dam owner or his or her
52 representative supervising the work on any dam or other like structure
53 subject to the commissioner's jurisdiction pursuant to this chapter shall
54 [inspect the work or cause it] cause the work to be inspected by a
55 registered professional engineer licensed in the state of Connecticut to
56 the extent necessary to determine whether the structure will be safe
57 and secure. [The] Not later than thirty days after the date the work is
58 completed, the dam owner shall submit to the commissioner a sworn
59 statement from the engineer who completed such inspection. Such
60 sworn statement shall (1) attest that such engineer inspected the work
61 and determined the dam or like structure to be safe within the
62 parameters of the design of such dam or like structure, (2) attest that
63 all appurtenances to such dam or like structure were built, repaired,
64 altered or removed in conformance with plans, specifications and
65 drawings approved by the commissioner pursuant to a permit for
66 construction or an order issued pursuant to section 22a-402, and (3)
67 bear the engineer's professional seal. For a high or significant hazard
68 dam, or if the commissioner determines a sensitive ecological
69 condition exists, the commissioner may [, when in his judgment
70 circumstances warrant,] place a competent inspector on the work, and
71 the compensation for such inspector shall be shared equally by the
72 state and by the owner. When the work has been completed to the
73 satisfaction of the commissioner, the owner shall file with the
74 commissioner plans and descriptions of the work as actually
75 constructed, together with any other pertinent data.

76 Sec. 4. Section 22a-409 of the general statutes is repealed and the
77 following is substituted in lieu thereof (*Effective October 1, 2013*):

78 (a) The commissioner shall cause a survey and maps to be made of
79 each town showing the location of any dams or similar structures
80 within such town, and shall file a copy of such map with the town

81 clerk. On and after October 1, 2007, the owner of real property where a
82 high hazard or significant hazard dam is located shall cause to be
83 recorded on the land records in the municipality where the property is
84 located a document that identifies the existence of the dam and
85 whether the dam is categorized as a high hazard dam or a significant
86 hazard dam. The commissioner shall publish a standardized form to
87 be used for such purposes.

88 (b) The owner of any dam or similar structure not already registered
89 shall register on or before ~~July 1, 1984~~ October 1, 2015, with the
90 Commissioner of Energy and Environmental Protection on a form
91 prescribed by ~~him~~ the commissioner, the location and dimensions of
92 such dam or structure and such other information as the commissioner
93 may require. The fee for registration shall be as follows: (1) Dams or
94 similar structures five feet or more in height but less than fifteen feet,
95 fifty dollars; (2) dams or similar structures fifteen feet or more in
96 height but less than twenty-five feet, one hundred dollars; and (3)
97 dams or similar structures twenty-five feet or more in height, two
98 hundred dollars. Dams or similar structures less than five feet in
99 height shall be registered without fee. As used in this subsection,
100 "height" means the vertical distance from the crest of a dam or similar
101 structure to the downstream toe of such dam or similar structure. The
102 owner of any dam or similar structure shall notify the commissioner
103 by registered or certified mail, return receipt requested, of a transfer of
104 ownership of such dam or similar structure not later than ten days
105 after the date of such transfer.

106 (c) The owner of any dam or similar structure registered pursuant to
107 subsection (b) of this section shall cause such structure to be inspected
108 in accordance with regulations adopted pursuant to this subsection by
109 a registered professional engineer licensed in the state of Connecticut
110 and shall submit the results of such inspection to the commissioner on
111 a form prescribed by the commissioner. The commissioner shall
112 periodically inspect dams registered pursuant to subsection (b) of this
113 section for quality assurance when an owner fails to undertake a

114 regularly scheduled inspection and as necessary after a flood event.
115 The fee for any such inspection shall be six hundred sixty dollars until
116 such time as regulations are adopted concerning such inspection fees.
117 Any dam which impounds less than three acre-feet of water or any
118 dam which the commissioner finds has a potential for negligible
119 damage in the event of a failure, after an initial inspection, shall be
120 exempt from the provisions of this subsection except upon
121 determination by the commissioner that such dam poses a unique
122 hazard. The commissioner shall adopt regulations in accordance with
123 the provisions of chapter 54 establishing (1) a schedule for the
124 frequency of and procedures for inspection of dams, (2) the inspection
125 fees for [regularly scheduled] inspections undertaken by the
126 department, sufficient to cover the reasonable cost of such inspections,
127 (3) procedures for registration and criteria for waiver of registration
128 and inspection fees, and (4) criteria for determining whether a dam has
129 a potential for negligible damage in the event of a failure.

130 (d) The commissioner may audit any inspection report submitted
131 pursuant to this section by the owner of a dam or similar structure.
132 When conducting such audit, the commissioner may request, in
133 writing, any information the commissioner deems necessary to carry
134 out such audit, including additional information or field inspections. If
135 the commissioner determines that the inspection report is materially
136 inaccurate, incomplete or misleading, the commissioner may require
137 that another inspection be independently undertaken by a
138 disinterested registered professional engineer licensed in the state of
139 Connecticut. For purposes of this subsection, "disinterested" means
140 that such engineer (1) does not have any financial interest, other than
141 the expectation of reasonable compensation for his or her services, (2)
142 did not engage in any activities associated with the development or
143 preparation of the inspection being audited, and (3) is not under the
144 same employ as the owner of the dam or similar structure or the
145 engineer who performed the inspection that is audited. Such
146 independent inspection shall be performed at the expense of the owner

147 of the dam or similar structure. The commissioner shall adopt
148 regulations in accordance with the provisions of chapter 54 to
149 establish: (A) The manner in which the owner of the dam or similar
150 structure shall receive notice of such independent inspection, and (B)
151 may appeal the cost of such independent inspection.

152 Sec. 5. (NEW) (*Effective October 1, 2013*) After the adoption of
153 regulations pursuant to this section, the owner of any high or
154 significant hazard dam or similar structure shall develop and
155 implement an emergency action plan. The emergency action plan shall
156 be updated every two years and copies shall be filed with the
157 Commissioner of Energy and Environmental Protection and the chief
158 executive officer of any municipality that would potentially be affected
159 in the event of an emergency. The Commissioner of Energy and
160 Environmental Protection shall adopt regulations, in accordance with
161 the provisions of chapter 54 of the general statutes, establishing the
162 requirements for such emergency action plans, including, but not
163 limited to, (1) criteria and standards for inundation studies and
164 inundation zone mapping; (2) procedures for monitoring the dam or
165 structure during periods of heavy rainfall and runoff, including
166 personnel assignments and features of the dam to be inspected at
167 given intervals during such periods; and (3) a formal notification
168 system to alert appropriate local officials who are responsible for the
169 warning and evacuation of residents in the inundation zone in the
170 event of an emergency.

171 Sec. 6. Section 22a-411 of the general statutes is repealed and the
172 following is substituted in lieu thereof (*Effective October 1, 2013*):

173 (a) The commissioner may issue a general permit for any minor
174 activity regulated under sections 22a-401 to 22a-410, inclusive, except
175 for any activity covered by an individual permit, if the commissioner
176 determines that such activity would cause minimal environmental
177 effects when conducted separately and would cause only minimal
178 cumulative environmental effects. Such activities may include routine

179 maintenance and routine repair of any dam, dike, reservoir or other
180 similar structure or dam removal that improves fish passage or
181 provides other ecological benefits. Any person conducting an activity
182 for which a general permit has been issued shall not be required to
183 obtain an individual permit under sections 22a-36 to 22a-45a, inclusive,
184 or section 22a-342, 22a-368 or 22a-403, except as provided in subsection
185 (c) of this section. A general permit shall clearly define the activity
186 covered thereby and may include such conditions and requirements as
187 the commissioner deems appropriate, including, but not limited to,
188 management practices and verification and reporting requirements.
189 The general permit may require any person conducting any activity
190 under the general permit to report, on a form prescribed by the
191 commissioner, such activity to the commissioner before it shall be
192 covered by the general permit. The commissioner shall prepare, and
193 shall annually amend, a list of holders of general permits under this
194 section, which list shall be made available to the public.

195 (b) Notwithstanding any other procedures specified in said sections
196 22a-401 to 22a-410, inclusive, any regulation adopted thereunder, and
197 chapter 54, the commissioner may issue, revoke, suspend or modify a
198 general permit in accordance with the following procedures: (1) The
199 commissioner shall publish in a newspaper having a substantial
200 circulation in the affected area or areas notice of intent to issue a
201 general permit; (2) the commissioner shall allow a comment period of
202 thirty days following publication of such notice during which
203 interested persons may submit written comments to the commissioner
204 and the commissioner shall hold a public hearing if, within said
205 comment period, he receives a petition signed by at least twenty-five
206 persons; (3) the commissioner may not issue the general permit until
207 after the comment period; and (4) the commissioner shall publish
208 notice of any issued permit in a newspaper having substantial
209 circulation in the affected area or areas. Any person may request that
210 the commissioner issue, modify or revoke a general permit in
211 accordance with the provisions of this subsection.

212 (c) Subsequent to the issuance of a general permit, the commissioner
213 may require any person to obtain an individual permit under the
214 provisions of said sections 22a-401 to 22a-410, inclusive, for all or any
215 portion of the activities covered by the general permit, if in the
216 commissioner's judgment the purposes and policies of said sections
217 would be best served by requiring an application for an individual
218 permit. The commissioner may require an individual permit under this
219 subsection only if the affected person has been notified in writing that
220 an individual permit is required. The notice shall include a brief
221 statement of the reasons for the decision and a statement that upon the
222 date of issuance of such notice the general permit as it applies to the
223 individual activity will terminate.

224 (d) Any general permit issued under this section [shall] may require
225 that any person intending to conduct an activity covered by such
226 general permit [shall, at least sixty days before initiating such activity,]
227 give written notice of such intention to the inland wetlands agency,
228 zoning commission, planning commission or combined planning and
229 zoning commission, and conservation commission of any municipality
230 which will or may be affected by such activity, and to the department
231 which shall make such notices available to the public. The general
232 permit shall specify the information which must be contained in the
233 notice. [An inland wetlands agency, planning and zoning commission,
234 conservation commission or any person may submit written comments
235 to the commissioner concerning such activity no later than twenty-five
236 days before the date that the activity is proposed to begin.]

237 (e) The commissioner may adopt regulations in accordance with the
238 provisions of chapter 54 to carry out the purposes of this section.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2013</i>	22a-401
Sec. 2	<i>October 1, 2013</i>	22a-403(b)
Sec. 3	<i>October 1, 2013</i>	22a-404

Sec. 4	<i>October 1, 2013</i>	22a-409
Sec. 5	<i>October 1, 2013</i>	New section
Sec. 6	<i>October 1, 2013</i>	22a-411

Statement of Purpose:

To effectively establish a dam owner stewardship and inspection approach to dam safety.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]