



**Substitute House Bill No. 6441**

**Public Act No. 13-197**

**AN ACT CONCERNING THE DAM SAFETY PROGRAM AND MOSQUITO CONTROL.**

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

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 Section 22a-401 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

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may be reasonably necessary to carry out the provisions of this chapter. [The owner of any dam, dike or similar structure under the jurisdiction conferred by this chapter shall notify the commissioner, by registered or certified mail return receipt requested, of the transfer of ownership of any such dam, dike or similar structure not later than ten days after the date of such transfer.]

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 Subsection (b) of section 22a-403 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2013*):

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

Sec. 3. Section 22a-404 of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective October 1, 2013*):

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

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

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

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

(b) The owner of any dam or similar structure that, by failing, may endanger life or property and that is not already registered shall register on or before ~~July 1, 1984~~ October 1, 2015, with the Commissioner of Energy and Environmental Protection on a form prescribed by ~~him~~ the commissioner, the location and dimensions of such dam or structure and such other information as the commissioner may require. Any information reported on such form that the commissioner cannot otherwise independently obtain shall not be used by the commissioner to order the payment of a civil penalty pursuant to section 22a-6d or 22a-407 provided such form is submitted to the commissioner on or before October 1, 2015. The fee for registration shall be as follows: (1) Dams or similar structures five feet or more in height but less than fifteen feet, fifty dollars; (2) dams or similar structures fifteen feet or more in height but less than twenty-five feet, one hundred dollars; and (3) dams or similar structures twenty-five feet or more in height, two hundred dollars. Dams or similar structures less than five feet in height shall be registered without fee. As used in this subsection, "height" means the vertical distance from the crest of a dam or similar structure to the downstream toe of such dam or similar structure. The owner of any dam or similar structure shall notify the commissioner by registered or certified mail, return receipt requested, of a transfer of ownership of such dam or similar structure not later than ten days after the date of such transfer.

(c) The commissioner shall notify the owner of any dam or similar

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structure registered pursuant to subsection (b) of this section, in writing, by certified mail, return receipt requested, not later than January fifteenth of any year in which inspection of such dam is due. Such notice shall identify the classification of such dam, as set forth in the regulations adopted pursuant to this subsection, and include a statement of the frequency for such inspection, as set forth in such regulations. Upon receipt of such timely notification by the commissioner, the owner of any such dam or similar structure shall cause such structure to be inspected in accordance with the regulations adopted pursuant to this subsection by a registered professional engineer licensed in the state and shall, not later than March fifteenth of the following year, submit the results of such inspection to the commissioner on a form prescribed by the commissioner. The commissioner shall periodically inspect dams registered pursuant to subsection (b) of this section for quality assurance when an owner fails to undertake a regularly scheduled inspection and as necessary after a flood event. The fee for any such inspection shall be six hundred sixty dollars until such time as regulations are adopted concerning such inspection fees. Any dam which impounds less than three acre-feet of water or any dam which the commissioner finds has a potential for negligible damage in the event of a failure, after an initial inspection, shall be exempt from the provisions of this subsection except upon determination by the commissioner that such dam poses a unique hazard. The commissioner shall adopt regulations in accordance with the provisions of chapter 54 establishing (1) a schedule for the frequency of and procedures for inspection of dams, (2) the inspection fees for [regularly scheduled] inspections undertaken by the department, sufficient to cover the reasonable cost of such inspections, (3) procedures for registration and criteria for waiver of registration and inspection fees, and (4) criteria for determining whether a dam has a potential for negligible damage in the event of a failure.

Sec. 5. (NEW) (*Effective October 1, 2013*) After the Commissioner of

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Energy and Environmental Protection's adoption of regulations pursuant to this section, the owner of any high or significant hazard dam or similar structure shall develop and implement an emergency action plan. The emergency action plan shall be updated every two years and copies shall be filed with the Commissioner of Energy and Environmental Protection and the chief executive officer of any municipality that would potentially be affected in the event of an emergency. The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54 of the general statutes, establishing the requirements for such emergency action plans, including, but not limited to, (1) criteria and standards for inundation studies and inundation zone mapping; (2) procedures for monitoring the dam or structure during periods of heavy rainfall and runoff, including personnel assignments and features of the dam to be inspected at given intervals during such periods; and (3) a formal notification system to alert appropriate local officials who are responsible for the warning and evacuation of residents in the inundation zone in the event of an emergency.

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

(a) The commissioner may issue a general permit for any minor activity regulated under sections 22a-401 to 22a-410, inclusive, as amended by this act, except for any activity covered by an individual permit, if the commissioner determines that such activity would cause minimal environmental effects when conducted separately and would cause only minimal cumulative environmental effects. Such activities may include routine maintenance and routine repair of any dam, dike, reservoir or other similar structure or the removal of any dam to improve fish passage or to provide other ecological benefits. Any person conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under

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sections 22a-36 to 22a-45a, inclusive, or section 22a-342, 22a-368 or 22a-403, as amended by this act, except as provided in subsection (c) of this section. A general permit shall clearly define the activity covered thereby and may include such conditions and requirements as the commissioner deems appropriate, including, but not limited to, management practices and verification and reporting requirements. The general permit may require any person conducting any activity under the general permit to report, on a form prescribed by the commissioner, such activity to the commissioner before it shall be covered by the general permit. The commissioner shall prepare, and shall annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

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

(c) Subsequent to the issuance of a general permit, the commissioner may require any person to obtain an individual permit under the

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provisions of [said] sections 22a-401 to 22a-410, inclusive, as amended by this act, for all or any portion of the activities covered by the general permit, if in the commissioner's judgment the purposes and policies of said sections would be best served by requiring an application for an individual permit. The commissioner may require an individual permit under this subsection only if the affected person has been notified in writing that an individual permit is required. The notice shall include a brief statement of the reasons for the decision and a statement that upon the date of issuance of such notice the general permit as it applies to the individual activity will terminate.

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

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

Sec. 7. Section 22a-45d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioners of Public Health and Agriculture and the Director of the Connecticut Agricultural Experiment Station,

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shall establish a [contingency] plan, within available appropriations, for the [spraying] use or application of larvicide to control mosquitoes. [in the event of an outbreak of infectious disease in any human or animal population due to mosquito infestation.]

(b) Not later than September 1, 2013, the plan described in subsection (a) of this section shall be updated to establish: (1) A prohibition on the use or application of methoprene or resmethrin in any storm drain or conveyance for water within the coastal boundary, as described in subsection (b) of section 22a-94 provided such prohibition shall not apply to any municipality where there was a documented death of a human being from West Nile virus if such municipality has a population greater than one hundred thousand residents; (2) a record-keeping, reporting and Internet posting requirement for the use or application of methoprene or resmethrin for mosquito control within the coastal area, as described in subsection (a) of section 22a-94, by any municipality or the state; and (3) recommendations for a pilot program to evaluate the retail sale and use of methoprene and resmethrin for mosquito control within the coastal area, as described in subsection (a) of section 22a-94, that is labeled for mosquito control in streams, storm drains, storm gutters, and bird baths to ensure that such methoprene and resmethrin use is consistent with the labeling requirements of such methoprene or resmethrin product.

(c) Notwithstanding the provisions of subsection (b) of this section, methoprene or resmethrin may be introduced into a storm drain, wetland or other body of water where mosquito larvae are found or suspected if such introduction is recommended by the Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health and the mosquito management coordinator of the Department of Energy and Environmental Protection, to prevent an increasing threat of mosquito-borne disease,

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based on an evaluation of mosquito and mosquito larvae surveillance by the Connecticut Agricultural Experiment Station in accordance with the state's Mosquito Management Program.

Sec. 8. Section 22a-45b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Energy and Environmental Protection may make regulations and orders concerning the elimination of mosquitoes and mosquito-breeding places, and said commissioner or his agent may enter upon any land, tidal wetland, inland wetland or watercourse to ascertain if mosquitoes breed thereon or to survey, drain, fill or otherwise treat, or make any excavation or structure necessary to eliminate mosquito breeding on such land. When funds have been provided by appropriation by the state for the elimination of mosquitoes or mosquito-breeding places, said commissioner may conduct or cause the conducting of such work provided no filling, draining, excavation, installation or erection of any structure, or any other permanent alteration of private property shall be conducted without the consent of the landowner on whose property such work is to be conducted. The commissioner may take and hold, by purchase, condemnation or otherwise, any real property or interest in real property as he determines is necessary to abate a threat of disease to humans or animals from insect vectors. Whenever the commissioner is unable to agree with the owner of any such property as to the compensation to be paid for the taking thereof, the commissioner may bring condemnation proceedings in accordance with the procedure provided by part I of chapter 835 for condemnation by municipal corporations generally. In such case, the court may permit immediate possession of such property by the commissioner in accordance with the procedure provided by said part I of chapter 835.

(b) The Commissioner of Energy and Environmental Protection, in coordination with the Commissioner of Public Health and local health

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departments, shall survey land, tidal wetlands, inland wetlands or watercourses in any municipality with a population over one hundred thousand where there has been a documented death of a human from West Nile virus, to ascertain if mosquitoes breed thereon and may conduct any work, as provided for in subsection (a) of this section, necessary to eliminate mosquito breeding on such land.

(c) No private property, in any municipality with a population over one hundred thousand where there has been a documented death of a human from West Nile virus, may contain standing water that the Commissioner of Energy and Environmental Protection determines, in consultation with the Commissioner of Public Health and local health departments, creates a risk of mosquito-borne illness. The Commissioner of Energy and Environmental Protection shall enforce the provisions of this subsection.

(d) The Commissioner of Energy and Environmental Protection, in coordination with the Commissioner of Public Health and local health departments, shall encourage public outreach programs instructing residents and private property owners of the risks of standing water and the signs and symptoms of West Nile virus.

Approved June 21, 2013