



General Assembly

January Session, 2013

Amendment

LCO No. 7818

SB0101207818SD0

Offered by:

SEN. CASSANO, 4th Dist.
SEN. MEYER, 12th Dist.
SEN. LOONEY, 11th Dist.
SEN. FASANO, 34th Dist.
SEN. MAYNARD, 18th Dist.
SEN. OSTEN, 19th Dist.
SEN. CHAPIN, 30th Dist.
REP. ROJAS, 9th Dist.
REP. GENTILE, 104th Dist.

REP. FOX, 148th Dist.
REP. ALBIS, 99th Dist.
REP. SHABAN, 135th Dist.
SEN. FRANTZ, 36th Dist.
SEN. KISSEL, 7th Dist.
SEN. WELCH, 31st Dist.
SEN. KELLY, 21st Dist.
REP. WIDLITZ, 98th Dist.
REP. REED, 102nd Dist.

To: Subst. Senate Bill No. 1012

File No. 345

Cal. No. 251

"AN ACT CONCERNING A BEST PRACTICES GUIDE FOR COASTAL STRUCTURES AND PERMITTING."

1 After the last section, add the following and renumber sections and
2 internal references accordingly:

3 "Sec. 501. Subdivision (19) of section 22a-93 of the general statutes is
4 repealed and the following is substituted in lieu thereof (*Effective*
5 *October 1, 2013*):

6 (19) "Rise in sea level" means the arithmetic mean of the most recent
7 equivalent per decade rise in the surface level of the tidal and coastal
8 waters of the state, as documented [for an annual, decadal or centenary

9 period, at any sites specified in the state] in National Oceanic and
10 Atmospheric Administration online or printed publications for said
11 agency's Bridgeport and New London tide gauges.

12 Sec. 502. Subsection (h) of section 16a-27 of the general statutes is
13 repealed and the following is substituted in lieu thereof (*Effective*
14 *October 1, 2013*):

15 (h) Any revision made after October 1, [2012] 2013, shall (1) take into
16 consideration risks associated with increased coastal erosion,
17 depending on site topography, [caused by a rise in sea level, as defined
18 in section 22a-93] as anticipated in sea level change scenarios
19 published by the National Oceanic and Atmospheric Administration in
20 Technical Report OAR CPO-1, (2) identify the impacts of such
21 increased erosion on infrastructure and natural resources, and (3)
22 make recommendations for the siting of future infrastructure and
23 property development to minimize the use of areas prone to such
24 erosion.

25 Sec. 503. Subsection (d) of section 8-23 of the general statutes is
26 repealed and the following is substituted in lieu thereof (*Effective*
27 *October 1, 2013*):

28 (d) In preparing such plan, the commission or any special
29 committee shall consider the following: (1) The community
30 development action plan of the municipality, if any, (2) the need for
31 affordable housing, (3) the need for protection of existing and potential
32 public surface and ground drinking water supplies, (4) the use of
33 cluster development and other development patterns to the extent
34 consistent with soil types, terrain and infrastructure capacity within
35 the municipality, (5) the state plan of conservation and development
36 adopted pursuant to chapter 297, (6) the regional plan of conservation
37 and development adopted pursuant to section 8-35a, (7) physical,
38 social, economic and governmental conditions and trends, (8) the
39 needs of the municipality including, but not limited to, human
40 resources, education, health, housing, recreation, social services, public

41 utilities, public protection, transportation and circulation and cultural
42 and interpersonal communications, (9) the objectives of energy-
43 efficient patterns of development, the use of solar and other renewable
44 forms of energy and energy conservation, [and] (10) protection and
45 preservation of agriculture, and (11) sea level change scenarios
46 published by the National Oceanic and Atmospheric Administration in
47 Technical Report OAR CPO-1.

48 Sec. 504. Section 28-5 of the general statutes is amended by adding
49 subsection (g) as follows (*Effective October 1, 2013*):

50 (NEW) (g) On and after the effective date of this section, the state
51 civil preparedness plan and program established pursuant to
52 subsection (b) of this section shall consider sea level change scenarios
53 published by the National Oceanic and Atmospheric Administration in
54 Technical Report OAR CPO-1.

55 Sec. 505. (NEW) (*Effective October 1, 2013*) (a) On and after the
56 effective date of this section, in the preparation of any municipal
57 evacuation plan or hazard mitigation plan, such municipality shall
58 consider sea level change scenarios published by the National Oceanic
59 and Atmospheric Administration in Technical Report OAR CPO-1.

60 (b) Within available resources and not less than once every ten
61 years, the Marine Sciences Division of The University of Connecticut
62 shall update the sea level change scenarios published by the National
63 Oceanic and Atmospheric Administration in Technical Report OAR
64 CPO-1. Within available resources and not less than ninety days prior
65 to any update of such sea level change scenarios by said Marine
66 Sciences Division, the division shall conduct not less than one public
67 hearing concerning such update.

68 Sec. 506. Subsection (b) of section 22a-109 of the general statutes is
69 repealed and the following is substituted in lieu thereof (*Effective*
70 *October 1, 2013*):

71 (b) The zoning commission may by regulation exempt any or all of

72 the following uses from the coastal site plan review requirements of
73 this chapter: (1) Minor additions to or modifications of existing
74 buildings or detached accessory buildings, such as garages and utility
75 sheds; (2) construction of new or modification of existing structures
76 incidental to the enjoyment and maintenance of residential property
77 including but not limited to walks, terraces, elevated decks, driveways,
78 swimming pools, tennis courts, docks and detached accessory
79 buildings; (3) construction of new or modification of existing on-
80 premise structures including fences, walls, pedestrian walks and
81 terraces, underground utility connections, essential electric, gas,
82 telephone, water and sewer service lines, signs and such other minor
83 structures as will not substantially alter the natural character of coastal
84 resources or restrict access along the public beach; (4) construction of
85 an individual single-family residential structure except when such
86 structure is located on an island not connected to the mainland by an
87 existing road bridge or causeway or except when such structure is in
88 or within one hundred feet of the following coastal resource areas:
89 Tidal wetlands, coastal bluffs and escarpments and beaches and dunes;
90 (5) activities conducted for the specific purpose of conserving or
91 preserving soil, vegetation, water, fish, shellfish, wildlife and other
92 coastal land and water resources; (6) interior modifications to
93 buildings; and (7) minor changes in use of a building, structure or
94 property except those changes occurring on property adjacent to or
95 abutting coastal waters. Gardening, grazing and the harvesting of
96 crops shall be exempt from the requirements of this chapter.
97 Notwithstanding the provisions of this subsection, shoreline flood and
98 erosion control structures as defined in subsection (c) of this section
99 shall not be exempt from the requirements of this chapter.

100 Sec. 507. Subsection (e) of section 22a-361 of the general statutes is
101 repealed and the following is substituted in lieu thereof (*Effective*
102 *October 1, 2013*):

103 (e) (1) No person, firm or corporation, public, municipal or private,
104 who removes sand, gravel or other material lying waterward of the

105 mean high water mark of the tidal, coastal or navigable waters of the
106 state pursuant to a permit issued under this section on or after October
107 1, 1996, shall make any beneficial or commercial use of such sand,
108 gravel or other material except upon payment to the state of a fee of
109 four dollars per cubic yard of such sand, gravel and other materials.
110 Such payment shall be made at times and under conditions specified
111 by the commissioner in such permit. No fee shall be assessed for [(1)]
112 (A) the performance of such activities on land which is not owned by
113 the state, [(2)] (B) the use of sand, gravel or other materials for beach
114 restoration projects, or [(3)] (C) ultimate disposal of such sand, gravel
115 or other materials which does not result in an economic benefit to any
116 person. For the purposes of this [section] subdivision, "beneficial or
117 commercial use" includes, but is not limited to, sale or use of sand,
118 gravel or other materials for construction, aggregate, fill or
119 landscaping.

120 (2) The commissioner may require that any person, firm or
121 corporation, public, municipal or private, who removes sand, gravel or
122 other material lying waterward of the mean high water mark of the
123 tidal, coastal or navigable waters shall make available such sand,
124 gravel or other material of appropriate grain size and composition to
125 any coastal municipality or to any district established pursuant to
126 chapter 105 or by special act to plan, lay out, acquire, construct,
127 reconstruct, repair, maintain, supervise and manage a flood or erosion
128 control system. Such sand, gravel or other material shall be offered for
129 the purposes of an appropriately authorized beach nourishment or
130 habitat restoration project and shall be available (A) to municipalities
131 for the cost of transporting such sand, gravel or other material, and (B)
132 to districts for a reasonable fee.

133 Sec. 508. Section 22a-363a of the general statutes is repealed and the
134 following is substituted in lieu thereof (*Effective October 1, 2013*):

135 For the purposes of this section and sections 22a-361, 22a-361a, 22a-
136 362, 22a-363b, as amended by this act, and 22a-363d to 22a-363f,
137 inclusive: "Substantial maintenance" means rebuilding, reconstructing,

138 or reestablishing to a preexisting condition and dimension any
139 structure, fill, obstruction or encroachment; "routine maintenance"
140 means replacement and repair of out-of-water structures including the
141 surfaces of docks, piers, wharves and bridges, replacement or repair in
142 any year of up to [twenty-five] fifty per cent of all pilings approved in
143 accordance with section 22a-361 and seasonal installation,
144 reinstallation or repair of floating docks, provided that all locations,
145 dimensions, elevations and materials shall remain the same as or
146 equivalent to that approved in accordance with said section;
147 "perimeter permit" means a permit issued in accordance with said
148 section, establishing boundaries waterward of the coastal jurisdiction
149 line within which recreational marinas layout of in-water slips, docks
150 and moorings may be reconfigured; "work" means any activity,
151 construction, or site preparation, erection of structures or placement of
152 fill, including but not limited to grading, excavating, dredging or
153 disposing of dredged material, depositing of soil, stones, sand, gravel,
154 mud, aggregate or construction materials, filling, removing vegetation
155 or other material, or other modification of a site within the tidal,
156 coastal or navigable waters of the state waterward of the coastal
157 jurisdiction line.

158 Sec. 509. Section 22a-363b of the general statutes is repealed and the
159 following is substituted in lieu thereof (*Effective October 1, 2013*):

160 (a) Routine maintenance of permitted structures, fill, obstructions or
161 encroachments or routine maintenance of structures, fill, obstructions
162 or encroachments in place prior to June 24, 1939, and continuously
163 maintained and serviceable since that date shall be exempt from the
164 requirements of obtaining certificates of permission or permits
165 pursuant to section 22a-363a, as amended by this act, this section or
166 section 22a-361. The following activities may be eligible for a certificate
167 of permission, in accordance with the provisions of subsections (c) and
168 (d) of this section: (1) Substantial maintenance or repair of existing
169 structures, fill, obstructions or encroachments authorized pursuant to
170 section 22a-33 or 22a-361; (2) substantial maintenance of any

171 structures, fill, obstructions or encroachments in place prior to [June
172 24, 1939] January 1, 1995, and continuously maintained and serviceable
173 since such time; (3) maintenance dredging of areas which have been
174 dredged and continuously maintained and serviceable as authorized
175 pursuant to section 22a-33 or 22a-361; (4) activities allowed pursuant to
176 a perimeter permit and requiring authorization by the commissioner;
177 (5) the removal of derelict structures or vessels; (6) minor alterations or
178 amendments to permitted activities consistent with the original permit;
179 (7) minor alterations or amendments to activities completed prior to
180 [June 24, 1939] January 1, 1995; (8) placement of temporary structures
181 for water-dependent uses, as defined in section 22a-93; (9) open water
182 marsh management, tidal wetland restoration, resource restoration or
183 enhancement activity, as defined in subsection (a) of section 22a-361,
184 including beach nourishment, and conservation activities undertaken
185 by or under the supervision of the Department of Energy and
186 Environmental Protection; (10) the placement or reconfiguration of
187 piers, floats, docks or moorings within existing waterward boundaries
188 of recreational marinas or yacht clubs which have been authorized
189 pursuant to section 22a-33 or 22a-361; and (11) substantial maintenance
190 or repair of structures, fill, obstructions or encroachments placed
191 landward of the mean high waterline and waterward of the coastal
192 jurisdiction line completed prior to October 1, 1987, and continuously
193 maintained and serviceable since said date. Notwithstanding the
194 provisions of sections 22a-29 to 22a-35, inclusive, the commissioner
195 may issue a certificate of permission for activities enumerated in this
196 subsection which are to be conducted in tidal wetlands. Upon
197 issuance, such certificate shall be in lieu of the permit required
198 pursuant to section 22a-32.

199 (b) (1) The commissioner [may] shall issue a certificate of permission
200 for activities [which] that were completed prior to January 1, 1995, for
201 which permits, certificates or emergency authorizations were required
202 pursuant to section 22a-32, this section, section 22a-361 or section 22a-
203 363d, which were conducted without such permit, certificate or
204 emergency authorization, provided the applicant demonstrates that

205 such activity substantially complies with all applicable standards and
206 criteria. [In determining the eligibility of activities conducted without
207 prior authorization, the commissioner may consider whether the
208 applicant acquired such real estate interest in the work site after the
209 date of conduct of the unauthorized activity, is not otherwise liable for
210 the unauthorized activity as a result of actions taken prior to the
211 acquisition and did not know and had no reason to know of the
212 unauthorized activity.] The commissioner [may] shall authorize the
213 maintenance of or minor alterations to unauthorized activities
214 consistent with this subsection, including, but not limited to, the use of
215 alternative deck surfacing materials and the use of alternative
216 materials for seawalls designed using generally accepted engineering
217 practices. Unauthorized activities which are ineligible for certificates of
218 permission may be subject to applicable enforcement actions by the
219 commissioner.

220 (2) In the event of an initial denial of a certificate of permission, the
221 applicant, not later than thirty days after the issuance of such initial
222 denial, shall be entitled to request a meeting with a mediator in the
223 department's Office of Adjudication for the purpose of attempting to
224 resolve any disagreement concerning such initial denial.

225 (c) A request for a certificate of permission shall be made to the
226 Commissioner of Energy and Environmental Protection. If a proposed
227 activity is within a category listed in subsection (a) or (b) of this
228 section, the commissioner [may] shall, in whole or in part, approve,
229 modify and approve or deny a certificate. The commissioner shall issue
230 such a certificate if the eligible proposed activity is consistent with a
231 permit issued pursuant to section 22a-33 or 22a-361 or was in place
232 prior to June 24, 1939, and continuously maintained and serviceable
233 since such time. If the eligible proposed activity does not have a permit
234 or has not received any prior permits, the commissioner shall
235 determine if the information provided is sufficient to determine if the
236 proposed activity complies with the applicable standards and criteria
237 and may (1) issue a certificate of permission if the commissioner finds

238 that the information indicates compliance with all applicable standards
239 and criteria, or (2) require the submittal of a complete application for a
240 permit pursuant to section 22a-32 or 22a-361, if the commissioner finds
241 that the information is not sufficient to indicate compliance with the
242 standards and criteria. [If the commissioner finds that changes in
243 conditions or circumstances associated with a permitted structure, fill,
244 obstruction or encroachment are likely to result in significant impacts
245 to the environment or coastal resources, the commissioner may require
246 an application for a permit pursuant to section 22a-32 or 22a-361.] If
247 the commissioner finds that the structure, fill, obstruction or
248 encroachment is not in substantial compliance with the permit or
249 authorization under which a certificate of permission is requested, and
250 is not consistent with applicable standards and criteria, the
251 commissioner shall not issue a certificate of permission. For the
252 purposes of this section, standards and criteria are those specified in
253 sections 22a-33 and 22a-359 and regulations adopted pursuant to
254 section 22a-30, in any regulations adopted pursuant to subsection (c) of
255 said section 22a-361, in the water quality standards of the Department
256 of Energy and Environmental Protection, and in sections 22a-92, as
257 amended by this act, and 22a-98 for activities within the coastal
258 boundary, as defined in section 22a-93.

259 (d) The commissioner shall, within forty-five days of receipt of a
260 request for a certificate of permission, issue such certificate or notify
261 the person making such request that (1) additional information or an
262 application for a permit pursuant to section 22a-32 or 22a-361 is
263 required, or (2) the structure, fill, obstruction or encroachment is not
264 eligible for a certificate of permission. If the commissioner requests
265 additional information from an applicant, the commissioner shall
266 make a determination on the application no later than ninety days
267 from the date of receipt of the request for a certificate of permission. If
268 the commissioner fails to respond within forty-five days of receipt of a
269 request, the certificate of permission shall be deemed approved, except
270 that no certificate of permission for dredging [,] or activities located
271 within tidal wetlands, as defined in section 22a-29, or activities

272 conducted without prior authorization shall be deemed approved by
273 virtue of the commissioner's failure to respond.

274 (e) Notwithstanding the provisions of the general statutes, the
275 commissioner shall not issue a certificate of permission for a pound
276 net, weir or similar fish harvesting structure that was not utilized prior
277 to June 6, 2001. The commissioner may issue a permit for such fish
278 harvesting structure, in accordance with section 22a-361, provided, if
279 the commissioner receives a petition signed by twenty-five or more
280 persons during the public comment period provided in subsection (b)
281 of section 22a-361 for the application for any such permit, the
282 commissioner shall hold a public hearing on such permit application.

283 (f) The existence of any waterfront access easement created after
284 January 1, 1995, shall not entitle an owner of the dominant or servient
285 estate to additional structures for riparian or littoral access.

286 Sec. 510. (NEW) (*Effective October 1, 2013*) In the event of an issuance
287 of a hurricane or tropical storm warning by the National Hurricane
288 Center of the National Weather Service in any part of the state, or as
289 authorized by the Commissioner of Energy and Environmental
290 Protection, any property owner or municipality may, in the twenty-
291 four hours prior to the predicted commencement of the hurricane or
292 tropical storm, fortify property above the coastal jurisdiction line with
293 temporary structures, including sand bags, blocks and other suitable
294 materials. Any such structures shall be removed not later than forty-
295 eight hours after a hurricane or tropical storm warning is lifted unless
296 such deadline is extended by said commissioner.

297 Sec. 511. Subsection (b) of section 22a-92 of the general statutes is
298 repealed and the following is substituted in lieu thereof (*Effective*
299 *October 1, 2013*):

300 (b) In addition to the policies stated in subsection (a) of this section,
301 the following policies are established for federal, state and municipal
302 agencies in carrying out their responsibilities under this chapter:

303 (1) Policies concerning development, facilities and uses within the
304 coastal boundary are: (A) To manage uses in the coastal boundary
305 through existing municipal planning, zoning and other local
306 regulatory authorities and through existing state structures, dredging,
307 wetlands, and other state siting and regulatory authorities, giving
308 highest priority and preference to water-dependent uses and facilities
309 in shorefront areas; (B) to locate and phase sewer and water lines so as
310 to encourage concentrated development in areas which are suitable for
311 development; and to disapprove extension of sewer and water services
312 into developed and undeveloped beaches, barrier beaches and tidal
313 wetlands except that, when necessary to abate existing sources of
314 pollution, sewers that will accommodate existing uses with limited
315 excess capacity may be used; (C) to promote, through existing state
316 and local planning, development, promotional and regulatory
317 authorities, the development, reuse or redevelopment of existing
318 urban and commercial fishing ports giving highest priority and
319 preference to water dependent uses, including but not limited to
320 commercial and recreational fishing and boating uses; to disallow uses
321 which unreasonably congest navigation channels, or unreasonably
322 preclude boating support facilities elsewhere in a port or harbor; and
323 to minimize the risk of oil and chemical spills at port facilities; (D) to
324 require that structures in tidal wetlands and coastal waters be
325 designed, constructed and maintained to minimize adverse impacts on
326 coastal resources, circulation and sedimentation patterns, water
327 quality, and flooding and erosion, to reduce to the maximum extent
328 practicable the use of fill, and to reduce conflicts with the riparian
329 rights of adjacent landowners; (E) to disallow the siting within the
330 coastal boundary of new tank farms and other new fuel and chemical
331 storage facilities which can reasonably be located inland and to require
332 any new storage tanks which must be located within the coastal
333 boundary to abut existing storage tanks or to be located in urban
334 industrial areas and to be adequately protected against floods and
335 spills; (F) to make use of rehabilitation, upgrading and improvement of
336 existing transportation facilities as the primary means of meeting
337 transportation needs in the coastal area; (G) to encourage increased

338 recreational boating use of coastal waters, where feasible, by (i)
339 providing additional berthing space in existing harbors, (ii) limiting
340 non-water-dependent land uses that preclude boating support
341 facilities, (iii) increasing state-owned launching facilities, and (iv)
342 providing for new boating facilities in natural harbors, new protected
343 water areas and in areas dredged from dry land; (H) to protect coastal
344 resources by requiring, where feasible, that such boating uses and
345 facilities (i) minimize disruption or degradation of natural coastal
346 resources, (ii) utilize existing altered, developed or redevelopment
347 areas, (iii) are located to assure optimal distribution of state-owned
348 facilities to the state-wide boating public, and (iv) utilize ramps and
349 dry storage rather than slips in environmentally sensitive areas; (I) to
350 protect and where feasible, upgrade facilities serving the commercial
351 fishing and recreational boating industries; to maintain existing
352 authorized commercial fishing and recreational boating harbor space
353 unless the demand for these facilities no longer exists or adequate
354 space has been provided; to design and locate, where feasible,
355 proposed recreational boating facilities in a manner which does not
356 interfere with the needs of the commercial fishing industry; [and] (J) to
357 require reasonable mitigation measures where development would
358 adversely impact historical, archaeological, or paleontological
359 resources that have been designated by the state historic preservation
360 officer; and (K) to encourage the cooperative use of confined aquatic
361 disposal cells for dredged material in appropriate circumstances.

362 (2) Policies concerning coastal land and water resources within the
363 coastal boundary are: (A) To manage coastal bluffs and escarpments so
364 as to preserve their slope and toe; to discourage uses which do not
365 permit continued natural rates of erosion and to disapprove uses that
366 accelerate slope erosion and alter essential patterns and supply of
367 sediments to the littoral transport system; (B) to manage rocky
368 shorefronts so as to ensure that development proceeds in a manner
369 which does not irreparably reduce the capability of the system to
370 support a healthy intertidal biological community; to provide feeding
371 grounds and refuge for shorebirds and finfish, and to dissipate and

372 absorb storm and wave energies; (C) to preserve the dynamic form and
373 integrity of natural beach systems in order to provide critical wildlife
374 habitats, a reservoir for sand supply, a buffer for coastal flooding and
375 erosion, and valuable recreational opportunities; to ensure that coastal
376 uses are compatible with the capabilities of the system and do not
377 unreasonably interfere with natural processes of erosion and
378 sedimentation, and to encourage the restoration and enhancement of
379 disturbed or modified beach systems; (D) to manage intertidal flats so
380 as to preserve their value as a nutrient source and reservoir, a healthy
381 shellfish habitat and a valuable feeding area for invertebrates, fish and
382 shorebirds; to encourage the restoration and enhancement of degraded
383 intertidal flats; to allow coastal uses that minimize change in the
384 natural current flows, depth, slope, sedimentation, and nutrient
385 storage functions and to disallow uses that substantially accelerate
386 erosion or lead to significant despoliation of tidal flats; (E) to preserve
387 tidal wetlands and to prevent the despoliation and destruction thereof
388 in order to maintain their vital natural functions; to encourage the
389 rehabilitation and restoration of degraded tidal wetlands and where
390 feasible and environmentally acceptable, to encourage the creation of
391 wetlands for the purposes of shellfish and finfish management, habitat
392 creation and dredge spoil disposal; (F) to manage coastal hazard areas
393 so as to ensure that development proceeds in such a manner that
394 hazards to life and property are minimized and to promote
395 nonstructural solutions to flood and erosion problems except in those
396 instances where structural alternatives prove unavoidable and
397 necessary to protect [inhabited structures constructed] commercial and
398 residential structures and substantial appurtenances that are attached
399 or integral thereto, constructed as of January 1, 1995, infrastructural
400 facilities or water dependent uses; (G) to promote, through existing
401 state and local planning, development, promotional and regulatory
402 programs, the use of existing developed shorefront areas for marine-
403 related uses, including but not limited to, commercial and recreational
404 fishing, boating and other water-dependent commercial, industrial and
405 recreational uses; (H) to manage undeveloped islands in order to
406 promote their use as critical habitats for those bird, plant and animal

407 species which are indigenous to such islands or which are increasingly
408 rare on the mainland; to maintain the value of undeveloped islands as
409 a major source of recreational open space; and to disallow uses which
410 will have significant adverse impacts on islands or their resource
411 components; (I) to regulate shoreland use and development in a
412 manner which minimizes adverse impacts upon adjacent coastal
413 systems and resources; and (J) to maintain the natural relationship
414 between eroding and depositional coastal landforms and to minimize
415 the adverse impacts of erosion and sedimentation on coastal land uses
416 through the promotion of nonstructural mitigation measures.
417 Structural solutions are permissible when necessary and unavoidable
418 for the protection of infrastructural facilities, cemetery or burial
419 grounds, water-dependent uses, or [inhabited structures constructed
420 cemetery or burial grounds,] commercial and residential structures
421 and substantial appurtenances that are attached or integral thereto,
422 constructed as of January 1, 1995, and where there is no feasible, less
423 environmentally damaging alternative and where all reasonable
424 mitigation measures and techniques have been provided to minimize
425 adverse environmental impacts.

426 Sec. 512. Subsection (f) of section 22a-92 of the general statutes is
427 repealed and the following is substituted in lieu thereof (*Effective*
428 *October 1, 2013*):

429 (f) (1) In the event the commissioner makes a tentative decision
430 pursuant to section 22a-6h to deny an application prepared by a
431 licensed professional engineer for a shoreline flood and erosion control
432 structure, as defined in subsection (c) of section 22a-109, the applicant
433 may, not later than thirty days after the date on which the
434 commissioner publishes or causes to be published notice of such
435 tentative determination, submit a written request to the commissioner
436 to conduct a hearing on such application in accordance with the
437 provisions of chapter 54 together with a request that the Connecticut
438 Academy of Science and Engineering issue an advisory engineering
439 evaluation on the engineering aspects of such application. Any such

440 request for an advisory engineering evaluation shall be accompanied
441 by a fee required pursuant to a fee schedule established by said
442 academy in consultation with the commissioner. Said academy shall
443 review submissions from all parties to the application and shall meet
444 with such parties as necessary for the purpose of resolving differences
445 between the parties. Said academy shall issue a written advisory
446 engineering evaluation not later than one hundred twenty days after
447 receipt of the fee and submissions, provided the academy may, in its
448 sole discretion, extend such deadline for an additional sixty days. The
449 written advisory engineering opinion shall be nonbinding and shall be
450 considered by the commissioner in rendering a final decision on the
451 application. The commissioner shall schedule a hearing on such
452 application not later than thirty days after the date on which said
453 academy issues the written advisory engineering evaluation, provided
454 the applicant may, at any time prior to such hearing, withdraw the
455 request to the commissioner to conduct such hearing.

456 (2) In the case of any application for a shoreline flood and erosion
457 control structure that is denied on the basis of a finding that there may
458 be feasible, less environmentally damaging alternatives to such
459 structure or that reasonable mitigation measures and techniques have
460 not been provided, the commissioner or the municipal commission, as
461 applicable, shall propose on the record, in writing, the types of feasible
462 alternatives or mitigation measures and techniques that the applicant
463 may investigate, provided this subsection shall not be construed to
464 shift the burden from the applicant to prove that such applicant is
465 entitled to approval of the proposed shoreline flood and erosion
466 control structure or to present alternatives to such structure.

467 Sec. 513. Section 22a-5c of the general statutes is repealed and the
468 following is substituted in lieu thereof (*Effective October 1, 2013*):

469 (a) When an order issued by the Commissioner of Energy and
470 Environmental Protection to any person pursuant to section 22a-6, 22a-
471 6b, as amended by this act, 22a-7, 22a-108 or 22a-363f to correct, abate
472 or penalize any violation of section 22a-32, 22a-92, as amended by this

473 act, or 22a-361 or any certificate or permit issued under section 22a-6,
474 22a-6b, as amended by this act, 22a-7, 22a-32, 22a-92, as amended by
475 this act, 22a-108, 22a-361 or 22a-363f becomes final, the commissioner
476 shall cause a certified copy or notice of the final order to be filed on the
477 land records in the town in which the land is located. Such certified
478 copy or notice shall constitute a notice to the owner's heirs, successors
479 and assigns. When the order is complied with or revoked, the
480 commissioner shall issue a certificate showing such compliance or
481 revocation, which certificate the commissioner shall cause to be
482 recorded on the land records in the town in which the order was
483 previously recorded. A certified copy of the certificate showing such
484 compliance or revocation shall be sent to the owner at the owner's last-
485 known post office address.

486 (b) No order issued by the Commissioner of Energy and
487 Environmental Protection pursuant to section 22a-6b shall continue in
488 force for a longer period than fifteen years after the order has been
489 issued unless the commissioner has taken judicial action to enforce
490 such order. Any order for which the commissioner has not taken
491 judicial action shall be invalid and discharged as a matter of law after
492 the expiration of the fifteen-year period.

493 Sec. 514. (NEW) (*Effective October 1, 2013*) For the period
494 commencing on October 1, 2013, and ending September 30, 2015, the
495 Commissioner of Energy and Environmental Protection shall establish
496 a pilot program for any residential property owner who receives a
497 notice of noncompliance from the Department of Energy and
498 Environmental Protection for a violation of chapter 444 or 446i of the
499 general statutes. Such program shall be designed to assist owners of
500 residential property to better understand such owners' rights and
501 responsibilities under chapters 444 and 446i of the general statutes.
502 Not later than January 1, 2016, the commissioner shall submit a
503 summary of such pilot program, in accordance with the provisions of
504 section 11-4a of the general statutes, to the joint standing committees of
505 the General Assembly having cognizance of matters relating to

506 municipalities and the environment."

This act shall take effect as follows and shall amend the following sections:		
Sec. 501	<i>October 1, 2013</i>	22a-93(19)
Sec. 502	<i>October 1, 2013</i>	16a-27(h)
Sec. 503	<i>October 1, 2013</i>	8-23(d)
Sec. 504	<i>October 1, 2013</i>	28-5
Sec. 505	<i>October 1, 2013</i>	New section
Sec. 506	<i>October 1, 2013</i>	22a-109(b)
Sec. 507	<i>October 1, 2013</i>	22a-361(e)
Sec. 508	<i>October 1, 2013</i>	22a-363a
Sec. 509	<i>October 1, 2013</i>	22a-363b
Sec. 510	<i>October 1, 2013</i>	New section
Sec. 511	<i>October 1, 2013</i>	22a-92(b)
Sec. 512	<i>October 1, 2013</i>	22a-92(f)
Sec. 513	<i>October 1, 2013</i>	22a-5c
Sec. 514	<i>October 1, 2013</i>	New section