AN ACT CONCERNING REVISION OF DEFINITIONAL, TIMING AND PROCEDURAL PROVISIONS OF THE INLAND WETLANDS AND WATERCOURSES ACT.

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

Section 1. Subdivision (15) of section 22a-38 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):

(15) "Wetlands" means land, including submerged land, not regulated pursuant to sections 22a-28 to 22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, hydric, alluvial, and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture;

Sec. 2. Subsection (k) of section 22a-39 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):
(k) Conduct a public hearing [no sooner than thirty days and not later than sixty days] following the receipt by said commissioner of any inland wetlands application, provided whenever the commissioner determines that the regulated activity for which a permit is sought is not likely to have a significant impact on the wetland or watercourse, he may waive the requirement for public hearing after (1) publishing notice, in a newspaper having general circulation in each town wherever the proposed work or any part thereof is located, of his intent to waive said requirement, and (2) mailing or providing by electronic means notice of such intent to the chief administrative officer in the town or towns where the proposed work, or any part thereof, is located, and the chairman of the conservation commission and inland wetlands agency of each such town or towns, except that the commissioner shall hold a hearing on such application upon receipt, not later than thirty days after such notice has been published, sent or mailed, of a petition signed by at least twenty-five persons requesting such a hearing. The commissioner shall (A) publish notice of such hearing [at least once not more than thirty days and not fewer than ten days] not less than thirty days before the date set for the hearing in a newspaper having a general circulation in each town where the proposed work, or any part thereof, is located, and (B) mail or provide by electronic means notice of such hearing to the chief administrative officer in the town or towns where the proposed work, or any part thereof, is located, and the chairman of the conservation commission and inland wetlands agency of each such town or towns. All applications and maps and documents relating thereto shall be open for public inspection at the office of the commissioner. The commissioner shall state upon his records his findings and reasons for the action taken;

Sec. 3. Subsection (b) of section 22a-42a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):

(b) No regulations of an inland wetlands agency [including
boundaries of inland wetland and watercourse areas] shall become effective or be established until after a public hearing in relation thereto is held by the inland wetlands agency. Any such hearing shall be held in accordance with the provisions of section 8-7d. A copy of such proposed regulation [or boundary] shall be filed in the office of the town, city or borough clerk as the case may be, in such municipality, for public inspection at least ten days before such hearing, and may be published in full in such paper. A copy of the notice and the proposed regulations or amendments thereto [, except determinations of boundaries,] shall be provided to the commissioner at least thirty-five days before such hearing. Such regulations [and inland wetland and watercourse boundaries] may be from time to time amended, changed or repealed, by majority vote of the inland wetlands agency, after a public hearing in relation thereto is held by the inland wetlands agency, in accordance with the provisions of section 8-7d. Regulations [or boundaries] or changes therein shall become effective at such time as is fixed by the inland wetlands agency, provided a copy of such regulation [, boundary] or change shall be filed in the office of the town, city or borough clerk, as the case may be. Whenever an inland wetlands agency makes a change in regulations [or boundaries] it shall state upon its records the reason why the change was made and shall provide a copy of such regulation [, boundary] or change to the Commissioner of Energy and Environmental Protection no later than ten days after its adoption provided failure to submit such regulation [, boundary] or change shall not impair the validity of such regulation, boundary or change. All petitions submitted in writing and in a form prescribed by the inland wetlands agency, requesting a change in the regulations [or the boundaries of an inland wetland and watercourse area] shall be considered at a public hearing held in accordance with the provisions of section 8-7d. The failure of the inland wetlands agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.
Sec. 4. Subsection (c) of section 22a-42a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):

(c) (1) On and after the effective date of the municipal regulations promulgated pursuant to subsection (b) of this section, no regulated activity shall be conducted upon any inland wetland or watercourse without a permit. Any person proposing to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse shall file an application with the inland wetlands agency of the town or towns wherein the wetland or watercourse in question is located. The application shall be in such form and contain such information as the inland wetlands agency may prescribe. The date of receipt of an application shall be determined in accordance with the provisions of subsection (c) of section 8-7d. The inland wetlands agency shall not hold a public hearing on such application unless the inland wetlands agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency not later than fourteen days after the date of receipt of such application, or the agency finds that a public hearing regarding such application would be in the public interest. An inland wetlands agency may issue a permit without a public hearing provided no petition provided for in this subsection is filed with the agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held in accordance with the provisions of section 8-7d. [If the] The inland wetlands agency, or its agent, [fails to] shall act on any application within thirty-five days after the completion of a public hearing or in the absence of a public hearing within sixty-five days from the date of receipt of the application, or within any extension of any such period as provided in section 8-7d, [the applicant may file such application with the Commissioner of Energy and Environmental Protection who]
shall review and act on such application in accordance with this section. Any costs incurred by the commissioner in reviewing such application for such inland wetlands agency shall be paid by the municipality that established or authorized the agency. Any fees that would have been paid to such municipality if such application had not been filed with the commissioner shall be paid to the state. The failure of the inland wetlands agency or the commissioner to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.

(2) An inland wetlands agency may delegate to its duly authorized agent the authority to approve or [extend] renew an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetland or watercourse provided such agent has completed the comprehensive training program developed by the commissioner pursuant to section 22a-39, as amended by this act. Notwithstanding the provisions for receipt and processing applications prescribed in subdivision (1) of this subsection, such agent may approve or [extend] renew such an activity at any time. Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the inland wetlands agency within fifteen days after the publication date of the notice and the inland wetlands agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such agency or its agent of such appeal. The inland wetlands agency shall, at its discretion, sustain, alter or reject the decision of its agent or require an application for a permit in accordance with subdivision (1) of subsection (c) of this section.

Sec. 5. Section 22a-42 of the general statutes is amended by adding subsection (h) as follows (Effective October 1, 2016):
(NEW) (h) Any person may maintain an action in the superior court against a municipality for failure to perform its duties pursuant to this section. The court may grant temporary or permanent equitable relief or may impose such conditions on the defendant as are required to fulfill the requirements of this section.

Sec. 6. Subsection (a) of section 22a-43 of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):

(a) The commissioner or any person aggrieved by any regulation, order, decision or action made pursuant to sections 22a-36 to 22a-45, inclusive, by the commissioner, a district or municipality, any person aggrieved by an inland wetlands agency or its agent for failure to act on an application pursuant to subsection (c) of section 22a-42a, as amended by this act, or any person owning or occupying land which abuts any portion of land within, or is within a radius of ninety feet of, the wetland or watercourse involved in any regulation, order, decision or action made pursuant to said sections may, within the time specified in subsection (b) of section 8-8, from the publication of such regulation, order, decision or action, or from the final date by which the inland wetlands agency or its agent is required to act on an application, appeal to the superior court for the judicial district where the land affected is located, and if located in more than one judicial district to the court in any such judicial district. Such appeal shall be made returnable to the court in the same manner as that prescribed for civil actions brought to the court, except that the record shall be transmitted to the court within the time specified in subsection (i) of section 8-8. If the inland wetlands agency or its agent does not provide a transcript of the stenographic or the sound recording of a meeting where the inland wetlands agency or its agent deliberates or makes a decision on a permit for which a public hearing was held, a certified, true and accurate transcript of a stenographic or sound recording of the meeting prepared by or on behalf of the applicant or any other party shall be admissible as part of the record. Notice of such appeal
shall be served upon the inland wetlands agency and the 
commissioner, provided, for any such appeal taken on or after October 
1, 2004, service of process for purposes of such notice to the inland 
wetlands agency shall be made in accordance with subdivision (5) of 
subsection (b) of section 52-57. The commissioner may appear as a 
party to any action brought by any other person within thirty days 
from the date such appeal is returned to the court. The appeal shall 
state the reasons upon which it is predicated and shall not stay 
proceedings on the regulation, order, decision or action, but the court 
may on application and after notice grant a restraining order. Such 
appeal shall have precedence in the order of trial.

Sec. 7. Subsection (a) of section 22a-44 of the general statutes is 
repealed and the following is substituted in lieu thereof (Effective 
October 1, 2016):

(a) If the inland wetlands agency or its duly authorized agent finds 
that any person is conducting or maintaining any activity, facility or 
condition which is in violation of sections 22a-36 to 22a-45, inclusive, 
or of the regulations of the inland wetlands agency, the agency or its 
duly authorized agent may issue a written order, by certified mail, to 
such person conducting such activity or maintaining such facility or 
condition to cease immediately such activity or to correct such facility 
or condition. Within ten days of the issuance of such order the agency 
shall hold a hearing to provide the person an opportunity to be heard 
and show cause why the order should not remain in effect. The agency 
shall consider the facts presented at the hearing and within ten days of 
the completion of the hearing notify the person by certified mail that 
the original order remains in effect, that a revised order is in effect, or 
that the order has been withdrawn. The original order shall be 
effective upon issuance and shall remain in effect until the agency 
affirms, revises or withdraws the order. The issuance of an order 
pursuant to this section shall not delay or bar an action pursuant to 
subsection (b) of this section. The agency may file a certificate of such 
order in the office of the town clerk of the town in which the land is
located and the town clerk shall record such certificate on the land records of such town. Such certificate shall be released upon compliance with such order. [The commissioner may issue orders pursuant to sections 22a-6 to 22a-7, inclusive, concerning an activity, facility or condition (1) which is in violation of said sections 22a-36 to 22a-45, inclusive, if the municipality in which such activity, facility or condition is located has failed to enforce its inland wetlands regulations, or (2) for which an approval is required under sections 22a-36 to 22a-45, inclusive, and for which such approval has not been obtained.]

Sec. 8. Subsection (a) of section 1-2b of the 2016 supplement to the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2016):

(a) For purposes of sections 1-100oo, 1-206, 2-71r, 4-176, 4-180, 4-183, 4a-52a, 4a-60q, 4a-63, 4a-100, 4e-34, 4e-35, 7-65, 7-148w, 7-247a, 7-473c, 7-478e, 8-3b, 8-3i, 8-7d, 8-26b, 8-169r, 8-293, 9-388, 9-608, 9-623, 10a-22c, 10a-22i, 10a-34a, 10a-109n, 12-35, 12-157, 12-242ii, 12-242jj, 13a-80, 13a-123, 15-11a, 16-41, 16-50c, 16-50d, 17a-103b, 19a-87, 19a-87c, 19a-209c, 19a-332e, 19a-343a, 19a-486a, 19a-486c, 19a-486d, 19a-497, 19a-507b, 20-205a, 20-325a, 21-63, 21-80, 22-7, 22a-6b, 22a-6u, 22a-30, [22a-42d,] 22a-42f, 22a-66d, 22a-137, 22a-178, 22a-225, 22a-228, 22a-250, 22a-354p, 22a-354s, 22a-354t, 22a-361, 22a-371, 22a-401, 22a-403, 22a-433, 22a-436, 22a-449f, 22a-449l, 22a-449n, 22a-504, 22a-626, 23-46, 23-65j, 23-65l, 23-65p, 25-32, 25-32e, 25-331, 25-34, 25-204, 25-234, 29-108d, 31-57c, 31-57d, 31-355, 32-613, 33-663, 33-929, 33-1053, 33-1219, 34-521, 35-42, 36a-50, 36a-51, 36a-52, 36a-53, 36a-82, 36a-184, 36a-493, 36b-62, 36b-72, 38-323a, 38a-344, 38a-676, 38a-724, 38a-788, 42-158j, 42-161, 42-181, 42-182, 42-186, 42-271, 45a-716, 46b-115w, 46b-128, 47-42d, 47-74f, 47-88b, 47-236, 47-284, 47a-11b, 47a-11d, 47a-13a, 47a-14h, 47a-56b, 49-2, 49-4a, 49-8, 49-8a, 49-10b, 49-31b, 49-51, 49-70, 51-90e, 52-57, 52-59b, 52-63, 52-64, 52-195c, 52-350e, 52-351b, 52-361a, 52-362, 52-365a, 52-605, 52-606, 53-401, 53a-128, 53a-128d, 53a-207 and 54-82c and chapter 965, any reference to certified mail, return receipt requested, shall include mail,
245 electronic, and digital methods of receiving the return receipt, 246 including all methods of receiving the return receipt identified by the 247 Mailing Standards of the United States Postal Service in Chapter 500 of 248 the Domestic Mail Manual or any subsequent corresponding 249 document of the United States Postal Service.

250 Sec. 9. Section 22a-42d of the general statutes is repealed. (Effective 251 October 1, 2016)

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**Statement of Purpose:**
To revise certain definitions and timing provisions of the Inland Wetlands and Watercourses Act and delineate rights and responsibilities of municipalities and the Department of Energy and Environmental Protection under said act.

[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.]