



Substitute House Bill No. 6868

Public Act No. 25-84

***AN ACT ENHANCING ENVIRONMENTAL PERMITTING
PREDICTABILITY.***

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

Section 1. Section 22a-6aa of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2025*):

The Commissioner of Energy and Environmental Protection may continue in effect any general permit issued by the commissioner pursuant to the provisions of this title [for a period of twelve months beyond the expiration date for such permit] until a new general permit is issued, or the commissioner makes a determination not to issue a new general permit, provided the commissioner publishes notice, not later than one hundred eighty days prior to the expiration date of such general permit of the intent to renew such general permit in accordance with any applicable provision of this title. Any such general permit continued in effect beyond its expiration date shall remain in effect until the commissioner makes a final decision on the renewal of such general permit, in accordance with the provisions of this title. [, provided such final decision is made on or before the twelfth month after the expiration date. If no final decision is made within such time period, such general permit shall expire.] The commissioner may require the remittance of a registration fee in an amount not to exceed the existing registration fee

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for such general permit whenever a general permit is continued in effect beyond its expiration date in accordance with the provisions of this section. Nothing in this section shall affect the obligation of any person to register for a general permit pursuant to the provisions of this title in a timely fashion or to comply with any general permit issued by the commissioner pursuant to the provisions of this title.

Sec. 2. (NEW) (*Effective July 1, 2025*) (a) (1) Notwithstanding the provisions of chapters 440 and 444 of the general statutes and sections 22a-361, as amended by this act, and 22a-363b of the general statutes, the Commissioner of Energy and Environmental Protection may require, as a condition of any permit issued pursuant to section 22a-32, as amended by this act, 22a-42, 22a-361, as amended by this act, or 22a-363b of the general statutes, or as a condition of any certification regarding water quality pursuant to 33 USC 1341, watershed-level compensatory mitigation to offset impacts to water resources caused by any regulated activity (A) that is authorized under permit actions and conducted by any department, agency or instrumentality of the state, except any local or regional board of education, or (B) that is authorized under permit actions for activities within the public trust, including, but not limited to, impacts to inland wetlands and watercourses, tidal wetlands and coastal waters.

(2) The commissioner may include conditions for any license or certification referenced in subsection (a) of this section only if the commissioner determines that the applicant has demonstrated that: (A) It is not prudent to further minimize impacts of the regulated activity, and (B) for licensees or certificates that authorize actions for activities within the public trust, the commissioner additionally determines that the applicant has demonstrated that the watershed-level mitigation project will provide substantial public benefit.

(3) The commissioner may enter into any contract or agreement with any contractor, state agency or federal agency in order to implement the

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provisions of this section.

(b) Provided the requirements of subdivision (2) of subsection (a) of this section are met, the commissioner may require one or both of the following actions by the permittee: (1) The purchasing of resource credits to provide compensation, in an amount established by the commissioner, to fund compensatory mitigation projects, or (2) participation in a compensatory mitigation project in lieu of a fee program or mitigation bank that has been approved for use by the United States Army Corps of Engineers and the Department of Energy and Environmental Protection.

(c) Any land purchase, conservation easement or other protective instrument used as a compensatory mitigation project pursuant to this section shall be held by a third party, unless the commissioner determines it is in the interest of the state for the state to hold the asset. All lands or interests in land acquired pursuant to this section shall be preserved in perpetuity for the protection of the wetland and hydrological functioning.

(d) Any watershed-level mitigation project pursued in accordance with this section shall create, restore or enhance the same or similar types of water resource to be impacted by the regulated activity and such compensation shall be proportional to the impacts caused by the proposed regulated activity.

(e) All watershed-level compensation resources acquired pursuant to this section shall be adequately protected, in perpetuity, to protect the water resources subject to mitigation under this section.

(f) (1) The commissioner shall issue, and may periodically reissue, a request for proposals for contractors who will develop a watershed-level mitigation program. Any such selected contractor shall be responsible for identifying potential watershed-level mitigation project

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locations for the commissioner's approval and performing wetland and water resource creation, restoration or enhancement projects, including providing for such project's long-term management. The request for proposals may include any elements necessary for operation of the watershed-level mitigation program, as determined by the commissioner. In evaluating contractors for selection under any such request for proposals, the commissioner shall evaluate contractor qualifications that include, but are not limited to, sufficient financial resources to monitor and maintain any mitigation project for the appropriate time periods and sufficient and reliable demonstration of financial controls to administer the accounts necessary to conduct, monitor and maintain any such projects. The commissioner may select one or more contractors to carry out the purposes of this section.

(2) Any contractor selected pursuant to subdivision (1) of this subsection shall seek the commissioner's approval for any project location or scope before initiating such a compensatory mitigation project.

(3) Each such contractor may accept other federal, state or private funding for such projects in order to enhance or expand the compensatory mitigation project.

Sec. 3. (NEW) (*Effective from passage*) (a) The Commissioner of Energy and Environmental Protection shall prepare a report that evaluates potential improvements to environmental reviews undertaken pursuant to the state Endangered Species Act. Such report shall include: (1) Recommendations for improvements to the processing of such environmental reviews that will increase the efficiency, transparency, and predictability of such reviews, (2) an assessment of similar environmental review programs in other states, (3) recommendations concerning qualifications and proficiencies of third-party consultants that prepare mitigation plans and other materials required by the Department of Energy and Environmental Protection's Natural

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Diversity Data Base review process, (4) a description of the required components of a Natural Diversity Data Base review request, (5) the outcomes of a stakeholder engagement process that compiles public opinions on Natural Diversity Data Base review program improvements, and (6) a prioritized list of additional scientific and communications resources that would increase the efficiency and predictability of the environmental review process.

(b) The commissioner may, within existing resources, hire a consultant to assist in preparing the report or portions thereof.

(c) Not later than February 1, 2026, the commissioner shall submit said report, in accordance with the provisions of section 11-4a of the general statutes, to the joint standing committee of the General Assembly having cognizance of matters relating to the environment and shall post said report on the Department of Energy and Environmental Protection's Internet web site.

Sec. 4. (NEW) (*Effective from passage*) (a) For any license, as defined in section 4-166 of the general statutes, that requires a hearing upon receipt of a petition by the Commissioner of Energy and Environmental Protection pursuant to any provision of title 22a of the general statutes or section 25-68d of the general statutes, as amended by this act, or the regulations of Connecticut state agencies under the authority of the Department of Energy and Environmental Protection, such hearing shall be a public informational hearing and shall not be subject to the requirements of chapter 54 of the general statutes unless such petition satisfies the requirements of subsection (b) of this section. At such public informational hearing, the Commissioner of Energy and Environmental Protection shall accept written and verbal comments regarding the license that is the subject of such informational hearing. Before issuing any final decision on a license that is the subject of such a public informational hearing, the commissioner shall respond to comments received at such informational hearing by posting a written response on

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the Department of Energy and Environmental Protection's Internet web site.

(b) A hearing shall be subject to the requirements of chapter 54 of the general statutes if the petition sets forth specific facts that: (1) Demonstrate that the legal rights, duties or privileges of at least one person who signed the petition will be, or may reasonably be expected to be, affected by the decision, or (2) satisfy the requirements to intervene as a party pursuant to section 22a-19 of the general statutes. The commissioner shall provide a copy of any such petition to the person seeking such license. Not later than ten days after receipt of such petition, such person may object, in writing, to such petition on the basis that such petition fails to contain the specific factual demonstration required by subdivision (1) of this subsection or that such petition does not satisfy the requirements to intervene as a party required by subdivision (2) of this subsection. Any objection shall be submitted to the commissioner and a copy provided to the person who submitted the petition, and the person who submitted the petition may respond, in writing, to any objection not later than seven days after it is submitted. Not later than thirty days after a petition is submitted pursuant to subsection (a) of this subsection that seeks to qualify under subdivision (1) or (2) of this subsection, or not later than thirty days after a response to an objection is submitted, whichever is later, the commissioner shall determine whether the petition satisfies the requirements of this section and send notice of such determination, in writing, to the person seeking such license. If such petition request is granted by the commissioner, the petitioner shall be granted intervening party status and a hearing shall be held pursuant to the requirements of chapter 54 of the general statutes. If the commissioner determines that the petition does not satisfy the requirements of this subsection, the person who submitted the petition may appeal such determination pursuant to section 4-183 of the general statutes.

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(c) No provision of subsection (a) or (b) of this section shall be construed to require a public informational hearing or contested case hearing in lieu of the public hearing prerequisites established in subdivisions (1) and (2) of subsection (b) of section 22a-32 of the general statutes, as amended by this act, subdivisions (2) and (3) of subsection (k) of section 22a-39 of the general statutes, as amended by this act, subdivisions (2) and (3) of subsection (b) of section 22a-361 of the general statutes, as amended by this act, or subdivisions (3) and (4) of subsection (d) of section 25-68d of the general statutes, as amended by this act.

(d) No provision of this section shall be construed to prevent the commissioner from holding a hearing prior to approving or denying any application if the commissioner determines that the public interest will be best served by holding a hearing and if another provision of the general statutes provides the commissioner the discretion to hold such a hearing. Any hearing held pursuant to this subsection shall not be subject to the requirements of chapter 54 of the general statutes.

Sec. 5. Subdivision (2) of subsection (b) of section 22a-32 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(2) For the purposes of subdivision (1) of this subsection, a petition alleges aggrievement or unreasonable pollution or destruction of the public trust if the petition sets forth specific facts that (A) demonstrate that the legal rights, duties or privileges of at least one person who signed the petition will be, or may reasonably be expected to be, affected by such regulated activity, or [that alleges that the regulated activity involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state] (B) satisfy the requirements to intervene as a party pursuant to section 22a-19. Any such petition shall identify the relevant statutory or regulatory

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provision which the petitioners claim such proposed regulated activity does not satisfy. The commissioner shall provide a copy of any such petition received to the person proposing to conduct or cause to be conducted such regulated activity, who, not more than [seven business] ten days after receipt of such petition, may object to such petition on the basis that the petition does not contain the specific factual demonstration required by this subdivision. [The] Any objection shall be submitted to the commissioner and a copy provided to the person who submitted the petition. The person who submitted the petition may respond, in writing, to any such objection not later than seven days after such submission. Not later than thirty days after a petition is submitted pursuant to subdivision (1) of this subsection, or not later than thirty days after a response to an objection is submitted, whichever is later, the commissioner shall determine whether the petition satisfies the requirements of this subdivision and shall send notice of such determination, in writing, to the person proposing to conduct or cause to be conducted such regulated activity and the person who submitted the petition. If the commissioner determines that the petition does not satisfy the requirements of this subdivision, the person who submitted the petition may appeal such determination pursuant to section 4-183.

Sec. 6. Subdivision (3) of subsection (k) of section 22a-39 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) For the purposes of subdivision (2) of this subsection, a petition alleges aggrievement or unreasonable pollution or destruction of the public trust if the petition sets forth specific facts that (A) demonstrate that the legal rights, duties or privileges of at least one person who signed the petition will be, or may reasonably be expected to be, affected by such regulated activity, or [that alleges that the regulated activity involves conduct that has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public

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trust in the air, water or other natural resources of the state] (B) satisfy the requirements to intervene as a party pursuant to section 22a-19. Any such petition shall identify the relevant statutory or regulatory provision which the petitioners claim such proposed regulated activity does not satisfy. The commissioner shall provide a copy of any such petition received to the person proposing to conduct or cause to be conducted such regulated activity, who, not more than [seven business] ten days after receipt of such petition, may object to such petition on the basis that the petition does not contain the specific factual demonstration required by this subdivision. [The] Any objection shall be submitted to the commissioner and a copy provided to the person who submitted the petition. The person who submitted the petition may respond, in writing, to any such objection not later than seven days after such submission. Not later than thirty days after a petition is submitted pursuant to subdivision (1) of this subsection, or not later than thirty days after a response to an objection is submitted, whichever is later, the commissioner shall determine whether the petition satisfies the requirements of this subdivision and shall send notice of such determination, in writing, to the person proposing to conduct or cause to be conducted such regulated activity and the person who submitted the petition. If the commissioner determines that the petition does not satisfy the requirements of this subdivision, the person who submitted the petition may appeal such determination pursuant to section 4-183.

Sec. 7. Subdivision (3) of subsection (b) of section 22a-361 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(3) For the purposes of subdivision (2) of this subsection, a petition alleges aggrievement or unreasonable pollution or destruction of the public trust if the petition sets forth specific facts that (A) demonstrate that the legal rights, duties or privileges of at least one person who signed the petition will be, or may reasonably be expected to be, affected

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by such activity, or [that alleges that the activity involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state] (B) satisfy the requirements to intervene as a party pursuant to section 22a-19. Any such petition shall identify the relevant statutory or regulatory provision that the petitioners claim such activity does not satisfy. The commissioner shall provide a copy of any such petition received to the person proposing to conduct or cause to be conducted such activity, who, not more than [seven business] ten days after receipt of such petition, may object to such petition on the basis that the petition does not contain the specific factual demonstration required by this subdivision. [The] Any objection shall be submitted to the commissioner and a copy provided to the person who submitted the petition. The person who submitted the petition may respond, in writing, to any such objection not later than seven days after such submission. Not later than thirty days after a petition is submitted pursuant to subdivision (1) of this subsection, or not later than thirty days after a response to an objection is submitted, whichever is later, the commissioner shall determine whether the petition satisfies the requirements of this subdivision and shall send notice of such determination, in writing, to the person proposing to conduct or cause to be conducted such activity and the person who submitted the petition. If the commissioner determines that the petition does not satisfy the requirements of this subdivision, the person who submitted the petition may appeal such determination pursuant to section 4-183.

Sec. 8. Subdivision (4) of subsection (d) of section 25-68d of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(4) For the purposes of subdivision (3) of this subsection, a petition alleges aggrievement or unreasonable pollution or destruction of the

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public trust if the petition sets forth specific facts that (A) demonstrate that the legal rights, duties or privileges of at least one person who signed the petition will be, or may reasonably be expected to be, affected by such activity or critical activity, or [that alleges that the activity or critical activity involves conduct which has, or which is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state] (B) satisfy the requirements to intervene as a party pursuant to section 22a-19. Any such petition shall identify the relevant statutory or regulatory provision with which petitioners claim such activity or critical activity does not satisfy. The commissioner shall provide a copy of any such petition received to the state agency. Not more than [seven business] ten days after receipt of such petition, the state agency may object to such petition on the basis that the petition does not contain the specific factual demonstration required by this subdivision. [The] Any objection shall be submitted to the commissioner and a copy provided to the person who submitted the petition, and the person who submitted the petition may respond, in writing, to any objection not later than seven days after it is submitted. Not later than thirty days after a petition is submitted pursuant to subdivision (1) of this subsection, or not later than thirty days after a response to an objection is submitted, whichever is later, the commissioner shall determine whether the petition satisfies the requirements of this subdivision and shall send notice of such determination, in writing, to the state agency and the person who submitted the petition. If the commissioner determines that the petition does not satisfy the requirements of this subdivision, the person who submitted the petition may appeal such determination pursuant to section 4-183.