



House of Representatives

File No. 946

General Assembly

January Session, 2025

(Reprint of File No. 456)

Substitute House Bill No. 6868
As Amended by House Amendment
Schedule "A"

Approved by the Legislative Commissioner
May 22, 2025

**AN ACT ENHANCING ENVIRONMENTAL PERMITTING
PREDICTABILITY.**

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

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 Section 22a-6aa of the general statutes is repealed and the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

3 The Commissioner of Energy and Environmental Protection may
4 continue in effect any general permit issued by the commissioner
5 pursuant to the provisions of this title [for a period of twelve months
6 beyond the expiration date for such permit] until a new general permit
7 is issued, or the commissioner makes a determination not to issue a new
8 general permit, provided the commissioner publishes notice, not later
9 than one hundred eighty days prior to the expiration date of such
10 general permit of the intent to renew such general permit in accordance
11 with any applicable provision of this title. Any such general permit
12 continued in effect beyond its expiration date shall remain in effect until
13 the commissioner makes a final decision on the renewal of such general

14 permit, in accordance with the provisions of this title, [provided such
15 final decision is made on or before the twelfth month after the expiration
16 date. If no final decision is made within such time period, such general
17 permit shall expire.] The commissioner may require the remittance of a
18 registration fee in an amount not to exceed the existing registration fee
19 for such general permit whenever a general permit is continued in effect
20 beyond its expiration date in accordance with the provisions of this
21 section. Nothing in this section shall affect the obligation of any person
22 to register for a general permit pursuant to the provisions of this title in
23 a timely fashion or to comply with any general permit issued by the
24 commissioner pursuant to the provisions of this title.

25 Sec. 2. (NEW) (*Effective July 1, 2025*) (a) (1) Notwithstanding the
26 provisions of chapters 440 and 444 of the general statutes and sections
27 22a-361, as amended by this act, and 22a-363b of the general statutes, the
28 Commissioner of Energy and Environmental Protection may require, as
29 a condition of any permit issued pursuant to section 22a-32, as amended
30 by this act, 22a-42, 22a-361, as amended by this act, or 22a-363b of the
31 general statutes, or as a condition of any certification regarding water
32 quality pursuant to 33 USC 1341, watershed-level compensatory
33 mitigation to offset impacts to water resources caused by any regulated
34 activity (A) that is authorized under permit actions and conducted by
35 any department, agency or instrumentality of the state, except any local
36 or regional board of education, or (B) that is authorized under permit
37 actions for activities within the public trust, including, but not limited
38 to, impacts to inland wetlands and watercourses, tidal wetlands and
39 coastal waters.

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

48 (3) The commissioner may enter into any contract or agreement with
49 any contractor, state agency or federal agency in order to implement the
50 provisions of this section.

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

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

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

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

75 (f) (1) The commissioner shall issue, and may periodically reissue, a
76 request for proposals for contractors who will develop a watershed-
77 level mitigation program. Any such selected contractor shall be
78 responsible for identifying potential watershed-level mitigation project
79 locations for the commissioner's approval and performing wetland and

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

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

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

99 Sec. 3. (NEW) (*Effective from passage*) (a) The Commissioner of Energy
100 and Environmental Protection shall prepare a report that evaluates
101 potential improvements to environmental reviews undertaken
102 pursuant to the state Endangered Species Act. Such report shall include:
103 (1) Recommendations for improvements to the processing of such
104 environmental reviews that will increase the efficiency, transparency,
105 and predictability of such reviews, (2) an assessment of similar
106 environmental review programs in other states, (3) recommendations
107 concerning qualifications and proficiencies of third-party consultants
108 that prepare mitigation plans and other materials required by the
109 Department of Energy and Environmental Protection's Natural
110 Diversity Data Base review process, (4) a description of the required
111 components of a Natural Diversity Data Base review request, (5) the
112 outcomes of a stakeholder engagement process that compiles public

113 opinions on Natural Diversity Data Base review program
114 improvements, and (6) a prioritized list of additional scientific and
115 communications resources that would increase the efficiency and
116 predictability of the environmental review process.

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

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

125 Sec. 4. (NEW) (*Effective from passage*) (a) For any license, as defined in
126 section 4-166 of the general statutes, that requires a hearing upon receipt
127 of a petition by the Commissioner of Energy and Environmental
128 Protection pursuant to any provision of title 22a of the general statutes
129 or section 25-68d of the general statutes, as amended by this act, or the
130 regulations of Connecticut state agencies under the authority of the
131 Department of Energy and Environmental Protection, such hearing
132 shall be a public informational hearing and shall not be subject to the
133 requirements of chapter 54 of the general statutes unless such petition
134 satisfies the requirements of subsection (b) of this section. At such public
135 informational hearing, the Commissioner of Energy and Environmental
136 Protection shall accept written and verbal comments regarding the
137 license that is the subject of such informational hearing. Before issuing
138 any final decision on a license that is the subject of such a public
139 informational hearing, the commissioner shall respond to comments
140 received at such informational hearing by posting a written response on
141 the Department of Energy and Environmental Protection's Internet web
142 site.

143 (b) A hearing shall be subject to the requirements of chapter 54 of the
144 general statutes if the petition sets forth specific facts that: (1)

145 Demonstrate that the legal rights, duties or privileges of at least one
146 person who signed the petition will be, or may reasonably be expected
147 to be, affected by the decision, or (2) satisfy the requirements to
148 intervene as a party pursuant to section 22a-19 of the general statutes.
149 The commissioner shall provide a copy of any such petition to the
150 person seeking such license. Not later than ten days after receipt of such
151 petition, such person may object, in writing, to such petition on the basis
152 that such petition fails to contain the specific factual demonstration
153 required by subdivision (1) of this subsection or that such petition does
154 not satisfy the requirements to intervene as a party required by
155 subdivision (2) of this subsection. Any objection shall be submitted to
156 the commissioner and a copy provided to the person who submitted the
157 petition, and the person who submitted the petition may respond, in
158 writing, to any objection not later than seven days after it is submitted.
159 Not later than thirty days after a petition is submitted pursuant to
160 subsection (a) of this subsection that seeks to qualify under subdivision
161 (1) or (2) of this subsection, or not later than thirty days after a response
162 to an objection is submitted, whichever is later, the commissioner shall
163 determine whether the petition satisfies the requirements of this section
164 and send notice of such determination, in writing, to the person seeking
165 such license. If such petition request is granted by the commissioner, the
166 petitioner shall be granted intervening party status and a hearing shall
167 be held pursuant to the requirements of chapter 54 of the general
168 statutes. If the commissioner determines that the petition does not
169 satisfy the requirements of this subsection, the person who submitted
170 the petition may appeal such determination pursuant to section 4-183 of
171 the general statutes.

172 (c) No provision of subsection (a) or (b) of this section shall be
173 construed to require a public informational hearing or contested case
174 hearing in lieu of the public hearing prerequisites established in
175 subdivisions (1) and (2) of subsection (b) of section 22a-32 of the general
176 statutes, as amended by this act, subdivisions (2) and (3) of subsection
177 (k) of section 22a-39 of the general statutes, as amended by this act,
178 subdivisions (2) and (3) of subsection (b) of section 22a-361 of the

179 general statutes, as amended by this act, or subdivisions (3) and (4) of
180 subsection (d) of section 25-68d of the general statutes, as amended by
181 this act.

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

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

192 (2) For the purposes of subdivision (1) of this subsection, a petition
193 alleges aggrievement or unreasonable pollution or destruction of the
194 public trust if the petition sets forth specific facts that (A) demonstrate
195 that the legal rights, duties or privileges of at least one person who
196 signed the petition will be, or may reasonably be expected to be, affected
197 by such regulated activity, or [that alleges that the regulated activity
198 involves conduct which has, or which is reasonably likely to have, the
199 effect of unreasonably polluting, impairing or destroying the public
200 trust in the air, water or other natural resources of the state] (B) satisfy
201 the requirements to intervene as a party pursuant to section 22a-19. Any
202 such petition shall identify the relevant statutory or regulatory
203 provision which the petitioners claim such proposed regulated activity
204 does not satisfy. The commissioner shall provide a copy of any such
205 petition received to the person proposing to conduct or cause to be
206 conducted such regulated activity, who, not more than [seven business]
207 ten days after receipt of such petition, may object to such petition on the
208 basis that the petition does not contain the specific factual
209 demonstration required by this subdivision. [The] Any objection shall
210 be submitted to the commissioner and a copy provided to the person
211 who submitted the petition. The person who submitted the petition may

212 respond, in writing, to any such objection not later than seven days after
213 such submission. Not later than thirty days after a petition is submitted
214 pursuant to subdivision (1) of this subsection, or not later than thirty
215 days after a response to an objection is submitted, whichever is later, the
216 commissioner shall determine whether the petition satisfies the
217 requirements of this subdivision and shall send notice of such
218 determination, in writing, to the person proposing to conduct or cause
219 to be conducted such regulated activity and the person who submitted
220 the petition. If the commissioner determines that the petition does not
221 satisfy the requirements of this subdivision, the person who submitted
222 the petition may appeal such determination pursuant to section 4-183.

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

226 (3) For the purposes of subdivision (2) of this subsection, a petition
227 alleges aggrievement or unreasonable pollution or destruction of the
228 public trust if the petition sets forth specific facts that (A) demonstrate
229 that the legal rights, duties or privileges of at least one person who
230 signed the petition will be, or may reasonably be expected to be, affected
231 by such regulated activity, or [that alleges that the regulated activity
232 involves conduct that has, or which is reasonably likely to have, the
233 effect of unreasonably polluting, impairing or destroying the public
234 trust in the air, water or other natural resources of the state] (B) satisfy
235 the requirements to intervene as a party pursuant to section 22a-19. Any
236 such petition shall identify the relevant statutory or regulatory
237 provision which the petitioners claim such proposed regulated activity
238 does not satisfy. The commissioner shall provide a copy of any such
239 petition received to the person proposing to conduct or cause to be
240 conducted such regulated activity, who, not more than [seven business]
241 ten days after receipt of such petition, may object to such petition on the
242 basis that the petition does not contain the specific factual
243 demonstration required by this subdivision. [The] Any objection shall
244 be submitted to the commissioner and a copy provided to the person
245 who submitted the petition. The person who submitted the petition may

246 respond, in writing, to any such objection not later than seven days after
247 such submission. Not later than thirty days after a petition is submitted
248 pursuant to subdivision (1) of this subsection, or not later than thirty
249 days after a response to an objection is submitted, whichever is later, the
250 commissioner shall determine whether the petition satisfies the
251 requirements of this subdivision and shall send notice of such
252 determination, in writing, to the person proposing to conduct or cause
253 to be conducted such regulated activity and the person who submitted
254 the petition. If the commissioner determines that the petition does not
255 satisfy the requirements of this subdivision, the person who submitted
256 the petition may appeal such determination pursuant to section 4-183.

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

260 (3) For the purposes of subdivision (2) of this subsection, a petition
261 alleges aggrievement or unreasonable pollution or destruction of the
262 public trust if the petition sets forth specific facts that (A) demonstrate
263 that the legal rights, duties or privileges of at least one person who
264 signed the petition will be, or may reasonably be expected to be, affected
265 by such activity, or [that alleges that the activity involves conduct which
266 has, or which is reasonably likely to have, the effect of unreasonably
267 polluting, impairing or destroying the public trust in the air, water or
268 other natural resources of the state] (B) satisfy the requirements to
269 intervene as a party pursuant to section 22a-19. Any such petition shall
270 identify the relevant statutory or regulatory provision that the
271 petitioners claim such activity does not satisfy. The commissioner shall
272 provide a copy of any such petition received to the person proposing to
273 conduct or cause to be conducted such activity, who, not more than
274 [seven business] ten days after receipt of such petition, may object to
275 such petition on the basis that the petition does not contain the specific
276 factual demonstration required by this subdivision. [The] Any objection
277 shall be submitted to the commissioner and a copy provided to the
278 person who submitted the petition. The person who submitted the
279 petition may respond, in writing, to any such objection not later than

280 seven days after such submission. Not later than thirty days after a
281 petition is submitted pursuant to subdivision (1) of this subsection, or
282 not later than thirty days after a response to an objection is submitted,
283 whichever is later, the commissioner shall determine whether the
284 petition satisfies the requirements of this subdivision and shall send
285 notice of such determination, in writing, to the person proposing to
286 conduct or cause to be conducted such activity and the person who
287 submitted the petition. If the commissioner determines that the petition
288 does not satisfy the requirements of this subdivision, the person who
289 submitted the petition may appeal such determination pursuant to
290 section 4-183.

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

294 (4) For the purposes of subdivision (3) of this subsection, a petition
295 alleges aggrievement or unreasonable pollution or destruction of the
296 public trust if the petition sets forth specific facts that (A) demonstrate
297 that the legal rights, duties or privileges of at least one person who
298 signed the petition will be, or may reasonably be expected to be, affected
299 by such activity or critical activity, or [that alleges that the activity or
300 critical activity involves conduct which has, or which is reasonably
301 likely to have, the effect of unreasonably polluting, impairing or
302 destroying the public trust in the air, water or other natural resources of
303 the state] (B) satisfy the requirements to intervene as a party pursuant
304 to section 22a-19. Any such petition shall identify the relevant statutory
305 or regulatory provision with which petitioners claim such activity or
306 critical activity does not satisfy. The commissioner shall provide a copy
307 of any such petition received to the state agency. Not more than [seven
308 business] ten days after receipt of such petition, the state agency may
309 object to such petition on the basis that the petition does not contain the
310 specific factual demonstration required by this subdivision. [The] Any
311 objection shall be submitted to the commissioner and a copy provided
312 to the person who submitted the petition, and the person who submitted
313 the petition may respond, in writing, to any objection not later than

314 seven days after it is submitted. Not later than thirty days after a petition
 315 is submitted pursuant to subdivision (1) of this subsection, or not later
 316 than thirty days after a response to an objection is submitted, whichever
 317 is later, the commissioner shall determine whether the petition satisfies
 318 the requirements of this subdivision and shall send notice of such
 319 determination, in writing, to the state agency and the person who
 320 submitted the petition. If the commissioner determines that the petition
 321 does not satisfy the requirements of this subdivision, the person who
 322 submitted the petition may appeal such determination pursuant to
 323 section 4-183.

This act shall take effect as follows and shall amend the following sections:

| | | |
|-----------|------------------------|---------------|
| Section 1 | <i>October 1, 2025</i> | 22a-6aa |
| Sec. 2 | <i>July 1, 2025</i> | New section |
| Sec. 3 | <i>from passage</i> | New section |
| Sec. 4 | <i>from passage</i> | New section |
| Sec. 5 | <i>from passage</i> | 22a-32(b)(2) |
| Sec. 6 | <i>from passage</i> | 22a-39(k)(3) |
| Sec. 7 | <i>from passage</i> | 22a-361(b)(3) |
| Sec. 8 | <i>from passage</i> | 25-68d(d)(4) |

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact: None

Municipal Impact: None

Explanation

The bill makes various procedural changes for petitioned hearings on Department of Energy and Environmental Protection (DEEP) licenses and aligns Connecticut's compensatory mitigation process with federal requirements. Additionally, the bill requires DEEP to submit a report evaluating potential improvements to its Endangered Species Act environmental reviews. None of the changes contained within the bill result in a fiscal impact as DEEP has the staff and expertise necessary to complete the tasks.

House "A" make various procedural changes and has no fiscal impact.

The Out Years

State Impact: None

Municipal Impact: None

OLR Bill Analysis**sHB 6868 (as amended by House "A")*****AN ACT ENHANCING ENVIRONMENTAL PERMITTING PREDICTABILITY.****SUMMARY**

This bill changes procedural requirements for petitioned hearings on Department of Energy and Environmental Protection (DEEP) licenses (permits and other approvals). For most DEEP-issued licenses, existing law allows people to request a public hearing by submitting a petition according to the law's requirements. Under the bill, these petitioned hearings are public informational hearings not subject to the Uniform Administrative Procedures Act (UAPA; see BACKGROUND), except for certain petitions that meet specific requirements.

Additionally, the bill authorizes DEEP to:

1. require "watershed-level compensatory mitigation" (i.e. compensation to offset impacts to water resources) for certain regulated activities and
2. extend a general permit's expiration date until a new permit is issued, or until DEEP declines to issue a new permit, rather than extend them for one year past the expiration date as current law allows.

Finally, the bill requires DEEP to (1) prepare a report evaluating potential improvements to its Endangered Species Act environmental reviews and (2) submit it to the Environment Committee and post it on the department's website by February 1, 2026.

*House Amendment "A" (1) modifies the specific facts that the public

hearing petitions must include for the hearing to be subject to the UAPA; (2) makes minor changes to the provisions on objecting to the public hearing petitions; (3) explicitly allows petitioners to appeal the commissioner's determination that a petition does not satisfy the bill's requirements; and (4) changes the requirements for public hearing petitions on certain transportation capital projects to generally align with those the bill establishes for petitioned hearings subject to the UAPA.

EFFECTIVE DATE: Upon passage, except the general permit provision is effective October 1, 2025, and the mitigation provision is effective July 1, 2025.

§§ 4-8 — PUBLIC INFORMATIONAL HEARING REQUIREMENTS

Covered Petitions

The bill's requirements apply to any DEEP license (i.e. permit, certificate, approval, registration, charter, or license) for which people can petition the DEEP commissioner for a hearing. This includes petitions authorized under the state's environmental protection laws, law on regulated activities in floodplains, or DEEP regulations. Under the bill, these petitioned hearings are public informational hearings not subject to the UAPA, except as described below for petitions that satisfy specific requirements.

The DEEP commissioner must (1) accept written and verbal comments at these public informational hearings and (2) post a written response to the comments on the department's website before issuing a final decision on the underlying license.

Petitioned Hearings Subject to UAPA

Under the bill, petitioned public hearings are subject to the UAPA if the petition for the public hearing establishes specific facts that:

1. demonstrate that at least one signatory's legal rights, duties, or privileges will be, or may reasonably be expected to be, affected by the decision or

2. satisfy the requirements to intervene as a party under the Connecticut Environmental Protection Act of 1971 (CGS § 22a-19) (see BACKGROUND).

The commissioner must give a copy of the petition to the license applicant, who may then object to the petition, in writing and within 10 days of receiving the petition, for failing to have the specific facts described above. Applicants must submit their objections to the DEEP commissioner and provide a copy to the petitioner. The petitioner may respond in writing to the objection within seven days after the objection's submittal.

The commissioner must decide within 30 days after receiving the petition, or within 30 days after a response to an objection is submitted, whichever is later, if it meets the above requirements and must give the license applicant written notice about her determination. If she grants the petition request, the petitioner must be given intervening party status and DEEP must hold a hearing subject to the UAPA. If the DEEP commissioner determines that the petition does not satisfy the requirements, the petitioner may appeal the decision according to the UAPA.

Petitioned Hearings for Certain Transportation Capital Projects

The bill specifies that these provisions must not be construed as requiring a public informational hearing or contested case hearing instead of the conditions required under existing law for petitioned hearings on certain transportation capital projects. It also changes the requirements for these public hearing petitions to generally align with those the bill establishes for petitioned hearings subject to the UAPA.

Covered Regulated Activities. The law limits the circumstances under which the DEEP commissioner must hold a public hearing on applications for certain regulated activities (i.e. for a tidal or inland wetland activity permit; structures, dredging, or fill permit; or certification to conduct certain work in a floodplain) if the regulated activity is:

1. a transportation capital project that is not at an airport;
2. one in which the federal government requires public participation; and
3. one for which the proposer (a) sought public input by implementing a plan a federal agency approved and (b) gave the commissioner a copy of the plan, a written summary of the public participation opportunities involved, and a copy or record of the comments received and how they were responded to or addressed.

Petition Requirements. By law, the DEEP commissioner must only hold a public hearing on these transportation capital projects if she receives a petition signed by at least 25 people alleging aggrievement or unreasonable pollution or destruction of the public trust. Under current law, these petitions must include specific facts to show either that:

1. at least one signatory's legal rights, duties, or privileges will or may reasonably be expected to be affected by the regulated activity or
2. the regulated activity involves conduct that has, or is reasonably likely to have, the effect of unreasonably polluting, impairing, or destroying the public trust in the state's air, water, or other natural resources.

The bill instead requires these petitions to satisfy the same requirements described above for petitioned hearings subject to the UAPA. As under existing law, the petition must also identify the relevant law or regulation that the proposed regulated activity is alleged to not meet.

The bill also changes the requirements for objections to these petitions to align with those established above for petitioned hearings. Specifically, it:

1. extends the period of time for the person proposing the activity

to object to the petition from seven to 10 days after receiving the petition,

2. requires the person to submit his or her objection to the commissioner and give a copy of it to the petitioner,
3. allows the petitioner to respond in writing to the objection within seven days after this submittal,
4. applies the same 30-day deadline described above for the commissioner to determine whether the petition satisfies the law's requirements and notify the applicant and petitioner of her decision in writing, and
5. allows the petitioner to appeal the commissioner's determination according to the UAPA.

Additional Hearings

The bill specifies that its provisions do not prevent the DEEP commissioner from holding a hearing before she approves or denies an application if (1) she determines it is in the public's best interest to do so and (2) another statute gives her this discretion. It exempts these additional hearings from the UAPA.

§ 2 — WATERSHED-LEVEL COMPENSATORY MITIGATION

The bill authorizes the commissioner to require "watershed-level compensatory mitigation" (mitigation) as a condition of issuing certain permits and a specified water quality certification. This mitigation is designed to offset impacts to water resources caused by regulated activities that are authorized under a permit and (1) conducted by any state department, agency, or instrumentality, other than local or regional boards of education, or (2) involves areas of public trust, including impacts to inland wetlands and watercourses, tidal wetlands, and coastal waters. (The U.S. Army Corps of Engineers requires similar compensatory mitigation to offset specified permitted activities (see BACKGROUND).)

The commissioner may only require these conditions if the applicant demonstrates that it is not prudent to further minimize the regulated activity's impact. For licenses and certificates for activities within public trust areas, the commissioner must also determine that the applicant has demonstrated that the watershed-level mitigation project will result in a substantial public benefit. The bill authorizes the commissioner to enter contracts or agreements with any contractor or state or federal agency to implement these provisions.

Applicable Permits and Certifications

Under the bill, the commissioner may require this mitigation as a condition of the following:

1. permits for regulated activities in tidal wetlands (CGS § 22a-32);
2. permits for regulated activities in wetlands and watercourses (CGS § 22a-42);
3. permits for dredging, erecting structures, placing fill, obstructions, encroachments, or related work in the state's tidal, coastal, or navigable waters waterward of the coastal jurisdiction line (CGS § 22a-361);
4. certificates of permission for certain activities involving dredging, building structures, and maintaining fill in the state's tidal, coastal, or navigable waters (CGS § 22a-363b); and
5. water quality certifications for applicants for a federal license or permit seeking to conduct an activity that may result in discharge into the state's navigable waters (33 U.S.C. § 1341).

Mitigation Requirements for Permittees

Under the bill, DEEP may require permittees to do one, or both, of the following:

1. purchase resource credits, in an amount determined by DEEP, to fund compensatory mitigation projects or

2. participate in a compensatory mitigation project instead of a fee program or a mitigation bank that the U.S. Army Corps of Engineers and DEEP have approved for use.

Mitigation Projects

Under the bill, third parties must hold any land purchase, conservation easement, or other protective instrument used as a mitigation project unless the commissioner determines it is in the state's best interest to assume ownership. Lands or land interests acquired in this way must be preserved indefinitely to protect the wetland and hydrological functioning.

Mitigation projects must be preserved in perpetuity and must create, restore, or enhance the same or similar water resources negatively impacted by the proposed regulated activities and the compensation must be proportional to the activities' impact. Any watershed-level compensation resources acquired must be adequately protected indefinitely to preserve the underlying water resource.

Requests for Proposals for Contractors to Develop the Program

Under the bill, the commissioner must issue, and may periodically reissue, a request for proposals (RFP) for one or more contractors to develop the mitigation program. The RFP may include any elements the commissioner determines the program needs. When selecting a contractor, the commissioner must evaluate the contractor's qualifications, including if it has (1) sufficient financial resources to monitor and maintain the project and (2) demonstrated financial controls to administer the accounts needed to conduct, monitor, and maintain the projects.

Any contractor that constructs a project must seek the commissioner's approval for the project's scope and location before starting it. Contractors may accept funds from private, state, or federal sources to enhance or expand the project.

§ 1 — GENERAL PERMIT EXTENSIONS

Under current law, the DEEP commissioner may extend the expiration date for a general permit by one year. The bill instead authorizes her to extend the permit until (1) a new general permit is issued or (2) she determines not to issue another permit. In doing so, it eliminates the current requirement that a general permit automatically expire if the commissioner makes no decision on it within one year.

As under existing law, the commissioner must publish notice of her intent to renew the permit at least 180 days before the permit's expiration date and may charge a fee for extending the expiration date, but not more than the amount of the permit's current fee.

§ 3 — ENVIRONMENTAL REVIEW DEEP REPORT

The bill requires the commissioner to prepare a report evaluating potential improvements to environmental reviews done according to the state Endangered Species Act. By law, these reviews are determinations of whether state agency actions threaten the existence of any protected species or result in the destruction or degradation of its habitat. The report must include:

1. recommendations for improving environmental review processing to increase efficiency, transparency, and predictability;
2. an assessment of similar environmental review programs in other states;
3. recommendations on qualifications and proficiencies of third-party consultants that prepare mitigation plans and other materials required by DEEP's natural diversity data base review process;
4. a description of the required components of a review request;
5. the outcomes of a stakeholder engagement process (i.e. a compilation of public opinions on 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.

DEEP may hire a consultant within existing resources to help with the report. By February 1, 2026, the commissioner must submit the report to the Environment Committee and post it on DEEP's website.

BACKGROUND

Intervening Parties and Intervenors in UAPA Contested Cases

The UAPA sets procedural requirements for "contested cases," which are proceedings in which the legal rights, duties, or privileges of a party must be determined by an agency after an opportunity for a hearing or in which a hearing is held. Under these requirements, the presiding officer must grant a person status as a party in a contested case if the officer finds that the (1) person submitted a written petition to the agency and gave proper notice and (2) petition states facts demonstrating that the petitioner's legal rights, duties, or privileges are specifically affected by the agency's decision in the contested case.

The UAPA also allows the presiding officer to give a petitioner intervenor status in a contested case if the petition states facts that demonstrate that their participation is in the interest of justice and will not impair the proceeding's orderly conduct. An intervenor may participate in the hearing process, but the presiding officer may set specified limits on their participation (e.g., inspecting and copying records and introducing evidence (CGS § 4-177a)).

Connecticut Environmental Protection Act Intervenors

The Connecticut Environmental Protection Act allows any person or legal entity to intervene in proceedings on, or judicial reviews of, conduct that could unreasonably pollute, impair, or destroy the public trust in the state's air, water, or other natural resources.

To do so, the individual's or entity's verified pleading must (1) contain factual allegations establishing the unreasonable pollution,

impairment, or destruction, and (2) be sufficient to allow the reviewing authority (i.e. the board, commissioner, or other decision-making agency in the administrative, licensing, or other proceeding, or the court in any judicial review) to determine from the pleading whether the intervention implicates an issue within the reviewing authority's jurisdiction.

U.S. Army Corps of Engineers Compensatory Mitigation

Compensatory mitigation is generally required when there are unavoidable adverse impacts to wetlands, streams, or other aquatic resource functions caused by activities permitted by the U.S. Army Corps of Engineers. Compensatory mitigation can take the form of individual projects, mitigation banks, or other consolidated mitigation efforts that restore, create, enhance, or preserve aquatic resources.

COMMITTEE ACTION

Environment Committee

Joint Favorable

Yea 27 Nay 5 (03/14/2025)