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AFFILIATION: CT

ADDRESSEE: Jim Lieberman

SUBJECT: Concerns changes to Connecticut's Coastal Management Program to incorporate past legislative changes to the Connecticut Coastal Management Act

ACTION: Appropriate

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ACKNOWLEDGED No

SPECIAL HANDLING: Comments, if any, are due NLT April 21, 2004

NOTES:

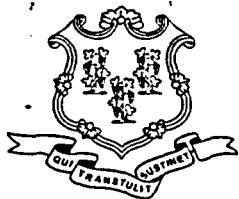
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STATE OF CONNECTICUT
DEPARTMENT OF ENVIRONMENTAL PROTECTION



March 30, 2004

Mr. Jim Lieberman
Office of General Counsel
Nuclear Regulatory Commission
Mail Stop 15B-18
Washington, DC

Subject: Changes to Connecticut's Coastal Management Program to incorporate past legislative changes to the Connecticut Coastal Management Act

Dear Mr. Lieberman:

This letter is to notify you that the State of Connecticut intends to incorporate past legislative amendments to the Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) sections 22a-90 through 22a-112] into Connecticut's Coastal Management Program (CMP). Under the relevant Federal regulations, we are required to notify interested parties and local, State and Federal officials of this intent. Enclosed please find a copy of our public notice which was published on March 31, 2004, a chart identifying the changes to the CCMA and providing brief descriptions and explanations. Also enclosed are more detailed explanations of five of the more recent changes.

In accordance with the Federal regulations, the State of Connecticut is requesting concurrence on this matter from the National Oceanic and Atmospheric Administration's Office of Coastal Resources Management (OCRM). The purpose of incorporating these changes into Connecticut's CMP is to be able to apply the legislative changes to Federal agency actions and to potentially support future requests for Federal funding. Whether or not OCRM approves this action will not alter the applicability of any section of the CCMA to local or State actions. If you have any questions regarding this letter, or for more information on the legislative changes, please contact Margaret Welch, DEP-OLISP via e-mail margaret.welch@po.state.ct.us, by calling 860-424-3034, or by mail to her attention at 79 Elm Street, Hartford, CT 06106-5127.

This notification is required by Federal regulations and no action is necessary on your part if you have no comments. Comments on whether this action constitutes a routine program change pursuant to 15 CFR Subpart H may be submitted to Ms. Allison Castellan, Coastal Programs Specialist, Coastal Programs Division NOAA/OCRM, 1305 East-West Highway, Silver Spring, MD 20910. Comments must be received by Ms. Castellan no later than April 21, 2004

Sincerely,

Charles H. Evans
Director
Office Of Long Island Sound Programs

CHE/MLW/w
Enclosures

Phone 860-424-3034 Fax 860-424-4054

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DRAFT REDLINE/STRIKEOUT CHART IDENTIFYING AND EXPLAINING LEGISLATIVE CHANGES TO
THE CONNECTICUT COASTAL MANAGEMENT ACT
 [CONNECTICUT GENERAL STATUTES (CGS) SECTIONS 22A-90 THROUGH 22A-112]
 FOR EVENTUAL SUBMITTAL TO OCRM

<p><u>Statutory Text</u></p> <p>Section titles are in bold Deletions are struck through <u>Additions are underlined</u></p>	<p><u>Annotation</u></p> <p>All legislative amendments between 1983 and September 1997 have previously been submitted to OCRM as part of Connecticut's Coastal Nonpoint Source Program. Because these changes were subject to review during the Environmental Assessment for that program, we are not required to provide detailed comments at this time to OCRM regarding the effects of these early amendments to the CCMA. These early amendments are noted in plain text.</p> <p>Changes that have occurred since September 1997 are highlighted in the same fashion as this sentence and are described in detail!</p>
<p>Sec. 22a-90. Short title. Sections 22a-90 to 22a-96, inclusive, shall be known and may be cited as "The Coastal Management Act."</p>	
<p>Sec. 22a-91. Legislative findings. The general assembly finds that:</p> <p>(1) The waters of Long Island Sound and its coastal resources, including tidal rivers, streams and creeks, wetlands and marshes, intertidal mudflats, beaches and dunes, bluffs and headlands, islands, rocky shorefronts, and adjacent shorelands form an integrated natural estuarine ecosystem which is both unique and fragile;</p> <p>(2) Development of Connecticut's coastal area has been extensive and has had a significant impact on Long Island Sound and its coastal resources;</p> <p>(3) The coastal area represents an asset of great present and potential value to the economic well-being of the state, and there is a state interest in the effective management, beneficial use, protection and development of the coastal area;</p> <p>(4) The waterfront of Connecticut's major urban ports is underutilized and many existing urban waterfront uses are not directly dependent on proximity to coastal waters;</p> <p>(5) The coastal area is rich in a variety of natural, economic, recreational, cultural and aesthetic resources, but the full realization of their value can be achieved only by encouraging further development in suitable areas and by protecting those areas unsuited to development;</p> <p>(6) The key to improved public management of Connecticut's coastal area is coordination at all levels of government and</p>	

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consideration by municipalities of the impact of development on both coastal resources and future water-dependent development opportunities when preparing plans and regulations and reviewing municipal and private development proposals; and

(7) Unplanned population growth and economic development in the coastal area have caused the loss of living marine resources, wildlife and nutrient-rich areas, and have endangered other vital ecological systems and scarce resources.

Sec. 22a-92. Legislative goals and policies, (a) The following general goals and policies are established by this chapter:

(1) To insure that the development, preservation or use of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth;

(2) To preserve and enhance coastal resources in accordance with the policies established by chapters 439, 440, 447, 473, 474, 474a and 477;

(3) To give high priority and preference to uses and facilities which are dependent upon proximity to the water or the shorelands immediately adjacent to marine and tidal waters;

(4) To resolve conflicts between competing uses on the shorelands adjacent to marine and tidal waters by giving preference to uses that minimize adverse impacts on natural coastal resources while providing long term and stable economic benefits;

(5) To consider in the planning process the potential impact of coastal flooding and erosion patterns on coastal development so as to minimize damage to and destruction of life and property and reduce the necessity of public expenditure to protect future development from such hazards;

(6) To encourage public access to the waters of Long Island Sound by expansion, development and effective utilization of state-owned recreational facilities within the coastal area that are consistent with sound resource conservation procedures and constitutionally protected rights of private property owners;

(7) To conduct, sponsor and assist research in coastal matters to improve the data base upon which coastal land and water use decisions are made;

(8) To coordinate the activities of public agencies to insure that state expenditures enhance development while affording maximum protection to natural coastal resources and processes in a manner consistent with the state plan for conservation and development adopted pursuant to part I of chapter 297;

(9) To coordinate planning and regulatory activities of public agencies at all levels of government to insure maximum protection of coastal resources while minimizing conflicts and disruption of economic development; and

(10) To insure that the state and the coastal municipalities provide adequate planning for facilities and resources which are in the national interest as defined in section 22a-93 and to insure that any restrictions or exclusions of such facilities or uses are reasonable. Reasonable grounds for the restriction or exclusion of a facility or use in the national interest shall include a Finding that such a facility or use: (A) May reasonably be sited outside the coastal boundary; (B) fails to meet any applicable federal and state environmental, health or safety standard or (C) unreasonably restricts physical or visual

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access to coastal waters. This policy does not exempt any nonfederal facility in use from any applicable state or local regulatory or permit program nor does it exempt any federal facility or use from the federal consistency requirements of Section 307 of the Federal Coastal Zone Management Act.

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

(1) Policies concerning development, facilities and uses within the coastal boundary are: (A) To manage uses in the coastal boundary through existing municipal planning, zoning and other local regulatory authorities and through existing state structures, dredging, wetlands, and other state siting and regulatory authorities, giving highest priority and preference to water-dependent uses and facilities in shorefront areas; (B) to locate and phase sewer and water lines so as to encourage concentrated development in areas which are suitable for development; and to disapprove extension of sewer and water services into developed and undeveloped beaches, barrier beaches and tidal wetlands except that, when necessary to abate existing sources of pollution, sewers that will accommodate existing uses with limited excess capacity may be used; (C) to promote, through existing state and local planning, development, promotional and regulatory authorities, the development, reuse or redevelopment of existing urban and commercial fishing ports giving highest priority and preference to water dependent uses, including but not limited to commercial and recreational fishing and boating uses; to disallow uses which unreasonably congest navigation channels, or unreasonably preclude boating support facilities elsewhere in a port or harbor; and to minimize the risk of oil and chemical spills at port facilities; (D) to require that structures in tidal wetlands and coastal waters be designed, constructed and maintained to minimize adverse impacts on coastal resources, circulation and sedimentation patterns, water quality, and flooding and erosion, to reduce to the maximum extent practicable the use of fill, and to reduce conflicts with the riparian rights of adjacent landowners; (E) to disallow the siting within the coastal boundary of new tank farms and other new fuel and chemical storage facilities which can reasonably be located inland and to require any new Storage tanks which must be located within the coastal boundary to abut existing Storage tanks or to be located in urban industrial areas and to be adequately protected against floods and spills; (F) to make use of rehabilitation, upgrading and improvement of existing transportation facilities as the primary means of meeting transportation needs in the coastal area; (G) to encourage increased recreational boating use of coastal waters, where feasible, by (i) providing additional berthing space in existing harbors, (ii) limiting non-water-dependent land uses that preclude boating support facilities, (iii) increasing state-owned launching facilities, and (iv) providing for new boating facilities in natural harbors, new protected water areas and in areas dredged from dry land; (H) to protect coastal resources by requiring, where feasible, that such boating uses and facilities (i) minimize disruption or degradation of natural coastal resources, (ii) utilize existing altered, developed or redevelopment areas, (iii) are located to assure optimal distribution of state-owned facilities to the statewide boating public and (iv) utilize ramps and dry storage rather than slips in environmentally sensitive areas; (I) to protect and where feasible, upgrade facilities serving the commercial fishing and recreational boating industries; to maintain existing authorized commercial fishing and recreational boating harbor space unless the demand for these facilities no longer exists or adequate space has been provided; to design and locate, where feasible, proposed recreational boating facilities in a manner which does not interfere with the needs of the commercial fishing industry and (J) to require reasonable mitigation measures where development would adversely impact historical, archeological, or paleontological resources that have been

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designated by the state historic preservation officer.

(2) Policies concerning coastal land and water resources within the coastal boundary are: (A) To manage coastal bluffs and escarpments so as to preserve their slope and toe; to discourage uses which do not permit continued natural rates of erosion and to disapprove uses that accelerate slope erosion and alter essential patterns and supply of sediments to the littoral transport system; (B) to manage rocky shorefronts so as to insure that development proceeds in a manner which does not irreparably reduce the capability of the system to support a healthy intertidal biological community; to provide feeding grounds and refuge for shorebirds and finfish, and to dissipate and absorb storm and wave energies; (C) to preserve the dynamic form and integrity of natural beach systems in order to provide critical wildlife habitats, a reservoir for sand supply, a buffer for coastal flooding and erosion, and valuable recreational opportunities; to insure that coastal uses are compatible with the capabilities of the system and do not unreasonably interfere with natural processes of erosion and sedimentation, and to encourage the restoration and enhancement of disturbed or modified beach systems; (D) to manage intertidal flats so as to preserve their value as a nutrient source and reservoir, a healthy shellfish habitat and a valuable feeding area for invertebrates, fish and shorebirds; to encourage the restoration and enhancement of degraded intertidal flats; to allow coastal uses that minimize change in the natural current flows, depth, slope, sedimentation, and nutrient storage functions and to disallow uses that substantially accelerate erosion or lead to significant despoliation of tidal flats; (E) to preserve tidal wetlands and to prevent the despoliation and destruction thereof in order to maintain their vital natural functions; to encourage the rehabilitation and restoration of degraded tidal wetlands and where feasible and environmentally acceptable, to encourage the creation of wetlands for the purposes of shellfish and finfish management, habitat creation and dredge spoil disposal; (F) to manage coastal hazard areas so as to insure that development proceeds in such a manner that hazards to life and property are minimized and to promote nonstructural solutions to flood and erosion problems except in those instances where structural alternatives prove unavoidable and necessary to protect existing inhabited structures, infrastructural facilities or water dependent uses; (G) to promote, through existing state and local planning, development, promotional and regulatory programs, the use of existing developed shorefront areas for marine-related uses, including but not limited to, commercial and recreational fishing, boating and other water-dependent commercial, industrial and recreational uses; (H) to manage undeveloped islands in order to promote their use as critical habitats for those bird, plant and animal species which are indigenous to such islands or which are increasingly rare on the mainland; to maintain the value of undeveloped islands as a major source of recreational open space; and to disallow uses which will have significant adverse impacts on islands or their resource components; (I) to regulate shoreland use and development in a manner which minimizes adverse impacts upon adjacent coastal systems and resources and (J) to maintain the natural relationship between eroding and depositional coastal landforms and to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures. Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, water-dependent uses, or existing inhabited structures, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts.

(c) In addition to the policies stated in subsections (a) and (b), the following policies are established for federal and state agencies in carrying out their responsibilities under this chapter:

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(I) Policies concerning development, facilities and uses within the coastal boundary are: (A) To minimize the risk of spillage of petroleum products and hazardous substances, to provide effective containment and cleanup facilities for accidental spills and to disallow offshore oil receiving systems that have the potential to cause catastrophic oil spills in the Long Island Sound estuary; (B) to disallow any filling of tidal wetlands and nearshore, offshore and intertidal waters for the purpose of creating new land from existing wetlands and coastal waters which would otherwise be undevelopable, unless it is found that the adverse impacts on coastal resources are minimal; (C) to initiate in cooperation with the federal government and the continuing legislative committee on state planning and development a long-range planning program for the continued maintenance and enhancement of federally-maintained navigation facilities in order to effectively and efficiently plan and provide for environmentally sound dredging and disposal of dredged materials; to encourage, through the state permitting program for dredging activities, the maintenance and enhancement of existing federally-maintained navigation channels, basins and anchorages and to discourage the dredging of new federally-maintained navigation channels, basins and anchorages; (D) to reduce the need for future dredging by requiring that new or expanded navigation channels, basins and anchorages take advantage of existing or authorized water depths, circulation and siltation patterns and the best available technologies for reducing controllable sedimentation; (E) to disallow new dredging in tidal wetlands except where no feasible alternative exists and where adverse impacts to coastal resources are minimal; (F) to require that new or improved shoreline rail corridors be designed and constructed so as (i) to prevent tidal and circulation restrictions and, when practicable, to eliminate any such existing restrictions, (ii) to improve or have a negligible adverse effect on coastal access and recreation and (iii) to enhance or not unreasonably impair the visual quality of the shoreline; (G) to require that coastal highways and highway improvements, including bridges, be designed and constructed so as to minimize adverse impacts on coastal resources; to require that coastal highway and highway improvements give full consideration to mass transportation alternatives and to require that coastal highways and highway improvements where possible enhance, but in no case decrease coastal access and recreational opportunities; (H) to disallow the construction of major new airports and to discourage the substantial expansion of existing airports within the coastal boundary; to require that any expansion or improvement of existing airports minimize adverse impacts on coastal resources, recreation or access; (I) to manage the state's fisheries in order to promote the economic benefits of commercial and recreational fishing, enhance recreational fishing opportunities, optimize the yield of all species, prevent the depletion or extinction of indigenous species, maintain and enhance the productivity of natural estuarine resources and preserve healthy fisheries resources for future generations; (J) to make effective use of state-owned coastal recreational facilities in order to expand coastal recreational opportunities including the development or redevelopment of existing state-owned facilities where feasible and (K) to require as a condition in permitting new coastal structures, including but not limited to, groins, jetties or breakwaters, that access to, or along, the public beach below mean high water must not be unreasonably impaired by such structures and to encourage the removal of illegal structures below mean high water which unreasonably obstruct passage along the public beach, and (L) to promote the revitalization of inner city urban harbors and waterfronts by encouraging appropriate reuse of historically developed shorefronts, which may include minimized alteration of an existing shorefront in order to achieve a significant net public benefit, provided (i) such shorefront site is permanently devoted to a water dependent use or a water dependent public use such as public access or recreation for the general public and the ownership of any filled lands remain with the

PA 00-152 amended Subsection (C)(J) by adding new Subparagraph (L) regarding the revitalization of urban harbors and waterfronts. Although on the face of it this may appear to be a new policy, in fact, it is not. Rather, these changes pull together, clarify

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state or an instrumentality thereof in order to secure public use and benefit in perpetuity, (ii) landward development of the site is constrained by highways, railroads or other significant infrastructure facilities, (iii) no other feasible, less environmentally damaging alternatives exist, (iv) the adverse impacts to coastal resources of any shorefront alteration are minimized and compensation in the form of resource restoration is provided to mitigate any remaining adverse impacts, and (v) such reuse is consistent with the appropriate municipal coastal program or municipal plan of development.

(2) Policies concerning coastal land and other resources within the coastal boundary are: (A) To manage estuarine embayments so as to insure that coastal uses proceed in a manner that assures sustained biological productivity, the maintenance of healthy marine populations and the maintenance of essential patterns of circulation, drainage and basin configuration; to protect, enhance and allow natural restoration of eelgrass flats except in special limited cases, notably shellfish management, where the benefits accrued through alteration of the flat may outweigh the long-term benefits to marine biota, waterfowl, and commercial and recreational finfisheries and (B) to maintain, enhance, or, where feasible, restore natural patterns of water circulation and fresh and saltwater exchange in the placement or replacement of culverts, tide gates or other drainage or flood control structures.

(d) In addition to the policies in this section, the policies of the state plan of conservation and development adopted pursuant to part I of chapter 297 shall be applied to the area within the coastal boundary in accordance with the requirements of section 16a-31.

and restate pre-existing OCMA policy provisions to present a clear statement regarding the reuse of urban developed shorefronts for public benefit projects. This combined policy statement includes elements from the developed shorefront [22a-92(b)(2)(G)], ports and harbors [22a-92(b)(1)(C)], water dependent uses [22a-92(b)(3)] and 22a-92(b)(1)(A) coastal structures and filling [22a-92(b)(1)(D)] and general development [22a-92(a)(1)] policies. Thus, this amendment does not substantially alter existing OCMA approved policies, either enforceable or advisory; it merely provides clarification of existing policies with regards to their implementation in urban harbor areas. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information!

Sec. 22a-93. Definitions. For the purposes of this chapter:

- (1) "Commissioner" means the commissioner of environmental protection;
- (2) "Municipality" means any town listed in subsection (a) of section 22a-94, the city of Groton, the borough of Stonington, the borough of Groton Long Point, the borough of Fenwick and the borough of Woodmont, but shall not include any special district;
- (3) "Coastal area" means those lands described in subsection (a) of section;
- (4) "Coastal boundary" means the boundary described in subsection (b) of section 22a-94;
- (5) "Coastal waters" means those waters of Long Island Sound and its harbors, embayments, tidal rivers, streams and creeks, which contain a salinity concentration of at least five hundred parts per million under the low flow stream conditions as established by the commissioner;
- (6) "Public beach" means that portion of the shoreline held in public fee ownership by the state or that portion of the shoreline below the mean high tide elevation that is held in public trust by the state;
- (7) "Coastal resources" means the coastal waters of the state, their natural resources, related marine and wildlife habitat and adjacent shorelands, both developed and undeveloped, that together form an integrated terrestrial and estuarine

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ecosystem; coastal resources include the following: (A) "Coastal bluffs and escarpments" means naturally eroding shorelands marked by dynamic escarpments or sea cliffs which have slope angles that constitute an intricate adjustment between erosion, substrate, drainage and degree of plant cover; (B) "rocky shorefronts" means shorefront composed of bedrock, boulders and cobbles that are highly erosion-resistant and are an insignificant source of sediments for other coastal landforms; (C) "beaches and dunes" means beach systems including barrier beach spits and tombolos, barrier beaches, pocket beaches, land contact beaches and related dunes and sandflats; (D) "intertidal flats" means very gently sloping or flat areas located between high and low tides composed of muddy, silty and fine sandy sediments and generally devoid of vegetation; (E) "tidal wetlands" means "wetland" as defined by section 22a-29; (F) "freshwater wetlands and water courses" means "wetlands" and "water courses" as defined by section 22a-38; (G) "estuarine embayments means a protected coastal body of water with an open connection to the sea in which saline sea water is measurably diluted by fresh water including tidal rivers, bays, lagoons and coves; (H) "coastal hazard areas" means those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act, as amended (U.S.C. 42 Section 4101, P.L. 93-234) and all erosion hazard areas as determined by the commissioner; (I) "developed shorefront" means those harbor areas which have been highly engineered and developed resulting in the functional impairment or substantial alteration of their natural physiographic features or systems; (J) "island" means land surrounded on all sides by water; (K) "nearshore waters" means the area comprised of those waters and their substrates lying between mean high water and a depth approximated by the ten meter contour; (L) "offshore waters" means the area comprised of those waters and their substrates lying seaward of a depth approximated by the ten meter contour; (M) "shorelands" means those land areas within the coastal boundary exclusive of coastal hazard areas, which are not subject to dynamic coastal processes and which are comprised of typical upland features such as bedrock hills, till hills and drumlins; (N) "shellfish concentration areas" means actual, potential or historic areas in coastal waters, in which one or more species of shellfish aggregate;

(8) "Zoning commission" means the municipal zoning commission established under section 8-1 or by any special act or the combined planning and zoning commission established under section 8-4a;

(9) "Planning commission" means the municipal planning commission established under section 8-19 or by any special act or the combined planning and zoning commission established under section 8-4a;

(10) "Municipal coastal plans" means the plans listed in subsections (b) and (d) of section 22a-101;

(11) "Municipal coastal regulations" means the regulations and ordinances listed in subsection (b) of section 22a-101;

(12) "Federal Coastal Zone Management Act" and "federal act" means the U.S. Coastal Zone Management Act of 1972, as amended;

(13) "Coastal site plans" means the site plans, applications and project referrals listed in section 22a-105;

(14) "Facilities and resources which are in the national interest" means: (A) Adequate protection of tidal wetlands and related estuarine resources; (B) restoration and enhancement of Connecticut's shellfish industry; (C) restoration, preservation and enhancement of the state's recreational and commercial fisheries, including anadromous species; (D) water pollution control measures and facilities consistent with the requirements of the Federal Clean Water Act, as amended; (E) air pollution control measures and facilities consistent with the requirements of the Federal Clean Air Act, as amended; (F)

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continued operations of existing federally-funded dredged and maintained navigation channels and basins; (G) energy facilities serving statewide and interstate markets, including electric generating facilities and facilities for storage, receiving or processing petroleum products and other fuels; (H) improvements to the existing interstate rail, highway and water-borne transportation system; (I) provision of adequate state or federally-owned marine-related recreational facilities, including natural areas and wildlife sanctuaries and (J) essential maintenance and improvement of existing water-dependent military, navigational, resource management and research facilities;

(15) "Adverse impacts on coastal resources" include but are not limited to: (A) Degrading water quality through the significant introduction into either coastal waters or groundwater supplies of suspended solids, nutrients, toxics, heavy metals or pathogens, or through the significant alteration of temperature, PH, dissolved oxygen or salinity; (B) degrading existing circulation patterns of coastal waters through the significant alteration of patterns of tidal exchange or flushing rates, freshwater input, or existing basin characteristics and channel contours; (C) degrading natural erosion patterns through the significant alteration of littoral transport of sediments in terms of deposition or source reduction; (D) degrading natural or existing drainage patterns through the significant alteration of groundwater flow and recharge and volume of runoff; (E) increasing the hazard of coastal flooding through significant alteration of shoreline configurations or bathymetry, particularly within high velocity flood zones; (F) degrading visual quality through significant alteration of the natural features of vistas and view points; (G) degrading or destroying essential wildlife, finfish or shellfish habitat through significant alteration of the composition, migration patterns, distribution, breeding or other population characteristics of the natural species or significant alteration of the natural components of the habitat and (H) degrading tidal wetlands, beaches and dunes, rocky shorefronts, and bluffs and escarpments through significant alteration of their natural characteristics or function; and

(16) "Water-dependent uses" means those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore cannot be located inland, including but not limited to: Marinas, recreational and commercial fishing and boating facilities, finfish and shellfish processing plants, waterfront dock and port facilities, shipyards and boat building facilities, water-based recreational uses, navigation aides, basins and channels, industrial uses dependent upon waterborne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an inland site and uses which provide general public access to marine or tidal waters.

(17) "Adverse impacts on future water-dependent development opportunities" and "adverse impacts on future water-dependent development activities" include but are not limited to (A) locating a non-water-dependent use at a site that (i) is physically suited for a water-dependent use for which there is a reasonable demand or (ii) has been identified for a water-dependent use in the plan of development of the municipality or the zoning regulations; (B) replacement of a water-dependent use with a non-water-dependent use, and (C) siting of a non-water-dependent use which would substantially reduce or inhibit existing public access to marine or tidal waters; and

(18) "Zoning board of appeals" means the municipal zoning board of appeals established pursuant to section 8-5 or any special act.

~~R.A. 95-218 provided a technical amendment of the definition of "adverse impacts on coastal resources" to correct a typographic error that inadvertently omitted the words "alteration of" in the original wording of this policy. Without the correction, the meaning of the policy while certainly implied, is not as clear as it should be. Although the change directly affects the wording of this policy, it is merely a clarification and does not substantively alter the policy. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest.~~

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Sec. 22a-94. Coastal area; coastal boundary. Commissioner to prepare maps. (a) The Connecticut coastal area shall include the land and water within the area delineated by the following: The westerly, southerly and easterly limits of the state's jurisdiction in Long Island Sound; the towns of Greenwich, Stamford, Darien, Norwalk, Westport, Fairfield, Bridgeport, Stratford, Shelton, Milford, Orange, West Haven, New Haven, Hamden, North Haven, East Haven, Branford, Guilford, Madison, Clinton, Westbrook, Deep River, Chester, Essex, Old Saybrook, Lyme, Old Lyme, East Lyme, Waterford, New London, Montville, Norwich, Preston, Ledyard, Groton and Stonington.

(b) Within the coastal area, there shall be a coastal boundary which shall be a continuous line delineated on the landward side by the interior contour elevation of the one hundred year frequency coastal flood zone, as defined and determined by the National Flood Insurance Act, as amended (U.S.C. 42 Section 4101, P.L. 93-234), or a one thousand foot linear setback measured from the mean high water mark in coastal waters, or a one thousand foot linear setback measured from the inland boundary of tidal wetlands mapped under section 22a-20, whichever is farthest inland; and shall be delineated on the seaward side by the seaward extent of the jurisdiction of the state.

(c) The coastal boundary as defined in subsection (b) of this section shall be shown on maps or photographs prepared by the commissioner which supplement flood hazard rate maps prepared by the United States Department of Housing and Urban Development under the National Flood Insurance Act. Such maps shall be sufficiently precise to demonstrate whether the holdings of a property owner, or portions thereof, lie within the coastal boundary. Copies of such maps or photographs shall be filed with the commissioner and with the clerk of each coastal municipality.

(d) The maps described in subsection (c) of this section shall be promulgated not later than July 1, 1980. Prior to final adoption of any map, the commissioner shall hold a public hearing in accordance with the provisions of chapter 54 within the applicable coastal town. The commissioner may use interim maps prepared on United States Geological Survey Topographic base at a scale of one to twenty-four thousand or their metric equivalent. In preparing such interim maps, the commissioner may use any man-made structure, natural feature, property line, preliminary flood hazard boundary maps as prepared by the United States Department of Housing and Urban Development, or a combination thereof which most closely approximates the landward side of the boundary. Further, the commissioner may use city or town property tax maps or aerial photographs, state tidal wetlands photographs, or similar maps of property delineation as they are available.

(e) The commissioner may, from time to time, amend such maps described in subsection (c) of this section. Prior to the adoption of an amendment to any map, the commissioner shall hold a public hearing in the affected municipality in accordance with the provisions of chapter 54. The commissioner shall consider for amendment changes in the boundary petitioned by the coastal municipality, by any person owning real property within the boundary, or by twenty-five residents of such municipality. The commissioner shall approve, deny or modify such petition within sixty days of receipt and shall state, in writing, the reasons for his action. All amendments to the boundary shall be consistent with subsection (b).

(f) A municipal coastal boundary may be adopted by the municipal planning commission of each coastal municipality in accordance with the notice, hearing and other procedural requirements of section 8-24. Such boundary may be delineated by roads, property lines or other identifiable natural or man-made features, provided such boundary shall approximate and in no event diminish the area within the coastal boundary as defined in subsection (b) and as mapped under subsection (d). Such boundary shall be sufficiently precise to demonstrate whether the holdings of a property owner, or portions thereof, lie

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within the boundary. Upon adoption such boundary shall be submitted to the commissioner for mapping in accordance with subsection (c). The municipal planning commission may, at its own discretion or upon request of a property owner, amend the coastal boundary in accordance with the procedures and criteria of this subsection.

(g) All property lying within the coastal boundary shall be subject to the regulatory, development and planning requirements of this chapter.

Sec. 22a-95. Duties of commissioner. Model municipal coastal program. (a) The commissioner shall, on a continuing basis, assist coastal municipalities in carrying out their responsibilities under this chapter.

(b) The commissioner shall provide each coastal municipality with resource factor maps and other information concerning the location and condition of its coastal resources and shall also provide general technical background information on the beneficial and adverse impacts of various types of development on coastal resources.

(c) The commissioner shall respond to questions regarding the requirements of this chapter, shall respond to requests by coastal municipalities for background technical information and shall meet reasonable requests by such municipalities for technical staff assistance in developing and implementing municipal coastal programs and coastal site plan reviews.

(d) The commissioner shall consult regularly with officials of coastal municipalities regarding implementation of this chapter and shall periodically hold workshops with municipal officials responsible for making decisions under this chapter.

(e) The commissioner shall prepare a model municipal coastal program which shall include, but not be limited to: (1) Model municipal coastal plans and regulations; (2) suggested planning methodologies useful in revising municipal coastal plans; (3) suggested regulatory methods useful in revising municipal coastal regulations to conform to and effectuate the purposes of municipal coastal plans and (4) suggested criteria and procedures for undertaking municipal coastal site plan reviews.

(f) Written technical information provided by the commissioner to coastal municipalities shall be in clear and readily understandable language.

Sec. 22a-96. Commissioner authorized to enter into agreements; designated as representative of state. (a) The commissioner is authorized to enter into written agreements with federal agencies concerning the matters set forth in subsection (b) of this section having an interest in or regulatory authority in the coastal area. Such agreements shall be consistent with the provisions of sections 22a-90 to 22a-96, inclusive, and chapters 439, 440, 447, 473, 474 and 477, shall indicate the respective powers and duties of the commissioner and the federal agency or agencies thereunder and shall provide for cooperation and coordination in the implementation of state and federal programs with jurisdiction in the coastal area in a manner consistent with the provisions of sections 22a-90 to 22a-96, inclusive.

(b) Agreements concerning regulatory programs of the U.S. Army Corps of Engineers and the U.S. Coast Guard, Bridges Section, may include the following: (1) Procedures for conducting joint hearings on permit applications; (2) procedures for issuing common and joint application materials and instructions for permit applications; (3) procedures for timely exchange of technical materials related to permit applications and other matters and (4) procedures for coordinating the timing and sequence of the issuance of decisions on permit applications.

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- (c) The commissioner is authorized to (1) represent the state in formal proceedings regarding "federal consistency" as defined in the federal act; (2) request, receive and administer funds under said act and (3) develop and coordinate, in cooperation with other state agencies, plans to achieve the purposes of sections 22a-90 to 22a-96, inclusive.
- (d) The commissioner is designated as the representative of the state in all Clatters concerning the consistency of federal activities, projects or proposals with the policies and provisions of sections 22a-90 to 22a-96, inclusive.

Sec. 22a-97. Duties of the commissioner. Technical, coordinating and research services. Supervision. Annual report.

(a) The commissioner shall provide, within available appropriations, technical, coordinating and research services to promote the effective administration of this chapter at the federal, state and local levels.

(b) The commissioner shall have the overall responsibility for general supervision of the implementation of this chapter and shall monitor and evaluate the activities of federal and state agencies and the activities of municipalities to assure continuing, effective, coordinated and consistent administration of the requirements and purposes of this chapter.

(c) The commissioner shall prepare and submit to the general assembly and the governor, on or before December first of each year, a written report summarizing the activities of the department concerning the development and implementation of this chapter during the previous year. Such report shall include, but not be limited to: (1) The department's accomplishments and actions in achieving the goals and policies of this chapter including, but not limited to, coordination with other state, regional, federal and municipal programs established to achieve the purposes of this chapter, and research programs established pursuant to subsection (a) of section 22a-112; (2) recommendations for any statutory or regulatory amendments necessary to achieve such purposes; (3) a summary of municipal and federal programs and actions which affect the coast; (4) recommendations for any programs or plans to achieve such purposes; (5) any aspects of the program or the chapter which are proving difficult to accomplish, suggested reasons for such difficulties, and proposed solutions to such difficulties; (6) a summary of the expenditure of federal and state funds under this chapter and (7) a request for an appropriation of funds necessary to match federal funds and provide continuing financial support for the program. Such report shall comply with the provisions of section 4-61 k. On and after October 1, 1996, the report shall be submitted to the joint standing committee of the General Assembly having cognizance of matters relating to the environment and, upon request, to any member of the General Assembly. A summary of the report shall be submitted to each member of the General Assembly if the summary is two pages or less and a notification of the report shall be submitted to each member if the summary is more than two pages. Submission shall be by mailing the report, summary or notification to the legislative address of each member of the committee or the General Assembly, as applicable.

~~PA 96-251 amended Subsection (c) to implement an administrative change requiring the submission of coastal management program reports to the state legislative Environment Committee and to state legislators. The change does not affect any coastal management policies, either enforceable or advisory. This amendment does not rise to the level of a substantial program change because it does not change the issues subject to management, change any special management areas, alter boundaries, alter authorities or organizational structure, alter existing requirements for coordination, public involvement and national~~

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Sec. 22a-98. Commissioner to coordinate regulatory programs. The commissioner shall coordinate the activities of all regulatory programs under his jurisdiction with permitting authority in the coastal area to assure that the administration of such programs is consistent with the goals and policies of this chapter. Such programs include, but are not limited to: (1) Regulation of wetlands and water courses pursuant to chapter 440; (2) regulation of stream encroachment pursuant to sections 25-4a to 25-4h, inclusive; (3) regulation of dredging and the erection of structures or the placement of fill in tidal, coastal or navigable waters pursuant to sections ~~25-7b to 25-7f~~ 22a-359 to 22a-363f, inclusive; and

[line spacing provided here to line up next comment with changed text]

~~interest. Due to the nature of this administrative change, DEP/OLISB has not included a detailed write-up on this publication.~~

~~P.A. 99-225 provided a minor technical correction to a list of example regulatory programs under the authority of the Commissioner of the Department of Environmental Protection. Specifically, this amendment corrects the reference to CGS sections 22a-359 to 22a-363f (and updates the citation) by adding the words "dredging and" in the title of the CGS section. Dredging was previously regulated under this section of the statutes. This change to the CCMA is simply a change in how CGS Sections 22a-359 to 22a-363f is described. The change does not affect any coastal management policies, either enforceable or advisory. This modification does not rise to the level of a substantial program change~~

~~(4) regulation of the removal of sand and gravel pursuant to sections 25-10 to 25-18, inclusive, and (5) certification of water quality pursuant to the Federal Clean Water Act of 1972 (33 U.S.C. 1411, Section 401).~~

[line spacing provided here to line up next comment with changed text]

~~because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.~~

~~P.A. 96-145 deleted former Subdivision (4) regarding removal of sand and gravel, and renumbered former Subdivision (5) accordingly. The marine mining provisions had been consolidated with Structures, Dredging and Fill statutes in subsections 22a-361(c), 22a-361(f) and 22a-361(g). The Structures, Dredging and Fill~~

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The commissioner shall assure consistency with such goals and policies in granting, denying or modifying permits under such programs. Any person seeking a license, permit or other approval of an activity under the requirements of such regulatory programs shall demonstrate that such activity is consistent with all applicable goals and policies in section 22a-92 and that such activity incorporates all reasonable measures mitigating any adverse impacts of such actions on coastal resources and future water-dependent development activities. The coordination of such programs shall include, where feasible, the use of common or combined application forms; the holding of joint hearings on permit applications and the coordination of the timing or sequencing of permit decisions.

Statutes Subsections 22a-361(c), 22a-361(f) and 22a-361(g) are part of Connecticut's Coastal Management Program. This is an administrative revision to reflect the change in statutory references. The change does not affect any coastal management policies, either enforceable or advisory. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest.

P.A. 83-525 required that any person seeking a permit or approval of any activity under the requirements of a regulatory program demonstrate that such activity incorporates all reasonable measures mitigating damage to coastal resources. This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.

Sec. 22a-99. Testimony by coastal municipality on permits and licenses. Appeal from decision of the commissioner. A coastal municipality may submit written testimony to the commissioner and may appear by right as a party to any hearing before said commissioner concerning any permit or license to be issued by said commissioner for an activity occurring within the coastal boundary of the municipality or occurring within the coastal boundary of any adjacent municipality and within five hundred feet of the boundary of such municipality and may appeal any decision of the commissioner concerning

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such permit or license.

Sec. 22a-100. State plans and actions to be consistent with this chapter. (a) All major state plans, other than the state plan for conservation and development adopted pursuant to part I of chapter 297, which affect the coastal area shall be consistent with the goals and policies stated in section 22a-92 and existing state plans, other than the state plan for conservation and development adopted pursuant to part I of chapter 297, which affect the coastal area shall, on or before July 1, 1981, be revised, if necessary, to insure consistency with this chapter. Agencies responsible for revising state plans, other than the state plan for conservation and development adopted pursuant to part I of chapter 297, shall consult with the commissioner in making such revisions.

(b) Each state department, institution or agency responsible for the primary recommendation or initiation of actions within the coastal boundary which may significantly affect the environment, as defined in section 22a-1c, shall insure that such actions are consistent with the goals and policies of this chapter and incorporate all reasonable measure mitigating any adverse impacts of such actions on coastal resources and future water-dependent development activities. The secretary of the office of policy and management shall consider the consistency of such proposed actions with such goals and policies in determining whether or not an environmental impact evaluation prepared pursuant to section 22a-1b satisfies the requirements of sections 22a-1a to 22a-1h, inclusive, and regulations adopted pursuant thereto. The commissioner shall amend such regulations, if necessary, to insure consistency with the goals and policies of this chapter.

P.A. 83-525 required that any state department, institution or agency recommending or initiating actions within the coastal boundary incorporate all reasonable measures mitigating damage to coastal resources and future water-dependent development activities. This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. ~~This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.~~

Sec. 22a-101. Municipal coastal programs, (a) In order to carry out the policies and provisions of this chapter and to provide more specific guidance to coastal area property owners and developers, coastal municipalities may adopt a municipal coastal program for the area within the coastal boundary and landward of the mean high water mark.

(b) A municipal coastal program shall include, but is not limited to: (1) Revisions to the municipal plan of conservation and development under section 8-23 or special act, insofar as it affects the area within the coastal boundary, such revisions to include an identification and written description of the municipality's major coastal-related issues and problems, both immediate and long-term, such as erosion, flooding, recreational facilities, and utilization of port facilities and to include a description of the municipal boards, commissions and officials responsible for implementing and enforcing the coastal program, a description of enforcement procedures and a description of

~~P.A. 95-335 amended Subsections (b) to (d) to change plan of development to plan of conservation and development, effective July 1, 1995. This is a technical change to the CCMA to reflect a legislative change in the planning statutes to more accurately depict and re-title what used to~~

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continuing methods of involving the public in the implementation of the municipal coastal program; (2) revisions to the municipal zoning regulations under section 8-2 or under special act and revisions to the following regulations and ordinances if the municipality has adopted such regulations or ordinances, and insofar as such regulations or ordinances affect the area within the coastal boundary: (A) Historic district ordinances under section 7-147b; (B) waterway encroachment line ordinances under section 7-147;

[line spacing provided here to line up next comment with changed text]

(C) planned unit development regulations under sections 8-13c and 8-13d; (D) subdivision ordinances under section 8-25; (E) inland wetland regulations under subsection (c) of section 22a-42 and section 22a-42a; (F) sewerage ordinances under section 7-153; (G) ordinances or regulations governing filling of land and removal of soil, loam, sand or gravel under section 7-148; (H) ordinances concerning protection and improvement of the environment under section 7-148; and (I) regulations for the supervision, management, control, operation or use of a sewerage system under section 7-247.

(c) If a municipality has not yet adopted a municipal plan of development under section 8-23, a municipal planning commission may prepare a municipal coastal plan of development solely for that portion of municipality within the coastal boundary in accordance with subsection (b) of this section and section 22a-102.

(d) A municipal coastal program may include revisions to the following municipal plans or programs which revisions shall be consistent with the municipal plan of conservation and development revised in accordance with subsection (b) of this section and section 22a-102: (1) The community development plan under sections 8-169c and 8-169d; (2) the harbor improvement plan under section 13b-56; (3) the redevelopment plan under sections 8-125 and 8-127; (4) the port development plan under section 7-329c; (5) the capital improvement plan under section 8-160; (6) the open space plan under section 12-107e; (7) any development project plan or plans under section 8-189; and (8) the municipal water pollution control plan under section 7-245.

(e) Revisions to the municipal plan of conservation and development in accordance with subsection (b) of this section and section 22a-102 may include a description of any development projects, acquisition plans, open space tax abatement programs, flood and erosion control projects and other nonregulatory measures which the municipality intends to undertake in order to promote wise management of coastal resources.

re-called a municipal plan of development. These are local municipal plans that are not used for Federal consistency purposes nor are they used to justify funding requests. The change does not affect any coastal management policies, either enforceable or advisory, nor does the change alter the standards for municipal coastal programs under CGS sections 22a-101 through 22a-103. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest.

P.A. 85-409 removed reference to planned unit development regulations under Sections 8-13c and 8-13d, which were repealed by that act. This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.

P.A. 95-335 amended Subsecs: (b) to (d) to change

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~~plan of development to plan of conservation and development, effective July 1, 1995. See discussion of this change on page 12.~~

Sec. 22a-102. Municipal plan of development. Criteria and process for revision, (a) In revising the municipal plan of development in accordance with subsection (b) of section 22a-101 the municipal planning commission shall follow: (1) The policies and goals in section 22a-92; (2) criteria listed in section 8-23.

(b) In revising its municipal plan of development the municipal planning commission shall also consider: (1) The character and distribution of the coastal resources defined in section 22a-93 within its coastal boundary, the capacity of and limitations on such resources to support development, and the types and methods of development compatible with the wise use, protection and enhancement of such resources; (2) the nature and pattern of existing development and (3) the need for public services.

(c) The municipal planning commission may revise its municipal plan of development by making such changes as: Modifications of land use categories, changes in the density and intensity of land use, alteration in plan policies; modifications in growth strategies, changes in acquisition priorities, and alterations in public infrastructure, highway and other capital improvement projects.

(d) The municipal planning commission shall submit its proposed revisions to the municipal plan of development prepared in accordance with subsections (a) and (b) of this section and section 22a-101 to the commissioner and the regional planning agency for review and comment prior to the final adoption of such revisions in accordance with section 8-23. Upon receipt of such proposed revisions the commissioner and the regional planning agency shall review them for consistency with requirements and criteria listed in subsections (a) and (b) of this section and section 22a-101 and shall within ninety days notify the municipality in writing of any suggested modifications to the proposed revisions. Upon receipt of such comments or ninety days after receipt by the commissioner of proposed revisions, the municipal planning commission may modify and adopt the proposed revisions in accordance with section 8-23.

Sec. 22a-103. Municipal zoning regulations. Criteria and process for revision, (a) In revising zoning regulations and other municipal coastal regulations and ordinances listed in subdivision (2) of subsection (b) of section 22a-101, the municipal agency with jurisdiction over such regulations or ordinances shall consider the criteria in section 8-2 and the other sections of the general statutes or special act authorizing such regulations. Such regulations shall conform to and effectuate the policies and land and water use strategies of the municipal coastal plans revised under sections 22a-101 and 22a-102 and the criteria listed in subsections (a) and (b) of section 22a-102.

(b) The municipal agency with jurisdiction over the zoning regulations and Other municipal coastal regulations and ordinances listed in subdivision (2) of subsection (b) of section 22a-101 shall submit its proposed revisions of such regulations and ordinances to the commissioner for his review and comment prior to final adoption of such revisions in accordance with the appropriate statutory requirements regarding amendment of such regulations or ordinances. Upon receipt of the proposed revisions to the municipal coastal regulations, the commissioner shall review them for their consistency with the municipality's previously adopted municipal plan of conservation and development and the criteria

~~RA 95-335 amended Subsection (b) to change~~

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listed in subsections (a) and (b) of section 22a-102, and shall within ninety days notify the municipality in writing of any suggested modifications. Upon receipt of the commissioner's comments or ninety days after his receipt of proposed revisions the municipal agency with jurisdiction over such regulations may modify and adopt the proposed revisions in accordance with the appropriate statutory requirements regarding amendment of such regulations and ordinances.

(c) In revising zoning regulations under chapter 124a for the area within the coastal boundary the municipal zoning commission may utilize any lawful zoning techniques, including but not limited to, modifications of use categories, alteration of density and intensity of use, special use zones, overlay zones, special permit regulations, sign controls, design controls, landscaping and gardening regulations, hazard or geological review requirements, conservation, cluster open space and lot coverage requirements, minimum lot sizes, set back requirements, and bonus and incentive zoning regulations.

(d) In revising subdivision regulations under chapter 126 the municipal planning commission may utilize any lawful technique including, but not limited to, conservation, cluster, open space, park and recreation regulations.

plan of development, to plan of conservation and development, effective July 1, 1995. See discussion of this change on page 12.

P.A. 85-409 substituted reference to chapter 124 for reference to chapter 124a in Subsection (c). This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. This

modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.

Sec. 22a-104. Implementation of municipal coastal program. Amendments, (a) If a municipality has adopted a municipal coastal program in accordance with sections 22a-101, 22a-102 and 22a-103, such program shall be implemented by those municipal bodies exercising legal authority for the regulatory decisions listed in subsection (b) of section 22a-105.

(b) Amendments to the municipal plan of conservation and development affecting the area within the coastal boundary or municipal coastal regulations shall be made in accordance with subsection (e) of this section and sections 22a-101, 22a-102 and 22a-103.

(c) When amendments are made to the municipal plan of conservation and development affecting the area within the coastal boundary, the municipality shall also make such amendments to the zoning regulations and other municipal coastal regulations listed in subdivision (2) of subsection (b) of section 22a-101 in accordance with applicable statutory requirements regarding amendment of such regulations and ordinances as are necessary to insure that such regulations conform to and effectuate the policies and land and water use strategies of the amended plans.

(d) When amendments are made to zoning regulations and other municipal coastal regulations listed in subdivision (2) of subsection (b) of section 22a-101, without prior amendments to corresponding provisions of municipal coastal plans, such regulations, as amended, shall conform to and effectuate the policies and land and water use strategies of the municipal coastal plans and the criteria listed in subsections (a) and (b) of section 22a-102.

(e) Any proposed municipal plan of conservation and development or zoning regulations or changes thereto affecting the area within the coastal boundary, regardless of whether the municipality affected has adopted a municipal coastal program in accordance with sections 22a-101, 22a-102 and 22a-103, shall be consistent with the policies of section 22a-92 and the criteria of subsection (b) of said section 22a-102. The commissioner shall be notified of any such proposed municipal plan

P.A. 95-935 amended Subsections (b), (c) and (e) to change plan of development to plan of conservation and development, effective July 1, 1995. See discussion of this change on page 12.

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of conservation and development or zoning regulations or changes thereto at least thirty-five days prior to the commencement of the hearing thereon. The commissioner may comment on and make recommendations on such proposals or changes. Such comment shall be read into the record of the public hearing and shall be considered by the appropriate board or commission before final action on the proposals or changes. Failure to comment by the commissioner shall not be construed to be approval or disapproval.

Sec. 22a-105. Coastal site plan reviews, (a) Coastal municipalities shall undertake coastal site plan reviews in accordance with the requirements of this chapter.

(b) The following site plans, plans and applications for activities or projects to be located fully or partially within the coastal boundary and landward of the mean high water mark shall be defined as "coastal site plans" and shall be subject to the requirements of this chapter: (1) Site plans submitted to a zoning commission in accordance with section 22a-109; (2) plans submitted to a planning commission for subdivision or resubdivision in accordance with section 8-25 or with any special act; (3) ~~plans submitted to a planning commission under section 8-13f;~~ (4) applications for a special exception or special permit submitted to a planning commission, zoning commission or zoning board of appeals in accordance with section 8-2 or with any special act; (4) applications for a variance submitted to a zoning board of appeals in accordance with subdivision (3) of section 8-6 or with any special act; and (5) a referral of a proposed municipal project to a planning commission in accordance with section 8-24 or with any special act.

(c) In addition to the requirements specified by municipal regulation, a coastal site plan shall include a plan showing the location and spatial relationship of coastal resources on and contiguous to the site; a description of the entire project with appropriate plans, indicating project location, design, timing, and methods of construction; an assessment of the capability of the resources to accommodate the proposed use; an assessment of the suitability of the project for the proposed site; an evaluation of the potential beneficial and adverse impacts of the project and a description of proposed methods to mitigate adverse effects on coastal resources.

(d) Municipalities, acting through the agencies responsible for the review of the coastal site plans defined in subsection (b) of this section, may require a filing fee to defray the reasonable cost of reviewing and acting upon an application.

(e) The board or commission reviewing the coastal site plan shall, in addition to the discretion granted in any other sections of the general statutes or in any special act, approve, modify, condition or deny the activity proposed in a coastal site plan on the basis of the criteria listed in section 22a-106 to ensure that the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities are acceptable. The provisions of this chapter shall not be construed to prevent the reconstruction of a building after a casualty loss.

(f) Notwithstanding the provisions of any other section of the general statutes to the contrary, the review of any coastal site plan pursuant to this chapter shall not be deemed complete and valid unless the board or commission having jurisdiction over such plan has rendered a final decision thereon. If such board or commission fails to render a decision within the time period provided by the general statutes or any special act for such a decision, the coastal site plan shall be deemed rejected.

P.A. 85-409 removed reference to plans submitted to planning commission for approval of planned unit development under Sec. 8-13f which was repealed by the same act. This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. ~~This modification does not rise to the level of a substantial program change because it does not: (1) change the use, subject to management; (2) change any special management areas; (3) alter boundaries; (4) alter authorities or organizations; or (5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.~~

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P.A. 84-53 amended Subsection (e) by adding provision clarifying the right of a property owner to reconstruct a structure following a casualty loss. This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. ~~This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authority for organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information!~~

Sec. 22a-106. Criteria and process for action on coastal site plans, (a) In addition to determining that the activity proposed in a coastal site plan satisfies other lawful criteria and conditions, a municipal board or commission reviewing a coastal site plan shall determine whether or not the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities are acceptable.

(b) In determining the acceptability of potential adverse impacts of the proposed activity described in the coastal site plan on both coastal resources and future water-dependent development opportunities a municipal board or commission shall:

(1) Consider the characteristics of the site, including the location and condition of any of the coastal resources defined in section 22a-93; (2) consider the potential effects, both beneficial and adverse, of the proposed activity on coastal resources and future water-dependent development opportunities and (3) follow all applicable goals and policies stated in section 22a-92 and identify conflicts between the proposed activity and any goal or policy.

(c) Any persons submitting a coastal site plan as defined in subsection (b) of section 22a-105 shall demonstrate that the adverse impacts of the proposed activity are acceptable and shall demonstrate that such activity is consistent with the goals and policies in section 22a-92.

(d) A municipal board or commission approving, modifying, conditioning or denying a coastal site plan on the basis of the criteria listed in subsection (b) of this section shall state in writing the findings and reasons for its action.

(e) In approving any activity proposed in a coastal site plan, the municipal board or commission shall make a written finding that the proposed activity with any conditions or modifications imposed by the board: (1) Is consistent with all applicable goals and policies in section 22a-92; (2) incorporates as conditions or modifications all reasonable measures which would mitigate the adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities.

Sec. 22a-106a. Civil penalty. Any person who conducts an activity within the coastal boundary without having received a

(P.A. 87-438 added provisions for the imposition of

Statutory Text

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Additions are underlined

Annotation

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lawful approval from a municipal board or commission under all of the applicable procedures and criteria listed in sections 22a-105 and 22a-106 or who violates the terms and conditions of an approval under said sections shall be liable for a civil penalty of not more than one thousand dollars for each offense. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Commissioner of Environmental Protection may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.

civil penalties, upon court judgment, for violation(s) of coastal site plan review requirements, consistent with other departmental civil penalty statutes. P.A. 88-364 made a wording change to the name of the judicial district. These amendments are administrative in nature and do not affect enforceable coastal policies, will not be used in Federal coastal consistency reviews and will not be used to justify funding requests to the Department of Commerce under the CZMA. These amendments were approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.

After OCRM's conditional approval of Connecticut's CNP, which included this CCMA section, there were several legislative amendments altering the effective date of this change. P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991 to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993 to September 1, 1996; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996 to September 1, 1998. These public acts made no other changes to this section of the CCMA. The provision for civil penalties is now in effect. These changes are administrative in nature and do not affect any coastal management policies, either enforceable or advisory. The

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~~original amendment and its technical amendment, previously approved by OCRM, provided an additional tool to the DEP and municipalities to ensure compliance with the coastal site plan review requirements of this Statute. All subsequent amendments to this section merely altered its effective date. This modification does not rise to the level of a substantial program change because it does not: (1) change the uses subject to management; (2) change any special management areas; (3) alter boundaries; (4) alter authorities or organization; or (5) alter existing requirements for coordination, public involvement and national interests.~~

Sec. 22a-107. Bond as a condition to coastal site plan approval. As a condition to a coastal site plan approval a board or commission may require a bond, escrow account or other surety or financial security arrangement to secure compliance with any modifications, conditions and other terms stated in its approval of a coastal site plan.

Sec. 22a-108. Violations. Any activity within the coastal boundary not exempt from coastal site plan review pursuant to subsection (b) of section 22a-109, which occurs without having received a lawful approval from a municipal board or commission under all of the applicable the procedures and criteria listed in sections 22a-105 and 22a-106, or which violates the terms or conditions of such approval, shall be deemed a public nuisance. Municipalities shall have the authority to exercise all enforcement remedies legally available to them for the abatement of such nuisances including, but not limited to, those under section 8-12. After notifying the municipality in which the activity is located, the commissioner may order that such a public nuisance be halted, abated, removed or modified and that the site of the violation be restored as nearly as reasonably possible to its condition prior to the violation, under the authority of sections 22a-6 and 22a-7. The commissioner may request the Attorney General to institute proceedings to enjoin or abate any such nuisance. Upon receipt of a petition signed by at least twenty-five residents of the municipality in which an activity is located the commissioner shall investigate to determine whether or not an activity described in the petition constitutes a public nuisance. Within ninety days of receipt of such petition, the commissioner shall make a written determination and provide the petitioning municipality with a copy of such determination.

Sec. 22a-109. Coastal site plans. Review, (a) A coastal site plan shall be filed with the municipal zoning commission to aid in determining the conformity of a proposed building, use or structure, or shoreline flood and erosion control structure as defined in subsection (c), fully or partially within the coastal boundary, with the specific provisions of the zoning regulations of the municipality and the provisions of sections 22a-105 and 22a-106 and in the case of shoreline flood and

P.A. 87-495 amended municipal Coastal Site Plan Review statutes to:
1) add definition of shoreline flood and erosion

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22

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erosion control structures, the provisions of sections 22a-359 to 22a-363, inclusive, and any regulations adopted thereunder. A coastal site plan required under this section may be modified or denied if it fails to comply with the requirements already set forth in the zoning regulations of the municipality and, in addition, the coastal site plan may be modified, conditioned or denied in accordance with the procedures and criteria listed in sections 22a-105 and 22a-106. A coastal site plan for a shoreline flood and erosion control structure may be modified, conditioned or denied if it fails to comply with the requirements, standards and criteria of sections 22a-359 to 22a-363, inclusive, and any regulations adopted thereunder. Review of a coastal site plan under the requirements of this section shall supersede any review required by the municipality under subsection (g) of section 8-3 and shall be in addition to any applicable zoning regulations of any special district exercising zoning authority under special act. The provisions of this section shall not be construed to limit the authority of the Commissioner of Environmental Protection under sections 22a-359 to 22a-363, inclusive.

(b) The zoning commission may by regulation exempt any or all of the following uses from the coastal site plan review requirements of this chapter: (1) Minor additions to or modifications of existing buildings or detached accessory buildings, such as garages and utility sheds; (2) construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, swimming pools, tennis courts, docks and detached accessory buildings; (3) construction of new or modification of existing on premise structures including fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, signs and such other minor structures as will not substantially alter the natural character of coastal resources or restrict access along the public beach; (4) construction of an individual single family residential structure except when such structure is located on an island not connected to the mainland by an existing road bridge or causeway or except when such structure is in or within one hundred feet of the following coastal resource areas; tidal wetlands, coastal bluffs and escarpments and beaches and dunes; (5) activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources (6) interior modifications to buildings, and (7) minor changes in use of a building, structure or property except those changes occurring on property adjacent to or abutting coastal waters. Gardening, grazing and the harvesting of crops shall be exempt from the requirements of this chapter. Notwithstanding the provisions of this subsection, shoreline flood and erosion control structures as defined in subsection (c) of this section shall not be exempt from the requirements of this chapter.

(c) For the purposes of this section, "shoreline flood and erosion control structure" means any structure the purpose or effect of which is to control flooding or erosion from tidal, coastal or navigable waters and includes breakwaters, bulkheads, groins, jetties, revetments, riprap, seawalls and the placement of concrete, rocks or other significant barriers to the flow of flood waters or the movement of sediments along the shoreline. The term shall not include any addition, reconstruction, change or adjustment to any walled and roofed building which is necessary for such building to comply with the requirements of the Code of Federal Regulations, Title 44, Part 50, and any municipal regulation adopted thereunder.

(d) A copy of each coastal site plan submitted for any shoreline flood and erosion control structure shall be referred to the Commissioner of Environmental Protection within fifteen days of its receipt by the zoning commission. The day of receipt shall be determined in accordance with subsection (c) of section 8-7d. The commissioner may comment on and make recommendations on such plans. Such comments and recommendations shall be submitted to the zoning commission

control structure;

2) require filing of coastal site plans for proposed shoreline flood and erosion control structures;
3) require referral of coastal site plans for shoreline flood and erosion control structures to the commissioner of DEP for review; and
4) specify additional procedures for regulation shoreline flood and erosion control structures. This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on June 3, 1998. This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organizations; or 5) alter existing requirements for coordination, public involvement and national interests. See enclosed detail discussion for additional information.

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23

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within thirty-five days of the date of receipt of the coastal site plan by the commissioner and shall be considered by the zoning commission before final action on the plan. If the commissioner fails to comment on a plan within the thirty-five-day period or any extension granted by the zoning commission, the zoning commission may take final action on such plan. Failure to comment by the commissioner shall not be construed to be approval or disapproval.

(e) The zoning commission may, at its discretion, hold a hearing on a coastal site plan required by this section. The commission shall hold a hearing on a coastal site plan for a shoreline flood and erosion control structure upon the request of the Commissioner of Environmental Protection.

(d) The zoning commission shall set forth the reasons for any decision to deny, modify or condition a coastal site plan submitted under this section. A copy of any decision shall be sent by certified mail to the person who submitted such plan within fifteen days after such decision is rendered. A copy of any decision on a coastal site plan for a shoreline flood and erosion control structure shall be sent to the Commissioner of Environmental Protection within fifteen days after such decision is rendered. The commission shall publish notice of the approval or denial of a coastal site plan, in a newspaper having a general circulation in the municipality, not more than fifteen days after such decision is rendered.

(g) The coastal site review required under this section shall be subject to the same statutory requirements as subsection (a) and (b) of section 8-7d for the purposes of determining the time limitations on the zoning commission in reaching a final decision.

(f) In addition to the requirements of subsection (f) of section 8-3, no building permit or certificate of occupancy shall be issued for a building, use or structure subject to the zoning regulations of a municipality and located fully or partially within the coastal boundary, or for any shoreline flood and erosion control structure as defined in subsection (c) of this section, and located fully or partially within the coastal boundary, without certification in writing by the official charged with enforcement of such regulations that such building, use, or structure, or shoreline flood and erosion control structure has been reviewed and approved in accordance with the requirements of this chapter or is a use exempt from such review under regulations adopted by the zoning commission in accordance with this section.

(g) A municipality by vote of its legislative body may delegate its responsibility for coastal site plan review under this section to a special district exercising zoning authority under special act for the area within both the coastal boundary and limits of the special district, subject to acceptance by the special district of such responsibility following the procedures listed in section 7-327. The municipality may revoke the delegation of such responsibilities and the special district may also revoke acceptance of such responsibility under this subsection at any time. Notwithstanding the provisions of this subsection, the town of Groton shall delegate authority for coastal site plan review to the Noank fire district.

(h) A municipal zoning commission reviewing, in accordance with this section, a coastal site plan for a building use, or structure, or shoreline flood and erosion control structure occurring within the limits of a special district exercising zoning authority under special act shall provide a copy of the coastal site plan to the chief elected official of such district and shall provide an adequate opportunity for comment by such official prior to making a final decision on the coastal site plan. A special district delegated the responsibility for coastal site plan reviews in accordance with subsection (g) of this section shall provide a copy of any coastal site plan submitted for its review to the municipal zoning commission of the town in which the project is to occur and shall provide an adequate opportunity for comment by the zoning commission

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prior to making a final decision on the coastal site plan.

Sec. 22a-110. Testimony by commissioner on municipal actions. Appeals. The commissioner or his designee may submit written testimony to any municipal board or commission and may appear by right as a party to any hearing before such municipal board or commission concerning any proposed municipal plan of conservation and development or zoning regulations or changes thereto affecting the area within the coastal boundary or the review of a coastal site plan or a municipal approval, permit or license for a building, use or structure affecting the area within the coastal boundary and said commissioner may appeal, or appear as a party to any appeal of, a municipal decision concerning such matters whether or not he has appeared as a party before the municipal board or commission. If the decision of such board or commission is upheld by a court of competent jurisdiction, the state shall reimburse the municipality within three months for all costs incurred in defending the decision.

Sec. 22a-111. Connecticut River Gateway Committee. Consistency. (a) The minimum standards established by the Connecticut River Gateway Committee under section 25-102d and revisions to such standards adopted by the Connecticut River Gateway Commission under subsection (c) of section 25-102g before January 1, 1980, shall be deemed to be consistent with the goals, policies and purposes of this chapter.

(b) On or after January 1, 1980, the commission shall make no revisions to such standards which are inconsistent with the goals and policies stated in subsections (a) and (b) of section 22a-92.

(c) No provision of this chapter shall be deemed to derogate from the authority of the commission to approve or disapprove the adoption, amendment or repeal of local zoning, subdivision or planning regulations under subsection (b) of section 25-102g, provided any such approval or disapproval shall be consistent with the goals and policies stated in subsections (a) and (b) of section 22a-92.

Sec. 22a-112. Financial assistance. Grants to municipalities. (a) In order to carry out the purposes of this chapter, the commissioner shall equitably allocate any funds received for the implementation of this chapter between coastal-related state programs, which may include coastal research projects, and municipal coastal programs.

(b) Upon receipt by the commissioner of a written application from a coastal municipality, said commissioner shall make a grant to such municipality of not less than twenty-five hundred dollars to be used to carry out the responsibilities of such municipality under this chapter, provided, on or after July 1, 1980, funds shall be allocated to coastal municipalities in accordance with subsections (c) and (d).

(c) The commissioner shall provide within available appropriations continuing financial assistance to coastal municipalities to carry out their responsibilities under this chapter. Municipalities may apply annually for financial assistance in carrying out their responsibilities for municipal coastal site plan reviews under sections 22a-105 to 22a-109, inclusive, and for the purpose of preparing and implementing municipal coastal programs under sections 22a-101 to 22a-104, inclusive. The commissioner shall, by regulations adopted in accordance with chapter 54, establish reasonable application requirements consistent with federal application requirements. In reviewing municipal applications for financial

P.A. 86-336 amended Subsection (c) to limit provision of continuing financial assistance to coastal municipalities to "within available appropriations". This amendment was approved by OCRM with the conditional approval of Connecticut's 6217 Coastal Nonpoint Program on

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assistance the commissioner shall consider: (1) The area, length of shorefront, population and development pressures within the municipality's coastal boundary, (2) the nature of the municipality's coastal resources and coastal-related problems, (3) the demonstrated capacity and commitment of the municipality to carrying out the Purposes of this chapter, (4) the number of coastal site plan reviews conducted by the municipality, (5) the availability of funds, and (6) the state plan for conservation and development adopted pursuant to part I of chapter 297.

(d) Not less than thirty per cent of any funds received annually by the state under Section 306 of the Federal Coastal Zone Management Act shall be provided annually to coastal municipalities for municipal coastal site plan reviews under sections 22a-105 to 22a-109, inclusive. Up to an additional twenty per cent of any funds received annually by the state under Section 306 of the Federal Coastal Zone Management Act shall as a first priority be provided annually to assist coastal municipalities which have chosen to prepare and implement a municipal coastal program under sections 22a-101 to 22a-104, inclusive, provided that if in any one year the total amount of all grants to municipalities which have agreed to adopt municipal coastal programs is less than twenty per cent of such federal funds received in that year, the difference shall be allocated for the purposes of this chapter in accordance with subsection (a).

(e) Any funds appropriated to the department of environmental protection for the purposes of subsection (b) of this section and for the purpose of providing matching funds to implement a coastal management program pursuant to this chapter which are not used for such purposes shall be allocated to coastal municipalities in accordance with subsection (c) of this section.

(f) The legislative body of a municipality or, in the case of a municipality for which the legislative body is a town meeting or a representative town meeting, the board of selectmen may, by majority vote, authorize the chief executive officer to enter into contracts or grant agreements concerning coastal management with the commissioner. Such contracts or agreements include but are not limited to those for funding of coastal site plan review, municipal coastal program and any other demonstration or coastal research project funded in accordance with this section.

June 3, 1998. ~~This modification does not rise to the level of a substantial program change because it does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. See enclosed detail discussion for additional information.~~

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Annotation

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Explanation and Justification of a Modification
to the Connecticut Coastal Management Act
[Connecticut General Statutes sections 22a-90 through 22a-112]
Embodied in

Public Act 00-152

Such change is deemed by the Connecticut Department of Environmental Protection
Office of Long Island Sound Programs
to be a Routine Program Change

[see page 5 of the redline/strikeout matrix of
changes to the Connecticut Coastal Management Act]

During the 2000 legislative session, Connecticut adopted a minor modification to the Connecticut Coastal Management Act [CCMA, Connecticut General Statutes (CGS) sections 22a-90 through 22a-112], the centerpiece of our Coastal Management Program (CMP). This modification was made to facilitate the design, development, and regulation of public benefit projects on historically developed urban waterfront sites where redevelopment is constrained by railroads, highways or other significant infrastructure facilities. While specific existing policies of the CCMA allow and encourage the appropriate development of urban waterfronts, other policies which typically apply in urban harbor area can be understood to discourage specific activities, such as shoreline engineering, necessary to the reuse of these areas. Although Connecticut has allowed limited bulkheading, fill and dredging in urban areas in several instances, under existing policies, the lack of a clear statement regarding how these policies should be applied to urban waterfront development was confusing to the regulated community, to state-level regulators and to local land use agencies who are required to apply the CCMA policies on the local level. As a result, excessive time and effort was spent at all levels of planning and review to determine whether or not individual projects and project components were consistent with the applicable enforceable policies of the CCMA and to ensure that each decision was consistent with prior decisions based on the existing policies. Accelerated development activity in several of Connecticut's major cities brought to our attention the need for a consolidated restatement of the CCMA policies that address urban waterfront issues directly and clearly state the statutory coastal management policy.

Sparked by forward-thinking state and local leadership, New London, Bridgeport and New Haven have undertaken significant waterfront redevelopment projects, including the creation of important public waterfront attractions. However, several prominent and promising sites are constrained by existing highways or railroads immediately landward of the shorefront and, as a result, have difficulty accommodating the desired public amenities without extensive shoreline alterations such as bulkheading, filling and/or dredging. Because shoreline engineering to create developable land is otherwise strongly—and appropriately—discouraged by the CCMA, the proper application of coastal policies in these very limited circumstances was unclear. This minor modification was drafted narrowly to clearly express the intent of the CCMA with respect to the particular needs of urban harbors. The specific language adopted clarifies that shoreline alterations may be acceptable in limited circumstances provided the project: 1) is located in an area cut off from the rest of the community by highway, railroad or other infrastructure facility;

2) will result in publicly-owned public benefit projects; and 3) has no other feasible, less environmentally damaging alternative. Shorefront alteration would be consistent with CCMA policies only in those instances where net public benefits outweigh environmental and other costs, adverse environmental impacts are appropriately minimized and mitigated, and the project conforms to applicable local plans.

Specifically, Public Act 00-152 amended CGS section 22a-92(C)(1) by adding a new subparagraph (L) to provide one consolidated policy which reads as follows:

To promote the revitalization of inner city urban harbors and waterfronts by encouraging appropriate reuse of historically developed shorefronts, which may include minimized alteration of an existing shorefront in order to achieve a significant net public benefit, provided (i) such shorefront site is permanently devoted to a water dependent use or a water dependent public use such as public access or recreation for the general public and the ownership of any filled lands remain with the state or an instrumentality thereof in order to secure public use and benefit in perpetuity, (ii) landward development of the site is constrained by highways, railroads or other significant infrastructure facilities, (iii) no other feasible, less environmentally damaging alternatives exist; (iv) the adverse impacts to coastal resources of any shorefront alteration are minimized and compensation in the form of resource restoration is provided to mitigate any remaining adverse impacts, and (v) such reuse is consistent with the appropriate municipal coastal program or municipal plan of development.

This policy restatement pulls together, clarifies, reiterates and consolidates portions of pre-existing CCMA policies to present a clear position regarding the reuse of urban developed shorefronts for projects with measurable and notable public benefits. This policy has been carefully crafted to show specifically how existing policies should be balanced when applied to urban harbor activities. Its application is strictly limited to public benefit reuses associated with water dependent redevelopment in urban areas which have been cut off by historic infrastructure development practices. This combined policy restatement is derived from the following existing CCMA policies (in order of citation):

To insure that the development, preservation or use of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth. C.G.S. Sec. 22a-92(a)(1)

To give high priority and preference to uses and facilities which are dependent upon proximity to the water or the shorelands immediately adjacent to marine and tidal waters. C.G.S. Sec. 22a-92(a)(3)

To promote, through existing state and local planning, development, promotional and regulatory authorities, the development, reuse or redevelopment of existing urban and commercial fishing ports giving highest priority and preference to

water-dependent uses, including but not limited to commercial and recreational fishing and boating uses. C.G.S. Sec. 22a-92(b)(1)(C)

To manage uses in the coastal boundary through existing municipal planning, zoning and other local regulatory authorities and through existing state structures, dredging, wetlands, and other state siting and regulatory authorities, giving highest priority and preference to water-dependent uses and facilities in shorefront areas. C.G.S. Sec. 22a-92(b)(1)(A)

To require that structures in tidal wetlands and coastal waters be designed, constructed and maintained to minimize adverse impacts on coastal resources, circulation and sedimentation patterns, water quality, and flooding and erosion, to reduce to the maximum extent practicable the use of fill, and to reduce conflicts with the riparian rights of adjacent landowners. C.G.S. Sec. 22a-92(b)(1)(D)

To promote, through existing state and local planning, development, promotional and regulatory programs, the use of existing developed shorefront areas for marine-related uses, including but not limited to commercial and recreational fishing, boating and other water-dependent commercial, industrial and recreational uses. C.G.S. Sec. 22a-92(b)(2)(G)

To disallow any filling of tidal wetlands and nearshore, offshore and intertidal waters for the purpose of creating new land from existing wetlands and coastal waters which would otherwise be undevelopable, unless it is found that the adverse impacts on coastal resources are minimal. C.G.S. Sec. 22a-92(c)(1)(B)

To require that coastal highways and highway improvements, including bridges, be designed and constructed so as to minimize adverse impacts on coastal resources. C.G.S. Sec. 22a-92(c)(1)(G)

This change does not substantially alter the existing OCRM-approved policies, either enforceable or advisory, but merely provides clarification of how several existing policies are to be applied in limited circumstances in urban harbor areas. Because this policy restatement is based on and does not pre-empt existing policies, it will have no substantive effect on coastal resources or uses. The potential sites where this policy might apply are very limited in both number and geographic extent, with the most notable located in New London, New Haven and Bridgeport Harbors where existing railroad and/or highway corridors significantly constrain waterfront development. The end result of this restatement of policies does not alter existing potential impacts to coastal resources from urban waterfront development/redevelopment.

This change does not substantially alter existing OCRM-approved policies, either enforceable or advisory. The change does not alter potential impacts to coastal resources under the original policies of the CCMA. This modification does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. Thus, this modification is not a substantial program change.

Explanation and Justification of a Minor Modification
to the Connecticut Coastal Management Act
[Connecticut General Statutes sections 22a-90 through 22a-112]
Embodied in

Public Act 99-225

Such change is deemed by the Connecticut Department of Environmental Protection
Office of Long Island Sound Programs
to be a Routine Program Change

[see page 11 of the redline/strikeout matrix of
changes to the Connecticut Coastal Management Act]

The original section of the CCMA affected by this change requires the Commissioner of the Department of Environmental Protection to coordinate permit programs under his authority to ensure that the administration of such programs is consistent with the CCMA. The legislative act made a minor technical correction to an existing list of examples of regulatory programs under the Commissioner's authority. Specifically, this amendment corrects the reference to CGS section 22a-359 to 22a-363f by adding the words "dredging and" in the title of the CGS section and updates the citation. This does not alter activities subject to coastal management in Connecticut. Dredging has been regulated in accordance with the referenced statute since October 1, 1939 and dredging permits are not issued separately from permits for fill or structures. The CCMA has always contained enforceable policies regarding dredging. These include:

- to initiate in cooperation with the federal government and the continuing legislative committee on state planning and development a long-range planning program for the continued maintenance and enhancement of federally-maintained navigation facilities in order to effectively and efficiently plan and provide for environmentally sound dredging and disposal of dredged materials [CGS 22a-92(C)(1)(C)];
- to encourage, through the state permitting program for dredging activities, the maintenance and enhancement of existing federally-maintained navigation channels, basins and anchorages and to discourage the dredging of new federally-maintained navigation channels, basins and anchorages [CGS 22a-92(C)(1)(C)];
- to reduce the need for future dredging by requiring that new or expanded navigation channels, basins and anchorages take advantage of existing or authorized water depths, circulation and siltation patterns and the best available technologies for reducing controllable sedimentation [CGS 22a-92(C)(1)(D)]; and
- to disallow new dredging in tidal wetlands except where no feasible alternative exists and where adverse impacts to coastal resources are minimal [CGS 22a-92(C)(1)(E)].

These enforceable policies have not been altered by this legislation. Thus, this change does not affect the scope of activities subject to Connecticut's Coastal Management Program (CMP), it merely corrects a previously incorrect reference.

This technical amendment does not change any coastal management policies, either enforceable or advisory nor does the change alter the standards for municipal coastal programs under CGS sections

Explanation and Justification of a Minor Modification
to the Connecticut Coastal Management Act
[Connecticut General Statutes sections 22a-90 through 22a-112]
Embodied in

Public Act 96-145

Such change is deemed by the Connecticut Department of Environmental Protection
Office of Long Island Sound Programs
to be a Routine Program Change

[see page 11 of the redline/strikeout matrix of
changes to the Connecticut Coastal Management Act]

During the 1996 legislative session, the Connecticut General Statutes (CGS) regarding structures, dredging and filling in tidal, coastal and navigable waters (CGS sections 22a-359 through 22a-363f) were reworked in an effort to simplify them. One of the changes was to consolidate into CGS section 22a-361 the provisions for underwater sand and gravel removal (marine mining) which had been a separate statute. As the original marine mining statutes were referenced in the CCMA, this latter statute required updating to reflect the current reference to the portion of the CGS under which marine mining is now regulated.

This technical amendment does not change any coastal management policies, either enforceable or advisory nor does the change alter the standards for municipal coastal programs under CGS sections 22a-101 through 22a-103. This modification does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. Thus, this modification is not a substantial program change.

Changes to the structures, dredging and fill in tidal, coastal and navigable waters of Connecticut are scheduled to be submitted to OCRM at a future date and are not contained in the current submittal.

Explanation and Justification of a Minor Modification
to the Connecticut Coastal Management Act
[Connecticut General Statutes sections 22a-90 through 22a-112]
Embodied in

Public Act 95-335

Such change is deemed by the Connecticut Department of Environmental Protection
Office of Long Island Sound Programs
to be a Routine Program Change

[see pages 13 through 15 of the redline/strikeout matrix of
changes to the Connecticut Coastal Management Act]

P.A. 95-335 was an multi-part legislative act most of which is irrelevant to Connecticut's Coastal Management Program (CMP); however, section 9 of that act amended CGS 22a-101 sections 22a-101(b and d), 22a-103(c), and 22a-104(b) to update existing references from "plan of development" to "plan of conservation and development", effective July 1, 1995. This is a technical change to reflect a legislative change in the planning statutes that now requires planning commissions to consider greenway protection and development and conservation when updating what used to be called their "plan of development." Municipal plans of conservation and development are statutorily required under Connecticut's planning statutes. They are mentioned in these sections of the CCMA because municipal plans of conservation and development must be consistent with the policies and standards of the CCMA; however, the Connecticut Coastal Management Act is not the statutory authority for the development, adoption and/or implementation of such plans and these plans not part of Connecticut's CMP. Municipal Plans of Conservation and Development do not establish enforceable policies for Federal consistency purposes, nor are they used to justify State funding request to the Department of Commerce. Although minor changes were made to the State's municipal planning statutes regarding the factors for consideration and content of plans of conservation and development, these changes are not part of and do not affect Connecticut's CMP. The only effect this legislative action has on Connecticut's CMP is to make a technical correction so that the lawful title of such plans is properly referenced.

This technical amendment makes a minor change to an existing administrative section of the Connecticut's CMP. It does not alter any coastal management policies, either enforceable or advisory nor does it change the standards for municipal coastal programs under CGS sections 22a-101 through 22a-103. The modification does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. Thus, this modification is not a substantial program change.

Explanation and Justification of a Minor Modification
to the Connecticut Coastal Management Act
[Connecticut General Statutes sections 22a-90 through 22a-112]
Embodied in

Public Act 95-218

Such change is deemed by the Connecticut Department of Environmental Protection
Office of Long Island Sound Programs
to be a Routine Program Change

[see page 7 of the redline/strikeout matrix of
changes to the Connecticut Coastal Management Act dated March 23, 2004]

P.A. 95-218 provided a technical amendment of the definition of "adverse impacts on coastal resources" to correct a typographic error that inadvertently omitted the words "alteration of" in the original wording of the statutory definition of adverse impacts to the circulation of coastal waters. When carefully read, the original definition was nonsensical; however, it has always been implemented as though the new wording were the original language. Thus, this technical correction does not effectively change the definition of adverse impacts to the circulation of coastal waters.

This technical amendment does not significantly change any coastal management policies, either enforceable or advisory nor does the change alter the standards for municipal coastal programs under CGS sections 22a-101 through 22a-103. This modification does not: 1) change the uses subject to management; 2) change any special management areas; 3) alter boundaries; 4) alter authorities or organization; or 5) alter existing requirements for coordination, public involvement and national interest. Thus, this modification is not a substantial program change.