Agency Legislative Proposal – 2023 Session
Document Name:

Document Name	DEEP_1_Boating_Safety

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC
Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	DEEP Boating Division
Drafter	Peter Francis, Director, Boating Division Timothy Delgado, Boating Division

Title of Proposal	An Act Concerning Safe Boating
Statutory Reference, if any	Section 1. CGS Section 14-21bb Section 2. CGS Section 15-133
Brief Summary and Statement of Purpose	Section 1. Modifies the manner through which Connecticut collects the Aquatic Invasive Species (AIS) stamp fee in order to comport with federal law. Section 2. Amends the boating statutes to require that every vessel must carry owner information attached to the vessel.

SECTION-BY-SECTION SUMMARY
Summarize sections in groups where appropriate

Section 1. The current AIS stamp process relies on the collection of fees as a contingency of the vessel registration numbering system. This is not allowed under 33 CFR § 174.31. Also, any fees collected from boaters must be made equal for residents and nonresidents alike pursuant to Title 46 of the United State Code, Section 12307. This modification will provide the continuity of the AIS stamp program for both residents and nonresidents in a manner that comports with federal law.

Section 2. Many unmanned vessels are found free-floating by law enforcement personnel each year. Registered vessels carry identifying numbers and the owners can be identified and contacted quickly. When paddlecraft and other small vessels that are not required to be registered are found in this situation, law enforcement must respond as if this is a potential boating accident with an overboard operator because the owner cannot be identified. These responses oftentimes require considerable manpower and equipment resources. Requiring contact information on the vessel can prevent unnecessary search and rescue efforts.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[X] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:
Section 1. This is a new proposal.
Section 2. This proposal was included as part of SB No. 241 (Session year 2022), which included a number of boating safety components. While the bill was enacted, PA 22-144, this component was removed after the public hearing. The Environment Committee had concerns in 2022 around enforcement and the ability to charge individuals with a misdemeanor for noncompliance. To address those concerns, we have drafted the provision as subsection (f) of section 15-133 of CGS, the violation of which is a simple infraction and so both easier to enforce—typically through a ticket—and less severe of a consequence.

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	Section 1. The US Coast Guard (USCG) sent a letter (included below) to all states clarifying that Connecticut's current arrangement for collecting AIS fees runs afoul of federal requirements. This revision will bring Connecticut into compliance. Section 2. No.

Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	Section 1. The USCG reports that some other states are also seeking revise their current AIS fee structure to bifurcate it from the registration process, similar to the proposal here. Section 2. Unknown.
Have certain constituencies called for this proposal?	Section 1. No. Section 2. Local, state, and federal law enforcement agencies support this proposal to reduce costs associated with unnecessary search and rescue efforts.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[x] Check here if this proposal does NOT impact other agencies (Section 2.)

Section 1.

1. Agency Name	Department of Motor Vehicles
Agency Contact (name, title)	Evyonne Parker-Bair, DMV Legal Office Katherine Grady, Legislative Liaison
Date Contacted	September, 2021 + 9/30/22
Status	**[ ] Approved [x] Talks Ongoing**
Open Issues, if any	Minor concerns regarding changes potentially needed to their billing system.

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	Section 1. The current AIS stamp fee schedule for CGS 14-21bb requires operators of CT-registered vessels to pay a $5 fee and operators of out-of-state registered vessels to pay a $20 fee. Since federal boating law requires that both residents and non-residents be charged the same, the proposal seeks to level all individual users at $7. This will be a $2 increase for residents and a $13 reduction for non-CT-residents. The proposal also provides an option that allows boat owners to instead cover all users of the boat at a flat rate of $20, thereby precluding any other individual operator on their boat - such as a spouse, children, friend - from also needing to purchase the stamp. Ultimately, the goal is to seek to keep the Connecticut Lakes, Rivers and Ponds Preservation account funded at approximately the same level to ensure AIS funds are available for restoration and rehabilitation of our waterbodies. This change will result in two main ramifications for fee collection: (1) compliance of purchasing of in-state boaters likely will decline slightly, thereby reducing fees collected; and (2) those vessel operators who only operate on marine waters will not purchase the stamp even though they were required to previously. With the small increase for in-state fees and reduction of out-of-state fees, the account is expected to be funded similarly to past years. In addition, some incidental staff time and expenses are expected in order to establish the decal processing system. A one-time set of expenses will also be incurred to inform boaters of the change ahead of the change. This is why an effective date of October 2024 is proposed. Without this modification to the fee structure, the State of Connecticut is putting significant federal grant money at risk as Connecticut receives approximately $1.37 million annually through the State Recreational Boating Safety Program from the USCG. In order to continue receiving annual allocations, the state must be in compliance with federal rules regarding vessel registration. During a program audit during the fall 2020, the USCG advised Connecticut that it was out of compliance because of how it collects the AIS stamp fees. We have submitted a Corrective Action Plan to the USCG to address this issue that identifies this legislative fix this legislative session. The USCG could withhold the grant money if the issue is not addressed by a legislative fix.

	Section 2. Passage of this proposal would save state law enforcement and first responder costs by reducing unnecessary search and rescue costs.
Municipal (Include any municipal mandate that can be found within legislation)	Section 1. None. Section 2. Passage of this proposal would save municipal law enforcement and first responder costs by reducing unnecessary search and rescue costs.
Federal	Click here to enter text. Section 2. Passage of this proposal would save USCG money by reducing unnecessary search and rescue costs.
Additional notes	

MONITORING & EVALUATION PLAN
If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[x] Check here if this proposal does NOT lead to any measurable outcomes

Section 1. None.
Section 2. Measurable outcomes would be the reduction of unnecessary search and rescue efforts by local, state and federal law enforcement agencies.

ANYTHING ELSE WE SHOULD KNOW?

Section 2. Passage of this proposal will reduce unnecessary search and rescue efforts by allowing law enforcement personnel who respond to or find an unmanned watercraft to quickly identify the owner and make contact with them. This will allow such responders to quickly evaluate whether the unmanned vessel simply became loose from a backyard, beach or marina or whether the contacted person indicates that a family member or friend may have filed a float plan or otherwise advised them that they were heading out on the water.

INSERT FULLY DRAFTED BILL HERE

Sec. 1 (NEW) *(Effective October 1, 2024)* Section 14-21bb of the general statutes is repealed and the following substituted in lieu thereof:

(a) Except as provided in subsection (b) and (c) of this section, any person operating on inland waters a vessel that is required to be numbered or to display a Connecticut registration decal pursuant to Part III of Chapter 268 shall possess a valid Individual Aquatic Invasive Species Stamp issued by the commissioner. For the purpose of this section, the definition of inland waters is the same as established in Regulation of the Connecticut State Agencies section 26-108-1 and in section 26-109 of the general statutes.

(1) The Individual Aquatic Invasive Species Stamp shall be issued through the Online Sportsmen Licensing System.

(2) The fee for such Individual Aquatic Invasive Species Stamp shall be $7.00.

(3) The Individual Aquatic Invasive Species Stamp shall be valid for the calendar year in which the stamp is purchased.

(b) The owner of a vessel that is required to be numbered or to display a Connecticut registration decal pursuant to Part III of Chapter 268 may purchase a Vessel Aquatic Invasive Species decal in lieu of requiring each individual operator of that vessel to obtain the Individual Aquatic Invasive Species Stamp described in subsection (a). Any person operating a vessel bearing a valid Vessel Aquatic Invasive Species Decal shall be deemed to have met the requirements of subsection (a) while they are operating that vessel.

(1) The Vessel Aquatic Invasive Species Decal shall be ordered through the Online Sportsmen Licensing System.

(2) The fee for such decal shall be $20.00. The commissioner may charge an additional fee of up to $5.00 for the production, processing and mailing of such decal.

(3) The Vessel Aquatic Invasive Species Decal shall be valid for the calendar year in which the decal is purchased.

(4) The Vessel Aquatic Invasive Species Decal shall be permanently affixed to the vessel for which it was purchased approximately amidship on the port side of the vessel either on the hull of the vessel or at the operator's station and in such a way as to be visible to law enforcement officers approaching by vessel from the port side.

(c) This section does not apply to the operator of a vessel that has been numbered pursuant to section 15-145, such number bearing the suffix of "DL", "XP", "MS" or "YB", and displaying a current registration validation decal.

(d) The commissioner shall cause all revenues collected pursuant to this subsection to be deposited in the Connecticut Lakes, Rivers and Ponds Preservation Account established in section 14-21aa.

(e) Any person who violates this section shall have committed an infraction and shall be fined not more than eighty-five dollars.

Sec. 2 (NEW) *(Effective October 1, 2023)* A new subsection of Section 15-133 of the general statutes shall read:

(l)(1) Except for the operator of a vessel for which the owner holds a valid, effective certificate of number awarded by this state, another state, or the United States, no person shall operate a vessel upon the waters of the state unless such vessel has affixed to it current and valid contact information for the owner of the vessel or the operator of the vessel.

Sec. 3 (NEW) (Effective October 1, 2023) Section 15-133(j) of the general statutes shall be amended as follows:

(j) Any person who violates the provisions of subsection (b) of this section shall be fined not more than two hundred dollars. Any person who violates the provisions of subsection (c) or (g) of this section shall be fined not less than one hundred dollars and not more than five hundred dollars. Any person who violates any of the provisions of subsection (f) and (l) of this section shall have committed an infraction.

Document Name	DEEP_2_Radiation

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	Bureau of Air Management – Radiation Division, Planning and Standards Division
Drafter	Paul Kritzler, Supervising Air Pollution Control Engineer – Planning and Standards Division Jeff Semancik, Division Director – Radiation Division

Title of Proposal	An Act Concerning Radiation Agreement State
Statutory Reference, if any	16a-100, 22a-6, 22a-151, 22a-154
Brief Summary and Statement of Purpose	This proposal makes minor revisions to the radiation statutes and provides DEEP with the authority to impound certain radioactive material and to recover costs from such impoundment, and it establishes a hearing process for the appeal of such impoundment to effectuate the transfer of authorities from the US Nuclear Regulatory Commission (NRC) to the State of Connecticut as necessary for Connecticut to become an Agreement State. NOTE: As with past Agreement State legislation, the NRC would remain the sole regulatory authority for commercial nuclear reactors (Millstone), spent fuel storage facilities (Connecticut Yankee), consumer product distribution, and certain amounts of special nuclear material in the state.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

The changes proposed in this bill are the final in the series of changes required to align DEEP's statutory authority to safely regulate ionizing radiation material with the existing federal authorities of the federal Nuclear Regulatory Commission (NRC) to ensure Connecticut has the equivalent authority necessary to become the 41st Agreement State under the national materials program (NMP) for radioactive materials. The proposed changes include: authorization to share confidential information between DEEP and the NRC and certain conforming definition changes. It would also provide DEEP with the authority to impound sources of ionizing radiation.

On December 10, 2020, Governor Lamont sent a letter of intent to the NRC identifying the State's intent to enter into an agreement with the NRC in accordance with section 247b of the Atomic Energy Act of 1954 whereby the NRC relinquishes to the State portions of its regulatory authority to license and regulate byproduct materials (radioisotopes); source materials (uranium and thorium); and certain quantities of special nuclear materials in order to enhance local control and security. Upon approval by the NRC and assumption of regulatory authority for this radioactive material, Connecticut would become an "Agreement State." In his letter of intent, Governor Lamont established a schedule goal to complete the Agreement by January 2025.

After receiving the Governor's letter, the NRC has engaged DEEP in an ongoing review comparing the NRC's authorities with equivalent CT statutory authorities. The changes proposed represent the remaining changes necessary to align CT authorities and assume them from the NRC. Incorporating these changes in the 2023 legislative session supports implementation of the Agreement by Governor's 2025 goal, including the necessary NRC review process and public notice requirements for the application.

This proposal would align Connecticut's policy with that of forty other states assuming state-level authority for sources of ionizing radiation from the NRC, thereby establishing state-level ownership, while maintaining the same high standards of safety and security. It would build a robust radiation control program for Connecticut and secure future funding, training and oversight. It will also provide businesses in the state with more efficient licensing, direct access to a single regulator, and improved regulatory certainty by aligning state regulations and programs with the NMP for radioactive materials. All administrative costs would be covered by the fees collected on the facilities whose licenses are being transferred to DEEP.

<u>Summary of Changes</u>

- Section 1. Section 16a-100 is being amended as a minor revision to ensure the regulatory framework for the agreement state in Connecticut is compatible with, as opposed to conforming to, the permitting and enforcement laws and schemes of NRC.

- Section 2. Section 22a-6 is being amended as a minor revision to allow the commissioner to share confidential information with NRC. In the course of administering licenses or responding to allegations as an agreement state, it may be necessary for the state to share confidential information with the NRC. Such information that may be shared includes information regarding an investigation or allegation of wrongdoing of a licensee or information regarding evaluation of individuals as trustworthy and reliable for access to

certain quantities of radioactive materials. This information doesn't include personally identifiable information (PII) or medical information. DEEP currently has the ability to share information with U.S. EPA but does not have that express authority to share information with NRC. Any information shared would remain subject to the provisions and restrictions of the state's Freedom of Information Act (FOIA).

- Section 3. Section 22a-151 is being amended as a minor revision to clarify the definition of "sources of ionizing radiation" as requested by NRC.

- Section 4. Section 22a-154 is being amended as a minor revision to ensure DEEP has the authority to regulate associated devices as well as radioactive sources since these devices may have safety and security controls necessary for safety and protection of radioactive materials.

- Section 5. This provision adds new subsection 22a-158d, to provide the Commissioner the authority to impound a source of ionizing radiation if a person is not equipped to observe or fails to observe the laws and regulations. Additionally, this section includes provisions for cost recovery and adds a right of adjudicative review for a person or entity that has had a source impounded. Currently NRC has the authority in Connecticut to impound certain sources of radiation.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[ ] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	Yes. This proposal is the final step in a three-year process for Connecticut to become an Agreement State with the NRC. In 2020, Governor Lamont signed a letter of intent to NRC to become an agreement state as forty other states in the country have done. This process will transfer authority from NRC to Connecticut. In 2020, the Legislature passed Public Act 20-02 which included provisions to effectuate this change, including granting DEEP authority to adopt regulations. In 2021, some minor revisions were included in the Department's technical changes bill, Public Act 22-143. Consultation

	with NRC's counsel has identified the changes included in this bill as the last changes necessary to meet NRC's requirements.
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	Yes. Forty states are Agreement States with NRC and as such have passed similar legislation to effectuate that agreement. The proposed changes are based on Council of State Governments, Suggested State Legislation, 1983, Volume 42, Radiation Control Act. The authorities being proposed facilitate the transfer of authorities from federal NRC to the State in order to establish a compatible radiation control program.
Have certain constituencies called for this proposal?	Yes. Much of the radiation-regulated community has supported the transition to an agreement state, supported the Department's efforts in the past two years and now support these amendments. These include UCONN, Yale, and trade groups representing medical offices.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[ ] Check here if this proposal does NOT impact other agencies

1. Agency Name	AGO
Agency Contact (name, title)	Cara Passaro, Legislative Liaison
Date Contacted	9/28/22
Status	**[X] Approved [] Talks Ongoing**
Open Issues, if any	

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	***As provided in previous legislation for the Agreement State:*** <u>Increased Revenue</u> There is an anticipated increase in revenue due to these changes. The increased revenue will support the additional positions needed to develop and implement the program. Per NRC, DEEP anticipates that approximately 125 licenses will be transferred to DEEP. The current fees collected by the NRC from licensees in the state is approximately $1.3 million dollars per year. DEEP collects $25,000 annually in registration fees from these same sources s. The new program therefore would provide $1,275,000 in additional revenue annually before accounting for operation costs (explained below). The revenue gain has been benchmarked against fees collected in other agreement states: Vermont, Massachusetts, New York and Rhode Island. Additional revenue could be gained through licensing actions such as application for a new license, renewal, or amendment. Connecticut would also collect a nominal amount of money for reciprocity fees (NRC charges $2500 per year per license) for sources who are licensed in other states but may be doing business in Connecticut and for any civil penalties issued pursuant to section 22a-6 of the Connecticut general statutes. <u>Savings</u> Connecticut State Agencies (UCONN Health, Connecticut Agriculture Station, DOT, DPH and DEEP) pay $115,900 annually to NRC in radioactive material license fees which would be exempted under a new Materials Program. NRC also provides training and travel expenses for state personnel. The proposal transfers all funds not used for administration in the fiscal year to the General Fund. <u>Costs</u> To oversee the new licenses, the new program is anticipated to require four additional staff including a Supervising Radiation Control Physicist, an Environmental Analyst, and two Environmental Compliance Specialists. At current rates the total fiscal cost of this increased staff is anticipated to be $511,656 per year. Staff costs and operating fees would be covered by revenue gained through licensing fees. The NRC

	provides training and funds training travel for agreement state personnel. <u>Overall</u> The overall increase in revenue would be $1 million per year ($1.3 million in current NRC licensing fees minus $100,000 in fees from Connecticut state agencies), while costs would be approximately $500,000 per year (estimated staff costs), resulting in a yearly transfer of approximately $700,000 per year to the General Fund, even granted a potential decrease in licensing fees, which would save Connecticut businesses money.
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	NRC will no longer receive the license fees from radioactive material users in the state. A large percentage of the NRC's authorized budget is defrayed by the collection of license fees as required by law. Changes to the fees collected in the state will be reflected in the NRC's Congressional Budget Justification which describes the agency's programs in the performance plan, the budget estimates for these program activities, the distribution of the budget. This has been done for the 39 states that have entered into agreements for licensing of radioactive materials.
Additional notes	

MONITORING & EVALUATION PLAN
If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes.

[ ] Check here if this proposal does NOT lead to any measurable outcomes

As an Agreement State, the Department would administer licenses, collect fees (see above), perform inspections and perform recordkeeping duties that would result in measurable outcomes.

ANYTHING ELSE WE SHOULD KNOW?

INSERT FULLY DRAFTED BILL HERE

Section 1. Section 16a-100 of the Connecticut General Statutes is repealed, and the following is substituted in lieu thereof (effective from passage):

(a) The state of Connecticut endorses the action of the Congress of the United States in enacting the Atomic Energy Act of 1954 to institute a program to encourage the widespread participation in the development and utilization of atomic energy for peaceful purposes to the maximum extent consistent with the common defense and security and with the health and safety of the public; and therefore declares the policy of the state to be (1) to cooperate actively in the program thus instituted; and (2) to the extent that the regulation of special nuclear materials and by-product materials, of production facilities and utilization facilities and of persons operating such facilities may be within the jurisdiction of the state, to provide for the exercise of the state's regulatory authority so as to [conform, as nearly as may be, to] be compatible with the Atomic Energy Act of 1954 and regulations issued thereunder, to the end that there may, in effect, be a single harmonious system of regulation within the state.

(b) The state of Connecticut recognizes that the development of industries producing or utilizing atomic energy may result in new conditions calling for changes in the laws of the state and in regulations issued thereunder with respect to health and safety, working conditions, workers' compensation, transportation, public utilities, life, health, accident, fire and casualty insurance, the conservation of natural resources, including wildlife, and the protection of streams, rivers and airspace from pollution, and therefore declares the policy of the state to be (1) to adapt its laws and regulations to meet the new conditions in ways that will encourage the healthy development of industries producing or utilizing atomic energy while at the same time protecting the public interest; (2) to initiate continuing studies of the need for changes in the relevant laws and regulations of the state by the respective agencies of the state which are responsible for their administration; and (3) to assure the coordination of the studies thus undertaken, particularly with other atomic industrial development activities of the state and with the development and regulatory activities of other states and of the government of the United States.

Section 2. Subsection 22a-6(a) of the Connecticut General Statutes is repealed, and the following is substituted in lieu thereof (effective from passage):

(a) The commissioner may: (1) Adopt, amend or repeal, in accordance with the provisions of chapter 54, such environmental standards, criteria and regulations, and such procedural regulations as are necessary and proper to carry out his functions, powers and duties; (2) enter into contracts with any person, firm, corporation or association to do all things necessary or convenient to carry out the functions, powers and duties of the department; (3) initiate and receive complaints as to any actual or suspected violation of any statute, regulation, permit or order administered, adopted or issued by them [him]. The commissioner shall have the power to hold hearings, administer oaths, take testimony and subpoena witnesses and evidence, enter orders and institute legal proceedings including, but not limited to, suits for injunctions, for the enforcement of any statute, regulation, order or permit administered, adopted or issued by them [him]; (4) in accordance with regulations adopted by them [him], require, issue, renew, revoke, modify or deny permits, under such conditions as they [he] may prescribe, governing all sources of pollution in Connecticut within their [his] jurisdiction; (5) in accordance with constitutional limitations, enter at all reasonable times, without liability, upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of any statute, regulation, order or permit administered, adopted or issued by them [him] and the owner, managing agent or occupant of any such property shall permit such entry, and no action for trespass shall lie against the commissioner for such entry, or they [he] may apply to any court having criminal jurisdiction for a warrant to inspect such premises to determine compliance with any statute, regulation, order or permit administered, adopted or enforced by them [him], provided any information relating to secret processes or methods of manufacture or production ascertained by the commissioner during, or as a result of, any inspection, investigation, hearing or otherwise shall be kept confidential and shall not be disclosed except that, notwithstanding the provisions of subdivision (5) of subsection (b) of section 1-210, such information may be disclosed by the commissioner to the following federal agencies with cognizance over environmental and or radioactive issues: the United States Environmental Protection Agency and the Nuclear Regulatory Commission, pursuant to the federal Freedom of Information Act of 1976, (5 USC 552) and regulations adopted thereunder or, if such information is submitted after June 4, 1986, to any person pursuant to the federal Clean Water Act (33 USC 1251 et seq.); (6) undertake any studies, inquiries, surveys or analyses they [he] may deem relevant, through the personnel of the department or in cooperation with any public or private agency, to accomplish the functions, powers and duties of the commissioner; (7) require the posting of sufficient performance bond or other security to assure compliance with any permit or order; (8) provide by notice printed on any form that any false statement made thereon or pursuant thereto is punishable as a criminal offense under section 53a-157b; (9) construct or repair or contract for the construction or repair of any dam or flood and erosion control system under their [his] control and management, make or contract for the making of any alteration, repair or addition to any other real asset under their [his] control and management, including rented or leased premises, involving an expenditure of

five hundred thousand dollars or less, and, with prior approval of the Commissioner of Administrative Services, make or contract for the making of any alteration, repair or addition to such other real asset under their [his] control and management involving an expenditure of more than five hundred thousand dollars but not more than one million dollars; (10) in consultation with affected town and watershed organizations, enter into a lease agreement with a private entity owning a facility to allow the private entity to generate hydroelectricity provided the project meets the certification standards of the Low Impact Hydropower Institute; (11) by regulations adopted in accordance with the provisions of chapter 54, require the payment of a fee sufficient to cover the reasonable cost of the search, duplication and review of records requested under the Freedom of Information Act, as defined in section 1-200, and the reasonable cost of reviewing and acting upon an application for and monitoring compliance with the terms and conditions of any state or federal permit, license, registration, order, certificate or approval required pursuant to subsection (i) of section 22a-39, subsections (c) and (d) of section 22a-96, subsections (h), (i) and (k) of section 22a-424, and sections 22a-6d, 22a-32, 22a-134a, 22a-134e, 22a-135, 22a-148, 22a-150, 22a-174, 22a-208, 22a-208a, 22a-209, 22a-342, 22a-345, 22a-354i, 22a-361, 22a-363c, 22a-368, 22a-372, 22a-379, 22a-403, 22a-409, 22a-416, 22a-428 to 22a-432, inclusive, 22a-449 and 22a-454 to 22a-454c, inclusive, and Section 401 of the federal Clean Water Act, (33 USC 1341). Such costs may include, but are not limited to the costs of (A) public notice, (B) reviews, inspections and testing incidental to the issuance of and monitoring of compliance with such permits, licenses, orders, certificates and approvals, and (C) surveying and staking boundary lines. The applicant shall pay the fee established in accordance with the provisions of this section prior to the final decision of the commissioner on the application. The commissioner may postpone review of an application until receipt of the payment. Payment of a fee for monitoring compliance with the terms or conditions of a permit shall be at such time as the commissioner deems necessary and is required for an approval to remain valid; and (12) by regulations adopted in accordance with the provisions of chapter 54, require the payment of a fee sufficient to cover the reasonable cost of responding to requests for information concerning the status of real estate with regard to compliance with environmental statutes, regulations, permits or orders. Such fee shall be paid by the person requesting such information at the time of the request. Funds not exceeding two hundred thousand dollars received by the commissioner pursuant to subsection (g) of section 22a-174, during the fiscal year ending June 30, 1985, shall be deposited in the General Fund and credited to the appropriations of the Department of Energy and Environmental Protection in accordance with the provisions of section 4-86, and such funds shall not lapse until June 30, 1986. In any action brought against any employee of the department acting within his scope of delegated authority in performing any of the above-listed duties, the employee shall be represented by the Attorney General.

Section 3. Section 22a-151 of the Connecticut General Statutes is repealed, and the following is substituted in lieu thereof (effective from passage):

As used in sections 22a-151 to 22a-158, inclusive:

(1) "By-product material" means each of the following: (A) Any radioactive material, other than special nuclear material, that is yielded in or made radioactive by exposure to radiation which is incidental to the process of producing or utilizing special nuclear material; (B) the tailings or wastes produced by the extraction or concentration of uranium or thorium from any ore processed primarily for its source material content, including discrete surface wastes resulting from uranium solution extraction processes but excluding any underground ore bodies depleted by such solution extraction processes; (C) any discrete source of radium-226 that is produced, extracted or converted after extraction for use for a commercial, medical or research activity; (D) any material that was made radioactive by use of a particle accelerator and that is produced, extracted or converted after extraction for use for a commercial, medical or research activity; and (E) any discrete source of naturally occurring radioactive material, other than source material, that is extracted or converted after extraction for use in a commercial, medical or research activity, if the United States Nuclear Regulatory Commission determines that the source would pose a threat similar to the threat posed by a discrete source of radium-226 to the public health and safety;

(2) "Ionizing radiation" means gamma rays and x-rays, alpha and beta particles, high speed electrons, neutrons, protons and other nuclear particles, but not sound or radio waves, or visible, infrared or ultra violet light. The Commissioner of Energy and Environmental Protection shall be empowered to make regulations amending or modifying this definition;

(3) "General license" means a license effective pursuant to regulations promulgated by the Commissioner of Energy and Environmental Protection without the filing of an application for, or issuance of a licensing document for, the transfer, transport, acquisition, ownership, possession or use of quantities of, or devices or equipment utilizing by-product, source, special nuclear materials or other radioactive material occurring naturally or produced artificially;

(4) "Specific license" means a license, issued after application, to use, manufacture, produce, transfer, transport, receive, acquire, own, or possess quantities of, or devices or equipment utilizing by-product, source, special nuclear materials or other radioactive material occurring naturally or produced artificially;

(5) "Person" means any individual, corporation, limited liability company, partnership, firm, association, trust, estate, public or private institution, group, agency, other than any federal agency, political subdivision of this state, any other state or political subdivision or agency thereof, and any legal successor, representative, agent or agency of any of the foregoing, other than the United States [Atomic Energy] Nuclear Regulatory Commission or any successor thereto, and other than agencies of the government of the United States licensed by the United States Nuclear Regulatory Commission or any successor thereto;

(6) "Registration" means registration in conformance with the requirements of section 22a-148. The issuance of a specific license pursuant to sections 22a-151 to 22a-158, inclusive, shall be deemed to satisfy fully any registration requirements set forth in said section;

(7) "Source material" means each of the following: (A) Uranium, thorium or any combination of said elements, in any physical or chemical form; (B) any other material if the United States Nuclear Regulatory Commission determines the material to be source material; and (C) ores that contain uranium, thorium or any combination of said elements in a concentration by weight of 0.05 per cent or more, or in such lower concentration if the United States Nuclear Regulatory Commission determines the material in such concentration to be source material;

(8) "Special nuclear material" means (A) Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235 and any other material if the United States Nuclear Regulatory Commission determines the material to be such special nuclear material, but does not include source material; or (B) any material artificially enriched by any elements, isotopes or materials listed in subparagraph (A) of this subdivision not including source materials;

(9) "Radioactive materials" means any solid, liquid or gas that emits ionizing radiation spontaneously;

(10) "Commissioner" means the Commissioner of Energy and Environmental Protection or the commissioner's designee or agent;

(11) "Naturally occurring radioactive material" means material that contains radionuclides that are naturally present in the environment in materials, including, but not limited to, rocks, soil, minerals, natural gas, petroleum and ground or surface water;

(12) "Discrete source" means a radionuclide that was processed such that its concentration within a material was purposely increased for use for commercial, medical or research activities;

(13) “Sources of ionizing radiation” means, collectively, radioactive materials and radiation generating equipment.

Section 4. Section 22a-154 of the Connecticut General Statutes is repealed, and the following is substituted in lieu thereof (effective from passage):

(a) The Commissioner of Energy and Environmental Protection shall adopt regulations, in accordance with the provisions of chapter 54, for the general or specific licensing of sources of ionizing radiation, or devices or equipment utilizing such sources. The commissioner may issue, deny, renew, modify, suspend or revoke such licenses and may include such terms and conditions in such licenses that the commissioner deems necessary. Nothing in this section shall

be construed to confer authority to the commissioner to regulate materials or activities reserved to the Nuclear Regulatory Commission under 42 USC 2021(c) and 10 CFR 150.

(b) Said commissioner may exempt certain sources of ionizing radiation or kinds of uses or users from the licensing requirements set forth in this section when he makes a finding that the exemption of such sources of ionizing radiation or kinds of uses or users will not constitute a significant risk to the occupational and public health and safety.

(c) Until such time as regulations governing licensing are promulgated in pursuance of an agreement between the government of the United States and this state as authorized by section 22a-152, registration shall be deemed to satisfy any licensing requirements arising under sections 22a-151 to 22a-158, inclusive.

Section 5. Section 22a-158 is amended to include new subsection (d) (effective from passage):

(1) The commissioner, whenever they find after investigation that any person is causing, engaging in or maintaining, or is about to cause, engage in or maintain, any condition or activity which, in their judgment, will result in or is likely to result in imminent threat to human health or the environment within the jurisdiction of the commissioner under the provisions of chapter 446a, or whenever they find after investigation that there is a violation of the terms and conditions of a permit or license issued by them that is in their judgment substantial and continuous and it appears prejudicial to the interests of the people of the state to delay action until an opportunity for a hearing can be provided, or whenever they find after investigation that any person is conducting, has conducted, or is about to conduct an activity which will result in or is likely to result in imminent damage to the environment, or to public health within the jurisdiction of the commissioner under the provisions of chapter 446a for which a license, as defined in section 4-166, is required under the provisions of chapter 446a without obtaining such license, may, without prior hearing impound such radioactive source, or contract to impound such source.

(2) The commissioner shall, within ten days of the date of impounding material pursuant to subsection (a), hold a hearing to provide any such person an opportunity to be heard and show that such violation does not exist or such violation has not occurred or a license was not required or all required licenses were obtained. All briefs or legal memoranda to be presented in connection with such hearing shall be filed not later than ten days after such hearing. Such order shall remain in effect until fifteen days after the hearing within which time a new decision based on the hearing shall be made.

(3) Any person who is found to have violated any provision of chapter 446 leading to impoundment pursuant to subsection (a) of this section shall be liable for any costs of such impoundment, provided any provisions of said section concerning a continuing violation shall not apply to a person during the time when a hearing on an order issued pursuant to this section or an appeal is pending. The Attorney General, upon complaint of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford to recover such costs.

(4) The Commissioner shall have the authority to enter into a contract for the storage of impounded material, as necessary, to carry out the provisions of this section.

Agency Legislative Proposal – 2023 Session
Document Name:

Document Name	DEEP_3_Technical_Fixes_and_Minor_Revisions_to_Environment_Related_Statutes

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	Bureau of Natural Resources, Bureau of Outdoor Recreation, Bureau of Air
Drafter	Section 1: Chris Lewis Section 2: Bill Foreman Section 3: Bill Foreman Section 4: Bill Foreman Section 5: Justin Davis Section 6: Brian Thompson Section 7: Caleb Hamel Section 8: Tracy Babbidge

Title of Proposal	AAC Technical Fixes and Minor Revisions to Environment Related Statutes
Statutory Reference, if any	Section 1: 26-5 Section 2: 26-113, 26-159c Section 3: 26-102, 26-116 Section 4: 26-137 Section 5: 26-142b Section 6: 22a-6g, 22a-6h Section 7: 7-131d(c)(3); 7-131g(d) (new subsection) Section 8: 22a-185a

Brief Summary and Statement of Purpose	Section 1: Updates language in 26-5 to refer to POSTC for police officer training. Section 2: Modernizes noticing requirements for public hearings concerning proposed fisheries regulations by replacing the requirement to post notice of hearings in newspapers with a requirement to post on the agency's internet web site and on the eRegulations System. Section 3: Eliminates a statutory conflict by updating section 26-116 to conform to the provisions of section 26-102, thereby clarifying that the provisions of section 26-102 apply to the taking of fish for commercial purposes. Expands scope of commissioner's emergency fishery closure powers provided by 26-102 to include all regulated species (not just fish). Section 4: Eliminates the exemption in the prohibition on fishing near fishways that currently allows fishing for sea lamprey, thereby enhancing conservation of a native fish species and simplifying enforcement of the prohibition on fishing near fishways. Section 5: Modifies criteria for temporary reissue and permanent transfer of limited access commercial fishing licenses, with intent to avoid disruption to small businesses arising from medical issues or untimely death and provide greater opportunity for succession within Connecticut's aging commercial fishing industry. Section 6: Reduces the fiscal burden on residential permit applicants to DEEP by permitting public notice to be posted on relevant municipal land use websites and DEEP websites. Section 7: Updates the OSWA enabling statutes to allow for grants in situations in which federal, municipal, or private grants used as matching funds have already committed the subject property to public use. Section 8: Repeals the requirement for DEEP to provide technical assistance to municipalities for the specific purpose of providing technical assistance on community-based air quality monitoring conducted for the Cricket Valley power plant located in New York. From the data provided to DEEP by the community-based air quality monitoring group, DEEP could discern no impact from the Cricket Valley power plant on air quality in Connecticut.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

Section 1: Language changes to appointment / training / certification of EnCon officers

DEEP proposes to amend section 26-5 of the general statutes to update its language to align with current standards and practices concerning the appointment of conservation officers, special conservation officers and lake patrolmen, particularly given the passage of the Police Accountability Act (PA 20-1). The current statutory language requires that conservation officers complete a police training course at the state police training school or an equivalent course approved by the Commissioner of the Department of Emergency Services and Public Protection (DESPP). There is no state police training school; it has evolved into a Police Officer Standards and Training Council (POSTC) accredited academy from which all conservation officers appointed under section 26-5 receive certification. In addition, special conservation officers appointed under section 26-5 are either POSTC certified or receive DESPP-approved instruction.

Section 2: Modernize noticing requirements for fisheries regulation hearings

Sections 26-113 and 26-159c require notice of public hearings on inland and marine fishing regulations to be posted in newspapers prior to the public hearing (at least 14 days prior for inland regulations, and between 14 and 30 days prior for marine regulations). These requirements are both outdated and costly ($1,000 - $2,000 per hearing notice). Small print legal ads published in newspapers are ineffective in reaching the intended audience for fisheries regulations. Replacing the requirement to post regulation hearing notices in newspapers with a requirement to post hearing notices on DEEP's internet web site and on the eRegulations system will more effectively inform interested constituents and will reduce costs.

Section 3: Eliminate conflict between 26-102 and 26-116, expand emergency closure powers in 26-102 to include all marine regulated species

The proposed amendment of section 26-116 will eliminate confusion as to whether the provisions of section 26-102 concerning emergency powers to protect fish species threatened with undue depletion applies to the taking of fish for commercial purposes. Section 26-102 was amended in 1965 to add emergency power to regulate commercial fishing activity "when any species of fish is threatened with undue depletion from any cause" by establishing an exemption from the provisions of section 26-116; however, section 26-116 was never accordingly updated to conform with section 26-102. Additionally, a proposed modification to 26-102 will provide the commissioner emergency fishery closure powers for all regulated species as defined in section 26-1, thus acknowledging that not just "fish" may be the subject of commercial fishing activity.

Section 4: Eliminate sea lamprey exemption in prohibition on fishing near fishways

Fishways are man-made structures designed to allow fish to migrate past dams and are a key component of restoration strategies for migratory fish species of conservation concern. The prohibition on fishing near fishways implemented by section 26-137 is intended to prevent recreational anglers from interfering with fish passage and to discourage poaching of fish concentrated in or near a fishway. The exemption for sea lamprey, a native fish of ecological importance, reflects an outdated view of this species as undesirable and ecologically harmful. Sea lamprey are the subject of DEEP restoration efforts in multiple Connecticut river systems with fishways. Removal of the current exemption for sea lamprey from the prohibition on fishing near fishways will increase protection for this native species, better align with DEEP fisheries restoration goals, and simplify enforcement of the general prohibition on fishing near fishways.

Section 5: Modifying commercial fishing license reissue and transfer rules

Connecticut's commercial fishing industry, composed in large part of small family-owned businesses, contributes hundreds of millions of dollars to the state's economy and is an important component of the socio-economic fabric of coastal communities. The pool of license holders has contracted by approximately 50% over the last 30 years, and many remaining licensees are reaching advanced ages that make active participation difficult. Given the prevailing moratorium on issuance of new limited access licenses, license transfers are the only means for industry succession provided for in statute; current transfer criteria were implemented decades ago and do not reflect the needs of today's industry. The changes proposed here would afford the agency greater flexibility to temporarily transfer or "reissue" a license if a licensee or an immediate family member is facing medical issues, ensure that fishing activity that occurs during the period of temporary transfer can contribute to the permanent transferability of a license provided that the licensee was already a reasonably active industry participant, expand transfer criteria to reflect an important contemporary change in fishing practices (vessels landing under the privilege of a vessel owner's quota-managed species endorsement, without the vessel owner being on board), relax provisions related to the length of a vessel that can be used by the recipient of a transferred trawling license, and expand the circumstances under which a license can be transferred following untimely death. All of the proposed changes are directly responsive to requests from commercial fishing industry participants.

Section 6: Regulatory streamlining

The cost of publishing the notice of application for permit and the notice of tentative determination, as required by CGS Sections 22a-6g and 22a-6h, "in a newspaper of general circulation in the affected area," has become cost prohibitive for many property owners applying for DEEP permits, often exceeding the actual permit application fee by thousands of dollars. For example, the application fee for a Structures, Dredging & Fill application is $660

while the cost for publishing both notices generally exceeds $2,000. Furthermore, with significant declines in newspaper subscriptions and readership, the initial intent of the statutes to notify nearby residents and other interested parties of the DEEP application and tentative decision is no longer being met. Additionally, the Department spends significant administrative, technical and financial staff time for publishing the notice of tentative determination and invoicing the applicants to reimburse the Department. There would be significant savings in Department staff time if the notice of tentative determination were solely published in the DEEP website. To modernize and make the Notice process more effective, while reducing the costs to DEEP and its prospective applicants, the proposal would require the applicant to have the notice of application posted on the municipal website that is used for local land use decisions and both the notice of application and DEEP's notice of tentative determination posted on its own website. This reduction in administrative costs associated with submitting permit applications to DEEP will also improve compliance by residential property owners and aid LWRD enforcement staff.

Section 7: LAM - 41 Amendment to 7-131g

Under the current statute, OSWA grants may not be made for land already committed to public use. This rule protects public monies by ensuring OSWA funds are spent to increase the acreage of protected lands around the state. However, this also serves as a complicating factor when OSWA funds represent only a portion of the total purchase price for protection of the land. Federal grant programs typically require the land be committed to public use before the grantor conveys interests to the state; in other situations, municipal or private restrictions required to use those funding sources for state matching purposes may be recorded before the state's easement is finalized. To resolve this conflict, the revision allows OSWA grants to proceed even in the face of preexisting public commitments in certain narrow circumstances.

Section 8: Eliminates the requirement for DEEP to provide assistance with community-based air quality monitoring efforts associated with the Cricket Valley Energy Center located in the New York close to the Connecticut border. DEEP has completed this effort with community groups in the area and recommends repealing the section.

BACKGROUND

Origin of Proposal **[x] New Proposal** **[x] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:
Section 1: New Section 2: New Section 3: New Section 4: This proposed revision to section 26-137 was included in HB-5497 of the 2020 session (AAC Minor Revisions to Environmental-Related Statutes). This bill was scheduled for public hearing on March 20, 2020, but the hearing was ultimately cancelled because of the onset of the COVID-19 pandemic, and the bill was not voted out of Committee. Section 5: New Section 6: New Section 7: New Section 8: New

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	Section 1: No Section 2: No Section 3: No Section 4: No Section 5: No Section 6: No Section 7: No Section 8: No
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	Section 1: Most states follow the state POST training/certification model for police officers Section 2: Unknown Section 3: Unknown Section 4: Unknown Section 5: Other regional states have provisions allowing for temporary commercial license transfer due to medical hardship Section 6: Unknown Section 7: Unknown Section 8: No
Have certain constituencies called for this proposal?	Section 1: No Section 2: No Section 3: No Section 4: No Section 5: Yes – commercial fishermen

	Section 6: Yes – homeowners Section 7: Yes—conservation organizations Section 8: No - but the NY power plant has been operational, and municipalities have not been conducting air quality monitoring, so the section is no longer necessary.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[X] Check here if this proposal does NOT impact other agencies

1. Agency Name	
Agency Contact (name, title)	
Date Contacted	
Status	**[ ] Approved [ ] Talks Ongoing**
Open Issues, if any	

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	Section 2: minor savings to DEEP ($2,000 - $4,000 annually) Section 5: minor additional revenues to DEEP due to annual renewals of limited access commercial fishing licenses that may not be renewed under prevailing license transfer rules, some additional revenues to the state from taxes paid on fishing industry revenues Section 6: savings in DEEP staff time preparing notices for publication and billing homeowner Section 8: savings in DEEP staff time in providing technical assistance and data analysis that can be reallocated to other monitoring efforts.
Municipal (Include any municipal mandate that can be found within legislation)	Section 6: minor cost associated with posting notices on website

Federal	
Additional notes	

MONITORING & EVALUATION PLAN
If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[ ] Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?

Sections 2-4: The last substantive revisions to sections 26-113 and 26-116 occurred in 1955 or earlier, the last substantive change to section 26-137 occurred in 1983, and the last substantive change to section 26-159c occurred in 1980. The revisions proposed here will update these statutes to reflect current fishery management goals and technological advancements in public communication.

INSERT FULLY DRAFTED BILL HERE

Section 1

1. PROPOSED REVISIONS TO 26-5 OF THE GENERAL STATUTES

Section 26-5 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The Commissioner of Energy and Environmental Protection shall appoint such number of conservation officers as may be necessary for the efficient execution of the duties of the department under section 26-6. The commissioner may supplement the regular conservation officer force by appointing as special conservation officer any employee of the department or any sworn federal law enforcement officer of the United States Fish and Wildlife Service or National Marine Fisheries Service, provided such federal officer shall not be considered an employee of the state and may only exercise such officer's authority pursuant to section 26-6 when working with a full-time conservation officer. The commissioner may also appoint any lake patrolman as a special conservation officer solely for the purpose of enforcing boating laws within such patrolman's jurisdiction, provided such patrolman shall not be considered an employee of the state, and further provided that such patrolman has completed a police training course at [the state police training school] a Police Officer Standards and Training Council approved training academy or an equivalent course approved by the Commissioner of Emergency Services and Public Protection. Notwithstanding the provisions of this section, no such lake patrolman shall carry a firearm while in the performance of their [his or her] duties as a special conservation officer unless the board of selectmen of the town or towns in which the lake on which the lake patrolman serves is located approves such carrying of a firearm, or in the case of any town having no board of selectmen, the lake patrolman obtains the approval of the legislative body of such town or towns in which the lake is located. Each conservation officer [or special conservation officer] shall [complete a police training course at the state police training school or an equivalent course approved by the Commissioner of Emergency Services and Public Protection] be certified by the Police Officer Standards and Training Council under section 7-294d of the general statutes within one year of appointment. Each special conservation officer shall be certified by the Police Officer Standards and Training Council under section 7-294d of the general statutes or complete an equivalent course approved by the Commissioner of Emergency Services and Public Protection. Special conservation officers who are employees of the department shall be entitled to the same benefits to which conservation officers are entitled under the provisions of section 5-142, and such an appointment shall be deemed not to be in conflict with any of the provisions of chapter 67. In addition to their salaries, conservation officers and special conservation officers who are employees of the department shall be reimbursed for all expenses incurred in performance of official duty.

Section 2

Section 26-113 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Notice of such hearing shall be **[**advertised in one or more newspapers having a general circulation in each of the counties of the state or in the locality where such waters are situated.**]** posted on the eRegulations System and on the Department of Energy and Environmental Protection's internet web site. Such notice shall specify the time, not less than fourteen days thereafter, the agenda and the place designated by the commissioner at which such hearing shall be held, and at which persons having an interest therein will have an opportunity to be heard. The commissioner or their [his] designated representative shall conduct such hearing and cause a record thereof to be made. After such notice and hearing the commissioner shall issue their [his] regulations based upon standards of sound fisheries management including the following: (a) Scientific and factual findings of a biological nature; (b) the availability of the species involved; (c) unusual weather conditions and special hazards; (d) the available supply of food and natural cover; (e) the general condition of the waters; (f) the control of the species; (g) the number of permits issued; (h) the area available; (i) the rights and privileges of sportsmen, landowners and the general public; (j) the problem of providing and perpetuating a sound program of fisheries management and a sound recreational program consistent with the availability of the species.

Section 26-159c of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Prior to the adoption of any regulation under subsection (g) of section 26-142a or section 26-159a, the commissioner or their [his] designated representative shall conduct a public hearing or hearings in those coastal areas where persons substantially affected by such regulation and having an interest therein may be heard. The commissioner shall **[**cause**]** post notice of such hearing or hearings on the eRegulations System and on the Department of Energy and Environmental Protection's internet web site **[**to be published at least once**]** not **[**more than thirty days and not**]** fewer than **[**ten**]** fourteen days before the date set for such hearing or hearings **[**in a newspaper or newspapers having general circulation in those areas which may be affected by such regulation**]**.

Section 3

Section 26-102 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Sec. 26-102. Fish spawning areas and refuges. The commissioner may establish fish spawning areas and refuges on any waters; and they [he] may establish closed areas and safety zones on

public lands and waters and, with the consent of the owner, on private lands and waters, and close any such area to fishing and trespassing. The commissioner shall have emergency authority to declare a closed season on any [species of fish]regulated species threatened with undue depletion from any cause and, the provisions of section 26-116 notwithstanding, if such cause is any person, firm or corporation engaged in commercial fishing activity, the commissioner shall have the additional emergency power to establish prescribed conditions for the operation of such commercial fishing activity, or suspend or prohibit the right of such person, firm or corporation to operate within such waters for such period of time as the commissioner deems necessary. The commissioner may, if they [he] deem[s] it necessary, close any waters, or portions thereof, in the inland district to fishing for limited periods of time.

Section 26-116 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

The provisions of sections [26-102 and] 26-111 to 26-117, inclusive, shall not apply to the taking of fish for commercial purposes and shall not affect any statute regulating fishing in any lake, pond or reservoir used for domestic water supply, nor shall any action be taken under the provisions of said sections which will unreasonably interfere with the proper management of a public water supply system.

Section 4

Section 26-137 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

No person shall take or attempt to take any fish [, with the exception of lamprey eels during the open season for the same,] within two hundred fifty feet of any fishway, except that the commissioner when they [he] deem[s] necessary may extend or reduce such distance and shall indicate such other distance by posting.

Section 5

Section 26-142b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

Sec. 26-142b. Resident-held and nonresident-held principal commercial fishing license, general commercial fishing license and commercial lobster pot fishing license. Restrictions on reissuance, transfer and renewal. (a) For the purposes of this section, “active” with regard to a principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license means that the license has been renewed in the current year.

(b) Notwithstanding any other provision of law, the Commissioner of Energy and Environmental Protection may reissue an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license in the event the license holder is temporarily incapacitated and unable to operate a vessel or perform other necessary functions associated with commercial fishing[.], or in the event a license holder is unable to conduct commercial fishing due to exigencies related to medical care of an immediate family member. Such temporary license may only be issued to a member of such [incapacitated] license holder's immediate family or to a member of such [incapacitated]license holder's crew, as designated by such license holder, for the duration of such license holder's incapacity or exigencies related to medical care of an immediate family member[or twelve consecutive months, whichever is the shorter period]. Such temporary license shall be subject to the provisions of section 26-142a. Landings during the period of temporary license reissue may be used to satisfy the requirements for license transfer in subsection (c) of this section provided the license met all such requirements for transfer at the time of temporary reissue.

(c) The commissioner may authorize the transfer of an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license, issued pursuant to subsection (f) of section 26-142a, provided: (1) For purposes of an active resident-held principal or general commercial fishing license or commercial lobster pot fishing license: (A) The person receiving the license in such transfer is a resident of this state, and (B) the person transferring the license held the license and landed regulated species or owned a vessel that landed regulated species under the privilege of a quota-managed species endorsement associated with the license in at least five of the eight calendar years preceding the transfer request, and [reported] such landings were reported to the commissioner, pursuant to section 26-157b, for not less than thirty fishing days in each year, or (2) for purposes of an active nonresident-held principal or general commercial fishing license or commercial lobster pot fishing license: The person transferring the license held the license and landed regulated species or owned a vessel that landed regulated species under the privilege of a quota-managed species endorsement associated with the license in at least five of the eight calendar years preceding the transfer request and [reported] such landings were reported to the commissioner, pursuant to section 26-157b, for not less than thirty fishing days in each year. Such landings shall be verified by seafood dealer reports submitted pursuant to section 26-157b. The recipient of a transferred commercial lobster pot fishing license or principal commercial fishing license shall be limited to the number of lobster pots allocated to such license, except a transferee who currently holds a commercial lobster pot fishing license, issued pursuant to subsection (f) of section 26-142a, shall be limited to the number of pots allocated to such person's currently held commercial lobster pot fishing license or principal commercial fishing license or to the transferred license, whichever is greater. The length of any commercial fishing vessel used by the recipient of a transferred license to fish with a trawl net in the waters of this state shall be not more than [ten]twenty per cent greater than the length of the largest vessel used by the person transferring the license during such qualifying period.

(d) (1) In the event of the death of the holder of an active principal commercial fishing license, general commercial fishing license or commercial lobster pot fishing license, the commissioner may authorize the transfer of such license pursuant to subsection (c) of this section, for a period of two years from the date of death of such license holder. (2) If the deceased license holder held such license for a period of less than five complete calendar years, the commissioner may authorize the transfer of said license (A) subject to the provisions of this section, and (B) provided that the license holder landed regulated species or owned a vessel that landed regulated species under the privilege of a quota-managed species endorsement associated with the license in each calendar year during which the license holder held the license for six months or longer, and (C) provided that such landings were reported to the commissioner, pursuant to section 26-157b, for not less than thirty fishing days in each year.

(e) Upon transfer of a license, the original license holder shall become ineligible to obtain a renewal of that license. Such original license holder may acquire a new license through a subsequent license transfer.

(f) A transfer of a license under this section shall not be made while a commercial fishery license, registration or vessel permit held by the transferor or transferee is under suspension and a transfer shall not be authorized for any transferee who has had a commercial fishery license, registration or vessel permit revoked or suspended within the preceding twelve months.

Section 6

Section 22a-6g of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Any person who submits an application to the Commissioner of Energy and Environmental Protection for any permit or other license pursuant to section 22a-32, 22a-39, 22a-174, 22a-208a, 22a-342, 22a-361, 22a-368, 22a-403 or 22a-430, subsection (b) or (c) of section 22a-449, section 22a-454 or Section 401 of the federal Water Pollution Control Act (33 USC 466 et seq.), except an application for authorization under a general permit shall: (1) Publish notice of such application in a newspaper of general circulation in the affected area or on the website used for local land use decisions in the municipality where such property is located and the website of the Department of Energy and Environmental Protection; (2) notify the chief elected official of the municipality in which the regulated activity is proposed; and (3) include with such application a copy of such notice as it appeared in the newspaper or relevant website and a signed statement certifying that the applicant notified the chief elected official of the municipality in which such regulated activity is proposed. Such notices shall include: (A) The name and mailing address of the applicant and the address of the location at which the proposed activity will take place; (B) the application number, if available; (C) the type of permit

sought, including a reference to the applicable statute or regulation; (D) a description of the activity for which a permit is sought; (E) a description of the location of the proposed activity and any natural resources affected thereby; (F) the name, address and telephone number of any agent of the applicant from whom interested persons may obtain copies of the application; and (G) a statement that the application is available for inspection at the office of the Department of Energy and Environmental Protection. The commissioner shall not process an application until the applicant has submitted to the commissioner a copy of the notice and the signed statement required by this section. Any person who submits an application pursuant to section 22a-32 or 22a-361 shall additionally mail such notice to any land owner of record for any property that is located five hundred feet or less from the [property line of the property on] location at which such proposed activity will occur. The provisions of this section shall not apply to discharges exempted from the notice requirement by the commissioner pursuant to subsection (b) of section 22a-430, to hazardous waste transporter permits issued pursuant to section 22a-454 or to special waste authorizations issued pursuant to section 22a-209 and regulations adopted thereunder.

Section 22a-6h of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) The Commissioner of Energy and Environmental Protection, at least thirty days before approving or denying an application under section 22a-32, 22a-39, 22a-174, 22a-208a, 22a-342, 22a-361, 22a-368, 22a-403 or 22a-430, subsection (b) or (c) of section 22a-449, section 22a-454 or Section 401 of the federal Water Pollution Control Act (33 USC 466 et seq.), shall publish or cause to be published, at the applicant's expense, once in a newspaper having a substantial circulation in the affected area or, if such application pertains to a single-family residential property, on the website used for local land use decisions in the municipality where such property is located and the website of the Department of Energy and Environmental Protection notice of the commissioner's tentative determination regarding such application. Such notice shall include: (1) The name and mailing address of the applicant and the address of the location of the proposed activity; (2) the application number; (3) the tentative decision regarding the application; (4) the type of permit or other authorization sought, including a reference to the applicable statute or regulation; (5) a description of the location of the proposed activity and any natural resources affected thereby; (6) the name, address and telephone number of any agent of the applicant from whom interested persons may obtain copies of the application; (7) a brief description of all opportunities for public participation provided by statute or regulation, including the length of time available for submission of public comments to the commissioner on the application; and (8) such additional information as the commissioner deems necessary

to comply with any provision of this title or regulations adopted hereunder, or with the federal Clean Air Act, federal Clean Water Act or federal Resource Conservation and Recovery Act. The commissioner shall further give notice of such determination to the chief elected official of the municipality in which the regulated activity is proposed. Nothing in this section shall preclude the commissioner from giving such additional notice as may be required by any other provision of this title or regulations adopted hereunder, or by the federal Clean Air Act, federal Clean Water Act or federal Resource Conservation and Recovery Act. The provisions of this section shall not apply to discharges exempted from the notice requirement by the commissioner pursuant to subsection (b) of section 22a-430, to hazardous waste transporter permits issued pursuant to section 22a-454 or to special waste authorizations issued pursuant to section 22a-209 and regulations adopted thereunder.

Section 7

Section 7-131g of the general statutes is repealed and the following is substituted in lieu thereof (Effective from passage):

(a) The Commissioner of Energy and Environmental Protection may make grants under the open space and watershed land acquisition program to: (1) Municipalities for acquisition of land for open space under subdivisions (1) to (6), inclusive, of subsection (b) of section 7-131d in an amount not to exceed sixty-five per cent of the fair market value of a parcel of land or interest in land proposed to be acquired; (2) municipalities for acquisition of land for class I and class II water supply protection under subdivision (5) of subsection (b) of said section 7-131d, in an amount not to exceed sixty-five per cent of such value; (3) nonprofit land conservation organizations for acquisition of land for open space or watershed protection under subdivisions (1) to (6), inclusive, of subsection (b) of said section 7-131d, in an amount not to exceed sixty-five per cent of such value; (4) water companies for acquisition of land under subdivision (7) of subsection (b) of said section 7-131d, in an amount not to exceed sixty-five per cent of such value provided if such a company proposes in a grant application that it intends to allow access to such land for recreational uses, such company shall seek approval of the Commissioner of Public Health for such access; and (5) distressed municipalities or targeted investment communities, as defined in section 32-9p, or, with the approval of the chief elected official or governing legislative body of such a municipality or community, to a nonprofit land conservation organization or water company, for acquisition of land within that municipality or community, for open space under subdivisions (1) to (6), inclusive, of subsection (b) of said section 7-131d, in an amount not to exceed seventy-five per cent of such value or for performance of work in the restoration, enhancement or protection of resources in an amount

not to exceed fifty per cent of the cost of such work. Applicants for grants under the program shall provide a copy of the application to the chairperson of the review board established under section 7-131e. The board shall provide comments to the commissioner on pending applications as it deems necessary.

(b) For purposes of this subsection, the fair market value of land or interest in land shall be determined by one or more appraisals satisfactory to the commissioner and shall not include incidental costs, including, but not limited to, surveying, development or closing costs. The commissioner may consider a portion of the fair market value of a donation of land by an entity receiving a grant as a portion of the matching funds required under this subsection. A grantee may use funds made available by the state, pursuant to subsection (a) of this section, and the federal government to fund not more than ninety per cent of the fair market value of any project funded under the program, except the commissioner may authorize a grantee to use such state funds provided pursuant to subsection (a) of this section and any funds made available by the federal government to fund one hundred per cent of the fair market value of any project funded under said program if the commissioner determines that any of the following conditions exist: (1) The grantee committed or expended significant resources, including, but not limited to, payment of such incidental costs, toward the acquisition and preservation in perpetuity of such land; (2) that the grantee committed or expended significant resources for the care, maintenance or preservation of such land that was consistent with the intent of the open space and watershed land acquisition program, as described in section 7-131d; (3) that such project will provide a significant recreational opportunity or natural resource protection for the state and is consistent with: (A) The criteria of subsections (b) and (c) of section 7-131d; (B) the additional considerations set forth in subsection (a) of section 7-131e; and (C) any written guidelines developed by the commissioner pursuant to said subsection; or (4) that such project is located in an area of the state with a limited amount of land available for such recreational opportunity or natural resource protection and is consistent with: (A) The criteria of subsections (b) and (c) of section 7-131d; (B) the additional considerations set forth in subsection (a) of section 7-131e, except equitable geographic distribution of such grants; and (C) any written guidelines developed by the commissioner pursuant to said subsection.

(c) For purposes of this section and Section 7-131d(c)(3), the execution or recording of a conservation easement or other conservation restriction prior to the recording described in Section 7-131d(e), which easement or restriction is the result of a federally-funded land conservation program, municipal conservation grant, or a private conservation grant program, shall not be construed as a previous commitment for public use, provided:

(1) such prior easement is executed after the execution of the grant agreement for a grant to preserve such property under this section;
(2) at the time of recording the easement required by section 7-131d(e), all non-federal holders of such prior easement or easements subordinate their interests in the property to the interests of the State of Connecticut;
(3) such third-party funds are used as matching funds for a grant under this section; and
(4) the Commissioner determines, based on all pertinent circumstances, that the conveyance of such other conservation restrictions in combination with the acquisition of the state's interest under this section constitutes one concurrent acquisition of property or interests therein.

(d) To the extent there is a balance of bonds authorized but not allocated by the State Bond Commission on or after July 1, 1998, pursuant to any bond act for the purposes of (1) the recreation and natural heritage trust program established under sections 23-73 to 23-79, inclusive, and (2) the municipal open space grant program established under sections 7-131c to 7-131g, inclusive, the State Bond Commission shall authorize the issuance of such balance only for the purposes described in section 23-74 and sections 23-75 and 7-131d and in two substantially equal installments one in each half of the fiscal year commencing with the fiscal year ending June 30, 1999.

Section 8

Section 22a-185a of Connecticut General Statutes is repealed:

[Sec. 22a-185a. Assistance with establishing municipal air quality baseline and effect of Cricket Valley Energy Center. The Department of Energy and Environmental Protection shall provide technical assistance and support to any municipality that purchases, leases or is provided the use of air monitoring equipment for the purpose of establishing an air quality baseline in such municipality and determining any effect on such baseline by the Cricket Valley Energy Center in the state of New York. Such technical assistance and support shall include, but not be limited to, the provision of information on best practices for the establishment of such baseline, guidance on the siting and placement of such air quality monitors, information concerning the maintenance and practices required to assure the accuracy of such monitors, proposed schedules for data retrieval from such monitors during the calendar year and review of and conclusion from the results of such data retrieval.]

Agency Legislative Proposal – 2023 Session
Document Name:

Document Name	DEEP_5_Utility_Affordability

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC
Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	Bureau of Energy and Technology Policy
Drafters	Kristin Cianflone, Ashley Marshall

Title of Proposal	An Act Concerning the Affordability of Utilities
Statutory Reference, if any	16-41, 4d-87, 16-262c, 16a-41, 16-24a
Brief Summary and Statement of Purpose	Sections 1 and 2 would allow the Public Utilities Regulatory Authority (PURA) to direct penalties against a telecommunications provider or cellular mobile telephone carrier to the Commission for Educational Technology's educational technology account, which funds will then be used in furtherance of the Commission's statewide technology goals. Section 3 revises Section 16-262c to add a prohibition on charging more than $100, inclusive of reconnection costs and payment on a customer's past due balance, to reinstate hardship customers' electric service after disconnection. Section 4 requires PURA to initiate a docket to establish a procedure to protect hardship customers' electric service during extreme heat weather.

	Sections 5 and 6 would require PURA to consider the implementation of low-income rates for water and gas utilities in their next rate proceeding. Like electricity, water and gas prices are increasing and becoming even less affordable for low-income populations. Some projections are predicting that gas prices could rise to as high as $30/MMbtu in 2023. As for the price of water, the state has seen increases in the CT Water Company's rates, and an increase in Aquarion Water Company's rates is expected as well with its recent filing at PURA. Other water companies may soon follow suit. PURA's proceeding on the low-income discount rate for electric customers is ongoing, and a Final Decision will likely be released before the end of the year. The groundwork for implementing low-income utility rates in CT has been laid, and the work that PURA has done in the electric sector can now be expanded to the water and gas sectors.

SECTION-BY-SECTION SUMMARY
Summarize sections in groups where appropriate

Section 1 gives the Public Utilities Regulatory Authority the flexibility to direct penalties against a telecommunications provider or cellular mobile telephone carrier to the Commission for Educational Technology's educational technology account to be used in furtherance of the Commission's statewide technology goals.

Section 2 revises the educational technology account statute to accommodate this change.

Section 3 revises Section 16-262c to prohibit electric distribution companies and municipal utilities from charging more than $100 to reinstate disconnected electric service to hardship customers.

Sections 4 seeks to address the loss of cooling relief for hardship electric customers during potentially life-threatening, and increasingly more frequent, extreme heatwaves.

Section 5 requires PURA to consider low-income discounted rates for gas and water company customers, while Section 6 repeals a sunsetted provision that directs DEEP to develop similar rates.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[ ] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	**N/A**
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	**N/A**
Have certain constituencies called for this proposal?	

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[ ] Check here if this proposal does NOT impact other agencies

1. Agency Name	DAS/CET and PURA
Agency Contact (name, title)	Doug Casey from CET, Eleanor Michael from DAS, Taren O'Connor from PURA, Cassandra Norfleet from DSS
Date Contacted	CET contacted Monday, September 12. Met with DAS and PURA on Monday, September 26
Status	**[X] Approved (Secs. 1 and 2) [X] Talks Ongoing (all others)**
Open Issues, if any	PURA had concerns with sections 3 and 5. DEEP has addressed some of them with further refinement of the proposal.

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[X] Check here if this proposal does NOT have a fiscal impact

State	
Municipal (Include any municipal mandate that can be found within legislation)	
Federal	
Additional notes	

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[ ] Check here if this proposal does NOT lead to any measurable outcomes

Section 4: PURA could seek information from the electric distribution companies regarding the number of customers seeking shutoff protection under this proposal.

ANYTHING ELSE WE SHOULD KNOW?

INSERT FULLY DRAFTED BILL HERE

Sec. 1. Subsection (a) of section 16-41 of the general statutes, as amended by Public Act 22-1, is repealed and the following is substituted in lieu thereof *(effective October 1, 2023*):

(a) Each (1) public service company and its officers, agents and employees, (2) electric supplier or person providing electric generation services without a license in violation of section 16-245, and its officers, agents and employees, (3) certified telecommunications provider or person providing telecommunications services without authorization pursuant to sections 16-247f to 16-247h, inclusive, and its officers, agents and employees, (4) person, public agency or public utility, as such terms are defined in section 16-345, subject to the requirements of chapter 293,1 (5) person subject to the registration requirements under section 16-258a, (6) cellular mobile telephone carrier, as described in section 16-250b, (7) Connecticut electric efficiency partner, as defined in section 16-243v, (8) company, as defined in section 16-49, and (9) entity approved to submeter pursuant to section 16-19ff shall obey, observe and comply with all applicable provisions of this title and each applicable order made or applicable regulations adopted by the Public Utilities Regulatory Authority by virtue of this title as long as the same remains in force. Any such company, electric supplier, certified telecommunications provider, cellular mobile telephone carrier, Connecticut electric efficiency partner, entity approved to submeter, person, any officer, agent or employee thereof, public agency or public utility which the authority finds has failed to obey or comply with any such provision of this title, order or regulation shall be fined, ordered to pay restitution to customers or ordered to pay a

combination of a fine and restitution by order of the authority in accordance with the penalty prescribed for the violated provision of this title or, if no penalty is prescribed, not more than ten thousand dollars for each offense, except that the penalty shall be a fine, restitution to customers or a combination of a fine and restitution of not more than forty thousand dollars for failure to comply with an order of the authority made in accordance with the provisions of section 16-19 or 16-247k or within thirty days of such order or within any specific time period for compliance specified in such order. The authority may direct a portion of any fine levied pursuant to this section to be paid to a nonprofit agency engaged in energy assistance programs named by the authority in its decision or notice of violation or, in the case of a certified telecommunications provider, a person providing telecommunications services without authorization, or a cellular mobile telephone carrier, to the educational technology account established pursuant to section 4d-81 of the general statutes. Any such nonprofit agency that receives a portion of a fine pursuant to this subsection shall administer such funds as directed by the authority and submit an annual report to the authority, at the end of each fiscal year and in a form determined by the authority, that details the expenditure of such funding. No such nonprofit agency shall use more than ten per cent of such funding for administrative purposes. [For] Notwithstanding the provisions of this subsection, for the fiscal years ending June 30, 2023, and June 30, 2024, the authority shall direct not less than ninety-five per cent of any fine levied pursuant to this section to nonprofit agencies engaged in energy assistance programs. Each distinct violation of any such provision of this title, order or regulation shall be a separate offense and, in case of a continued violation, each day thereof shall be deemed a separate offense. Each such penalty and any interest charged pursuant to subsection (g) or (h) of section 16-49 shall be excluded from operating expenses for purposes of rate-making.

Sec. 2. Section 4d-81 is repealed and the following is substituted in lieu thereof (*effective October 1, 2023*):

There is established an educational technology account. The Commission for Educational Technology shall deposit in said account any private donation, bequest or devise made to it or funds received pursuant to section 16-41, as amended by this act, to assist in the attainment of the state-wide technology goals established pursuant to subdivision (2) of subsection (c) of section 4d-80. Said account is intended to be in addition to those resources that are appropriated by the state for technology purposes. The commission shall use the resources of the account for activities related to the attainment of such goals.

Sec. 3. Subdivision (1) of subsection (b) of section 16-262c of the general statutes is revised and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(b) (1) From November first to May first, inclusive, no electric distribution company, as defined in section 16-1, no electric supplier and no municipal utility furnishing electricity shall terminate, deny or refuse to reinstate residential electric service in hardship cases where the customer lacks the financial resources to pay his or her entire account. From November first to May first,

inclusive, no gas company and no municipal utility furnishing gas shall terminate, deny or refuse to reinstate residential gas service in hardship cases where the customer uses such gas for heat and lacks the financial resources to pay his or her entire account, except a gas company that, between May second and October thirty-first, terminated gas service to a residential customer who uses gas for heat and who, during the previous period of November first to May first, had gas service maintained because of hardship status, may refuse to reinstate the gas service from November first to May first, inclusive, only if the customer has failed to pay, since the preceding November first, the lesser of: (A) Twenty per cent of the outstanding principal balance owed the gas company as of the date of termination, (B) one hundred dollars, or (C) the minimum payments due under the customer's amortization agreement. Notwithstanding any other provision of the general statutes to the contrary, no electric distribution or gas company, no electric supplier and no municipal utility furnishing electricity or gas shall terminate, deny or refuse to reinstate residential electric or gas service where the customer lacks the financial resources to pay his or her entire account and for which customer or a member of the customer's household the termination, denial of or failure to reinstate such service would create a life-threatening situation. No electric distribution or gas company, no electric supplier and no municipal utility furnishing electricity or gas shall terminate, deny or refuse to reinstate residential electric or gas service where the customer is a hardship case and lacks the financial resources to pay his or her entire account and a child not more than twenty-four months old resides in the customer's household and such child has been admitted to the hospital and received discharge papers on which the attending physician, physician assistant or an advanced practice registered nurse has indicated such service is a necessity for the health and well-being of such child. In hardship cases where the customer lacks the financial resources to pay his or her entire account, charges by an electric distribution company or municipal utility to reinstate residential electric service for said customers shall be capped at one hundred dollars, inclusive of reconnection costs and any payment required toward the customer's past due balance, which cap shall not constitute full arrearage forgiveness.

Sec. 4. (NEW) (E*ffective October 1, 2023*): Not later than November 1, 2023, the Public Utilities Regulatory Authority shall initiate a proceeding to establish a procedure that prohibits an electric supplier or electric distribution company from terminating, denying, or refusing to reinstate service to those customers identified as a hardship case pursuant to section 16-262c of the general statutes for those days on which the heat index temperature is forecasted by 8am to be 90 degrees Fahrenheit or more at any point on such day.

Sec. 5. (NEW) (*Effective October 1, 2023*): The Public Utilities Regulatory Authority shall investigate the implementation of a low-income discount rate for customers of a gas company or a water company of a size determined by the authority in the next rate case conducted pursuant to section 16-19e of the general statutes for each such company that is filed on or after the effective date of this section.

Sec. 6. (*Effective October 1, 2023*): Section 16-24a of the general statutes is repealed.

Document Name	DEEP_8_Climate_Resilient_Infrastructure

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC

Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	Office of Climate Planning & Bureau of Water Protection and Land Reuse
Drafter	Rebecca French, Director of Office of Climate Planning Graham Stevens, Bureau Chief WPLR Caleb Hamel, Staff Attorney

Title of Proposal	An Act Concerning Climate Resilient Infrastructure
Statutory Reference, if any	Section 1 is NEW Section 2 modifies CGS 25-95 Section 3 modifies CGS 25-84 Section 4 modifies CGS 25-85 Section 5 modifies CGS 25-94
Brief Summary and Statement of Purpose	<u>Summary</u> For construction of flood prevention, climate resilience or erosion control system as defined in CGS Sec. 25-85, this bill allows the state agencies who undertake construction projects on behalf of the state and that have the authority to acquire land or interests therein, including by condemnation, to accept federal funds, acquire property, compensate property owners for such acquisition, and cost share adjustment or relocation of utilities with utilities.

	Allows a state agency to set up a municipal flood prevention, climate resilience and erosion control board for projects of regional or national significance, if that board is not yet established by the municipality. Allows state agencies to enter into agreements with municipal flood prevention, climate resilience and erosion control boards for the purpose of constructing projects or systems to prevent, correct and arrest erosion and flood damage within the boundaries of the state. <u>Purpose</u> The proposal sets Connecticut's state agencies up for success to compete and win federal resilient infrastructure grants through the Infrastructure Investment and Jobs Act and the Inflation Reduction Act through which DEEP estimates $374 million in funding could come to Connecticut, largely for construction. While municipalities will lead many resilience projects, state agencies that directly undertake construction on behalf of the state and that have the authority to acquire land or interests therein, including by condemnation, may need to be directly involved or in the lead for resilient infrastructure projects 1) where the federal government requires the state to be the grant recipient or local sponsor; 2) that protect state-owned or operated assets; or 3) that are of regional or national significance. The bill supports the implementation of the DEEP Climate Resilience Fund, announced by Governor Lamont on 9/20/22, which is investing up to $10 million in state bond funds in its first round for climate resilience planning and project concept development to get communities ready to apply for federal funds for construction. For those projects of regional and statewide significance where the state may need to be involved, this bill ensures the state has the authority to act. It also ensures that municipalities have a governance structure in place through the municipal flood prevention, climate resilience and erosion control boards, to construct, operate and maintain projects, including authority for sustainable funding options, conceived with support from the DEEP Climate Resilience Fund. This proposal ensures that all state agencies that undertake construction on behalf of the state that may be eligible to receive federal resilience funds have the authority to act on that opportunity for the discrete set of activities defined under CGS Sec. 25-85, as amended by Governor's bill PA 21-115, flood prevention, climate resilience or erosion control

	systems. Such system means any dike, berm, dam, piping, groin, jetty, sea wall, embankment, revetment, tide-gate, water storage area, ditch, drain or other structure or facility, and any nonstructural and nature-based measure, including, but not limited to, removal, relocation or modification of existing structures, restoration and maintenance of open floodplain or other water storage area and any feasible, less environmentally damaging alternative, as defined in section 22a-92, that is useful in preventing or ameliorating damage from floods or erosion, whether caused by fresh or salt water, any dam forming a lake or pond that benefits abutting properties or any open space reserved for future accommodation or establishment of wetlands or watercourses, and shall include any easements, rights-of-way and riparian rights which may be required in furtherance of any such system. The proposal expands upon the passage of Governor's bill AAC Climate Change Adaptation (PA 21-115) that enhanced *municipalities'* ability to construct, operate and maintain flood prevention, climate resilience or erosion control systems. However, PA 21-115 did not touch any authority of state agencies, who do construction projects on behalf of the state, to undertake the same projects, leaving the state with the potential to miss out on federal resilience funding opportunities. The bill also supports the implementation of Governor Lamont's Executive Order 21-3, *Actions That Reduce Carbon Emissions and Adapt to the Climate Crisis*, which directed the EO1 Greener Gov Steering Committee co-chairs (OPM, DAS, DEEP) in cooperation with the DESPP to assess the vulnerability of state government assets and operations to the impacts of climate change and create a list of priority assets and infrastructure for climate resilience projects for each agency. It was the intention that state agencies could seek federal funds to implement the projects with the passage of IIJA. Without this bill, the state lacks the clear authority to construct a flood prevention, climate resilience or erosion control system to protect state properties from floods or erosion through the agencies that undertake construction projects.

SECTION-BY-SECTION SUMMARY
Summarize sections in groups where appropriate

Section 1, subsection 1(a) allows the state agencies who undertake construction projects on behalf of the state and that have the authority to acquire land or interests therein, including by condemnation, to accept federal funds and cooperate with federal agencies for the construction, operations, maintenance or funding of "flood prevention, climate resilience and erosion control system" (as defined in PA 21-115, which amended CGS Sec. 25-85) or associated public purposes.

Subsection 1(b) allows these state agencies to acquire property for flood prevention, climate resilience or erosion control system or associated public purposes and utilizing the same authority already utilized by DOT for the acquisition of land for state highways under CGS 13a-73.

DOT's land acquisition program is well-established and regularly used by the state, but at this time only DOT can use that authority for projects directly associated with transportation, leaving other agencies that also undertake construction with less cost-effective and established ability to undertake land acquisition for flood prevention, climate resilience or erosion control systems.

Subsection 1(c) describes procedures for compensation for property owners under eminent domain or condemnation already utilized by DOT for the acquisition of land for state highways under CGS 13a-76.

Again, DOT's land acquisition program is well-established and regularly used and this allows DEEP and DAS to utilize the condemnation aspect of that program.

Subsection 1(d) describes procedures for cost share of public services that may need to be readjusted or relocated for construction utilizing the same authority granted to DOT under CGS 13a-126.

DOT regularly works with the state's utilities when they need to be readjusted or relocated at a cost of 50% to the state and 50% to the utilities. Under the limited authority DEEP has for construction, the state through DEEP pays 100% of the cost of moving the utilities. This section brings DEEP, DAS and Corrections in line with DOT's 50:50 cost share for the purposes of construction of flood prevention, climate resilience or erosion control system projects. Notably, for municipal construction projects, there is no cost share to the municipality and utilities take on 100% of the costs.

Subsections 1(e)-(f) allows the commissioner of a state agency, in consultation with the DEEP Commissioner, to set up an interim municipal flood prevention, climate resilience and erosion control board—with all of the authority granted to the municipal board under CGS 25-85 to 25-94—for projects that are of statewide or regional significance and where the municipality in which the resilience project is constructed does not have a municipal board.

The state is particularly concerned that, for projects of statewide or regional significance, municipalities have a municipal flood prevention, climate resilience and erosion control board in place that can not only undertake the construction of a project, but also maintain, operate and manage a flood prevention, climate resilience or erosion control system. First, federal funds are generally not available for maintenance, operations and management and these systems are only as good as how well they are maintained over time and able to be operated and managed, particularly in the event of a catastrophic flood event. This section of the bill allows the state to set up an interim board, if the municipality has not yet formed one.

For reference, pursuant to CGS 25-85 and 25-87, such municipal boards can perform those roles vis a vis a flood prevention, climate resilience or erosion control system. At any time after voting for such a system or portion thereof, the board in its discretion can defray the cost thereof by issuing bonds or other evidences of debt, from general taxation, special assessment, federal, state or private grant funds or any combination thereof or by drawing upon a municipal Climate Change and Coastal Resiliency Reserve Fund created pursuant to section 7-159d.

Section 2 amends CGS 25-95 to allow these state agencies to contract with local flood prevention, climate resilience, and erosion control boards for the purpose of constructing projects or systems to prevent, correct and arrest erosion and flood damage within the boundaries of the state.

DEEP currently has the authority to enter into these agreements with local flood prevention, climate resilience and erosion control boards pursuant to CGS 25-95. This section of the bill gives this same authority.

Sections 3-5 are minor clarifying changes that relate to the types of projects that can be performed by such municipal boards.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[ ] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	The passage of the Infrastructure Investment and Jobs Act and Inflation Reduction Act in Congress means that an estimated $374 million in funding for climate resilience could come to Connecticut. With this massive increase in funding availability, Connecticut's state agencies need additional authority to take full advantage of these programs for climate resilient infrastructure.
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	While our neighbors in New Jersey and New York have utilized their state agencies to directly construct resilience projects with federal disaster recovery funds from Hurricane Sandy, Connecticut has identified statutory barriers to using this same approach in our efforts to construct projects.
Have certain constituencies called for this proposal?	The Governor's Council on Climate Change and its 231 working group members in their January 2021 report included recommendation #55, which was to build the governance structure and inter-agency coordination necessary to allow for effective and efficient financing and funding. The goal was a government that leads and facilitates the development of projects at the state, regional and municipal scale and prioritizes the protection of vulnerable communities.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[ ] Check here if this proposal does NOT impact other agencies

1. Agency Name	Dept of Administrative Services Dept of Transportation
Agency Contact (name, title)	**Anne Kleza, Legislative Liaison** **Eleanor Michael, Senior Policy Advisor**
Date Contacted	**10/3/22**
Status	**[ ] Approved [X] Talks Ongoing**
Open Issues, if any	**Consulting with DOT/DAS and can edit the language based on their feedback**

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	The legislation allows state agencies to enter into agreements with municipal flood prevention, climate resilience and erosion control boards to share the cost of construction, reconstruction, repair, maintenance, supervision, operation or management of flood prevention, climate resilience or erosion control systems. This ensures sustainable funding sources governed by the municipality to be in place and keeps the state from taking on all financial responsibility, especially for ongoing operations and maintenance costs of a flood prevention, climate resilience, and erosion control structure.
Municipal (Include any municipal mandate that can be found within legislation)	The legislation allows state agencies to enter into agreements with municipal flood prevention, climate resilience and erosion control boards for construction, reconstruction, repair, maintenance, supervision, operation or management of flood prevention, climate resilience or erosion control systems. This agreement authority already existed for DEEP and municipal boards for construction purposes and used existing authority of the municipal boards to raise revenue to pay for costs of construction when the state was involved. Since the municipal boards already had the ability to cover the entire cost of a flood prevention, climate resilience and erosion control system on their own, entering into an agreement with the state to share costs would defray those costs for the municipality and now allows municipalities to partner with any state agency that would be the lead on a resilience project.
Federal	None.
Additional notes	Federal grants for resilience usually require a non-federal cost share for construction costs and the federal government will not pay for operations and maintenance. Establishing sustainable funding sources for these costs enables the state and municipalities to compete for federal grants.

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[ ] Check here if this proposal does NOT lead to any measurable outcomes

ANYTHING ELSE WE SHOULD KNOW?

INSERT FULLY DRAFTED BILL HERE

Section 1 (NEW):

a. The state, acting through commissioners of any agency with the authority to acquire land or interests therein, including by condemnation, shall also be authorized to give assurances to, accept funds from, or otherwise cooperate with any federal agency and any other state agency in the constructing, operating, and maintaining of a flood prevention, climate resilience, or erosion control system as such system is defined in Section 25-85 of the general statutes and associated public purposes.

b. Notwithstanding any provision of the general statutes, the state, acting through commissioners of any agency with the authority to acquire land or interests therein, including by condemnation, may for the purposes of constructing, operating, or maintaining a flood prevention, climate resilience, or erosion control system as such system is defined in Section 25-85 of the general statutes and associated public purposes, acquire title in fee simple to real property, or any lesser estate, interests or rights therein, by purchase, gift, devise or exchange, or may take

the same by condemnation in the manner prescribed in subsection (b) of section 13a-73 for the taking of land for state highways.

c. The owner of any property taken by eminent domain by the state, acting through the commissioners of any agency with the authority to acquire land or interests therein, including by condemnation, pursuant to this section shall be entitled to challenge the amount of compensation in accordance with section 13a-76 et seq. of the general statutes, except the provisions of section 13a-76a of the general statutes shall not apply to any condemnation conducted in accordance with this section.

d. Whenever the commissioner of a state agency that has custody and control of land containing a flood prevention, climate resilience, and erosion control system determines that a public service facility, as such term is defined in Section 13a-126 of the general statutes, when necessitated by the construction, operation, maintenance, repair, or reconstruction of such flood prevention, climate resilience, or erosion control system shall be readjusted or relocated in or removed from such land, such commissioner may issue a readjustment, relocation, or removal order to the company, corporation, or municipality owning or operating such facility, and such entity shall readjust, relocate or remove the same promptly in accordance with such order, provided an equitable share of the cost of such readjustment, relocation or removal, including the cost of installing and constructing a facility of equal capacity in a new location, shall be calculated in accordance with Section 13a-126 and borne by the state.

e. In the event the commissioner of a state agency determines that 1) a proposed flood prevention, climate resilience, or erosion control system under such agency's purview is of statewide or regional significance and 2) such system is proposed to be located in one or more municipalities which have not adopted the provisions of sections 25-85 to 25-94, inclusive, the Commissioner of the Department of Energy and Environmental Protection may for each such municipality create an interim board, consisting of no less than five and no more than seven members, who shall be electors of such town and be appointed by the Commissioner of the Department of Energy and Environmental Protection to serve a term coextensive with such commissioner, except that in towns having a population of less than fifty thousand the Commissioner of the Department of Energy and Environmental Protection shall designate the Board of Selectmen as such board.

f. Any interim board created pursuant to subsection (e) above shall have all of the powers of a municipal board set forth in sections 25-85 to 25-94, inclusive, and such interim board shall endure until such time as the municipality adopts the provisions of sections 25-84 to 25-94, inclusive, and selects members to such board, at which time such interim board shall cease to exist and such municipal board shall be deemed to have assumed on behalf of the municipality all obligations, debts, and responsibilities of such interim board, and such municipal board shall for all purposes be deemed a continuation of such interim board.

Sec. 2. Modify section 25-95:

The state, acting through **[**Commissioner of Energy and Environmental Protection**]** commissioners of any agency with the authority to acquire land or interests therein, including by condemnation, may enter into agreements with such local authority authorized to contract under section 25-94 for the purpose of constructing projects or systems to prevent, correct and arrest erosion and flood damage within the boundaries of the state. The plans, specifications, system and construction shall be under the direct control and supervision of the commissioner. The contract shall describe (1) the nature and extent of the system, (2) the amount of the cost to the state, (3) the share to be paid by the district or board, and (4) the method of financing the payment by such local authority, all of which shall be subject to the approval of the commissioner.

Sec. 3. Subsection (c) of section 25-84 is amended as follows:

(c) Each flood prevention, climate resilience and erosion control board shall publish a biannual report on the Internet web site of each municipality under the jurisdiction of, such board. Such report shall include, but not be limited to, (1) a current inventory and description of the flood prevention, climate resilience or [and] erosion control system managed by such board, (2) the extent and value of property, infrastructure and natural resources protected by such system, (3) an analysis of the manner in which vulnerable communities, as defined in subsection (a) of section 16-243y, are prioritized and protected by such system, and (4) the revenues and expenditures of such board.

Sec. 4. Subsection (a) of section 25-85 is amended as follows

(a) Such board shall have authority, within the limits of appropriations from time to time made by the municipality or municipalities, as applicable, to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise, operate and manage a flood prevention, climate resilience and erosion control system. As used in sections 25-84 to 25-94, inclusive, "flood prevention, climate resilience [and] or erosion control system" means any dike, berm, dam, piping, groin, jetty, sea wall, embankment, revetment, tide-gate, water storage area, ditch, drain or other structure or facility, and any nonstructural and nature-based measure, including, but not limited to, removal, relocation or modification of existing structures, restoration and maintenance of open floodplain or other water storage area and any feasible, less environmentally damaging alternative, as defined in section 22a-92, that is useful in preventing or ameliorating damage from floods or erosion, whether caused by fresh or salt water, any dam forming a lake or pond that benefits abutting properties or any open space reserved for future accommodation or establishment of wetlands or watercourses, and shall include any easements, rights-of-way and riparian rights which may be required in furtherance of any such system.

Sec. 5. Section 25-94 is amended to read as follows:

Any flood prevention, climate resilience and erosion control board established under section 25-84, any such board or commission established by special act or any district having as one of its powers and purposes the right to construct or maintain a flood prevention, climate resilience [and] or erosion control system under chapter 105, acting through its officers, is authorized to negotiate, cooperate and enter into agreements with (1) the United States, (2) the United States and the state of Connecticut, (3) the state of Connecticut, or (4) one or more municipalities in the state of Connecticut, in order to satisfy the conditions imposed by the United States or the state of Connecticut in authorizing any system for the improvement of navigation of any harbor or river and for constructing, reconstructing, operating or maintaining any flood prevention, climate resilience [and] or erosion control system, provided such system shall have been approved by the Commissioner of Energy and Environmental Protection.

Agency Legislative Proposal – 2023 Session
Document Name:

Document Name	DEEP_10_Funding_for_Microgrids_and_Resilience_Projects

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC
Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	Office of the Commissioner and Bureau of Energy and Technology Policy
Drafter	Rebecca French and Lauren Savidge

Title of Proposal	An Act Concerning Funding for Microgrids and Resilience Projects
Statutory Reference, if any	Section 16-243y
Brief Summary and Statement of Purpose	Summary: To clarify entities eligible to receive funds under the Microgrid and Resilience Grant and Loan Pilot Program, including councils of governments, state agencies, and tribes; to allow DEEP to undertake all of the activities in the program pursuant to Sec. 16-243y(c); and to cover administrative costs of this program with available bond funds. Purpose: The purpose of the bill is to ensure that all of the entities that are eligible to receive federal funding to construct resilience projects are eligible to participate in the Microgrid and Resilience Grant and Loan Program, which was designed to support planning, project design and engineering, matching funds, and nonfederal cost share needed to compete for federal funding; and to ensure the administrative costs of the program are covered to efficiently provide grants to the eligible entities.

	This bill clarifies Councils of Governments may apply for funding under this program. This bill ensures that funding from the Microgrid and Resilience Grant and Loan Pilot Program can support state agencies for all of the activities in the program, pursuant to Sec. 16-243y(c) since state agencies are also eligible to apply for competitive federal climate resilience funds to support climate resilience projects to protect state government assets and operations as called for in Executive Order 21-3. The Bipartisan Infrastructure Law provided new sources of climate adaptation and resilience funding for tribes and tribes are eligible applicants under multiple other existing federal resilience funding opportunities that received increased funding levels under the Bipartisan Infrastructure Law (BIL), including funds set aside for them in the FY22 $2.3 billion FEMA Building Resilient Infrastructure and Communities (BRIC) national funding competition. Allowing tribes to receive funding under the Microgrid and Resilience Grant and Loan Program will leverage more resources to come to tribes in the state of Connecticut to protect them from the impacts of climate change. It also makes the program more equitable to include tribes, recognizing they will be impacted by the effects of climate change in Connecticut. DEEP is eligible to compete for federal climate resilience funds and as such, like all state agencies that might be working on resilience, needs funding for planning, design and engineering, matching funds and non-federal cost share from the Microgrid and Resilience Grant and Loan Pilot Program activities in Sec. 16-243y(c) to bring these federal funding resources into the state, including ~$12 million in formula funding for grid resilience through a new BIL-funded program through the Department of Energy, which requires a 20% match.

SECTION-BY-SECTION SUMMARY
Summarize sections in groups where appropriate

Section 1 1) clarifies that state agencies, tribes, and councils of governments are eligible entities to receive funds under this program, 2) allows DEEP to undertake all of the authorized activities in Sec. 16-243y(c) in this program, and 3) allows DEEP to utilize up to 4% of bond funds to cover the administrative costs of this program.

For reference, Sec. 16-243y(c), which remains unchanged in this bill, follows (references to "department" are to DEEP):

(c) The department shall award grants or loans under the microgrid and resilience grant and loan pilot program to any number of recipients. The department shall prioritize proposals that benefit vulnerable communities. To the extent possible, the amount of loans and grants awarded under the program shall be evenly distributed between small, medium and large municipalities. Such grants and loans may provide: (1) Assistance with community planning that includes, but is not limited to, microgrid or resilience project feasibility, including benefit-cost analyses, (2) assistance to recipients for the cost of design, engineering services and interconnection infrastructure for any such microgrid or resilience project, (3) matching funds or low interest loans for an energy storage system or systems, as defined in section 16-1, or distributed energy generation projects first placed in service on or after July 1, 2016, provided such generation is derived from a Class I renewable energy source, as defined in section 16-1, or a Class III energy source, as defined in section 16-1, for any such microgrid or resilience project, and (4) nonfederal cost share for grant or loan applications for projects or programs that include microgrids or resilience. The department may establish any financing mechanism to provide or leverage additional funding to support the development of interconnection infrastructure, distributed energy generation, microgrids and resilience projects.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[ ] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws	The federal government has released record levels of funding for climate resilience through the Bipartisan Infrastructure Law/Infrastructure Investment and Jobs Act and the Inflation Reduction

or regulations that make this legislation necessary?	Act since PA 20-5 was passed in September 2020 to expand the microgrid program to include "resilience projects." DEEP estimates that $374 million in funds from federal climate resilience funding programs could come to Connecticut through these new federal laws. In order to unlock these federal funds, it is necessary to invest state funds in planning, project development, matching funds, and nonfederal cost share and to ensure that all entities eligible to receive the federal funds are also eligible to participate in the Microgrid and Resilience Grant and Loan Pilot Program.
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	Multiple other states have similar funds to support resilience projects utilizing general funds, bond funds, other state funds, and private dollars, including MA, ME, RI, NY and NJ.
Have certain constituencies called for this proposal?	The expansion of the Microgrid and Resilience Grant and Loan Pilot program was supported by the Governor's Council on Climate Change and its working groups representing over 100 organizations and 230+ members. The amendments to this program further support the recommendation of the Council.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[ ] Check here if this proposal does NOT impact other agencies

1. Agency Name	All state agencies would be able to apply for funds under this program
Agency Contact (name, title)	
Date Contacted	
Status	**[ ] Approved [ ] Talks Ongoing**
Open Issues, if any	

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	These funds could help bring an estimated total of $374 million in funding to Connecticut through resilience funding in the Infrastructure Investment and Jobs Act and the Inflation Reduction Act alone. These funds could be used for ongoing appropriations for resilience funding, not just those funds authorized in the IIJA and IRA. Funding for projects to protect state agency assets and operations from the impacts of climate change will be easier to access by enabling state agencies to use these funds for resilience projects.
Municipal (Include any municipal mandate that can be found within legislation)	Municipalities will frequently be the applicant for the federal funds through resilience programs and therefore benefit not just from the grants awarded to them through this program, but all of the federal funds leveraged as a result.
Federal	
Additional notes	

MONITORING & EVALUATION PLAN
If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[ ] Check here if this proposal does NOT lead to any measurable outcomes

The number and types of projects funded will be tracked for this program.

ANYTHING ELSE WE SHOULD KNOW?

INSERT FULLY DRAFTED BILL HERE

Section 16-243y is amended as follows:

(b) The Department of Energy and Environmental Protection shall establish a microgrid and resilience grant and loan pilot program to support local distributed energy generation for critical facilities or resilience projects. The department shall develop and issue a request for proposals from [municipalities] eligible entities, including, but not limited to: local or regional governmental entities, including municipal corporations and other public authorities; state and federally-recognized tribes; state agencies; electric distribution companies; participating municipal electric utilities; energy improvement districts; and nonprofit, academic, and private entities seeking to develop microgrid distributed energy generation, or to repurpose existing distributed energy generation for use with microgrids, to support critical facilities or to develop resilience projects. Any entity eligible to submit a proposal pursuant to this section may collaborate with any other such entity in submitting such proposal. The department may use any bond funds authorized in support of microgrids or resilience to: (1) provide grants or loans to eligible entities, (2) hire a technical consultant to support the implementation of this section; (3) undertake any of the activities set forth in subsection (c); and (4) use not more than four percent of said funds for administration of the microgrid and resilience grant and loan pilot program.[using any bond funds authorized in support of microgrids or resilience.]

Document Name	DEEP_11_Bears_and_Other_Wildlife

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC
Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	Environmental Conservation – Bureau of Natural Resources, Wildlife Division
Drafter	Jenny Dickson, Division Director of Wildlife Alison Rau, Esq., Office Legal Director, Environmental Conservation

Title of Proposal	An Act Concerning the Management of Bears; An Act Concerning the Feeding of Dangerous Animals
Statutory Reference, if any	C.G.S. Sections 26-80a and 26-47; C.G.S. 26-25a
Brief Summary and Statement of Purpose	This proposal has three components: First, it would codify the right of persons to defend themselves, their domestic pets, and other persons against bears in defined circumstances. Second, it would allow persons to apply for permits to take bears who predate agricultural crops or livestock. Third, a feeding ban would expand existing agency authority concerning the feeding of wild animals in order to restrict the intentional feeding of wild canids (coyotes and foxes), wild felids (bobcats), and ursids (bears), collectively defined as potentially dangerous animals, on private land. This third proposal also would enable DEEP to adopt regulations that would prohibit or restrict the intentional and unintentional feeding of wild canids, wild felids, and ursids on private land when there is a determination of a public safety threat. This authority is currently limited to prohibiting or restricting the feeding of wildlife on state owned property. This change would enable DEEP to

	address public safety issues that arise from the feeding of bears, coyotes, foxes, and bobcats on private property and would likely reduce the need for more aggressive responses.

SECTION-BY-SECTION SUMMARY
Summarize sections in groups where appropriate

Section 1: Bear defense and take permits: Currently, Connecticut statutes do not expressly provide a right to defend oneself, other persons, one's domestic pets, one's livestock, crops, or property against bears, even if the animal is aggressively approaching or inflicting harm. There is a significant lack of legal clarity governing law enforcement response to such scenarios, despite internal agency guidance for Environmental Conservation officers. As the number of bear-human conflicts increases, it is important to provide clarity for the public and law enforcement with respect to the circumstances when the public can, and cannot, act in defense of self, others, or property. This proposal would allow the public to use deadly force to protect themselves, their domestic pets, and other persons in narrow circumstances. It also would allow individuals to apply to DEEP for take permits if they can satisfy the required factors for demonstrating that bears are a threat to their agricultural crops or livestock.

Section 2: Feeding ban: Populations of wild animals such as bears and coyotes that can pose a threat to humans are increasing, and their ranges are expanding. As a result, interactions, often negative, between the public and these wild animals are increasing. The feeding of such wildlife by the public, whether intentional or inadvertent (e.g., unsecured garbage cans), can reduce their fear of humans and lead them to associate humans with food. Most notably, bears that routinely forage on human-sourced foods often develop bold or aggressive behavior towards humans, leading to home incursions, attacks on pets and livestock, or even direct threats to humans (note reports of black bear killing a person in New Jersey, September 20, 2014, mauling of a person in Maryland on November 16, 2016, and more recently of 60 home incursions in Connecticut in the first 8 months of 2022).

Currently, federal law pursuant to CFR Title 36, "Parks, Forests, and Public Property, Section 2.2, Wildlife protection," prohibits feeding wildlife on properties managed by the National Park Service (NPS) and both the NPS and the U.S. Fish and Wildlife Service have extensive campaigns warning people of the dangers of feeding wildlife. The Connecticut General Assembly's Office of Legislative Research produced a report in November 2012 (2012-R-0351) specifically addressing Bear Feeding Laws in the Northeast. In 2012, New Hampshire, New Jersey, New York, and Rhode Island prohibited feeding bears. Since then, Massachusetts, Vermont, and Maine passed "no feeding of wildlife" laws. California, Montana, Florida, Arizona and Washington State are among other states that have "no feeding wildlife" laws. Some Connecticut municipalities have passed prohibitions or are considering them.

This proposal would prohibit intentionally feeding certain animals, identified as potentially dangerous, on private property, and would authorize DEEP to develop regulations concerning the unintentional feeding of potentially dangerous wild animals on private property. The ability to regulate feeding in specific instances on private property would provide the Agency with a much-needed tool for use in reducing negative interactions between the public and bears or coyotes, and would provide an additional nonlethal response mechanism.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[X] Resubmission**

Permitted Take of Bears, SB 244 was referred to the Environment Committee, where it underwent public hearing but failed to advance further in March 2022, when a Joint Favorable Substitute motion failed. The issue was a lack of legal clarity from AAGs and confusion about the ability to take bears without an amended 26-80a or associated regulations. Legislators also had concerns about ensuring that property owners try non-lethal methods before contacting the Department for a permit to take the nuisance bear; this bill addresses those concerns.

Feeding Ban:
This bill was part of the agency's minor revisions proposal submitted in 2016 and 2017. It was passed out of the Environment Committee in 2016, but not in 2017, with substitute language (a new unrelated section) as substitute House Bill 5315. This bill was amended and passed by the House, but was not voted on by the Senate. The House amendment removed the unrelated language, limited "wild animals" to bears and coyotes, and provided for a lesser penalty for first time minor violations. OPM approved this proposal to address bears, coyotes, and bobcats again for the 2021 Legislative Session; however, the bill did not advance in the Environment Committee. DEEP is working with external stakeholders to create more broad support for this proposal for 2023. This bill addresses legislators' prior enforcement concerns by allowing local law enforcement, including animal control officers, to respond to those who are in violation of the proposed language.

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this	No

legislation necessary?	
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	Yes. Individuals in New York may defend themselves against aggressive bears using lethal force (Section 35.05 of the Penal Code), and in Massachusetts, individuals may defend their property against bears using lethal force (Chapter 131, Section 37 of the Massachusetts General Laws).
Have certain constituencies called for this proposal?	Many municipalities have requested that the state act with regard to the feeding of dangerous animals to assist them in addressing public safety concerns. Danbury State's Attorney Applegate has stated that "this is an area where we would benefit greatly from legislative clarity." (See *Stamford Advocate* article: 12ft | Arrests are rare in CT bear killings, per 10 years of records). Other constituents have noted the complicated legal landscape and echoed the call for more legislative clarity. Farmers and livestock owners have requested an ability to address depredation and agricultural losses. Over the past three years, there has been an increase in requests to better address nuisance-coyote issues by the public.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[ ] Check here if this proposal does NOT impact other agencies

1. Agency Name	Department of Agriculture (DoAG) CT Division of Criminal Justice-State's Attorneys (SA)
Agency Contact (name, title)	Kayleigh Royston, Carole Briggs (DoAG) S.A. Applegate (Danbury); S.A. Shannon (Litchfield)
Date Contacted	January 2022 + 9/30/22 (DoAG) May-August 2022 + September 23, 2022 (SA)
Status	**[x] Approved [X] Talks Ongoing** **Approved by DoAg in January + September 2022**
Open Issues, if any	Feeding Ban language approved; defense of self/others/pets and take permits discussed—final review ongoing

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	N/A for feeding ban. For bear management, increased staff time for processing take permit requests and investigations of unpermitted take or defense situations.
Municipal (Include any municipal mandate that can be found within legislation)	N/A
Federal	N/A
Additional notes	Feeding ban: Has potential to reduce state and municipal staff time associated with dangerous animal response.

MONITORING & EVALUATION PLAN
If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[ ] Check here if this proposal does NOT lead to any measurable outcomes

Feeding ban: The number of dangerous animal complaints related to feeding can be tracked and compared to previous years to assess impact of this proposal over time. Data exists for these types of encounters over many years; it is currently available and routinely collected.

Bear Management: Permits and deadly encounters with bears can be tracked and compared to assess impact of this proposal over time. EnCon has records of past firearm-related incidents with bears, and Wildlife tracks tagged bears, bear-human interactions, and nuisance complaints.

ANYTHING ELSE WE SHOULD KNOW?

Bear damage complaints rose from 531 in 2015 to 3,507 in 2020 and are at 2,800 for the first 8 months of 2022.

Complaints related to intentional or unintentional feeding of bears rose from 409 in 2015 to 2,468 in 2020 and are at 1,940 going into one of the most active foraging periods of the 2022 season.

Home entries by black bears increased from 7 in 2015 to 45 in 2020 and stand at 61 for the first 8.5 months of 2022.

Section 1:

C.G.S. Section 26-47 shall be amended by adding a new section (e) as follows:

Section 26-47(e) (NEW) The Commissioner of the Department of Energy and Environmental Protection may issue permits for the taking of wildlife that threatens or causes damage to agricultural crops, livestock, or apiaries, where owners or lessees have utilized reasonable non-lethal efforts to protect such crops, apiaries, or livestock which may include but are not limited to: electric fencing, animal guardians, or fortified enclosed structures; other provisions of state law notwithstanding. (1) Any such permit for the taking of such wildlife may be issued by the Commissioner or their designee if an investigation by Department personnel determines that the taking of such wildlife is necessary to protect agricultural crops, apiaries, or livestock from excessive damage, and that reasonable non-lethal efforts to protect such crops, apiaries, or livestock have not been or are not likely to be successful in preventing further damage. Such permits will only be issued to the person owning the land on which the excessive damage is occurring or their official agent or to any lessee of such land, provided the lessee has the written permission of the landowner to take wildlife. All wildlife taken pursuant to this section shall be disposed of as directed by the Department.

(2) A permit issued pursuant to this section shall specify the means, methods and times for which take is allowed.

(3) This section shall not apply to federally protected species.

C.G.S. Section 26-80a shall be amended by adding new subsections (c) and (d) as follows:

26-80a(c) (NEW) Nothing in this section shall prevent a person from using deadly physical force if such person reasonably believes that a bear is: (1) inflicting or is about to inflict great bodily

harm to a human; 2) injuring or killing their pet controlled in accordance with state laws and regulations; or (3) entering a building occupied by persons.

(d) Notwithstanding the provisions of subsection (c) of this section, a person is not justified in using deadly physical force upon a bear if they reasonably should know they can avoid the necessity of using such force with complete safety by retreating.

Section 2:

Section 26-25a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Definitions: For purposes of this section:

(1) "Intentionally feed" or "intentional feeding" means to place, provide, give, expose, deposit, scatter or distribute any edible material or attractant with the intent of feeding, attracting, or enticing potentially dangerous animals.

(2) "Potentially dangerous animal" means any of the following, as those are defined in 26-40a: (A) the felidae, including, but not limited to, the bobcat; (B) the canidae, including but not limited to the coyote and the fox; and (C) the ursidae, including but not limited to the black bear.

(3) "Unintentionally feed" or "unintentionally feeding" means to place, provide, give, expose, deposit, scatter or store any edible material for an intent other than to attract or entice potentially dangerous animals that results in attracting potentially dangerous animals.

(b) No person shall intentionally feed, attract, or entice potentially dangerous animals, except as provided for in this chapter, on lands not owned by the state.

(c) Unintentional feeding becomes intentional feeding if an authorized enforcement agent issues a written notice and the person engaging in the unintentional feeding continues with the behavior.

(d) Exempted from the provisions of this section are (1) composting at facilities authorized pursuant to section 22a-208a or section 22a-430, provided best management practices are used to mitigate attraction of wild animals; (2) small-scale composting operations; (3) the composting of agricultural waste or disposal of agricultural mortalities; (4) and agriculture, farming, and aquaculture as defined in subsection (q) of section 1-1 of the Connecticut General Statutes shall be exempt from the provisions of this section.

(e) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, to restrict the unintentional and intentional feeding of potentially dangerous animals on lands not owned by the state.

[(a)**]** (f) The Commissioner of Energy and Environmental Protection may adopt regulations in accordance with the provisions of chapter 54 prohibiting or restricting the feeding of wildlife on state-owned property. Such regulations shall include, but not be limited to, procedures for designating areas subject to such prohibitions or restrictions. Any such designation shall be effective after public notice and a public comment period.

[(b)**]** (g) Any conservation officer appointed pursuant to section 26-5 and any other officer authorized to serve criminal process may enforce the provisions of this section and any regulations adopted pursuant to **[**subsection (a) of**]** this section. Any violation of **[**such regulations**]** the provisions of this section or of any regulation adopted pursuant to this section shall be an infraction.

Document Name	DEEP_12_Greenhouse_Gases

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC
Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	Environmental Quality - Air Bureau Office of Climate Planning Environmental Conservation – Forestry Division Bureau of Energy Technology Policy
Drafter	Becca Trietch, Christopher Martin, Rebecca French, Kristin Cianflone, Brendan Schain

Title of Proposal	An Act Concerning Greenhouse Gases
Statutory Reference, if any	Section 1: 22a-6b Section 2: 22a-200 Section 3: 22a-200a Section 4: 22a-200b Section 5: 22a-200d Section 6: new Section 7: Sec. 16-245n
Brief Summary and Statement of Purpose	<u>Summary:</u> Section 1 adds violations of the Global Warming Solution Act, C.G.A. § 22a-200a, to the list of statutes for which DEEP may establish a penalty schedule. Section 2 Revises existing definitions of indirect and direct greenhouse gas emissions to capture a wider variety of emissions and adds a definition of negative emissions.

	Sections 3-4 requires the inclusion of negative emissions in the greenhouse gas inventory and the development of policies and regulations to increase negative emissions; sets a net zero by 2050 level for economy-wide greenhouse gas emissions; requires sublimits to be set to meet the economy-wide greenhouse gas emissions reduction levels in the sectors of transportation, commercial and industrial heating and cooling, residential heating and cooling, industrial processes, natural gas distribution and service, natural and working lands, and any other sector determined to be necessary; and changes reporting dates. Section 5 requires an evaluation of alternatives for applicants applying for or renewing air quality permits for fossil fuel fired electricity generation units. Section 6 requires municipal utilities to report, on an annual basis, to the legislature's Environment Committee and DEEP on their efforts in making quantifiable progress in the reduction of their greenhouse gas emissions. Section 7 would codify the Connecticut Green Banks's consideration of the emissions targets set by section 22a-200a in its financing programs. <u>Purpose:</u> Seventeen years ago, the state set goals for the reduction of greenhouse gas emissions, which the state updated to targets in 2008 in its Global Warming Solutions Act. Since then, the Department of Energy and Environmental Protection has been actively pursuing policies to promote the reduction of greenhouse gases through renewable energy procurements and the retention of the zero-carbon Millstone nuclear power plant, participation in the Regional Greenhouse Gas Initiative, and ongoing energy efficiency programs. In September 2021, DEEP released its latest Greenhouse Gas Emissions Inventory, a report that monitors the state's progress toward these goals. In analyzing the emissions trends from 1990 to 2018, the latest year for which data is available, DEEP determined that the state is not on track to meeting its 2030 and 2050 goals. In a sector-based analysis, the report determined that transportation-sector emissions remain a key obstacle to meeting the targets. It also found that since 1990, while modest reductions have occurred in the residential sector, emissions from industrial and commercial sectors have increased.

	The science of climate change is indisputable, and the impacts of climate change are seen daily in the news and frequently outside our window. This proposal will strengthen the state's leadership in the effort to stem the tide of climate change. Sections 1-4 of this proposal will revise the current Global Warming Solutions Act language to give the state the tools necessary to meet the greenhouse gas emissions levels set forth in section 22a-200a. Adopting the net zero by 2050 level brings Connecticut in line with the national target set by the Biden Administration and further supports the implementation of the Governor's SB 10 in 2022 requiring a zero carbon emissions electric supply by 2040. The bill furthers the goals of Governor Lamont's Executive Order 21-3 that created GreenerGov Lead by Example goals by sector to meet state government-wide emissions reduction goals. That order also directed DEEP to evaluate the use of negative emissions in its greenhouse gas inventory. This bill would enshrine the negative emissions charge in statute and expand Governor Lamont's directives to state agencies to economy-wide goals. Section 5 of this proposal includes language to require an evaluation of alternatives for applicants applying for or renewing air quality permits for fossil fuel fired electricity generation units. Applicants would be required to conduct an alternatives analysis to consider non-emitting alternatives such as energy storage. The proposal provides the commissioner with the authority to require alternatives as a requirement to granting the permit. Section 6 requires municipal utilities to report, on an annual basis, to the legislature's Environment Committee and DEEP on their efforts in making quantifiable progress in the reduction of their greenhouse gas emissions. Section 7 requires the Connecticut Green Bank, in developing financing programs in support of clean energy investment, to do so consistent with the Global Warming Solutions Act, section 22a-200a.

SECTION-BY-SECTION SUMMARY

Summarize sections in groups where appropriate

Section 1 amends subdivisions (1) and (2) of subsection (a) of section 22a-6b to add section 22a-200a to the list of applicable statutes.

Section 2 amends section 22a-200 of the general statutes to redefine "direct" and "indirect" emissions and to add a definition of the new term "negative emissions" to mean greenhouses gasses removed from the atmosphere through "nature-based solutions."

Section 3 amends section 22a-200a to make Connecticut's 2050 greenhouse gas emissions reduction target net zero; to include policies and regulations that promote negative emissions in reports to be generated pursuant to that section; to direct the commissioner of energy and environmental protection to publish sector-specific sub-targets to assist in the achievement of the state-wide greenhouse gas emission reduction targets; to authorize the commissioner of energy and environmental protection to work with other states and Canadian provinces to implement market-based compliance mechanisms for direct or indirect emissions, including cap and trade programs; and to authorize the commissioner to adopt regulations to reduce direct and indirect emissions, including regulations concerning market-based compliance mechanisms.

Section 4 amends section 22a-200b to modify the date of the required development of a schedule of recommended regulatory actions from July 1, 2012 to December 31, 2023 and include negative emissions for consideration in such recommendations.

Section 5 amends Sec. 22a-186a to require applicants seeking a new fossil-fueled electricity generating unit permit or to modify such permit to consider non-emitting alternatives such as energy storage as part of the application submission. The language also provides the commissioner with the authority to require non-emitting alternatives as a requirement to granting a new or modified permit.

Section 6 requires municipal utilities to report, on an annual basis, to the legislature's Environment Committee and DEEP on their efforts in making quantifiable progress in the reduction of their greenhouse gas emissions.

Section 7 requires the Connecticut Green Bank, in developing financing programs in support of clean energy investment, to do so consistent with the Global Warming Solutions Act, section 22a-200a.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[ ] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	Sections 1-4: In April 2021, President Biden adopted a nationally determined contribution of greenhouse gas emissions reduction of net zero by 2050 for the United States' compliance with the UN Paris Agreement. Adopting the same target for 2050 brings Connecticut in line with the national target and furthers our commitment to doing our part as a climate leader among states and is supported by Governor Lamont's Executive Order 3 and subsequent passage of Governor's bill SB 10 in 2022 to have a zero-carbon electric supply by 2040. Passage of the Inflation Reduction Act (IRA) means hundreds of millions of dollars of investment and tax credits towards carbon emissions reduction strategies in Connecticut. Setting sector sub-targets for emissions reduction that align with these federal investments makes Connecticut more competitive for federal funding opportunities. The IRA also makes a $20 billion investment in climate-smart agriculture and forestry to harness the carbon sequestration and storage potential of our natural and working lands as well as carbon capture and storage technologies which would result in negative emissions. Adopting negative emissions tracking as part of monitoring our progress towards a net zero target aligns with this new federal investment.
Has this proposal or a similar proposal been implemented in other states? If	Sections 1-4: Connecticut is a member of the US Climate Alliance, 14 of the member states have net zero/carbon neutral targets, including our neighboring and New England states of Massachusetts, Maine, New York, Rhode Island and Vermont.

yes, to what result?	15 US Climate Alliance member states have natural and working lands explicitly integrated into their greenhouse gas inventories in statute, including Maine, Massachusetts, New Jersey, and Vermont. While other states may not have it explicitly in their inventory statute, with the adoption of net zero/carbon neutral goals, they are interpreting that goal change to also require updating their inventory to include natural and working lands. This is the case with Rhode Island and New York. In 2021, Massachusetts passed An Act Creating A Next-Generation Roadmap for Massachusetts Climate Policy. The law required the state to adopt sector-based statewide greenhouse gas emissions sublimits as components of each statewide greenhouse gas emissions limit for the sectors of electric power, transportation, commercial and industrial heating and cooling, residential heating and cooling, industrial processes, and natural gas distribution and service. It further allowed the state to adopt sector-based statewide greenhouse gas emissions sublimits for any other sector or source the secretary may designate.
Have certain constituencies called for this proposal?	Section 1-4: The Governor's Council on Climate Change (GC3) and its 231 working group members supported a recommendation to "evaluate usable models to reliably monitor and report on negative carbon emissions related to working and natural lands." The GC3 provided recommendations across the buildings and transportation sectors in furtherance of the pathways needed to reduce emissions in these sectors to meet the economywide greenhouse gas emissions reductions goals.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[ ] Check here if this proposal does NOT impact other agencies

1. Agency Name	**CT Green Bank**
Agency Contact (name, title)	
Date Contacted	

Status	**[ ] Approved [ ] Talks Ongoing**
Open Issues, if any	

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	Sections 1-4: Additional staff would be needed to evaluate the greenhouse gas emissions reduction impacts of sector targets and negative emissions. Federal funding may be available to cover some of these costs through the Inflation Reduction Act, but more guidance from federal agencies is needed before determinations about funding for staff could be done.
Municipal (Include any municipal mandate that can be found within legislation)	None
Federal	Sections 1-4: Federal funding may be available to cover some of the personnel costs through the Inflation Reduction Act, but more guidance from federal agencies is needed before determinations about staff could be done. Funding to advance subsector targets will be available through grants and tax incentives.
Additional notes	

MONITORING & EVALUATION PLAN
If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[ ] Check here if this proposal does NOT lead to any measurable outcomes

Sections 1-4: The greenhouse gas inventory will measure emissions reductions and track Connecticut's progress towards the net zero by 2050 goal.

ANYTHING ELSE WE SHOULD KNOW?

INSERT FULLY DRAFTED BILL HERE

Section 1. Subdivisions (1) and (2) of subsection (a) of section 22a-6b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(1) For failure to file any registration, other than a registration for a general permit, for failure to file any plan, report or record, or any application for a permit, for failure to obtain any certification, for failure to display any registration, permit or order, or file any other information required pursuant to any provision of section 14-100b or 14-164c, subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter 441,1 sections 22a-134 to 22a-134d, inclusive, subsection (b) of section 22a-134p, sections 22a-148 to 22a-162a, inclusive, section 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-200a, 22a-220, 22a-231, 22a-245a, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive, 22a-411, 22a-411a, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or any regulation, order or permit adopted or issued thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than one thousand dollars for said violation and in addition no more than one hundred dollars for each day during which such violation continues;

(2) For deposit, placement, removal, disposal, discharge or emission of any material or substance or electromagnetic radiation or the causing of, engaging in or maintaining of any condition or activity in violation of any provision of section 14-100b or 14-164c, subdivision (3) of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6, 22a-7, 22a-

32, 22a-39 or 22a-42a, 22a-45a, chapter 441, sections 22a-134 to 22a-134d, inclusive, section 22a-69 or 22a-74, subsection (b) of section 22a-134p, sections 22a-148 to 22a-162a, inclusive, section 22a-162, 22a-171, 22a-174, 22a-175, 22a-177, 22a-178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-200a, 22a-208, 22a-208a, 22a-209, 22a-213, 22a-220, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a, 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-405, inclusive, 22a-411, 22a-411a, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or 22a-471, or any regulation, order or permit adopted thereunder by the commissioner, and for other violations of similar character as set forth in such schedule or schedules, no more than twenty-five thousand dollars for said violation for each day during which such violation continues;

Sec. 2. Section 22a-200 of the general statues is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

As used in sections 22a-200 to [22a-200b, inclusive,] 22a-200d and 4a-67h:

(1) "Direct emissions" means greenhouse gas emissions from sources that are owned or operated, in whole or in part, by an entity or facility, including, but not limited to, emissions [from factory stacks, manufacturing processes and vents, and company owned or leased motor vehicles] from: (i) sources combusting heating or transportation fuels; (ii) any building stack, vent or structure; (iii) any distribution system; or (iv) any residential, commercial, institutional, industrial or agricultural waste management or manufacturing process;

(2) "Entity" means a person, as defined in section 22a-2, that owns or operates, in whole or in part, a source of greenhouse gas emissions from a generator of electricity or a commercial or industrial site, which source may include, but not be limited to, a transportation fleet;

(3) "Facility" means a building, structure or installation located on any one or more contiguous or adjacent properties of an entity;

(4) "Greenhouse gas" means any chemical or physical substance that is emitted into the air and that the Commissioner of Energy and Environmental Protection may reasonably anticipate will cause or contribute to climate change, including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride;

(5) "Indirect emissions" means greenhouse gas emissions associated with the consumption of purchased electricity, steam and heating or cooling by an entity or facility or the sale or distribution of transportation fuels or heating fuels;

(6) "Negative emissions" means greenhouse gases that are removed from the atmosphere through nature-based solutions such as soils, forests, wetlands, and other working or natural lands, or through negative emissions technologies.

Sec. 3. Section 22a-200a of the general statutes is repealed and the following is substituted in lieu thereof (*effective October 1, 2023*):

(a) The state shall reduce the level of emissions of greenhouse gases:

(1) Not later than January 1, 2020, to a level at least ten per cent below the level emitted in 1990;

(2) Not later than January 1, 2030, to a level at least forty-five per cent below the level emitted in 2001;

(3) Not later than January 1, 2040, to a level of zero per cent from electricity supplied to electric customers in the state;

(4) Not later than January 1, 2050, to [a] an economy-wide net zero level; provided, however that emissions of greenhouse gas are at least eighty per cent below the level emitted in 2001; and

(5) [All of the levels referenced in this subsection shall be determined by the Commissioner of Energy and Environmental Protection.] Not later than January 1, 2025, the Commissioner of Energy and Environmental Protection shall, in a report prepared and posted on the Department of Energy and Environmental Protection's website, establish sector-specific sub-targets for commercial and industrial heating and cooling; residential heating and cooling; industrial processes; natural gas distribution and service; natural and working lands; and, any other sector or source the commissioner may designate as necessary to meet the levels in subdivisions (1) to (4), inclusive, of this subsection, provided that the sub-target for electricity supply shall be the level specified in subdivision (3) of this subsection. Sector-based statewide greenhouse gas emission sub-targets for a given year shall not, in the aggregate, exceed the statewide greenhouse gas emissions level for the year. Sub-targets shall be expressed in tons of carbon dioxide equivalents and shall be determined to be necessary by the commissioner for meeting each statewide greenhouse gas emissions level set forth in this subsection. In a report issued pursuant to subsection (c) of this section or subsection (a) of section 22a-200b, as amended by this act, and released before December 31, 2040, the commissioner shall review, and if necessary, update sector sub-targets pursuant to this section. Sub-targets may be updated more frequently if, at any time, the commissioner determines that current sub-targets will not result in meeting each statewide greenhouse gas emissions level.

(b) On or before January 1, 2010, and biannually thereafter, the state agencies that are members of the Governor's Steering Committee on Climate Change shall submit a report to the Secretary of the Office of Policy and Management and the Commissioner of Energy and Environmental Protection. The report shall identify existing and proposed activities and improvements to the facilities of such agencies that are designed to meet state agency energy

savings goals established by the Governor. The report shall also identify policies and regulations that could be adopted in the near future by such agencies to reduce greenhouse gas emissions in accordance with subsection (a) of this section.

(c) Not later than January 1, 2012, and every three years thereafter, the Commissioner of Energy and Environmental Protection shall, in consultation with the Secretary of the Office of Policy and Management and the Governor's Steering Committee on Climate Change, report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to the environment, energy and transportation on the quantifiable emissions reductions achieved pursuant to subsection (a) of this section. The report shall include a schedule of proposed regulations, policies and strategies designed to achieve the limits of greenhouse gas emissions imposed by said subsection, an assessment of the latest scientific information and relevant data regarding global climate change and the status of greenhouse gas emission reduction efforts as well as policies and regulations to increase negative emissions in other states and countries.

(d) At least one year prior to the effective date of any federally mandated greenhouse cap and trade program including greenhouse gas emissions subject to any state cap and trade requirements adopted pursuant to this section, the Commissioner of Energy and Environmental Protection and the Secretary of the Office of Policy and Management shall report, in accordance with the provisions of section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to the environment, energy and technology and transportation. Such report shall explain the differences between such federal and state requirements and shall identify any further regulatory or legislative actions needed to achieve consistency with such federal program.

(e) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, to reduce indirect and direct emissions in order to achieve the greenhouse gas emission levels specified in subdivisions (1) to (4), inclusive, of subsection (a) of this section, including, but not limited to, implementation of the policies, strategies, and any other actions identified in any report prepared pursuant to subsection (c) of this section, market-based compliance mechanisms developed independently or with interested states and Canadian provinces, or the recommended regulatory actions identified pursuant to subsection (a) of section 22a-200b of the general statutes. Such regulations shall, to the extent practicable, distribute environmental benefits equitably and in a manner that protects communities that are or have been overburdened by air pollution. Such regulations may also prioritize emission reduction or abatement strategies over emission offset or removal strategies when and where reduction or abatement strategies are technically feasible, cost-effective for society, and likely to be more durable than offset or removal strategies.

Sec. 4. Section 22a-200b of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) The Commissioner of Energy and Environmental Protection shall, with the advice and assistance of a nonprofit association organized to provide scientific, technical, analytical and policy support to the air quality and climate programs of northeastern states: (1) Not later than December 1, 2009, publish an inventory of greenhouse gas emissions to establish a baseline for such emissions for the state and publish a summary of greenhouse gas emission reduction strategies on the Department of Energy and Environmental Protection's Internet web site, (2) not later than July 1, 2010, publish results of various modeling scenarios concerning greenhouse gas emissions, including, but not limited to, an evaluation of the potential economic and environmental benefits and opportunities for economic growth based on such scenarios, (3) not later than July 1, 2011, analyze greenhouse gas emission reduction strategies and, after an opportunity for public comment, make recommendations on which such strategies will achieve the greenhouse gas emission levels specified in section 22a-200a and (4) not later than **[**July 1, 2012**]** December 31, 2023, and every three years thereafter, develop, with an opportunity for public comment, a schedule of recommended regulatory actions by relevant agencies, policies and other actions necessary [to show reasonable further progress towards achieving] to achieve the state-wide greenhouse gas emission levels specified in section 22a-200a as well as to increase negative emissions, and (5) not later than July 1, 2025, adopt modeling scenarios to publish a baseline inventory of natural and working lands carbon fluxes and include a statewide inventory of negative emissions in the report prepared pursuant to sections 22a-200a(c) and 22a-200b(a)(4).

(b) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to implement the provisions of this section. Nothing in section 4a-67h, 22a-200 or 22a-200a or this section shall limit a state agency from adopting any regulation within its authority in accordance with the provisions of chapter 54.

Sec. 5. Section 22a-186a. Of the general statutes is amended as follows (*Effective October 1, 2023*):

(a) No permit under section 22a-174 or 22a-183, except a permit for the burning of brush under subsection (f) of said section 22a-174, shall be granted, renewed or modified unless the commissioner considers air pollution emitted from all sources on the land where the activity requiring the permit is located and he determines that each source conforms to regulations adopted under section 22a-174 and does not pose a health hazard.

(b) For the purposes of granting or modifying a permit for fossil-fueled electricity generating units, the commissioner shall require an evaluation of replacing some or all of the fossil-fueled electricity generating capacity with non-emitting energy or energy storage. Such evaluation

shall be prepared by an independent contractor at the applicant's expense and shall include: (1) the technical feasibility of replacing or supplementing some or all of the fossil-fueled electricity generating capacity with renewable energy or energy storage of a type that is in commercial use; and (2) the total project cost of replacing or supplementing some or all of the fossil-fueled electricity generating capacity with renewable energy and energy storage that is technically feasible. If the commissioner determines that replacement of some or all of the fossil-fueled generators is technically and economically feasible, the commissioner may require the applicant to include such non-emitting energy or energy storage as a condition of granting or modifying a permit under section 22a-174 or 22a-183.

Sec. 6. (NEW) (*Effective October 1, 2023*): On or before January 15, 2024, and annually thereafter, each municipal utility, as defined in section 12-265 of the general statutes, shall report on the quantifiable progress of its greenhouse gas emissions reduction to the joint standing committee of the General Assembly having cognizance of matters relating to the environment and the Department of Energy and Environmental Protection. Such report shall be in a manner prescribed by the department to determine such municipal utility's contribution toward the state's emission reduction levels set pursuant to section 22a-200a of the general statutes, as amended by this act.

Sec. 7. Subparagraph (B) of subdivision (1) of subsection (d) of section 16-245n of the general statutes is repealed and the following is substituted in lieu thereof (*Effective upon passage*):

(B) The Connecticut Green Bank shall (i) develop separate programs to finance and otherwise support clean energy investment in residential, municipal, small business and larger commercial projects and such others as the Connecticut Green Bank may determine; (ii) support financing or other expenditures that promote investment in clean energy sources in accordance with a comprehensive plan developed by it to foster the growth, development and commercialization of clean energy sources and related enterprises; and (iii) stimulate demand for clean energy and the deployment of clean energy sources within the state that serve end use customers in the state. The Connecticut Green Bank shall exercise its authority pursuant to this subparagraph in a manner that is consistent with the greenhouse gas emissions reduction levels in section 22a-200a of the general statutes.

Agency Legislative Proposal – 2023 Session
Document Name:

Document Name	DEEP_13_Environmental_Justice

Naming Format: AGENCY ACRONYM PROPOSAL NUMBER - TOPIC
Please insert a copy of the fully drafted bill at the end of this document (required for review)

Legislative Liaison	Harrison Nantz 860.803.0843 Harrison.Nantz@ct.gov
Division Requesting This Proposal	EJ Permitting Sections: Environmental Justice Office and Other Programs Coastal Development and Public Access: Land and Water Resources Vulnerable Populations Definition: Climate
Drafter	EJ Permitting Sections: Annie Decker, Karen Allen, Tracy Babbidge, Kim Czapla, Peggy Diaz, Camille Fontanella, Gabrielle Frigon, Caleb Hamel, Doris Johnson, Katherine Morris, Nisha Patel, Jen Perry, Edith Pestana, Brendan Schain, Jaimeson Sinclair, Graham Stevens Coastal Development and Public Access Sections: Brian Thompson/Mary-beth Hart Vulnerable Communities Definition Section: Rebecca French

Title of Proposal	An Act Concerning Environmental Justice
Statutory Reference, if any	EJ Permitting Sections: 22a-20a Coastal Development and Public Access Sections: 22a-92, 22a-93, 22a-106(c), 22a-111c Vulnerable Communities Definition Section: 16-243y(7)
Brief Summary and Statement of Purpose	EJ Permitting Sections: This proposal would give the Department of Energy and Environmental Protection the authority and tools to deny or place conditions on certain permits where the Department determines, after a process and after completion of a thorough regulatory process, that the proposed permit would place additional burdens on already overburdened communities.

	Coastal Development and Public Access Sections: This proposal would strengthen existing state policies to promote access to the waters of Long Island Sound by the general public and it would make more clear areas of high flood risk and prevent state investment in certain types of responses to loss or damage. Vulnerable Communities Definition Section: To further clarify the definition of vulnerable communities for the purposes of ensuring that populations that will be disproportionately impacted by the effects of climate change are appropriately defined in statute, especially since this definition is increasingly being used to target state dollars for climate resilience; and to include federal definitions of disadvantaged communities to better align with federal programs targeting dollars through the Justice40 initiative.

SECTION-BY-SECTION SUMMARY
Summarize sections in groups where appropriate

EJ Permitting, Sections 1 and 2: Section 1 would allow DEEP and the Connecticut Siting Council to evaluate the cumulative impact of certain permitting decision and, where specified, to deny or place conditions on, well-defined classes of permits for a class of affecting facilities. This bill is similar to nation-leading EJ legislation enacted in New Jersey.

Section 2 would outline a regulatory process required for implementing the new substantive provisions. Section 2 also would authorize the commissioner to promulgate regulations regarding the renewal of permits.

Coastal Development and Public Access, Sections 3-8: Makes technical amendments to the policies of the Coastal Management Act to clarify that public access in general, not just state-owned facilities, is a high priority for state and local governments. Section 4 would codify the Supreme Court's decision in *Leydon v. Greenwich* by prohibiting coastal municipalities from barring nonresidents from their beaches and parks adjacent to state waters.

Vulnerable Communities Definition, Section 9: Adds federally-defined disadvantaged communities to the definition and provides examples of populations that would be considered to have increased risk and limited means to adapt to the effects of climate change.

BACKGROUND

Origin of Proposal **[X] New Proposal** **[X] Resubmission**

If this is a resubmission, please share the prior bill number, the reason the bill did not move forward, and any changes made or conversations had since it was last proposed:

Please consider the following, if applicable:

Have there been changes in federal/state laws or regulations that make this legislation necessary?	EJ Permitting Sections: Changes are coming down from the federal level requiring increased attention to these issues. For example, the EPA's External Rights Compliance Office recently released Environmental Justice and Civil Rights in Permitting Frequently Asked Questions (epa.gov) One takeaway from these new FAQs is that a permitting agency still can deny a permit on civil rights grounds—including cumulative impact on historically disadvantaged communities—even if the application passes environmental review. Vulnerable Communities Definition Section: Yes, new federal funds through BIL and IRA are flowing to states for climate resilience and there is a need to update the definition of vulnerable communities as these new federal programs have developed and the reference to the definition of vulnerable communities has increased in the subsequent two legislative sessions since it was first drafted in PA20-5. Since this definition was drafted the Biden Administration has launched the Justice40 initiative through Executive Order 14008 and alignment with the order and state vulnerable communities definitions is necessary.
Has this proposal or a similar proposal been implemented in other states? If yes, to what result?	EJ Permitting Sections: Yes. This bill is most closely modeled on New Jersey's Environmental Justice Law enacted in September 2020. This law, considered to be one of the most robust in the country, looks to address disproportionate pollution burdens on overburdened communities (low income, minority, or limited English proficiency) by requiring that applicants for permits for construction, expansion, or renewal of certain facilities prepare an environmental justice impact statement so that the New Jersey Department of Environmental Protection may evaluate potential and existing environmental and public health impacts. Moreover, the law intends to provide these overburdened communities with meaningful opportunities for public

	participation in the decision-making process for these facilities, including a public hearing and public comment participation, both of which will be considered in the NJDEP's decision. The law requires—going further than the proposed bill here, which is discretionary—NJDEP to deny applications for new facilities found to have an unavoidable and disproportionate impact on an overburdened community, unless the applicant can prove that there is a "compelling public interest" for the facility in the community and provide onsite and offsite control measures to minimize or avoid contributions to environmental and public health stressors. The public comment period for proposed rules closed on September 4, 2022. Similarly, the amendments to New York's Environmental Conservation Law, not yet signed by the governor, would require preparation of an existing burden report to detail the existing pollution burden in a disadvantaged community before a permit is approved or renewed. *See* NY Bill S8830/A2103D. The New York State Department of Environmental Conservation must use this report to determine whether a proposed project will cause or contribute to cumulative impacts—a disproportionate and inequitable pollution burden on a disadvantaged community, either directly or indirectly. And the NYSDEC cannot approve or renew any permit that would place these additional inequitable and disproportionate burdens on a disadvantaged community. Many other states have also pursued cumulative impact legislation. For example, in 2021, Massachusetts' governor Charlie Barker signed "An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy" into law, which included an environmental justice amendment. Under this law, projects that are likely to cause environmental harm and are located near environmental justice communities must prepare an environmental impact report, including an assessment of whether an environmental justice community located near the project is already subject to existing unfair or inequitable burdens and potential environmental and public health impacts that would arise from the proposed action and create a disproportionate adverse effect on the community. <u>Coastal Development and Public Access Sections:</u> Other coastal states have public access policies that vary considerably in their scope and substance. CT's focus on state-owned facilities is narrower than policies of other states such as MA and RI.

	The National Oceanic and Atmospheric Administration's Office for Coastal Management (then called the Office of Ocean and Coastal Resource Management) issued a 2013 report on How Coastal States and Territories Use No-Build Areas Along Ocean and Great Lake Shorefronts. The report found that 25 of the states with federally approved CMPs that regulate ocean or Great Lake shorefront development (outside of submerged lands) employ no-build areas along some portion of their shorefront. Some of these states go beyond prohibiting new development and prohibit or impose conditions on redevelopment, and some require the removal of a structure once it is imminently threatened by natural forces (e.g., erosion), becomes a threat to human health, or encroaches on the public beach. In general, the geographic extent of shorefront no-build areas ranges from beach only to beach and natural features, such as dunes and bluffs, to beach and natural features plus areas beyond. The report also found that 12 of the states that have established shorefront no-build areas do not allow the reconstruction of nonconforming structures within them. In most cases, this applies to structures that are destroyed or substantially damaged (e.g., cost to repair equals or exceeds 50 percent of the replacement value). While most of the laws and regulations that address the reconstruction of nonconforming structures are explicit, some of them are implicit, saying what is allowed rather than what is not allowed. Some of them are specific to structures damaged or destroyed by coastal hazards/processes, others apply regardless of cause Vulnerable Communities Definition Section: In the Climate Act of 2019, New York defined disadvantaged communities and set a goal of 35% to 40% of the benefits of clean energy investments to benefit those communities. The passage of this Act in 2019 inspired the recommendation of the Governor's Council on Climate Change in Connecticut to set a 40% goal for climate resilience funding in Connecticut. This recommendation was enshrined in law with the creation of the vulnerable communities definition in the microgrid and resilience grant and loan program, which required that DEEP prioritize vulnerable communities for the benefits of that climate resilience program. In Executive Order 21-3 Governor Lamont charged DEEP with setting the goal of at least 40% of the funds from the climate resilience fund formed under the microgrid and resilience grant to benefit vulnerable communities. The New York law was the basis of the Justice40 initiative of the Biden Administration. Justice40 has also been applied to federal climate resilience initiatives.

Have certain constituencies called for this proposal?	EJ Permitting Sections: Advocates for and residents of environmental justice communities have called for the overall strengthening of Connecticut's EJ law. In particular, they are seeking a bill that requires DEEP and the Siting Council to consider cumulative impacts when considering permit applications and that gives them the authority to deny or place conditions on certain permits. There are advantages to the business community as well of clearly articulated standards and processes up front. Connecticut advocates are not alone; communities around the country are pushing for governments to have the authority to deny permits on cumulative impacts grounds, many seeking an even broader scope of authority than provided in this proposed bill. Coastal Development and Public Access Sections: Shoreline public access has recently been highlighted as a significant need, given the current climate of heightened attention to environmental justice and social inequity, at the same time as the COVID-19 pandemic has increased the need for safe outdoor recreational opportunities. In recent years, most new public access sites have been obtained at the municipal level through coastal site plan permit conditions, but coastal towns often face opposition from waterfront property developers seeking to maximize the private value of coastal property. Coastal Management Act policies do require a preference for water-dependent uses, which are defined as including general public access. However, this statutory policy is not as explicit and straightforward as it could be. As a result, several coastal municipalities, particularly New Haven and Bridgeport, have asked DEEP for legal support in helping them implement their plans for a system of waterfront access points. By clarifying statutory policies promoting public access, Sections 1, 2 and 3 of this proposal will enhance the municipal ability to require new public access opportunities when waterfront development occurs, in conformance with the Coastal Management Act. Section 4 is necessary to address recent controversies, in the context of the pandemic and of social justice movements, when municipal beaches restricted access to residents only. This proposal would codify the Connecticut Supreme Court ruling in the 2001 case of Leydon v. Greenwich that towns could not discriminate in this manner. In signing Executive Order No. 3 on September 3, 2019, Governor Lamont said, "Climate change is an urgent, existential threat that must be tackled immediately, and under the leadership of this administration I am going to see to it that Connecticut remains a national leader on climate action." The GC3 Phase I Report *Taking Action on Climate Change and Building a More Resilient Connecticut for All* released in

	January 2021 contains promotes actions and recommendations related to coastal resilience <u>Vulnerable Communities Definition Section:</u> The Governor's Council on Climate Change called for the recognition and prioritization of vulnerable communities. The definition was informed by the equity and environmental justice working group's deliberations. The use of the definition is a way to prioritize resources to benefit vulnerable communities and was also a recommendation of the Council. The amendment to the definition allows the state to further implement the goals of the Council by being inclusive of federal definitions of disadvantaged communities and clarifying populations that could be disproportionately impacted by the effects of climate change.

INTERAGENCY IMPACT
List each affected agency. Copy the table as needed.

[ ] Check here if this proposal does NOT impact other agencies

1. Agency Name	<u>EJ Permitting Sections:</u> DPH, DECD, CT Siting Council <u>Coastal Development and Public Access Sections</u>: DECD, DOH <u>Vulnerable Communities Definition Section:</u> CT Green Bank
Agency Contact (name, title)	<u>Vulnerable Communities Definition Section:</u> Bryan Garcia **Approved** <u>EJ Permitting Sections:</u> Kyle Abercrombie, Legislative Director **Talks Ongoing** Miriam Miller/Adam Skowera, Legislative Liaisons **Talks Ongoing** Melanie Bachman, Executive Director CT Siting Council **Approved** <u>Coastal Development and Public Access Sections:</u> Aaron Turner, Legislative Liaison **Talks Ongoing**

Date Contacted	*DPH/DECD contacted 9/28/22 + 9/30/22* *CT Siting Council contacted 9/29/22* *CT Green Bank 9/28/22* *DOH 9/30/22*
Status	**[X] Approved [X] Talks Ongoing**
Open Issues, if any	

FISCAL IMPACT
Include the section number(s) responsible for the fiscal impact and the anticipated impact

[ ] Check here if this proposal does NOT have a fiscal impact

State	EJ Permitting Sections: Could require five new EA2s and two new attorneys. Coastal Development and Public Access Sections: This proposal provides a positive fiscal impact in that state funds will not be used for construction, reconstruction, or structural floodproofing of private residential property in coastal high hazard areas
Municipal (Include any municipal mandate that can be found within legislation) `	EJ Permitting Sections: Will likely have downstream effects on municipal decision-making and may impact the size and scope of a facility created, potentially impacting tax revenue. In addition, the increase in the use of community environmental benefit agreements will have a positive fiscal impact. Coastal Development and Public Access Sections: May result in some loss of municipal property tax revenue, which could be offset if construction or reconstruction is done in another location and by avoided costs for emergency services needed to assist residents during floods
Federal	Coastal Development and Public Access Sections: Approximately $159.2 million in federal Community Development Block Grant Disaster Recovery funding was awarded to the State of Connecticut to assist in its recovery in the most impacted and distressed areas declared a major disaster due to Superstorm Sandy. This proposal provides a positive fiscal impact in that state funds from whatever

	source derived will not be used for construction, reconstruction, or structural floodproofing of private residential property in coastal high hazard
Additional notes	<u>Coastal Development and Public Access Sections</u>: The GC3 Science and Technology Working Group's report identified several climate impacts in Connecticut pertaining to sea level rise, precipitation, and storms. These include: • Mean sea level in Long Island Sound could be up to 20 inches above the National Tidal Datum Epoch (1983-2001) by 2050. This projection is not sensitive to future trends in carbon dioxide emissions. • Changes in mean sea level will significantly impact the frequency of flooding along the Connecticut coast, but the flood zone will not expand much in most areas. With 20 inches of sea-level rise, coastal flood risk could increase by a factor of 5 to 10 with no change in storm conditions. High water levels, like occurred during Superstorm Sandy, would then be expected every 5 to 10 years. • Sea level rise will continue after 2050. Recent simulations indicate that the mean sea level could be up to 80 inches higher by 2100 if CO2 emissions are not reduced soon. • Projection of changes in the frequency of tropical cyclones in a warmer climate are uncertain. However, they will likely have stronger winds and more precipitation. Since 1980 there has been an increase in the frequency of hurricanes in category three or greater. This proposal will disallow the use of state funds to address future damage from sea level rise, increased flood risk, and increased precipitation, as well as from the sunny-day flooding that already occurs in many locations along the Connecticut shore during full/new moon high tides

MONITORING & EVALUATION PLAN

If applicable, please describe the anticipated measurable outcomes and the data that will be used to track those outcomes. Include the section number(s) responsible for those outcomes

[ ] Check here if this proposal does NOT lead to any measurable outcomes

Vulnerable Communities Definition Section: The microgrid and resilience grant and loan pilot program funds created a climate resilience fund that will provide at least 40% of bond funds utilized by that program to vulnerable communities pursuant to Executive Order 21-3.

ANYTHING ELSE WE SHOULD KNOW?

Vulnerable Communities Definitions Section: The expanded definition of vulnerable communities aligns with the Justice40 initiative of the Biden Administration. This definition of vulnerable communities is being applied to the DEEP Climate Resilience Fund to prioritize funding for these communities with a goal of at least 40% of the funds being spent to benefit vulnerable communities per Executive Order 21-3. Since the creation of the definition in PA20-5, it has been used in PA 21-115 related to the creation of the Environmental Infrastructure Fund and the expansion of C-PACE in 2022 to include resilience. The creation and use of this definition and, with this bill, the further expansion of the definition to include definitions used by the federal government supports Governor Lamont's Executive Order 3 calling for the protection of vulnerable populations from the impacts of climate change and the charge.

INSERT FULLY DRAFTED BILL HERE

An Act Concerning Environmental Justice

[EJ Permitting Sections]

Section 1. Section 22a-20a of the general statutes is repealed and the following is substituted in lieu thereof (*Effective October 1, 2023*):

(a) As used in this section:

(1) "Environmental justice community" means (A) a United States census block group, as determined in accordance with the most recent United States census, for which thirty per cent or more of the population consists of low income persons [who are not institutionalized] and have an income below two hundred per cent of the federal poverty level; or (B) a distressed municipality, as defined in subsection (b) of section 32-9p.

(2) "Affecting facility" means any (A) electric generating facility with a capacity of more than ten megawatts; (B) sludge or solid waste incinerator or combustor; (C) [sewage treatment plant with a capacity of more than fifty million gallons per day] publicly owned treatment works in communities with combined sewers that transport both storm water and sanitary sewage, or expanded design flow rate for any publicly owned treatment works; (D) intermediate processing center, volume reduction facility, solid waste transfer station, resource recovery facility, chemical recycling facility, or multitown recycling facility with a combined monthly volume in excess of twenty-five tons; (E) [new or expanded] landfill, including, but not limited to, a landfill that contains ash, construction and demolition debris or solid waste; (F) medical waste incinerator; **[**or**]** (G) major source of air pollution, as defined by the federal Clean Air Act; (H) pipeline, terminal, or bulk commercial storage facility not providing direct to consumer retail or delivery for fossil fuels, including coal, oil, petroleum, and natural gas; or (I) facility with a diversion of more than two million gallons of water per day. "Affecting facility" shall not include (i) the portion of an electric generating facility that uses nonemitting and nonpolluting renewable resources such as wind, solar and hydro power or that uses fuel cells, (ii) any facility for which a certificate of environmental compatibility and public need was obtained from the Connecticut Siting Council on or before January 1, 2000, or (iii) a facility of a constituent unit of the state system of higher education that has been the subject of an environmental impact evaluation in accordance with the provisions of sections 22a-1b to 22a-1h, inclusive, and such evaluation has been determined to be satisfactory in accordance with section 22a-1e, or (iv) a facility with a diversion of water greater than two million gallons in any twenty-four hour period that diverts water for public water supply purposes within a service area, as defined in regulations adopted pursuant to RCSA section 22a-377(b), that includes the origin of such diversion.

(3) "Meaningful public participation" means (A) residents of an environmental justice community have an appropriate opportunity to participate in decisions about a proposed facility or the expansion of an existing facility that may adversely affect such residents' environment or health; (B) the public's participation may influence the regulatory agency's decision; and (C) the applicant for a new or expanded permit, certificate or siting approval seeks out and facilitates the participation of those potentially affected during the regulatory process; [and]

(4) "Community environmental benefit agreement" means a written agreement entered into by the chief elected official or town manager of a municipality and an owner or developer of real property whereby the owner or developer agrees to develop real property that is to be used for any new or expanded affecting facility and to provide financial resources for the purpose of the mitigation, in whole or in part, of impacts reasonably related to the facility, including, but not limited to, impacts on the environment, including, but not limited to, air quality and watercourses, quality of life, asthma rates, traffic, parking and noise[.];

(5) "Council" means the Connecticut Siting Council;

(6) "Department" means the Connecticut Department of Energy and Environmental Protection;

(7) "Environmental or public health stressors" means sources of environmental pollution, including, but not limited to, concentrated areas of air pollution, mobile sources of air pollution, contaminated sites, transfer stations or other solid waste facilities, recycling facilities, scrap yards, and point-sources of water pollution including, but not limited to, water pollution from facilities or combined sewer overflows; or conditions that may cause potential public health impacts, including, but not limited to, asthma, cancer, elevated blood lead levels, cardiovascular disease, and developmental problems in the environmental justice community.

(8) "Major source" means a major source of air pollution as defined by the federal "Clean Air Act," 42 U.S.C. s. 7401 et seq., or in rules and regulations adopted by the department pursuant to its air quality statutes or that directly emits, or has the potential to emit, one hundred tons per year or more of any air pollutant, or other applicable criteria set forth in the federal "Clean Air Act," 42 U.S.C. s. 7401 et seq.; and

(9)(a) "Permit" means any individual facility permit, license, certificate or siting approval issued by the Department or Council to a facility establishing the regulatory and management requirements for a regulated activity pursuant to sections 16-50k, 22a-174, 22a-208a, and 22a-430,

(b) Exceptions: The term "permit" does not include any authorization or approval necessary to perform a remediation conducted in accordance with the regulations established pursuant to section 22a-133k; applications for or registrations under general permits issued by the department, provided, however, that the commissioner shall evaluate the potential for environmental and health stressors when issuing or renewing any general permit; any permit for a facility with a diversion of more than two million gallons per day where such diverted water is used for public water supply purposes within the exclusive service area from where it is diverted, or any authorization or approval required for a minor modification of a facility's major source permit for activities or improvements that do not increase emissions; and any authorization or approval required for an extension of time to complete construction of a facility.

(b) (1) Applicants who, on or after January 1, 2009, seek to obtain any certificate under chapter 277a, new or expanded permit or siting approval from the Department of Energy and

Environmental Protection or the Connecticut Siting Council involving an affecting facility that is proposed to be located in an environmental justice community or the proposed expansion of an affecting facility located in such a community, shall (A) file [a] an assessment of environmental or public health stressors and a meaningful public participation plan with such department or council and shall obtain the department's or council's approval of the meaningful public participation plan prior to filing any application for such permit, certificate or approval; (B) consult with the chief elected official or officials of the town or towns in which the affecting facility is to be located, or is located and for which an application will be filed with the department or council to expand the affecting facility, to evaluate the need for a community environmental benefit agreement in accordance with subsection (d) of this section; and (C) submit and receive approval of a Public Participation Report, which shall include, but not be limited to, (i) an affidavit that the applicant satisfied the requirements of subdivisions 2 through 5 of this subsection; (ii) the written comments received; and (iii) responses to concerns and questions presented in written and verbal comments, including any changes to the activity or affecting facility proposed.

(2) Each assessment of environmental or public health stressors shall contain an assessment of the potential environmental and public health stressors associated with the proposed new or expanded affecting facility, as applicable, and shall identify any adverse environmental or public health stressors that cannot be avoided if the permit is granted, and the environmental or public health stressors already borne by the environmental justice community. Each meaningful public participation plan shall contain measures to facilitate meaningful public participation in the regulatory process and a certification that the applicant will undertake the measures contained in the plan. Such plan shall identify a time and place where an informal public meeting will be held that is convenient for the residents of the affected environmental justice community. In addition, any such plan shall identify the methods, if any, by which the applicant will publicize the date, time and nature of the informal public meeting in addition to the notice by mail required by subdivision (3) of this subsection and the publication required by subdivision **[**(3)**]** (4) of this subsection. Such methods shall include, but not be limited to, (A) posting a reasonably visible sign on the proposed or existing affecting facility property, printed in English, in accordance with any local regulations and ordinances, (B) posting a reasonably visible sign, printed in all languages spoken by at least fifteen per cent of the population that reside within a one-half of a mile radius of the proposed or existing affecting facility, in accordance with local regulations and ordinances, (C) a posting on electronic media, including, but not limited to, relevant internet websites and social media platforms, provided that the notice is easily found by searching for the name of the affecting facility on the internet, and (D) [(C)] notifying local and state elected officials, in writing. Such methods may include notifying neighborhood and environmental groups, in writing, in a language appropriate for the target

audience. The determination of the percentage of persons that speak a language, for purposes of subparagraph (B) of this subdivision, shall be made in accordance with the most recent United States census.

(3) Not less than thirty days before the informal public meeting, the applicant shall send a notice by mail to all residential households within a one-half mile radius of the proposed or existing affecting facility. The notice of the informal public meeting shall provide the date, time, and location of such meeting, a description of the proposed or expanded affecting facility, a map indicating the location of the affecting facility, information on how an interested person may review project documents, including any complete needs assessment, alternatives assessment, or environmental impact analysis, addresses for mailed and Internet-based submission of written public comments, and any other information deemed appropriate by the department or council. The applicant shall provide the notice in writing in all languages spoken by at least fifteen percent of the population that resides within a one-half mile radius of the proposed or existing affecting facility. The applicant must use these same means to notify the public of any subsequent public participation opportunities that occur as part of the permit approval process before the department or council, and to notify the public of any notice of tentative or final determination.

[(3)**]** (4) Not less than ten days prior to the informal public meeting and not more than thirty days prior to such meeting, the applicant shall publish the date, time and nature of the informal public meeting with a minimum one-quarter page advertisement in a newspaper having general circulation in the area affected, and any other appropriate local newspaper serving such area, in the Monday issue of a daily publication or any day in a weekly or monthly publication. The advertisement shall include information on how an interested person may review project documents, including any complete needs assessment, alternatives assessment, or environmental impact analysis. The applicant shall post a similar notification of the informal public meeting on the applicant's web site, if applicable.

[(4)**]** (5) At the informal public meeting, the applicant shall make a reasonable and good faith effort to provide clear, accurate and complete information about the proposed affecting facility or the proposed expansion of an affecting facility and the potential environmental and health impacts of such facility or such expansion. The applicant shall accept written, via mail or e-mail submission, and oral comments from any interested party, and provide an opportunity for meaningful public participation at the informal public meeting. Within thirty days after the public meeting, the applicant shall submit to the department or council a Public Participation Report, which shall include, but not be limited to, an affidavit that the applicant completed the public meeting requirement that includes (A) the written comments received; and (B)

responses to concerns and questions presented in written and verbal comments, including any changes to the activity or affecting facility proposed. The applicant shall video record the informal public meeting and submit the recording to the department or council with the Public Participation Report.

[(5)**]** (6) The Department of Energy and Environmental Protection or the Connecticut Siting Council shall not take any action on the [applicant's] application for a permit, license, certificate or siting approval earlier than the date that the department or council approves the Public Participation Report [sixty days after the informal public meeting]. For any such application filed on or after November 1, 2020, if the applicant fails to undertake the requirements of **[**subparagraphs (B) to (D), inclusive, of subdivision (2) of this subsection or subdivision (3) or (4) of**]** this subsection, any such application shall be deemed insufficient. The application of an applicant who fails to receive approval of such Public Participation Report shall be deemed insufficient.

[(6)**]** (7) In the event that the Connecticut Siting Council has approved a [meaningful environmental justice public participation plan final report] Public Participation Report concerning a new or expanded affecting facility and an informal public meeting has been held in accordance with this subsection, the Department of Energy and Environmental Protection may approve such plan and waive the requirement that an additional informal public meeting be held in accordance with this subsection.

(c) (1) Any municipality, owner or developer may enter into a community environmental benefit agreement in connection with an affecting facility. For any application for a new or expanded permit or siting approval from the department or the council filed on or after November 1, 2020, any application filed after regulations are promulgated pursuant to Section 2 of this Act, for such an affecting facility that: **[**(1)**]** (A) Requires a certificate under chapter 277a, or **[**(2)**]** (B) constitutes a new or expanded permit or siting approval from the Department of Energy and Environmental Protection or the Connecticut Siting Council, and that is located in an environmental justice community or is proposed to be located in such a community, the applicant shall enter into such an agreement with the municipality if there are five or more affecting facilities in such municipality at the time such application is filed. Mitigation may include both on-site and off-site improvements, activities and programs, including, but not limited to: Funding for activities such as environmental education, diesel pollution reduction, electric vehicle charging infrastructure construction, establishment of a wellness clinic, ongoing asthma screening, provision of air monitoring performed by a credentialed environmental professional, performance of an ongoing traffic study, watercourse monitoring, construction of biking facilities and multi-use trails, staffing for parks, urban forestry, support for community

gardens or any other negotiated benefit to the environment in the environmental justice community. Prior to negotiating the terms of a community environmental benefit agreement, the municipality shall negotiate with the community and provide a reasonable and public opportunity for residents of the potentially affected environmental justice community to be heard concerning the requirements of or need for, and terms of, such agreement.

[(d)**]** (2) The chief elected official or town manager of a municipality shall participate in the negotiations for any such community environmental benefit agreement and shall implement, administer and enforce such an agreement on behalf of the municipality, provided any such agreement negotiated pursuant to this section on and after November 1, 2020, shall be approved by the legislative body of the municipality prior to implementation, administration and enforcement of such agreement.

[(e)**]** (3) The terms of any community environmental benefit agreement negotiated, entered into and approved in accordance with this section on and after November 1, 2020, shall not constitute a separate and distinct basis for a pleading to intervene in any administrative, licensing or other proceeding pursuant to section 22a-19.

(d) (1) Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, any applicant for a permit subject to the requirements of this section shall submit to the department or the council as part of any permit application the Public Participation Report, including oral and written comments received at the public meeting, and any other information required by regulations adopted pursuant to Section 2 of this Act. (2) In accordance with regulations promulgated under this statute, the department or the council shall review such application for compliance with this Act and with the regulations adopted pursuant to Section 2 of this Act and may deny an application for a permit for a new affecting facility upon a finding that approval of the permit, as proposed, would, together with other environmental or public health stressors affecting the environmental justice community, result in adverse cumulative environmental or public health stressors in the environmental justice community that are higher than those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department or council pursuant to regulations issued pursuant to section 2 of this act. (3) If such permit is granted, it may impose conditions on the construction and operation of the affecting facility intended to mitigate public health impacts. (4) The department or the council shall provide notice, in writing, of its tentative determination regarding compliance with regulations adopted pursuant to this Act. (4) If a hearing is held on an application subject to the requirements of this section, compliance with regulations adopted pursuant to this Act shall be considered at such hearing.

(3) The department or council shall publish any determination made pursuant to this subsection to the department's or council's Internet web site.

(e) Notwithstanding the provisions of any other law, or rule or regulation adopted pursuant thereto, to the contrary, the department or council may, after review of the Public Participation Report and any other relevant information, including testimony and written comments received at the public hearing, and in accordance with regulations promulgated under this statute, apply conditions to a permit for the expansion of an existing affecting facility concerning the construction and operation of the facility to protect public health, upon a finding that approval of a permit, as proposed, would, together with other environmental or public health stressors affecting the environmental justice community, result in adverse cumulative environmental or public health stressors in the environmental justice community that are higher than those borne by other communities within the State, county, or other geographic unit of analysis as determined by the department pursuant to rule, regulation, or guidance adopted or issued pursuant to section 2 of this act.

(f) If a permit applicant is applying for more than one permit for a proposed new or expanded affecting facility, the permit applicant shall only be required to comply with the provisions of this section once, unless the department, in its discretion, determines that more than one public hearing is necessary due to the complexity of the permit applications necessary for the proposed new or expanded affecting facility. Nothing in this section shall be construed to limit the authority of the department to hold or require additional public hearings, as may be required by any other law, rule, or regulation.

(g) Nothing in this section shall be construed to limit the right of an applicant to continue facility operations during the process of permit approval to the extent such right is conveyed by applicable law, rule, or regulation.

(h) The commissioner shall develop tools reflecting environmental and health stressors to enable stakeholders to evaluate potential siting options for new or expanded permits that comply with the requirements of this Act.

(i) The commissioner shall consult with stakeholders when developing the regulations pursuant to Section 2 of this Act.

Sec. 2 (NEW) (*Effective upon passage*).

(a) The commissioner shall adopt, amend, or repeal regulations, in accordance with the provisions of chapter 54 of the general statutes, as are necessary and proper to carry out the purposes of section 1 of this Act, and the provisions of section 1 shall not take effect until regulations have been promulgated.

(b) In addition to any other fee authorized by law, rule, or regulation, the department and council may assess each permit applicant a reasonable fee in order to cover the costs associated with the implementation of this act, including costs to provide technical assistance to permit applicants and environmental justice communities to comply with this act.

(c) The regulations adopted pursuant to subsection (a) of this Section shall include, but not be limited to, provisions regarding (1) procedures and requirements for creating the environmental justice impact and meaningful public participation plan and the Public Participation Plan and Report; (2) identifying and measuring the relative impact of environmental and public health stressors across communities and tools for stakeholders to use, including to help inform decisions about potential locations for new or expanded facilities; and (3) standards for denying or placing conditions on permits.

(d) The commissioner may subject the renewal of permits issued to affecting facilities to some or all of the provisions of this section and Section 1 of this law by adopting regulations, pursuant to the requirements of chapter 54, that include, but are not limited to, the identification of (1) each type of renewal permit to be subject to the requirements of this section; (2) the relevant affecting facility; and (3) the specific requirements to which each such renewal permit shall be subjected. No renewal permits shall be subject to the requirements of this section before the effective date of regulations adopted pursuant to this subsection.

[Coastal Development and Public Access Sections]

Sec. 3. Subdivision (6) of subsection (a) of section 22a-92 is amended to read as follows:

(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;

Sec. 4. Subdivision (1)(J) of subsection (c) of section 22a-92 is amended to read as follows:

(J) to promote general public access to the public beach and to marine and tidal waters and 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;

Sec. 5. Subdivision (17) of section 22a-93 is amended to read as follows:

(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 or potential future public access to the public beach or to marine or tidal waters;

Sec. 6. (NEW) A new section 22a-111c is added as follows:

Notwithstanding any provision of the general statutes or of any special act, no coastal municipality shall prohibit nonresidents of such municipality entry to or use of any municipal park, beach, or other facility adjacent to marine or tidal waters unless such prohibition also applies to residents of such municipality

Sec. 7. Section 22a-91 is amended by adding:

(8) New residential-type development in FEMA established coastal AE, VE or V zones, the egress to which is flood prone, is inconsistent with sound coastal development practices, ignores the dangers of the rise in sea level and other climate related impacts and knowingly puts people in harm's way.

Sec. 8. Subdivision (2) of subsection (b) of section 22a-92 is amended by adding:
(K) to disallow new construction of residential-type development uses in FEMA established coastal AE, VE or V zones unless the vehicle access to and from the site and the structure are elevated to base flood elevation plus two feet.

Sec. 9. Section 22a-93 is amended by adding:

(20) "Residential-type development" means single family dwellings, multifamily dwellings, assisted living facilities, skilled nursing facilities, hospitals, long term care facilities, hotels, and motels

[Vulnerable Communities Definition Section]

Sec. 9. Section 16-243y(7) of Connecticut General Statutes is amended to read as follows:

(7) "Vulnerable communities" means populations that may be disproportionately impacted by the effects of climate change, including, but not limited to, low and moderate income communities, environmental justice communities pursuant to section 22a-20a, communities eligible for community reinvestment pursuant to section 36a-30 and the Community Reinvestment Act of 1977, 12 USC 2901 et seq., as amended from time to time, definitions of a disadvantaged community used by any federal agency, populations with increased risk and limited means to adapt to the effects of climate change, including, but not limited to, communities of color, children, seniors, people with disabilities, pregnant people, people with limited English proficiency, and people impacted by the environmental conditions where they are born, live, learn, work, play, and worship that affect a wide range of health, functioning, and quality-of-life outcomes and risks, known as social determinants of health, or as further defined by the Department of Energy and Environmental Protection in consultation with community representatives.