

CONNECTICUT¹

State Authority for Marine Protection

Summary of State Authorities

The Connecticut Department of Energy and Environmental Protection (DEEP) has jurisdiction over the preservation and protection of the natural resources of the state regulation of fishing in state waters. Connecticut has a variety of laws that enable marine protection, including various area-based fishing restrictions, and permitting regimes certain activities in coastal or tidal wetland areas. Connecticut’s Coastal Management Act establishes a coastal land-use planning program. Finally, the Natural Area Preserves Act provides for certain areas of land or water to be set aside by the state and preserved in their natural condition. Although several coastal areas have been established as natural area preserves in Connecticut, no natural area preserves have been designated to date that extend into marine waters.

	Natural Area Preserves	Area-Based Fishing Restrictions	Fish and Wildlife Refuges	Bluff Point Coastal Reserve	Tidal Wetlands Act
Legal requirement	Authority to establish preserves	Specific area-based fishing restrictions designated by statute	Authority to establish fish and wildlife refuges	Establishes a specific reserve at Bluff Point	Permitting program for dredge and fill of wetlands
Citation	Conn. Gen. Stat. §§ 23-5a—23-5i (1969)	Conn. Gen. Stat. §§ 26-169—26-185 (1949)		Conn. Special Act 75-45 (1975).	Conn. Gen. Stat. §§ 22a-28—22a-35 (1969)
Designation authority	Department of Energy and Environmental Protection (DEEP) approves	By statute	DEEP has authority to establish.	By statute	Overall goal of tidal wetlands preservation by statute
Management & enforcement authority	DEEP	DEEP and officers appointed by the Commission	DEEP	DEEP	DEEP
Jurisdiction & boundaries	All state waters as designated	Site-specific	All public land and water as designated	Bluff Point—no marine waters designation identified	Tidal wetlands
Prohibited uses	Activities and uses which are	Most provisions	Varies according to	Motorized vehicles	Prohibits any draining,

¹ This state chapter is part of a 23-state assessment of state and local authority for marine protection. It should be read in conjunction with the Executive Summary, Introduction and Methodology Chapters in order to fully understand the scope and approach. Other chapters are available at www.eli-ocean.org/mpa.

	likely to have an impact on the natural resources and consumptive use of resources in a Natural Area Preserve, unless exception in the management plan.	prohibit the use of nets, trawls, and/or seines in specific areas. Some restrictions are seasonal.	designation		dredging, excavating, dumping, filling, or depositing activities from being conducted in a tidal wetland without a permit.
Permitted uses	None specified	None specified	None specified	Recreational fishing with permit, hiking and mountain biking	Permitted construction, dredge and fill

Natural Area Preserves

Connecticut has a system of natural area preserves,² which may be designated for any state-owned “area of land or water, or land and water, containing, or potentially containing, plant or animal life or features of biological, scientific, educational, geological, paleontological, or scenic value worthy of preservation in their natural condition.”³ For an area to be set aside as a natural area preserve, it must first be approved by the DEEP and then designated as such by the governor.⁴

While site-specific management plans govern the rules and policies for particular natural area preserves, the DEEP administers the overall program for the purpose of preserving the designated areas.⁵ The Natural Area Preserves Act authorizes the DEEP to adopt regulations for managing the natural area preserve system.⁶ Under implementing regulations,⁷ “[e]xcept as provided for in a Management Plan, there shall be no...consumptive use of any material, product, object, plant, or animal in a Natural Area Preserve.”⁸

Connecticut’s natural area preserve system currently spans approximately 6,700 acres. Many state-designated natural area preserves, such as Duck Island or Hammonasset Natural Area Preserve, occupy coastal lands. Although the authority to establish natural area preserves on “land and water” exists under the State Natural Area Preserve Act, none of the designated preserves currently extend into marine waters.

² Conn. Gen. Stat. § 23-5a.
³ Conn. Gen. Stat. § 23-5b(1).
⁴ Conn. Gen. Stat. § 23-5b(3).
⁵ Conn. Gen. Stat. § 23-5c.
⁶ Conn. Gen. Stat. § 23-5c.
⁷ Regs., Conn. State Agencies § 23-5c-1.
⁸ Regs., Conn. State Agencies § 23-5c-1(d)(3).

Bluff Point Coastal Reserve

Connecticut has designated one coastal reserve, the Bluff Point Coastal Reserve, by legislative fiat.⁹ Section 4 for the Bluff Point Coastal Reserve Special Act states that the “coastal reserve shall be maintained and administered by the Department of Environmental Protection and no improvement shall be undertaken which does not contribute to the preservation of the natural, scenic, historical or ecological values of the reserve.”¹⁰

Fish and Wildlife Refuges

The DEEP has authority to establish wildlife refuges, closed areas and safety zones on public lands or waters.¹¹ Such areas can be closed “to hunting, trapping, fishing, other public use, or trespassing, when he determines such closure to be necessary for the management of any wildlife or plant species or for public safety.”¹² Similarly, the DEEP may establish fish spawning areas and refuges “on any waters” and may establish closed areas and safety zones on public lands and waters.¹³ This authority includes the emergency authority to establish a closed season if the species is threatened with depletion.¹⁴ Connecticut has two designated fish spawning areas and refuges, which are designated by regulation—one near the Farmington River power company canal and another at the Rainbow reservoir. Neither is located in marine waters. Violation of the fish spawning areas and refuges requirement can result in a fine of \$150 with each fish constituting a separate offense.¹⁵

Area-Based Fishing Restrictions

A number of fishing provisions provide particular area-based restrictions and prohibitions.¹⁶ Most of these restrictions prohibit the use of nets, seines or trawls in certain tidal areas, rivers, bays, and harbors. The statute itself does not indicate the reason for instituting these prohibitions. Some restrictions are seasonal,¹⁷ while others are year-round.¹⁸

Section 26-175 offers a typical example of a locational net prohibition from this Chapter: “No person shall draw, set or use any net, seine, pound net, fyke net or set net in any waters of Long Island Sound or any creek or tributary thereof, lying north of a line drawn from the breakwater on what is known as Long Beach to the Penfield Reef lighthouse, and thence along said Penfield Reef to the shore or mainland in the town of Fairfield.”¹⁹

Violations of area-based fishing restrictions are no more than \$250 for the first offense, except for violations of fishing restrictions near mouths of streams and estuaries, which carry the same penalties as a second offense.²⁰ For the second offense, the offender is subject to misdemeanor charges and a \$250 fine per fish.²¹

⁹ Conn. Special Act 75-45 (1975). In Connecticut, Special Acts by the State Legislature like the Bluff Point Coastal Reserve land dedication are not codified in the General Statutes of Connecticut, but they carry the same force.

¹⁰ Conn. Special Act 75-45(4).

¹¹ Conn. Gen. Stat. § 26-101.

¹² *Id.*

¹³ *Id.* §26-102.

¹⁴ *Id.*

¹⁵ *Id.* §26-117.

¹⁶ Conn. Gen. Stat. §§ 26-169—26-185.

¹⁷ *E.g.*, Conn. Gen. Stat. § 26-184.

¹⁸ *E.g.*, Conn. Gen. Stat. § 26-170.

¹⁹ Conn. Gen. Stat. § 26-175.

²⁰ *Id.* § 26-186.

²¹ *Id.*

Tidal Wetlands Act

The Connecticut Tidal Wetlands Act implements a state policy of preserving tidal wetlands through the establishment of a tidal wetlands regulatory program.²² The Tidal Wetlands Act prohibits any draining, dredging, excavating, dumping, filling, or depositing activities²³ from being conducted in a tidal wetland in the State without a permit.²⁴ An applicant seeking to conduct a regulated activity within a tidal wetland must apply for a permit to the DEEP and potentially undergo a public hearing process.²⁵ Only those activities that align with the State’s public policies may be permitted.²⁶ Any person who violates the Tidal Wetlands Act is liable for the cost of restoration of the affected wetland as well as for ongoing civil penalties.²⁷

The Tidal Wetlands Act defines wetlands as “those areas which border on or lie beneath tidal waters...” capable of supporting one or more species of flora characteristic of tidal wetland environments²⁸ and authorizes the DEEP to inventory all tidal wetlands within the state that are subject to the permitting requirement.²⁹ Today, tidal wetlands jurisdiction is determined by the growth of actual vegetation in the field, and no longer depends on an inventory or map.³⁰ It should be noted that the statutory definition of tidal wetlands under the Tidal Wetlands Act overlaps with high-tide coastal jurisdiction line under the regulatory regime of Connecticut’s Structures, Dredging and Fill Statutes.³¹ Where both statutes apply, applicants must obtain a joint permit under both laws.

Tidal wetlands protections in Connecticut were augmented when Connecticut’s passed its Coastal Management Act in 1980. Beyond curbing tidal wetland degradation, the Coastal Management Act established a policy to encourage the rehabilitation of previously degraded tidal wetlands.³² The provision now requires to the DEEP “conduct wetlands restoration and enhancement projects, including but not limited to, open water marsh management and coastal culvert and tide gate management.”³³

²² The Connecticut Tidal Wetlands Act is codified at Conn. Gen. Stat. §§ 22a-28—22a-35. State tidal wetlands regulations implementing the act can be found at Regs., Conn. State Agencies §§ 22a-30-1—22a-30-17.

²³ The full suite of regulated activities under the provision include “[d]raining, dredging, excavation, or removal of soil, mud, sand, gravel, aggregate of any kind or rubbish from any wetland or the dumping, filling or depositing thereon of any soil, stones, sand, gravel, mud, aggregate of any kind, rubbish or similar material, either directly or otherwise, and the erection of structures, driving of pilings, or placing of obstructions, whether or not changing the tidal ebb and flow.” Conn. Gen. Stat. § 22a-29(3).

²⁴ Conn. Gen. Stat. § 22a-32.

²⁵ *Id.* In practice, most tidal wetlands applications are noticed without hearing, because the DEEP rarely authorizes impacts. Personal communication with DEEP (on file with authors).

²⁶ The statutory text reads as follows: “In granting, denying or limiting any permit, the commissioner or his duly designated hearing officer shall consider the effect of the proposed work with reference to the public health and welfare, marine fisheries, shellfisheries, wildlife, the protection of life and property from flood, hurricane and other natural disasters, and the public policy set forth in sections 22a-28 to 22a-35, inclusive.” Conn. Gen. Stat. § 22a-33.

²⁷ *Id.* § 22a-35.

²⁸ *Id.* § 22a-29.

²⁹ *Id.* § 22a-30.

³⁰ Personal communication with DEEP staff (on file with authors).

³¹ The Structures, Dredging and Fill Statutes are codified at Conn. Gen. Stat. §§ 22a-359—22a-363f and are discussed below. The provision of the Structures, Dredging and Fill Statutes authorizing the DEEP to regulate the dredging and filling activities in the tidal, coastal or navigable waters of the state and defining the landward boundary of coastal regulation can be found at Conn. Gen. Stat. § 22a-359; *see also*, Conn. Gen. Stat. § 22a-361, which establishes a permit requirement.

³² *Id.* § 22a-92.

³³ *Id.* § 22a-35a.

Other Laws

Endangered and Threatened Species

Connecticut has a framework for protecting threatened and endangered species on the state level.³⁴ The DEEP has regulatory authority to determine whether a species is endangered, threatened, or of special concern.³⁵ All state agencies are required to work to conserve endangered and threatened species and their essential habitats³⁶ and are prohibited from destroying or adversely modifying essential habitat.³⁷

Eelgrass Beds Protection

In 2002, the Connecticut Legislature directed the DEEP to adopt regulations to protect and restore eelgrass. The DEEP's eelgrass regulations are to provide for "the protection of existing eelgrass beds from degradation, the development of a restoration plan to restore eelgrass and the periodic monitoring of the effectiveness of such measures to protect and restore eelgrass."³⁸ To date, the DEEP has not yet adopted regulations specifically protecting eelgrass under this provision.³⁹

Coastal Zone Management

Connecticut's Coastal Management Act was enacted in 1979 to protect Connecticut's Long Island Sound and its tidal waters and habitats, and to implement the federal Coastal Zone Management Act (CMZA).⁴⁰ The National Oceanic and Atmospheric Administration approved Connecticut's coastal management program under the CMZA in 1980.⁴¹ Connecticut's coastal management program is designed to ensure balanced coastal growth, improve public access, restore coastal habitats, protect compatible uses, promote harbor management, and facilitate scientific research.⁴²

Connecticut's coastal management program operates cooperatively between state and local governments.⁴³ The Coastal Management Act encourages the state's 36 coastal towns to adopt municipal coastal programs⁴⁴ and concomitant zoning and development regulations.⁴⁵ In creating municipal coastal management programs, due consideration must be given to "(1) [t]he character and distribution of the coastal resources..., the capacity of and limitations on such resources to support development, and the types and methods of development compatible with the wise use, protection and enhancement of such resources; (2) the nature and pattern of existing development; and (3) the need for public services."⁴⁶ The DEEP and the regional planning agency must approve a municipality's coastal management plan, or any revisions to it, before it is finalized. Participating municipalities received initial financial assistance to develop municipal coastal programs, which are now largely integrated into municipal Plans of Conservation and Development.⁴⁷

³⁴ See, Regs., Conn. State Agencies §§ 26-306-1—26-306-7.

³⁵ Conn. Gen. Stat. § 26-306

³⁶ *Id.* § 26-310.

³⁷ *Id.* § 26-311.

³⁸ Sec. 26-316

³⁹ While no regulations have been adopted by the DEEP under its endangered species authority, its other regulatory programs such as coastal structures, dredging and fill permits (discussed above) may indirectly provide protections for eelgrass beds in Connecticut.

⁴⁰ Conn. Gen. Stat. §§ 22a-90—22a-113c.

⁴¹ See, www.ct.gov/deep/cwp/view.asp?a=2688&Q=456156&depNav_GID=1511, last visited May 9, 2013.

⁴² Conn. Gen. Stat. § 22a-92.

⁴³ Conn. Gen. Stat. § 22a-91(6).

⁴⁴ Conn. Gen. Stat. § Sec. 22a-101.

⁴⁵ Conn. Gen. Stat. § Sec. 22a-102(b).

⁴⁶ Conn. Gen. Stat. § 22a-102(b).

⁴⁷ Conn. Gen. Stat. § 22a-112.

Coastal municipalities are required to conduct coastal site plan reviews for most activities, uses, and developments⁴⁸ proposed to occur within the coastal boundary, which generally extends from the seaward extent of the state’s jurisdiction 1,000 feet inland from the shore.⁴⁹ Uses and activities subject to the management program are evaluated for their consistency with the coastal policies and state and municipal permit programs, and for their adverse impacts on coastal resources and water-dependent uses.⁵⁰ The municipal board or commission reviewing the coastal site plan may accordingly approve, modify, condition or deny the proposed use or activity. Sec. 22a-105(e).

The DEEP is responsible for the overall implementation and oversight of the program.⁵¹ The DEEP is charged with the coordination of the regulatory programs in the coastal area, including permitting under the Tidal Wetland’s Act and the Structures, Dredging and Fill Act, to ensure furtherance of the policies set forth in the Coastal Management Act.⁵² The DEEP has published a Coastal Policies and Use Guidelines manual in 2000, updated periodically, to guide municipalities and applicants in understanding coastal management policies and conducting coastal site plan reviews.⁵³

Structures, Dredging, and Filling Statute

Connecticut’s Structures, Dredging, and Fill Statute establishes a permit regime for the dredging, erection of structures, and the placement of fill in tidal, coastal, or navigable waters of the state waterward of the high tide line.⁵⁴ Prior to erecting any structure or conducting any dredge or fill activities in such an area, an applicant must seek a permit and pay a fee.⁵⁵ The public may submit comments on permit applications pending before DEEP.⁵⁶ The DEEP will also hold a public hearing “if, in the [DEEP] commissioner’s discretion, the public interest will best be served by holding such hearing” upon request of the applicant, or by petition of 25 or more signatures⁵⁷

Section 22a-361 authorizes the DEEP to adopt regulations pursuant to the Act, but no dredge and fill implementing regulations have been promulgated to date at the state level.⁵⁸ The statute also authorizes the DEEP to issue general permits in certain circumstances⁵⁹ and provides for ongoing civil penalties in the case of violations.⁶⁰ The Structures, Dredging, and Fill Act permit program operates in

⁴⁸ The Coastal Management Act allows municipalities to provide specific exemptions from the coastal site plan review requirement. Available exemptions, which are found in Conn. Gen. Stat. § 22a-109(b), may be applied provided that the applicable exemption has been adopted by the municipality in question and incorporated into its zoning regulations.

⁴⁹ Conn. Gen. Stat. § 22a-94(b) defines the coastal boundary as the “continuous line delineated on the landward side by the interior contour elevation of the one hundred year frequency coastal flood zone, as defined and determined by the National Flood Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234), or a one thousand foot linear setback measured from the mean high water mark in coastal waters, or a one thousand foot linear setback measured from the inland boundary of tidal wetlands mapped under section 22a-20, whichever is farthest inland.” Conn. Gen. Stat. § 22a-94(b). The coastal boundary is “delineated on the seaward side by the seaward extent of the jurisdiction of the state.” Conn. Gen. Stat. § 22a-94(b).

⁵⁰ Conn. Gen. Stat. § 22a-105.

⁵¹ Conn. Gen. Stat. § 22a-97(b).

⁵² Conn. Gen. Stat. § 22a-98.

⁵³ Connecticut Coastal Management Manual (2000), available at

www.ct.gov/deep/lib/deep/long_island_sound/coastal_management_manual/manual_08.pdf.

⁵⁴ Conn. Gen. Stat. § 22a-359

⁵⁵ The application fees under this Act depend upon how many acres of water are proposed to be affected. A fee schedule is provided in Conn. Gen. Stat. § 22a-361(a).

⁵⁶ Conn. Gen. Stat. § 22a-361(b).

⁵⁷ *Id.*, as amended by PA 13-209, §6.

⁵⁸ Conn. Gen. Stat. § 22a-361(c).

⁵⁹ Conn. Gen. Stat. § 22a-361(d).

⁶⁰ Conn. Gen. Stat. §§ 22a-361a—22a-363.

conjunction with the Tidal Wetland Act’s permitting program and other state environmental permitting regimes. Therefore, activities conducted in tidal wetlands almost always require a combined tidal wetland and structures and dredging permit.

Evaluation of State Authorities⁶¹

FACTORS	Natural Area Preserves	Area-Based Fishing Restrictions	Fish and Wildlife Refuges	Bluff Point Coastal Reserve	Tidal Wetlands Act
Legal regime	★★★★★ Regulatory and Planning	★★★★★ Regulatory	★★★★★ Regulatory	★★★★★ Regulatory	★★★★★ Regulatory
Ocean jurisdiction	★★★★★ Potentially all marine waters, none at present	★★★★★ Subset of marine waters	★★★★★ Potentially all marine waters, none at present	★ Shore-based	★★ Estaurine
Durability	★★★ Indeterminate	★★★ Indeterminate	★★★ Indeterminate	★★★★★ In perpetuity	★★ Indeterminate
Consistency over time	★★★★★ Authorizes year-round protection	★★★★★ Mandates year-round & seasonal protection	★★★★★ Authorizes year-round protection	★★★★★ Mandates year-round protection	★★★★★ Mandates year-round protection
Habitat protection	★★★★★ Habitat protection	★★★ Byproduct=protecting habitat	★★★★★ Habitat protection	★★★★★ Habitat protection	★★★★★ Habitat protection
Sector	★★★★★ Authorizes multi-sector protection	★★★ Mandates single sector	★★★★★ Authorize multi-sector	★★★★★ Mandate multi-sector	★★★★★ Mandates multi-sector protection
Enforcement	★ No MPA-specific enforcement	★★★★★ MPA-specific statutory civil penalties specified	★★★★★ Statutory, includes criminal (misdemeanor) penalties specified	unknown	★★★★★ MPA-specific statutory civil penalties specified
Extent (scope)	★★★★★ Multi-site with expansion mechanism (no marine sites designated)	★★★ Multi-site, no specific expansion mechanism	★★★★★ Multi-site with expansion possible	★ Single site, no expansion mechanism	★★ Multi-site, no specific expansion mechanism
Process for designation or expansion	★★★★★ Specific public process for designated a natural area	★★★ No specific public process	★★★ No specific public process	★★★ No specific public process	★★★★★ Specific public process for designating tidal wetlands, but no

⁶¹ For an explanation of the evaluation matrix and criteria, please see the Introduction and Methodology Chapters.

preserve

process for
expansion

Local Authority for Marine Protection

Summary of Local Authorities

Connecticut provides scant local authority for establishing marine protected areas. The only meaningful authority found stems from Connecticut’s Coastal Management Act, which authorizes coastal municipalities to establish coastal programs and accompanying zoning and development regulations. While the Coastal Management Act is primarily a land-use planning statute, it does give municipalities enforcement authority.

SUMMARY	
Legal requirement	Connecticut Coastal Management Act
Citation (including year)	Conn. Gen. Stat. §§ 22a-90—22a-113c (1979)
Designation authority	By statute
Mgmt/enforcement authority	DEEP and municipalities
Jurisdiction & boundaries	The "Coastal Boundary," extends from the seaward extent of the state’s jurisdiction generally 1,000 feet inland from the shore.
Prohibited uses	None specified.
Permitted uses	None specified.

Connecticut Coastal Zone Management Act

Connecticut’s Coastal Management Act is the state law that establishes enforceable policies under the federal Coastal Zone Management Act (CMZA).⁶² Connecticut’s Coastal Management program encourages coastal municipalities to adopt coastal programs.⁶³ Participating municipalities were rewarded with initial funding assistance and receive ongoing technical support.⁶⁴

Coastal municipalities are generally required to conduct coastal site plan reviews for activities and uses proposed to occur within 1,000 feet inland from the shore.⁶⁵ Municipalities reviewing a coastal site plan may approve the proposed use or activity only after giving due consideration to the potential adverse

⁶² Conn. Gen. Stat. §§ 22a-90—22a-113c.

⁶³ Conn. Gen. Stat. § Sec. 22a-101.

⁶⁴ Conn. Gen. Stat. § 22a-112.

⁶⁵ Conn. Gen. Stat. § 22a-94(b) defines the coastal boundary as the “continuous line delineated on the landward side by the interior contour elevation of the one hundred year frequency coastal flood zone, as defined and determined by the National Flood Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234), or a one thousand foot linear setback measured from the mean high water mark in coastal waters, or a one thousand foot linear setback measured from the inland boundary of tidal wetlands mapped under section 22a-20, whichever is farthest inland.” Conn. Gen. Stat. § 22a-94(b). The coastal boundary is “delineated on the seaward side by the seaward extent of the jurisdiction of the state.” Conn. Gen. Stat. § 22a-94(b).

impacts of the proposed activity on coastal resources and future water-dependent development.⁶⁶ Municipalities are also encouraged amend their land-use regulations to conform with the policy and aims of the Connecticut Coastal Management Act and the federal CZMA.

Evaluation of Local Authorities

FACTORS	Connecticut Coastal Management Act
Legal regime	Planning 
Ocean jurisdiction	Shore to 1,000 feet inland 
Durability	Indeterminate 
Consistency over time	Indeterminate 
Habitat protection	Habitat protection 
Sector	Authorizes multt-sector 
Enforcement	No MPA-specific enforcement 
Extent (scope)	Multi-site, no expansion mechanism 
Process for designation or expansion	Specific public process for development of a municipal coastal plan 

⁶⁶ Conn. Gen. Stat. §. 22a-105(e).