

CHAPTER 446i*

WATER RESOURCES. INVASIVE PLANTS

*Annotations to former chapter 473:

Cited. 157 C. 534; 175 C. 483.

Table of Contents

[Sec. 22a-336. \(Formerly Sec. 25-2\). Cooperation with other agencies. Right of entry in performance of duty.](#)

[Sec. 22a-337. \(Formerly Sec. 25-3\). Commissioner's powers.](#)

[Secs. 22a-338 and 22a-339. \(Formerly Secs. 25-3b and 25-3c\). Algae abatement and control program. Reimbursement of towns and lake authorities for algae and aquatic weed control programs.](#)

[Sec. 22a-339a. Grants to improve water quality of lakes used for public recreation.](#)

[Sec. 22a-339b. Criteria for grants. Public benefit.](#)

[Sec. 22a-339c. Grant conditions.](#)

[Sec. 22a-339d. Regulations.](#)

[Sec. 22a-339e. Municipal assessment for costs of lake management implementation measures.](#)

[Sec. 22a-339f. Pilot program for lake preservation.](#)

[Sec. 22a-339g. Control of nonnative invasive plant species.](#)

[Sec. 22a-339h. Lake Beseck. Water level draw downs.](#)

[Sec. 22a-339i. Aquatic invasive species management grant and prevention and education program. Allocation of funds. Regulations.](#)

[Sec. 22a-339j. Water level draw downs at Bashan Lake.](#)

[Sec. 22a-340. \(Formerly Sec. 25-3d\). Channels for access to and from deep water to uplands.](#)

[Sec. 22a-341. \(Formerly Sec. 25-4\). Approval of agreements or compacts.](#)

[Sec. 22a-342. \(Formerly Sec. 25-4a\). Establishment of stream channel encroachment lines. Permits for encroachments, required findings. Fees.](#)

[Sec. 22a-342a. Civil penalty.](#)

[Sec. 22a-343. \(Formerly Sec. 25-4b\). Determination of lines.](#)

[Sec. 22a-344. \(Formerly Sec. 25-4c\). Public hearing. Order establishing lines. Revocation of orders.](#)

[Sec. 22a-345. \(Formerly Sec. 25-4d\). Nonconforming uses. Taking of existing structures by commissioner.](#)

[Sec. 22a-346. \(Formerly Sec. 25-4e.\) Encroachment as nuisance.](#)

[Sec. 22a-347. \(Formerly Sec. 25-4f\). Regulations and procedures.](#)

[Sec. 22a-348. \(Formerly Sec. 25-4g\). Municipal powers.](#)

[Sec. 22a-349. \(Formerly Sec. 25-4h\). Permitted agricultural or farming uses. Permitted uses within stream channel encroachment lines.](#)

[Sec. 22a-349a. General permits for minor activities. Regulations.](#)

[Sec. 22a-349b. Permit program for certain commercial projects involving quarrying. Program requirements.](#)

[Sec. 22a-350. \(Formerly Sec. 25-5\). Study of conditions relating to flood control.](#)

[Sec. 22a-351. \(Formerly Sec. 25-5a\). Inventory of groundwater and surface water resources. Study of water policy needs.](#)

[Sec. 22a-352. \(Formerly Sec. 25-5b\). State water plan. Requirements. Submission to General Assembly. Public review. Approval. Annual report.](#)

[Sec. 22a-353. \(Formerly Sec. 25-5c\). Duties of Secretary of the Office of Policy and Management. Grants to regional councils of governments. Federal funds.](#)

[Sec. 22a-354. \(Formerly Sec. 25-5d\). Appropriation of bond proceeds.](#)

[Sec. 22a-354a. "Existing well fields" and "potential well fields", defined.](#)

[Sec. 22a-354b. Standards for modeling and mapping of locations of aquifers.](#)

[Sec. 22a-354c. Mapping of well fields by water companies.](#)

[Sec. 22a-354d. Completion of mapping of well fields.](#)

[Sec. 22a-354e. Inventory of land uses overlying aquifers.](#)

[Sec. 22a-354f. Guidelines for inventory.](#)

[Sec. 22a-354g. Findings.](#)

[Sec. 22a-354h. Definitions.](#)

[Sec. 22a-354i. Regulations.](#)

[Sec. 22a-354j. Consistency of aquifer regulations with regulations re farm resources management plans.](#)

[Sec. 22a-354k. Groundwater education program.](#)

[Sec. 22a-354l. Model municipal aquifer protection ordinance.](#)

[Sec. 22a-354m. Farm resources management plans. Regulations.](#)

[Sec. 22a-354n. Delineation of aquifer protection areas on maps prepared by zoning commissions, planning commissions or planning and zoning commissions. Challenges to boundaries.](#)

[Sec. 22a-354o. Municipal aquifer protection agency: Creation; members; regulation; training. Fines.](#)

[Sec. 22a-354p. Municipal aquifer protection agency: Regulations, permits, fees. Approval of regulations. Authority of commissioner. Submission of documents.](#)

[Sec. 22a-354q. Appeals.](#)

[Sec. 22a-354r. Findings on appeal. Setting aside or modifying action. Authority to purchase land.](#)

[Sec. 22a-354s. Penalty. Court orders.](#)

[Sec. 22a-354t. Revocation of municipal authority to regulate aquifer protection areas.](#)

[Sec. 22a-354u. Incentive program for public recognition of users of land within aquifer protection areas who implement innovative approaches to groundwater protection.](#)

[Sec. 22a-354v. Technical training classes for members and staff of municipal aquifer protection agencies.](#)

[Sec. 22a-354w. Guidelines for acquisition of lands surrounding public water supply well fields.](#)

[Sec. 22a-354x. Duties of the commissioner. Technical, coordinating and research services. Supervision. Powers of the commissioner. Annual report.](#)

[Sec. 22a-354y. Preparation of municipal assistance program by water companies.](#)

[Sec. 22a-354z. Mapping by water companies of areas of contribution and recharge areas for existing and potential stratified drift wells.](#)

[Sec. 22a-354aa. Strategic groundwater monitoring program in aquifer protection areas.](#)

[Sec. 22a-354bb. Inventory of agricultural land uses overlying mapped well fields.](#)

[Sec. 22a-354cc. Regulated activity allowed in municipal aquifer protection areas undergoing remedial action. Restrictions.](#)

[Sec. 22a-355. \(Formerly Sec. 25-5e\). Land sales by water companies. Commissioner's duties.](#)

[Sec. 22a-356. \(Formerly Sec. 25-5f\). Cost estimates re groundwater recharge and discharge.](#)

[Sec. 22a-357. \(Formerly Sec. 25-6\). Special reports.](#)

[Sec. 22a-358. \(Formerly Sec. 25-7a\). Sale of water by public water systems.](#)

[Sec. 22a-359. \(Formerly Sec. 25-7b\). Regulation of dredging, erection of structures and placement of fill in tidal, coastal or navigable waters. Sunken or grounded vessels. Definitions.](#)

[Sec. 22a-360. \(Formerly Sec. 25-7c\). Establishment of boundaries.](#)

[Sec. 22a-361. \(Formerly Sec. 25-7d\). Permit for dredging, structures, placement of fill, obstruction or encroachment, or mooring area or facility. Regulations. General permits. Removal of sand, gravel or other material. Fees. Prohibited docks or structures.](#)

[Sec. 22a-361a. Civil penalty.](#)

[Sec. 22a-362. \(Formerly Sec. 25-7e\). Violations as public nuisance.](#)

[Sec. 22a-363. \(Formerly Sec. 25-7f\). Penalty for violation.](#)

[Sec. 22a-363a. Definitions.](#)

[Sec. 22a-363b. Activities eligible for certificate of permission. Exemptions. Issuance of certificate. Failure of commissioner to respond.](#)

[Sec. 22a-363c. Application fee.](#)

[Sec. 22a-363d. Emergency authorization. Expiration.](#)

[Sec. 22a-363e. Failure to comply with order. Littoral owner as responsible party.](#)

[Sec. 22a-363f. Cease and desist orders. Hearing. Decision.](#)

[Sec. 22a-363g. Filing of permit, certificate or authorization on municipal land records.](#)

[Sec. 22a-363h. Approaches to shoreline protection. Pilot program and projects. Shoreline management study. Program to develop and maintain science and engineering capacity to support shoreline planning and management.](#)

[Sec. 22a-364. \(Formerly Sec. 25-8\). Stream gauging stations.](#)

[Sec. 22a-365. Short title: Connecticut Water Diversion Policy Act.](#)

[Sec. 22a-366. Legislative findings.](#)

[Sec. 22a-367. Definitions.](#)

[Sec. 22a-368. Registration of existing diversions. Permits. Transfer.](#)

[Sec. 22a-368a. Reporting of current operating data.](#)

[Sec. 22a-369. Application for permit. Information required.](#)

[Sec. 22a-370. Notice to town re application.](#)

[Sec. 22a-371. Request for additional information. Notice of completed application. Notice of hearing. Waiver of hearing.](#)

[Sec. 22a-372. Commencement of hearing. Application and documents available for public inspection. Parties to proceedings. Regulations. Fees.](#)

[Sec. 22a-373. Decision.](#)

[Sec. 22a-374. Appeals.](#)

[Sec. 22a-375. Investigation, suspension or revocation of permits. Inventory of diversions.](#)

[Sec. 22a-376. Injunctions. Forfeiture. Penalties.](#)

[Sec. 22a-377. Exemptions. Regulations.](#)

[Sec. 22a-378. Water supply emergency. Violation of water supply emergency order.](#)

[Sec. 22a-378a. General permits for minor activities. Regulations.](#)

[Sec. 22a-379. Diversion permit. Fee.](#)

[Sec. 22a-380. Water resources policy.](#)

[Sec. 22a-381. Invasive Plants Council: Membership; meetings.](#)

[Sec. 22a-381a. Duties and recommendations of the Invasive Plants Council.](#)

[Sec. 22a-381b. Listing of invasive and potentially invasive plants by council. Criteria for listing. Approval by majority of council's membership.](#)

[Sec. 22a-381c. Prohibition on purchase of invasive or potentially invasive plants by state agencies.](#)

[Sec. 22a-381d. Prohibited actions re certain invasive plants. Exceptions. Municipal ordinances prohibited. Penalty.](#)

[Sec. 22a-381e. Prohibited actions re running bamboo. Disclosure statement. Penalties. Enforcement. Running bamboo as nuisance.](#)

[Sec. 22a-382. Reserved](#)

[Secs. 22a-383 to 22a-390. \(Formerly Secs. 25-10 to 25-12, 25-14 to 25-18\). Removal of sand and gravel from lands under tidal and coastal waters.](#)

[Secs. 22a-391 to 22a-400. Reserved](#)

PART I

GENERAL PROVISIONS

Sec. 22a-336. (Formerly Sec. 25-2). Cooperation with other agencies. Right of entry in performance of duty. The Commissioner of Energy and Environmental Protection may make use of the Connecticut Agricultural Experiment Station and the facilities of said station, and may cooperate with any other public or private agency in carrying out the provisions of this title. The commissioner, either deputy commissioner, or any assistant or employee of the Department of Energy and Environmental Protection may, at any reasonable time, enter any premises while engaged in the performance of duty under the provisions of this title.

(1949 Rev., S. 4041; 1957, P.A. 364, S. 12; 1971, P.A. 872, S. 39; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with commissioner and department of environmental protection and deleted obsolete provision re chairman, director, deputy director and staff of abolished commission; Sec. 25-2 transferred to Sec. 22a-336 in 1983; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" and "Department of Environmental Protection" were changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" and "Department of Energy and Environmental Protection", respectively, effective July 1, 2011.

See Sec. 22-6 re powers and duties of Commissioner of Agriculture.

See Sec. 22a-21 re commissioner's authority to prepare a plan for development of outdoor recreation and other natural resources.

Annotations to former section 25-2:

Cited. 120 C. 438; 148 C. 586.

[\(Return to Chapter \(Return to Table of Contents\) List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-337. (Formerly Sec. 25-3). Commissioner's powers. (a) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health, is authorized, as the representative of the state of Connecticut, to negotiate, cooperate and enter into agreements or compacts with authorized agencies representing any one or more states or commonwealths, or the United States, or any

combination thereof, relative to flood control, river and harbor improvements or obstructions, navigation, pollution of interstate waters, diversion of interstate waters, and the use of such interstate waters by any agency of the United States, or any one or more states or commonwealths, which will tend to increase the hazard of damage to persons or property located or situated in this state by reason of flood waters or which will in any way interfere adversely with the navigability of any stream or river located wholly or partially within this state during periods of low flow in the main stream or any of its tributaries. With respect to matters relating to river and harbor improvements and the navigability of streams or rivers, the Commissioner of Energy and Environmental Protection may, as appropriate, request and consider recommendations of the Commissioner of Transportation and the board of directors of the Connecticut Port Authority.

(b) The Commissioner of Energy and Environmental Protection is designated as the shore erosion agency of the state for the purpose of cooperating with the Beach Erosion Board of the Department of Defense, as provided for in Section 2 of the "River and Harbor Act" adopted by Congress and approved July 3, 1930, and known as H.R. Number 11781 of the second session of the 71st Congress. Said commissioner shall carry out investigations and studies of conditions along the shore line, harbors, rivers and islands within the territorial waters of the state in order to promote and encourage the healthful recreation of its citizens and with a view to devising and projecting economical and effective methods and works for preventing and correcting shore erosion and damage to public and private property therefrom and to prevent inundation of improved property by storms, erosion and ravages of the sea.

(1949 Rev., S. 3567; 1955, S. 1957d; November, 1955, S. N191; 1957, P.A. 364, S. 9; March, 1958, P.A. 20, S. 1; 1961, P.A. 273, S. 2; 1963, P.A. 435, S. 8; 1969, P.A. 768, S. 254; 1971, P.A. 872, S. 40; P.A. 85-142, S. 1; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 11-80, S. 1; June Sp. Sess. P.A. 15-5, S. 32.)

History: 1961 act amended Subsec. (c) to authorize designated subcommittee to hold hearing; 1963 act repealed Subsec. (c) which had concerned the designation of areas of waterways as free from obstruction or encroachment by public or private persons, firms or corporations; 1969 act added provision in Subsec. (a) re recommendations of commissioner of transportation in matters concerning river and harbor improvements, etc.; 1971 act replaced references to water resources commission with references to environmental protection commissioner in Subsec. (a); Sec. 25-3 transferred to Sec. 22a-337 in 1983; P.A. 85-142 amended Subsec. (a) by requiring that the commissioner of health services be consulted; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011; June Sp. Sess. P.A. 15-5 amended Subsec. (a) by replacing "shall" with "may, as appropriate" re commissioner to request and consider recommendations and adding reference to board of directors of Connecticut Port Authority, effective July 1, 2016.

See Secs. 22a-342 to 22a-348 re stream channel encroachment line.

Annotations to former section 25-3:

Cited. 148 C. 591.

General jurisdiction of commission discussed. 21 CS 407.

Annotation to present section:

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Secs. 22a-338 and 22a-339. (Formerly Secs. 25-3b and 25-3c). Algae abatement and control program. Reimbursement of towns and lake authorities for algae and aquatic weed control programs. Sections 22a-338 and 22a-339 are repealed.

(1963, P.A. 632; February, 1965, P.A. 239, S. 1; 1967, P.A. 545, S. 1; 1971, P.A. 872, S. 41, 42; P.A. 77-164; 77-166; P.A. 79-108; P.A. 87-492, S. 6, 8.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339a. Grants to improve water quality of lakes used for public recreation. The Commissioner of Energy and Environmental Protection may make a grant to any municipality or lake association for a project to improve the water quality of a lake used for public recreation. As used in sections 22a-339a to 22a-339e, inclusive, (1) “project” means any diagnostic feasibility study associated with eutrophication abatement, lake management activities or watershed management or any implementation measure designed to improve or restore water quality, and (2) “lake association” means a district established by special act or pursuant to section 7-325, authorized to make appropriations, levy taxes and perform lake management functions.

(P.A. 87-492, S. 1, 8; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339b. Criteria for grants. Public benefit. The Commissioner of Energy and Environmental Protection shall evaluate the eligibility of a project for a grant and shall award such grant based on lake priorities established by said commissioner pursuant to the federal Clean Water Act (33 USC 1251 et seq.) and the benefit to the public from the project. Such benefit shall be determined by an assessment of (1) state-owned public access, (2) the impact of the project on the water quality and aquatic resources of the lake, and (3) existing and proposed watershed management practices.

(P.A. 87-492, S. 2, 8; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339c. Grant conditions. The grants made under section 22a-339b shall be subject to the following conditions: (1) No grant shall be made for any study, report, plan or restoration measure except if such study, report, plan or restoration measure is in accordance with a priority system established by the Commissioner of Energy and Environmental Protection in accordance with the provisions of the federal Clean Water Act (33 USC 1251 et seq.), (2) no grant shall be made until a municipality or lake association has agreed to pay that part of the total cost that is in excess of the applicable state grant, and (3) the grant to each municipality or lake association shall equal seventy-five per cent of the cost of a diagnostic feasibility study and fifty per cent of the cost of implementation measures. Notwithstanding the provisions of this section, (A) if federal funds are available in the amount of seventy per cent of the cost of a diagnostic study, the state grant shall not exceed thirty per cent of the

cost of the study, and (B) if federal funds are available in the amount of fifty per cent of the cost of implementation measures, the state grant shall not exceed twenty-five per cent of the cost of the measures. The commissioner may require the recipient of a grant implementing restoration measures to establish watershed management practices to prevent the reoccurrence of a water quality problem.

(P.A. 87-492, S. 3, 8; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339d. Regulations. The Commissioner of Energy and Environmental Protection shall adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of sections 22a-339a to 22a-339c, inclusive. Such regulations shall include provisions for reviewing the water quality of lakes to determine the eligibility for grants made pursuant to section 22a-339a. The regulations shall be consistent with the provisions of the federal Clean Water Act (33 USC 1251 et seq.) and shall qualify the state for the maximum amount of funds available under said act.

(P.A. 87-492, S. 4, 8; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339e. Municipal assessment for costs of lake management implementation measures. A municipality may, by vote of its legislative body, impose an assessment of a proportion of the cost of lake management implementation measures upon the owners of property specially benefited by such measures, provided no such assessment shall be in excess of the special benefit to the property. The balance of the cost of the measure shall be paid from the general funds of the municipality. Any person aggrieved by an assessment may appeal in the manner provided for in section 7-250.

(P.A. 87-492, S. 5, 8.)

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339f. Pilot program for lake preservation. The Commissioner of Energy and Environmental Protection shall:

(1) Designate a lake located in two or more municipalities and Bantam Lake in Morris and Litchfield to be the subject of a program of preservation which may serve as a pilot program for the preservation and enhancement of the historic, cultural, recreational, economic, scenic, public health and environmental value of lakes in this state;

- (2) Encourage partnerships and agreements with municipalities which are contiguous to the lakes and, to the greatest extent practicable under law, direct programs, grants and technical assistance so as to provide environmental support to the lakes;
- (3) Coordinate state and municipal activities and resources to preserve, protect and restore the lakes and their shorelines;
- (4) Provide access to existing scientific data and information relating to the lakes, their shorelines and watershed areas to the municipalities in which they are located;
- (5) Cooperate with such municipalities to promote and encourage public use and enjoyment of the resource for all lawful purposes consistent with achievement of the other goals set forth in this section;
- (6) Provide, upon request of such municipalities, an agency representative to whom they may communicate goals and needs and who shall facilitate communication and interaction between such municipalities and the state; and
- (7) Cooperate with the contiguous municipalities in any efforts to protect and preserve the character of the lakes designated pursuant to subdivision (1) of this section.

(P.A. 99-135, S. 1, 10; P.A. 06-191, S. 1; P.A. 11-80, S. 1.)

History: P.A. 99-135 effective July 1, 1999; P.A. 06-191 added Bantam Lake in Morris and Litchfield in Subdiv. (1) and made technical changes in Subdivs. (2) to (4) and (7), effective June 9, 2006; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339g. Control of nonnative invasive plant species. The Commissioner of Energy and Environmental Protection shall make recommendations and take appropriate actions for the control of nonnative invasive plant species; prepare information materials for distribution; conduct educational activities which address the effects of nonnative invasive plant species upon the state; and prepare and maintain a list of nonnative invasive plant species that will be distributed on an annual basis.

(P.A. 01-150, S. 17; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

See Sec. 26-22 re commissioner's authority to use chemical, electrical or mechanical means to remove undesirable plants from waters of the state.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339h. Lake Beseck. Water level draw downs. On or before November 1, 2006, the Commissioner of Energy and Environmental Protection shall enter into an agreement with the town of Middlefield and the Lake Beseck Association regarding a schedule for annual water level draw downs of Lake Beseck. Water level draw downs shall be three feet during even-numbered years with completion achieved by December first of such year and maintained until March first of the following year. Water level draw downs shall be six feet during odd-numbered years achieved by November first of such year and maintained until December thirty-first of such year; a three-foot water level draw down shall be maintained thereafter until March first of the following year.

Such water level draw downs are designed to balance the various concerns of the lake community, including: Recreational needs, preservation of lakefront infrastructure, fisheries habitat and other natural resource concerns.

(P.A. 06-191, S. 2; P.A. 11-80, S. 1.)

History: P.A. 06-191 effective June 9, 2006; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339i. Aquatic invasive species management grant and prevention and education program. Allocation of funds. Regulations. (a) There is established an aquatic invasive species management grant and prevention and education program that shall be administered by the Department of Energy and Environmental Protection. Pursuant to such program, the Commissioner of Energy and Environmental Protection may make a grant to any municipality for: (1) Up to seventy-five per cent of the cost of conducting an aquatic invasive species diagnostic feasibility study associated with the abatement of a population of an aquatic invasive species in an inland water body of this state; or (2) up to fifty per cent of the cost of conducting a project to restore an inland water body of the state through the control and management of a population of aquatic invasive species that exists in said inland water body as of July 1, 2014.

(b) In addition to making grants, as described in subsection (a) of this section, pursuant to such aquatic invasive species management grant and prevention and education program, the Commissioner of Energy and Environmental Protection may educate persons who engage in boating in this state on measures to prevent the spread of aquatic invasive species in the inland water bodies of this state and conduct a rapid response to a population of aquatic invasive species in an inland water body of this state that is identified after July 1, 2014.

(c) Not less than thirty per cent of any funds available to the Commissioner of Energy and Environmental Protection for such aquatic invasive species management grant and prevention and education program shall be used for the purpose of making grants in accordance with the provisions of subdivisions (1) and (2) of subsection (a) of this section. The remainder of any such funds shall be used for: (1) The prevention and education and rapid response efforts described in subsection (b) of this section, and (2) the administration of such program, provided not more than ten per cent of such funds shall be used for such administrative purposes.

(d) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, to implement the aquatic invasive species management grant and prevention and education program described in this section. Such regulations may include, but shall not be limited to, eligibility criteria and priorities for the award of any grant pursuant to subsection (a) of this section.

(P.A. 14-217, S. 248.)

History: P.A. 14-217 effective July 1, 2014.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-339j. Water level draw downs at Bashan Lake. On or before November 1, 2017, the Commissioner of Energy and Environmental Protection shall enter into an agreement with the town of East Haddam and the Bashan Lake Association regarding a schedule for annual water level draw downs of Bashan Lake. The agreed upon draw down level shall be required to control weeds, prevent property damage and erosion into said lake and prevent reduction in association property values. Such water level draw downs shall be designed to balance the various concerns of the lake community, including recreational needs, preservation of lakefront infrastructure, fisheries habitat and other natural resource concerns. On and after June 9, 2016, the Bashan Lake

Association shall monitor Bashan Lake and submit any petition concerning such a draw down to the town of East Haddam not later than sixty days prior to the date of commencement for any such draw down.

(P.A. 16-141, S. 1.)

History: P.A. 16-141 effective June 9, 2016.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-340. (Formerly Sec. 25-3d). Channels for access to and from deep water to uplands. The commissioner shall have the power and authority, after a public hearing, subject to the issuance of a permit by the corps of engineers of the United States army, to designate and lay out channels and boat basins in lands under tidal and coastal waters for the purpose of providing access to and from deep water to uplands adjacent to or bordering on tidal and coastal waters and for the improvement of coastal and inland navigation by vessels, including small craft for recreational purposes with due regard for the recreational, commercial and navigational needs of the state. The commissioner shall promptly give written notice to the Connecticut Port Authority of any proceeding under this section, and shall consider such recommendations as the authority may submit to the commissioner not later than thirty days after the conclusion of public hearings thereon. The board of directors of the Connecticut Port Authority is authorized to initiate proceedings under this section.

(1963, P.A. 574, S. 3; 1969, P.A. 768, S. 255; 1971, P.A. 872, S. 43; June Sp. Sess. P.A. 15-5, S. 33.)

History: 1969 act added provisions requiring notification of transportation commissioner and setting forth his powers and duties re designation of channels and boat basins; 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-3d transferred to Sec. 22a-340 in 1983; June Sp. Sess. P.A. 15-5 replaced references to Commissioner of Transportation with references to Connecticut Port Authority and board of said authority and made technical and conforming changes, effective July 1, 2016.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-341. (Formerly Sec. 25-4). Approval of agreements or compacts. No agreement or compact provided for in subsection (a) of section 22a-337 shall be entered into by said commissioner until it has been approved by the Governor and any such agreement or compact shall contain a provision that the agreement or compact shall not become effective until ratified by the General Assembly of this state.

(1949 Rev., S. 3568; 1971, P.A. 872, S. 44.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; Sec. 25-4 transferred to Sec. 22a-341 in 1983.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-342. (Formerly Sec. 25-4a). Establishment of stream channel encroachment lines. Permits for encroachments, required findings. Fees. The commissioner may establish, along any tidal or inland waterway or flood-prone area considered for stream clearance, channel improvement or any form of flood control or flood alleviation measure, lines beyond which, in the direction of the waterway or flood-prone area, no obstruction, encroachment or hindrance shall be placed by any person, and no such obstruction, encroachment or hindrance

shall be maintained by any person unless authorized by said commissioner. The commissioner shall issue or deny permits upon applications for establishing such encroachments based upon his findings of the effect of such proposed encroachments upon the flood-carrying and water storage capacity of the waterways and flood plains, flood heights, hazards to life and property, and the protection and preservation of the natural resources and ecosystems of the state, including but not limited to ground and surface water, animal, plant and aquatic life, nutrient exchange, and energy flow, with due consideration given to the results of similar encroachments constructed along the reach of waterway. Each application for a permit shall be accompanied by a fee as follows: (1) No change in grades and no construction of above-ground structures, four hundred seventy dollars; (2) a change in grade and no construction of above-ground structures, nine hundred forty dollars; and (3) a change in grade and above-ground structures or buildings, four thousand dollars.

(1963, P.A. 435, S. 1; 1971, P.A. 872, S. 45; P.A. 73-590, S. 2, 3; P.A. 90-231, S. 11, 28; P.A. 91-369, S. 26, 36; P.A. 98-209, S. 5; June 30 Sp. Sess. P.A. 03-6, S. 127; June Sp. Sess. P.A. 09-3, S. 416; P.A. 13-205, S. 1.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 73-590 clarified applicable waterways as “tidal or inland” and required that findings contain effect of encroachment upon water storage capacity, floodplains and upon protection and preservation of natural resources and ecosystems; Sec. 25-4a transferred to Sec. 22a-342 in 1983; P.A. 90-231 required the payment of application fees and provided that on and after July 1, 1995, the fees shall be prescribed by regulations; P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; P.A. 98-209 prohibited hindrances beyond stream channel encroachment lines and prohibited maintenance of obstructions, encroachments or hindrances beyond such lines; June 30 Sp. Sess. P.A. 03-6 increased permit application fees by 50% in Subdivs. (1), (2) and (3) and deleted provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased fees; P.A. 13-205 made commissioner's establishment of stream channel encroachment lines permissive rather than mandatory.

See Sec. 7-147 re municipal ordinances.

See Sec. 22a-27i re exemption of municipality for one year.

See Sec. 22a-360 re boundaries for structures.

Annotation to former section 25-4a:

Cited. 179 C. 250.

Annotations to present section:

Cited. 215 C. 616; 235 C. 448; 239 C. 124.

Cited. 24 CA 163.

[\(Return to Chapter](#) [\(Return to Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-342a. Civil penalty. Any person who places any obstruction, encroachment or hindrance within any stream channel encroachment line established by the Commissioner of Energy and Environmental Protection pursuant to section 22a-342 without a permit issued under said section, or is maintaining any such obstruction, encroachment or hindrance placed without such a permit, or in violation of the terms and conditions of such permit shall be liable for a civil penalty of not more than one thousand dollars for each offense. Each violation shall be a separate and distinct offense and in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Commissioner of Energy and Environmental Protection may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.

(P.A. 87-438, S. 2; P.A. 88-230, S. 1, 12; 88-364, S. 42, 123; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 98-209, S. 6; P.A. 11-80, S. 1.)

History: P.A. 88-230 replaced “judicial district of Hartford-New Britain at Hartford” with “judicial district of Hartford”, effective September 1, 1991; P.A. 88-364 made technical change; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 98-209 prohibited maintenance of obstructions, encroachments or hindrances beyond stream channel encroachment lines without a permit; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-343. (Formerly Sec. 25-4b). Determination of lines. The commissioner, in establishing such encroachment lines, shall base their location on the boundaries of the area which would be inundated by a flood similar in size to one or more recorded floods which have caused extensive damages in such area or on a size of flood computed by accepted methods applicable generally throughout the state or a region thereof. The determination of the size of the flood and the boundaries of the inundated area shall take into consideration the effects of probable future developments. The position of the lines may vary from the boundaries of the inundated area so as to minimize the area of land to be regulated when a portion of the inundated area does not contribute to the flood-carrying capacity of the waterway. The position of the lines shall, insofar as practical, equitably affect riparian properties and interests depending upon existing topography and shall be interdependent throughout the reaches of the waterway, and shall conform with the requirements of the federal government imposed as conditions for the construction of flood control projects. When the existing waterway, because of natural or man-made constrictions, is such that such lines cannot be established by standard engineering methods, a channel may be adopted, whereby the removal of such constrictions may be anticipated so that reasonable lines can be established by methods applicable to the state generally. When the flood boundary falls along the channel banks, the lines shall be placed at the top of the bank.

(1963, P.A. 435, S. 2; 1971, P.A. 872, S. 46.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; Sec. 25-4b transferred to Sec. 22a-343 in 1983.

Annotation to former section 25-4b:

Cited. 179 C. 250.

Annotation to present section:

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-344. (Formerly Sec. 25-4c). Public hearing. Order establishing lines. Revocation of orders. (a) The commissioner or a hearing examiner, designated by him, shall hold a public hearing to review the proposed encroachment lines along any waterway or flood-prone area prepared in accordance with section 22a-343 with due consideration of the equities involved. Notice of such hearing shall be given by mail to all property owners known to be affected by the proposed lines and shall be published three times in a newspaper having a general circulation in the area involved. The commissioner shall take appropriate steps to inform the public and the

interested property owners of the proposals by making suitable maps available in the office of the town clerk of the town wherein the property is located for inspection, study and discussion. After consideration of all testimony and pertinent facts at his disposal and with due regard for the public interest and the rights of respective property owners, the commissioner may approve the location of the lines as proposed or as modified and thereupon shall establish such lines by order. Such order shall be recorded with appropriate maps with the town clerks of the respective towns involved. Notice of such order establishing or altering such line or lines shall be mailed to all persons known to be affected thereby and shall be published three times in a newspaper having a general circulation in the area involved. Any person aggrieved by any order of the commissioner as to the location of such line may appeal therefrom, in accordance with the provisions of section 4-183, except venue for such appeal shall be in the judicial district of New Britain.

(b) Any order of the commissioner that established encroachment lines on or before October 1, 2013, shall be deemed to be revoked.

(1963, P.A. 435, S. 3; 1971, P.A. 872, S. 47; P.A. 76-436, S. 465, 681; P.A. 77-603, S. 105, 125; P.A. 80-483, S. 162, 186; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 99-215, S. 24, 29; P.A. 13-205, S. 13.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner and authorized designated hearing examiners to conduct hearings; P.A. 76-436 replaced court of common pleas with superior court, effective July 1, 1978; P.A. 77-603 replaced previous appeal provisions with requirement that appeals be made in accordance with Sec. 4-183, but retained venue in Hartford county; P.A. 80-483 replaced Hartford county with judicial district of Hartford-New Britain; Sec. 25-4c transferred to Sec. 22a-344 in 1983; P.A. 88-230 replaced “judicial district of Hartford-New Britain” with “judicial district of Hartford”, effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 99-215 replaced “judicial district of Hartford” with “judicial district of New Britain”, effective June 29, 1999; P.A. 13-205 designated existing provisions as Subsec. (a) and added Subsec. (b) re revocation of orders establishing encroachment lines.

See Sec. 52-192 re precedence of appeal.

Annotation to former section 25-4c:

Cited. 179 C. 250.

Annotation to present section:

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-345. (Formerly Sec. 25-4d). Nonconforming uses. Taking of existing structures by commissioner. When the establishment of such lines in accordance with sections 22a-342 to 22a-348, inclusive, requires that they be placed through portions of or so as to include entire existing structures within the regulated area, such structures or portions thereof shall be considered as a nonconforming use of the area, except that, if the structure is destroyed or damaged to the extent of more than fifty per cent of the fair market value, such structure shall be replaced or repaired only through a permit from the commissioner, provided the commissioner may define types of structures which may be reconstructed within such lines without a permit. Whenever the commissioner finds that existing structures or encroachments within the lines established constitute a hazard to life and property in the event of flood, he is empowered to take such land and structure as provided by part I of chapter 835 and cause removal of such encroachment.

(1963, P.A. 435, S. 4; 1971, P.A. 872, S. 48.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-4d transferred to Sec. 22a-345 in 1983.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-346. (Formerly Sec. 25-4e.) Encroachment as nuisance. After the commissioner has established such lines on any waterway or flood plain, any obstruction, encroachment or hindrance of any nature placed within such lines in the direction of the waterway, without specific authorization of the commissioner, shall be considered a public nuisance. The Attorney General shall, at the request of the commissioner, institute proceedings to enjoin and abate any such nuisance.

(1963, P.A. 435, S. 5; 1971, P.A. 872, S. 49.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-4e transferred to Sec. 22a-346 in 1983.

See Sec. 22a-362 re structures or fill.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-347. (Formerly Sec. 25-4f.) Regulations and procedures. The commissioner may, subject to the provisions of subsection (a) of section 22a-6, adopt, revise and amend such rules, regulations and procedures as are necessary to carry out the purposes of sections 22a-342 to 22a-348, inclusive, in the public interest.

(1963, P.A. 435, S. 6; 1971, P.A. 872, S. 50.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner and added phrase limiting commissioner's power to make and revise regulations and procedures; Sec. 25-4f transferred to Sec. 22a-347 in 1983.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-348. (Formerly Sec. 25-4g.) Municipal powers. (a) The provisions of sections 22a-342 to 22a-348, inclusive, shall not affect the provision of section 7-147 authorizing any town, city or borough to establish such lines within its jurisdiction prior to the establishment of lines by the commissioner, provided the commissioner may alter any lines, however established, upon finding such alterations are necessary to effectuate the purpose of said sections 22a-342 to 22a-348, inclusive, and section 25-69. If the commissioner has established lines within a municipality, the commissioner shall have exclusive jurisdiction over any encroachments within such lines.

(b) Notwithstanding the provisions of subsection (a) of this section, any town, city or borough may establish such lines at any time to comply with the eligibility provisions of the National Flood Insurance Program (44 CFR Part 59 et seq.).

(1963, P.A. 435, S. 7; 1971, P.A. 872, S. 51; P.A. 84-16; P.A. 88-327, S. 2, 3; P.A. 07-217, S. 115.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; Sec. 25-4g transferred to Sec. 22a-348 in 1983; P.A. 84-16 added Subsec. (b) authorizing towns to establish lines to comply with the National Flood Insurance Program; P.A. 88-327 added provisions to Subsec. (a) re exclusive jurisdiction of commissioner of environmental protection; P.A. 07-217 made a technical change in Subsec. (b), effective July 12, 2007.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-349. (Formerly Sec. 25-4h). Permitted agricultural or farming uses. Permitted uses within stream channel encroachment lines. (a) The provisions of sections 22a-342 to 22a-348, inclusive, shall not be deemed to restrict agricultural or farming uses of lands located within the stream channel encroachment lines including the building of fences, provided this section shall not apply to farm buildings and farm structures.

(b) The following operations and uses shall be permitted within stream channel encroachment lines, as of right: (1) Lawns, gardens or vegetative plantings, (2) split rail fences, (3) open decks attached to residential structures, properly anchored in accordance with the State Building Code, (4) construction of minor structures to an existing facility for the purpose of providing handicap accessibility pursuant to the State Building Code, (5) temporary greenhouses or hoopouses constructed without permanent foundations and anchored pursuant to the State Building Code, (6) placement of fish habitat enhancement devices performed by or approved by the Commissioner of Environmental Protection, (7) demolition of an existing structure, (8) backfilling of foundations, (9) flood-proofing of existing structures, including, but not limited to, elevating structures in accordance with Federal Emergency Management Agency standards, (10) repair or installation of septic systems, (11) construction of irrigation systems, (12) installation of water monitoring structures performed by or approved by the Commissioner of Energy and Environmental Protection, (13) installation of dry hydrants, (14) driveway and roadway repair and maintenance that does not raise the existing road grade more than three inches, or (15) patios or walkways constructed at grade.

(P.A. 75-114, S. 1, 2; P.A. 05-174, S. 4; P.A. 11-80, S. 1.)

History: Sec. 25-4h transferred to Sec. 22a-349 in 1983; P.A. 05-174 designated existing provisions as Subsec. (a) and added new Subsec. (b) re permitted uses as of right within stream channel encroachment lines; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (b)(12), effective July 1, 2011.

Cited. 215 C. 616; 239 C. 124.

Cited. 24 CA 163.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-349a. General permits for minor activities. Regulations. (a) The Commissioner of Energy and Environmental Protection may issue a permit for any minor activity regulated under sections 22a-342 to 22a-349, inclusive, except for any activity covered by an individual permit, if the commissioner determines that such activity would cause minimal environmental effects when conducted separately and would cause only minimal cumulative environmental effects, and will not cause any increase in flood heights or in the potential for flood damage or flood hazards. Such activities may include routine minor maintenance and routine minor repair of existing structures; replacement of existing culverts; installation of water monitoring equipment, including but not limited to staff gauges, water recording and water quality testing devices; removal of unauthorized solid waste; extension of existing culverts and stormwater outfall pipes; construction of irrigation and utility lines; and safety improvements with minimal environmental impacts within existing rights-of-way of existing roadways.

Any person, firm or corporation conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under any other provision of said sections 22a-342 to 22a-349, inclusive, except as provided in subsection (c) of this section. A general permit shall clearly define the activity covered thereby and may include such conditions and requirements as the commissioner deems appropriate, including but not limited to, management practices and verification and reporting requirements. The general permit may require any person, firm or corporation, conducting any activity under the general permit to report, on a form prescribed by the commissioner, such activity to the commissioner before it shall be covered by the general permit. The commissioner shall prepare, and shall annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(b) Notwithstanding any other procedures specified in said sections 22a-342 to 22a-349, inclusive, any regulations adopted thereunder, and chapter 54, the commissioner may issue, revoke, suspend or modify a general permit in accordance with the following procedures: (1) The commissioner shall publish in a newspaper having a substantial circulation in the affected area or areas notice of intent to issue a general permit; (2) the commissioner shall allow a comment period of thirty days following publication of such notice during which interested persons may submit written comments concerning the permit to the commissioner and the commissioner shall hold a public hearing if, within said comment period, he receives a petition signed by at least twenty-five persons; (3) the commissioner may not issue the general permit until after the comment period; and (4) the commissioner shall publish notice of any permit issued in a newspaper having substantial circulation in the affected area or areas. Any person may request that the commissioner issue, modify or revoke a general permit in accordance with this subsection.

(c) Subsequent to the issuance of a general permit, the commissioner may require any person, firm or corporation, to apply for an individual permit under the provisions of said sections 22a-342 to 22a-349, inclusive, for all or any portion of the activities covered by the general permit, if in the commissioner's judgment the purposes and policies of such sections would be best served by requiring an application for an individual permit. The commissioner may require an individual permit under this subsection only if the affected person, firm or corporation has been notified in writing that an individual permit is required. The notice shall include a brief statement of the reasons for the decision and a statement that upon the date of issuance of such notice the general permit as it applies to the individual activity will terminate.

(d) Any general permit issued under subsection (a) of this section may require that any person, firm or corporation intending to conduct an activity covered by such general permit give written notice of such intention to the inland wetlands agency, zoning commission, planning commission or combined planning and zoning commission and conservation commission of any municipality which will or may be affected by such activity. The general permit shall specify the information required to be contained in the notice.

(e) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of this section.

(P.A. 91-263, S. 4, 8; P.A. 92-162, S. 16, 25; P.A. 05-174, S. 5; P.A. 11-80, S. 1.)

History: P.A. 92-162 amended Subsec. (d) to provide that any person may submit comments to the commissioner concerning regulated activities permitted under this section prior to commencement of such activities and changed the deadline for such comments from 30 days prior to such commencement to 25 days; P.A. 05-174 deleted "placement of greenhouses or hoopouses lacking concrete foundations" in Subsec. (a) and made general permit conditions discretionary, made conforming changes and deleted provisions re 60-day notice, notice availability to the public and submission of written comments to commissioner in Subsec. (d); pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-349b. Permit program for certain commercial projects involving quarrying. Program requirements. The Commissioner of Energy and Environmental Protection shall establish a permitting program for any commercial project that involves quarrying proposed on a parcel of property that consists of one hundred or fewer acres and that is located in a municipality that has a town meeting form of government and a population of not less than two thousand and not more than three thousand. Such permitting program shall require any person who seeks to engage in such commercial project that involves quarrying to submit to the commissioner any information requested by the commissioner, including, but not limited to, a statement of the environmental compatibility of such project with the nature of such property and all neighboring properties. Additionally, any such applicant shall submit a statement to the commissioner indicating why such parcel of property is the most suitable parcel for such project. Any person who seeks to engage in such commercial project that involves quarrying shall obtain a permit from the commissioner prior to commencing any work on such project. The commissioner shall not grant a permit for any such commercial project that involves quarrying if the commissioner determines that such project may adversely affect the quantity or quality of any surface water or groundwater.

(P.A. 11-80, S. 1; 11-190, S. 1.)

History: P.A. 11-190 effective July 13, 2011; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-350. (Formerly Sec. 25-5). Study of conditions relating to flood control. Said commissioner shall make a comprehensive study of all conditions, wherever located, in any way relating to: (a) The control of flood waters, the establishment of encroachment limits along waterways to provide reasonable flood discharge capacity, the flood control features of existing and future dams and reservoirs, the removal of stream obstructions caused by flood waters, the extent of damage caused by flood waters to property of the state, its political subdivisions, industry and agriculture and any necessary means or method by which such damage may be repaired or provided against in case of future floods; (b) river and harbor improvements, obstructions or encroachments in any of the navigable waters or tributaries within the state, and (c) any matters kindred thereto.

(1949 Rev., S. 3569; November, 1955, S. N192; 1971, P.A. 872, S. 52.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; Sec. 25-5 transferred to Sec. 22a-350 in 1983.

Annotation to former section 25-5:

Cited. 21 CS 407.

Annotation to present section:

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-351. (Formerly Sec. 25-5a). Inventory of groundwater and surface water resources. Study of water policy needs. (a) The Commissioner of Energy and Environmental Protection is authorized to carry out a ten-year program of detailed geological and hydrological studies and groundwater investigations and reports throughout the state by means of test drillings, observation wells and any other means necessary to determine groundwater resources, quality and potential supplies, and establish a complete inventory of groundwater resources of the entire state. The commissioner shall endeavor to gather and utilize any data or information

obtained by any other state or federal agency or any municipal or private utility with a view toward coordination of all work of such similar nature.

(b) The commissioner is authorized to carry out a program of studies and investigations necessary to establish a complete inventory of surface water resources of the entire state and shall collect, utilize and coordinate the data and activities of any other state or federal agency or municipal or private utility or corporation.

(c) The commissioner may negotiate with any property owner such terms, agreements or contracts as may be necessary or convenient in connection with carrying out the duties required by this section.

(1959, P.A. 594; 1971, P.A. 872, S. 53; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with environmental protection commissioner; Sec. 25-5a transferred to Sec. 22a-351 in 1983; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-352. (Formerly Sec. 25-5b). State water plan. Requirements. Submission to General Assembly. Public review. Approval. Annual report. (a) Not later than July 1, 2017, the Water Planning Council, established pursuant to section 25-33o, shall, within available appropriations, prepare a state water plan for the management of the water resources of the state. In developing such state water plan, the Water Planning Council shall: (1) Design a unified planning program and budget; (2) consider regional water and sewer facilities plans; (3) identify the appropriate regions of the state for comprehensive water planning; (4) identify the data needs and develop a consistent format for submitting data to the council, applicable state agencies and regional councils of governments for use in planning and permitting; (5) consider the potential impact of climate change on the availability and abundance of water resources and the importance of climate resiliency; (6) seek involvement of interested parties; (7) solicit input from the advisory group established pursuant to section 25-33o; (8) consider individual water supply plans, water quality standards, stream flow classifications, as described in regulations adopted pursuant to section 26-141b, water utility coordinating committee plans, the state plan of conservation and development, as described in section 16a-30, and any other planning documents deemed necessary by the council; (9) promote the adoption of municipal ordinances based on the State of Connecticut Model Water Use Restriction Ordinance for municipal water emergencies; and (10) examine appropriate mechanisms for resolving conflicts related to the implementation of the state water plan.

(b) The state water plan developed pursuant to subsection (a) of this section shall: (1) Identify the quantities and qualities of water that are available for public water supply, health, economic, recreation and environmental benefits on a regional basin scale considering both surface water and groundwater; (2) identify present and projected demands for water resources on a state-wide and regional basin scale; (3) recommend the utilization of the state's water resources, including surface and subsurface water, in a manner that balances public water supply, economic development, recreation and ecological health; (4) recommend steps to increase the climate resiliency of existing water resources and infrastructure; (5) make recommendations for technology and infrastructure upgrades, interconnections and such major engineering works or special districts which may be necessary, including the need, timing and general cost thereof; (6) recommend land use and other measures, including an assessment of land acquisition or land protection needs, where appropriate to ensure the desired quality and abundance of water and to promote development in concert with available water resources; (7) take into account desired ecological, recreational, agricultural, industrial and commercial use of water bodies; (8) inform residents of the state about the importance of water-resource stewardship and conservation; (9) establish conservation guidelines and incentives for consumer water conservation with due consideration for energy efficiency; (10) develop a water reuse policy with incentives for matching the quality of the water to the use; (11) meet data collection and analysis needs to provide for data driven water planning and permitting decisions;

(12) take into account the ecological, environmental, public health and safety and economic impact that implementation of the state water plan will have on the state; (13) include short and long-range objectives and strategies to communicate and implement the plan; (14) seek to incorporate regional and local plans and programs for water use and management and plans for water and sewerage facilities in the state water plan; (15) promote intraregional solutions and sharing of water resources; (16) develop and recommend strategies to address climate resiliency including the impact of extreme weather events; and (17) identify modifications to laws and regulations that are necessary in order to implement the recommendations of the state water plan.

(c) The Water Planning Council shall provide a time period of not less than one hundred twenty days for public review and comment prior to finalizing such plan. The Commissioners of Public Health and Energy and Environmental Protection, the chairperson of the Public Utilities Regulatory Authority and the Secretary of the Office of Policy and Management shall post such draft plan and information concerning such comment period in a conspicuous location on their respective web sites. The Council on Environmental Quality shall post such draft plan and information concerning such comment period in the Environmental Monitor. The Water Planning Council shall advertise and hold not less than one public hearing during such public review and comment period. After such public comment period, the council shall fully consider all written and oral comments concerning the proposed state water plan. The council shall make available the electronic text of the finalized state water plan on an Internet web site where the finalized state water plan shall be posted and a report summarizing: (1) All public comments received pursuant to this subsection, and (2) the changes made to the finalized state water plan in response to such comments and the reasons for such changes.

(d) Not later than January 1, 2018, the Water Planning Council, in accordance with section 11-4a, shall submit the state water plan to the joint standing committees of the General Assembly having cognizance of matters relating to the environment, public health, planning and development and energy and technology. The council shall submit such report to the Governor electronically. Said joint standing committees may conduct a joint public hearing on the state water plan and (1) submit the plan with said joint standing committees' joint recommendation for approval to the General Assembly, or (2) return the plan to the Water Planning Council indicating their disapproval and any recommendations for revisions to the plan by said council.

(e) The state water plan shall become effective when adopted by an affirmative vote of the General Assembly as the state water plan for the state.

(f) In the event that said joint standing committees do not recommend approval of the plan or the General Assembly does not adopt the plan by affirmative vote, the plan shall be returned to the Water Planning Council for revisions and resubmittal to the General Assembly in accordance with the provisions of subsection (d) of this section.

(g) The Water Planning Council may submit the state water plan or a revised state water plan in a subsequent session of the General Assembly for approval in accordance with the provisions of this section.

(h) If the state water plan is not adopted by an affirmative vote of the General Assembly on or before twenty-four months after the date of its original submittal pursuant to subsection (d) of this section, then it shall be forwarded to the Governor for adoption or rejection.

(i) The Water Planning Council shall oversee the implementation and periodic updates of the state water plan. On or before January 1, 2016, and annually thereafter, the Water Planning Council shall submit a report, in accordance with section 11-4a, to the joint standing committees of the General Assembly having cognizance of matters relating to the environment, public health, planning and development and energy and technology on the status of the development and implementation of the state water plan and any updates to such plan. On and after January 1, 2016, the report required by this subsection shall supplant the requirement for an annual report as required pursuant to section 25-33o.

(1967, P.A. 477, S. 1–3; 1969, P.A. 628, S. 12; 1971, P.A. 872, S. 54; P.A. 73-555, S. 1, 10; 73-679, S. 39, 40, 43; P.A. 75-537, S. 52, 55; P.A. 77-614, S. 19, 323, 610; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 11-80, S. 1; P.A. 13-247, S. 312; P.A. 14-163, S. 1; P.A. 16-137, S. 1.)

History: 1969 act replaced Connecticut development commission with office of state planning in Subsec. (a), deleted reference to Connecticut interregional planning program in Subdiv. (1) and replaced the constituent agencies of that program with water resources commission, commissioner of health, state board of fisheries and game and director of the office of state planning in Subsec. (c), deleting obsolete provision requiring submission of progress report in lieu of plan if plan is not completed and approved by January 15, 1969; 1971 act replaced water resources commission with commissioner and department of environmental protection and deleted references to board of fisheries and game in Subsecs. (a) and (c); P.A. 73-555 clarified that planning process should be continuing and that plan should be updated periodically; P.A. 73-679 replaced office of state planning with planning and budgeting division, department of finance and control and the director of that office with a division managing director; P.A. 75-537 replaced planning and budgeting division, department of finance and control and its managing director with commissioner and department of planning and energy policy; P.A. 77-614 replaced commissioner and department of planning and energy policy with office of policy and management and its secretary and, effective January 1, 1979, replaced commissioner and department of health with commissioner and department of health services; Sec. 25-5b transferred to Sec. 22a-352 in 1983; P.A. 93-381 replaced department and commissioner of health services with department and commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" and "Department of Environmental Protection" were changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" and "Department of Energy and Environmental Protection", respectively, effective July 1, 2011; pursuant to P.A. 13-247, "regional planning agencies" was changed editorially by the Revisors to "regional councils of governments" in Subsec. (a), effective January 1, 2015; P.A. 14-163 substantially amended Subsec. (a) by replacing provisions re state-wide long range plan for the management of water resources with provisions re Water Planning Council to prepare state water plan not later than July 1, 2017, substantially amended Subsec. (b) by adding provisions re requirements of state water plan, deleted former Subsec. (c) re submission of planning document to General Assembly, added new Subsec. (c) re public review and comment period, posting of plan on agency web sites, and public hearing, added Subsec. (d) re submission of plan to committees of General Assembly, added Subsec. (e) re joint public hearing on plan, submission of joint recommendation on plan to General Assembly and adoption of plan, added Subsec. (f) re disapproval of plan by General Assembly, added Subsec. (g) re periodic updates of plan and annual report to committees of General Assembly on plan implementation and updates, and made technical and conforming changes, effective July 1, 2014; P.A. 16-137 amended Subsec. (d) by deleting "for said committees' approval, revision or disapproval, in whole or in part", repositioned existing provisions re joint public hearing and submission of plan from Subsec. (e) to Subsec. (d) and amended same by replacing "shall" with "may" re conducting joint public hearing, designating provision re submission of plan as Subdiv. (1) and deleting ", modification or disapproval" therefrom, and adding Subdiv. (2) re return of plan to council, amended Subsec. (e) by deleting provision re not later than 45 days after convening of 2018 regular session, replacing "adopted by the General Assembly" with "adopted by an affirmative vote of the General Assembly" and deleting provision re failure to act on plan on or before July 1, 2018, amended Subsec. (f) by replacing provision re when plan deemed rejected with provision re when committees do not recommend approval of plan or General Assembly does not adopt plan by affirmative vote and replacing provisions re resubmittal to committees of cognizance with provision re resubmittal to General Assembly in accordance with Subsec. (d), added new Subsec. (g) re submittal of plan or revised plan in a subsequent session of the General Assembly, added Subsec. (f) re forwarding of plan to the Governor, redesignated existing Subsec. (g) as Subsec. (i), and made conforming changes.

Cited. 215 C. 616.

[\(Return to Chapter](#) [\(Return to Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-353. (Formerly Sec. 25-5c). Duties of Secretary of the Office of Policy and Management. Grants to regional councils of governments. Federal funds. The Secretary of the Office of Policy and Management or his or her designee shall be the contractor for the purposes of sections 22a-352 to 22a-354, inclusive, and may engage consultants or arrange for other technical assistance to implement the work program, and within the

limitations of the budget, developed under subdivision (1) of subsection (a) of section 22a-352. The Secretary of the Office of Policy and Management, or his or her designee, may make grants to any regional council of governments organized under sections 4-124i to 4-124p, inclusive, for the purpose of preparing regional plans for water and sewer facilities. Such grants may cover retroactively work initiated by a regional planning agency after January 1, 1967. The Secretary of the Office of Policy and Management or his or her designee shall apply for any and all funds available from the federal government to support such planning work and shall see that regional councils of governments receiving state grants take similar advantage of available federal funds in order to reduce expenditure of funds appropriated under section 22a-354, provided utilization of such federal funds shall not unduly delay the conduct of said study.

(1967, P.A. 477, S. 4; 1969, P.A. 628, S. 13; P.A. 73-679, S. 41, 43; P.A. 75-537, S. 53, 55; P.A. 77-614, S. 19, 610; P.A. 13-247, S. 300.)

History: 1969 act transferred powers formerly held by Connecticut development commission to director of the office of state planning contingent upon approval of commissioner of finance and control; P.A. 73-679 replaced director of the office of state planning with managing director, planning and budgeting division, department of finance and control or his designee and made provisions applicable to regional councils of elected officials or regional councils of government; P.A. 75-537 replaced managing director, planning and budgeting division, department of finance and control with commissioner of planning and energy policy; P.A. 77-614 replaced commissioner of planning and energy policy with secretary of the office of policy and management; Sec. 25-5c transferred to Sec. 22a-353 in 1983; P.A. 13-247 deleted references to regional planning agency and regional council of elected officials, changed “government” to “governments” re councils receiving state grants and made technical changes, effective January 1, 2015.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354. (Formerly Sec. 25-5d). Appropriation of bond proceeds. Notwithstanding the provisions of section 22a-446, one million five hundred thousand dollars of the proceeds of the sale of bonds issued under said section may be used at the discretion of the State Bond Commission for the purpose of sections 22a-352 to 22a-354, inclusive.

(1967, P.A. 477, S. 5.)

History: Sec. 25-5d transferred to Sec. 22a-354 in 1983.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354a. “Existing well fields” and “potential well fields”, defined. As used in sections 22a-354b to 22a-354f, inclusive, “existing well fields” means well fields in use by a public water supply system when mapping is required pursuant to section 22a-354c or 22a-354z and “potential well fields” means those well fields identified as future sources of supply in the water supply plan of the public water supply system approved pursuant to section 25-32d.

(P.A. 88-324, S. 1; P.A. 07-85, S. 2.)

History: P.A. 07-85 redefined “existing well fields” to include reference to Sec. 22a-354z.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354b. Standards for modeling and mapping of locations of aquifers. The Commissioner of Energy and Environmental Protection shall establish standards for two levels of modeling and mapping of the location in aquifers of well field areas, zones of contribution and recharge areas. Standards for mapping at level A shall be established by regulations adopted by the commissioner in accordance with the provisions of chapter 54, except that notice of intent to adopt such regulations shall be published on or before July 1, 1990, and shall be based on hydrogeological data of aquifer geometry, hydraulic characteristics and connection to surface water features, groundwater level data and surface water discharge information for model calibration and pump test data for model verification. Standards for mapping at level B shall be established by guidelines developed by the commissioner and shall be based on existing geologic mapping of known aquifer characteristics, limited field verification, the location of existing and potential well fields and pumping rates.

(P.A. 88-324, S. 2; P.A. 90-275, S. 7, 9; P.A. 11-80, S. 1.)

History: P.A. 90-275 required the notice of intent to adopt the regulations to be published on or before July 1, 1990; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354c. Mapping of well fields by water companies. (a) On or before July 1, 1990, each public or private water company serving one thousand or more persons shall map at level B all areas of contribution and recharge areas for its existing wells located in stratified drift aquifers. Not later than three years after the adoption by the Commissioner of Energy and Environmental Protection of a model municipal aquifer protection ordinance under section 22a-354l, each public and private water company serving ten thousand or more persons shall map at level A all areas of contribution and recharge areas for its existing wells located in stratified drift aquifers. Any public or private water company that creates a new well field serving one thousand or more persons that has not been mapped previously as an existing well shall map areas of contribution and recharge areas for the new well field. Any map of such a new well field shall be submitted not later than one year after the issuance of a diversion permit in accordance with section 22a-368 at level B, and not later than three years after the issuance of a diversion permit in accordance with section 22a-368 at level A. The Commissioner of Energy and Environmental Protection may map at level A and at level B all areas of contribution and recharge areas for existing wells located in stratified drift aquifers that are used by any public or private water company serving less than one thousand persons.

(b) Each public or private water company serving ten thousand or more persons shall map all areas of contribution and recharge areas for potential wells that are located within stratified drift aquifers identified as future sources of water supply to meet their needs in accordance with the plan submitted pursuant to section 25-33h at level B not more than two years after the Commissioner of Energy and Environmental Protection requests such mapping. The Commissioner of Energy and Environmental Protection shall identify and make recommendations for mapping, or shall map, all remaining significant areas of contribution and recharge areas for potential wells located in stratified drift aquifers not identified by a public or private water company as a potential source of water supply within the region of an approved plan. Mapping of any other area of contribution and recharge areas for potential wells located in stratified drift aquifers by the commissioner shall be completed at a time determined by the commissioner.

(P.A. 88-324, S. 3; P.A. 89-305, S. 22, 32; P.A. 90-275, S. 5, 9; P.A. 91-386, S. 1; May Sp. Sess. P.A. 92-11, S. 63, 70; P.A. 93-337, S. 3; P.A. 07-85, S. 3; P.A. 11-80, S. 1.)

History: P.A. 89-305 specified that mapping is required of areas of contribution and recharge areas for wells located in stratified drift aquifers and made technical changes; P.A. 90-275 deleted the requirement that the areas to be mapped at level B by water companies be within their water supply service area, authorized the commissioner to map at level A and at level B areas of contribution and recharge areas for wells located in stratified drift aquifers which are used by water companies serving less than 1,000 persons and required the commissioner to either map or make recommendations for mapping all remaining significant areas of contribution and recharge areas for potential wells located in stratified drift aquifers not identified by water companies as a potential source of water supply; P.A. 91-386 amended Subsec. (a) to extend the time for mapping at level A from July 1, 1992, to July 1, 1994; May Sp. Sess. P.A. 92-11 amended Subsec. (a) to change date from July 1, 1994, to January 1, 1996, for aquifer mapping; P.A. 93-337 amended Subsec. (a) to change deadline for mapping from January 1, 1996, to three years after adoption by commissioner of model ordinance under Sec. 22a-354l; P.A. 07-85 amended Subsec. (a) to require water companies to map any new well field created and submit such map to department after issuance of a diversion permit, and amended Subsec. (b) to remove Subdiv. designators, to delete provision re mapping at level A and to change timeframe to not more than two years after request for mapping by commissioner, rather than two years after approval of plan; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354d. Completion of mapping of well fields. The mapping of aquifers by a public or private water company at level B and level A required pursuant to sections 22a-354c and 22a-354z shall not be deemed to be complete unless approved by the Commissioner of Energy and Environmental Protection.

(P.A. 88-324, S. 4; P.A. 07-85, S. 4; P.A. 11-80, S. 1.)

History: P.A. 07-85 added reference to Sec. 22a-354z; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354e. Inventory of land uses overlying aquifers. Not later than three months after approval of the Commissioner of Energy and Environmental Protection of mapping of aquifers at level B, each municipal aquifer protection agency authorized pursuant to section 22a-354o shall inventory land uses overlying the mapped zone of contribution and recharge areas of such aquifers in accordance with guidelines established by the commissioner pursuant to section 22a-354f. Such inventory shall be completed not more than one year after authorization of the agency.

(P.A. 88-324, S. 5; P.A. 89-305, S. 27, 32; P.A. 11-80, S. 1.)

History: P.A. 89-305 required inventory to be completed within a year of agency authorization and made technical changes; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

[Table of Contents](#)) [List of Chapters](#)) [List of Titles](#))

Sec. 22a-354f. Guidelines for inventory. The Commissioner of Energy and Environmental Protection shall develop guidelines to be used by municipal boards or commissions in conducting the inventory of land uses required under section 22a-354e.

(P.A. 88-324, S. 6; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents](#)) [List of Chapters](#)) [List of Titles](#))

Sec. 22a-354g. Findings. The General Assembly finds that aquifers are an essential natural resource and a major source of public drinking water; that reliance on groundwater will increase because opportunities for development of new surface water supplies are diminishing due to the rising cost of land and increasingly intense development; that numerous drinking water wells have been contaminated by certain land use activities and other wells are now threatened; that protection of existing and future groundwater supplies demands greater action by state and local government; that a groundwater protection program requires identification and delineation of present and future water supplies in stratified drift aquifers supplying drinking water wells; that a comprehensive and coordinated system of land use regulations should be established that includes state regulations protecting public drinking water wells located in stratified drift aquifers; that municipalities with existing or proposed public drinking water wells in stratified drift aquifers should designate aquifer protection agencies, and that the state should provide technical assistance and education programs on aquifer protection to ensure a plentiful supply of public drinking water for present and future generations.

(P.A. 89-305, S. 1, 32.)

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents](#)) [List of Chapters](#)) [List of Titles](#))

Sec. 22a-354h. Definitions. For the purposes of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84:

- (1) “Regulated activity” means any action, process or condition which the Commissioner of Energy and Environmental Protection determines, by regulations adopted in accordance with section 22a-354i, to involve the production, handling, use, storage or disposal of material that may pose a threat to groundwater in an aquifer protection area, including structures and appurtenances utilized in conjunction with the regulated activity;
- (2) “Commissioner” means the Commissioner of Energy and Environmental Protection;
- (3) “Well field” means the immediate area surrounding a public drinking water supply well or group of wells;
- (4) “Area of contribution” means the area where the water table or other potentiometric surface is lowered due to the pumping of a well and groundwater flows directly to the well;
- (5) “Recharge area” means the area from which groundwater flows directly to the area of contribution;
- (6) “Aquifer” means a geologic formation, group of formations or part of a formation that contains sufficient saturated, permeable materials to yield significant quantities of water to wells and springs;

(7) “Affected water company” means any public or private water company owning or operating a public water supply well within an aquifer protection area;

(8) “Stratified drift” means a predominantly sorted sediment laid down by or in meltwater from glaciers and includes sand, gravel, silt and clay arranged in layers;

(9) “Municipality” means any town, consolidated town and city, consolidated town and borough, city or borough;

(10) “Aquifer protection area” means any area consisting of well fields, areas of contribution and recharge areas, identified on maps approved by the Commissioner of Energy and Environmental Protection pursuant to sections 22a-354b to 22a-354d, inclusive, within which land uses or activities shall be required to comply with regulations adopted pursuant to section 22a-354o by the municipality where the aquifer protection area is located; and

(11) “Best management practice” means a practice, procedure or facility designed to prevent, minimize or control spills, leaks or other releases that pose a threat to groundwater.

(P.A. 89-305, S. 2, 32; P.A. 90-275, S. 1, 9; P.A. 95-218, S. 5; P.A. 11-80, S. 1.)

History: P.A. 90-275 redefined “regulated activity” to include a condition which may pose a threat to groundwater and specified that the threatened groundwater must be in an aquifer protection area; P.A. 95-218 redefined “area of contribution” to include other potentiometric surfaces in the location of such areas; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354i. Regulations. (a) On or before July 1, 1991, the Commissioner of Energy and Environmental Protection shall publish notice of intent to adopt regulations in accordance with chapter 54 for land use controls in aquifer protection areas. The regulations shall establish (1) best management practice standards for existing regulated activities located entirely or in part within aquifer protection areas and a schedule for compliance of nonconforming regulated activities with such standards, (2) best management practice standards for and prohibitions of regulated activities proposed to be located entirely or in part within aquifer protection areas, (3) procedures for exempting regulated activities in aquifer protection areas upon determination solely by the commissioner that such regulated activities do not pose a threat to any existing or potential drinking water supply, and (4) requirements for design and installation of groundwater monitoring within aquifer protection areas. In addition, the commissioner may adopt such other regulations as deemed necessary to carry out the purposes of sections 22a-354b, 22a-354c and 22a-354h, this section, sections 22a-354m and 22a-354n, subsection (e) of section 22a-354p and subsection (d) of section 22a-451, including, but not limited to, regulations which provide for the manner in which the boundaries of aquifer protection areas shall be established and amended; criteria and procedures for submission and review of applications to construct or begin regulated activities; procedures for granting, denying, limiting, revoking, suspending, transferring and modifying permits for regulated activities; controls regarding the expansion of nonconforming regulated activities, including procedures for offsetting impacts from the expansion or modification of nonconforming regulated activities or procedures for modifying permits of regulated activities by the removal of other potential pollution sources within the subject well field, procedures for the granting of permits for such expansion or modification based on the certification of a qualified person that such expansion meets criteria established by the commissioner; registration requirements for existing regulated activities and procedures for transferring registrations; procedures for landowners to notify a municipality or the commissioner of a change in use; and other provisions for administration of the aquifer protection program.

(b) In adopting such regulations, the commissioner shall consider the guidelines for aquifer protection areas recommended in the report prepared pursuant to special act 87-63, as amended, and shall avoid duplication and

inconsistency with other state or federal laws and regulations affecting aquifers. The regulations shall be developed in consultation with an advisory committee appointed by the commissioner. The advisory committee shall include the Commissioners of Administrative Services and Public Health, or their designees, members of the public, and representatives of businesses affected by the regulations, agriculture, environmental groups, municipal officers and water companies.

(P.A. 89-305, S. 3, 32; P.A. 90-275, S. 2, 9; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 98-209, S. 9; P.A. 11-51, S. 70; 11-80, S. 1, 62, 68; P.A. 13-247, S. 223.)

History: P.A. 90-275 amended Subsec. (a) to require publication of the notice of intent on or before July 1, 1991, and authorized the commissioner to adopt other regulations; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 98-209 amended Subsec. (a) to authorize provision in regulations for procedures for offsetting nonconforming regulated activities; P.A. 11-51 amended Subsec. (b) to replace “Commissioner of Public Works” with “Commissioner of Construction Services”, effective July 1, 2011; P.A. 11-80 changed “Commissioner of Environmental Protection” to “Commissioner of Energy and Environmental Protection”, deleted reference to chairperson of the Public Utilities Control Authority and made technical changes, effective July 1, 2011; P.A. 13-247 amended Subsec. (b) to replace reference to Commissioner of Construction Services with reference to Commissioner of Administrative Services, effective July 1, 2013.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354j. Consistency of aquifer regulations with regulations re farm resources management plans. State regulations for aquifer protection areas adopted by the Commissioner of Energy and Environmental Protection pursuant to section 22a-354i shall be consistent with regulations adopted by said commissioner for farm resources management plans pursuant to section 22a-354m.

(P.A. 89-305, S. 31, 32; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354k. Groundwater education program. The Commissioner of Energy and Environmental Protection shall develop and implement a groundwater education program. In developing such program the commissioner shall consult with the Commissioner of Public Health, water utilities, state educational and research institutions, nonprofit environmental organizations and any other person or agency the commissioner deems necessary. The Cooperative Extension Service at The University of Connecticut shall assist the commissioner in implementation of the program.

(P.A. 89-305, S. 4, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 11-80, S. 1.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354l. Model municipal aquifer protection ordinance. Not later than October 1, 1995, the Commissioner of Energy and Environmental Protection shall prepare a model municipal aquifer protection ordinance, consistent with regulations adopted under section 22a-354i. The ordinance may be considered by municipal aquifer protection agencies in adopting regulations pursuant to section 22a-354p.

(P.A. 89-305, S. 5, 32; P.A. 93-337, S. 1; P.A. 11-80, S. 1.)

History: P.A. 93-337 added a deadline of October 1, 1995, for adoption of a model ordinance; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

[\(Return to Chapter \(Return to Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354m. Farm resources management plans. Regulations. (a) The Commissioner of Energy and Environmental Protection may, in accordance with regulations adopted pursuant to subsection (d) of this section, require any person engaged in agriculture on land located within an aquifer protection area and whose annual gross sales from agricultural products during the preceding calendar year were two thousand five hundred dollars or more to submit a farm resources management plan.

(b) The soil and water conservation district where the aquifer protection area is located shall establish and coordinate a technical team to develop each plan. Such team shall include a representative of the municipality in which the land is located and a representative of any affected water company upon request of such municipality or water company. For the purposes of developing the plan required pursuant to this section, if a farm is located in two or more soil and water conservation districts, the district in which the greater part of such farm is located shall be deemed to be the district in which the entire farm is located. In developing a plan, a district shall consult with the Commissioners of Energy and Environmental Protection and Agriculture, the College of Agriculture and Natural Resources at The University of Connecticut, the Connecticut Agricultural Experiment Station, the Soil Conservation Service, the state Agricultural and Conservation Committee and any other person or agency the district deems appropriate.

(c) The plan shall include a schedule for implementation and shall be periodically updated as required by the commissioner. In developing a schedule for implementation, the technical team shall consider technical and economic factors including, but not limited to, the availability of state and federal funds. Any person engaged in agriculture in substantial compliance with a plan approved under this section shall be exempt from regulations adopted under section 22a-354o by a municipality in which the land is located. No plan shall be required to be submitted to the commissioner before July 1, 1992, or six months after completion of level B mapping where the farm is located, whichever is later.

(d) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Agriculture, the United States Soil Conservation Service, the Cooperative Extension Service at The University of Connecticut and the Council for Soil and Water Conservation may publish notice of intent to adopt regulations in accordance with chapter 54 for farm resources management plans. Such regulations may include, but not be limited to, a priority system and procedures for determining if a farm management plan is required and the priority that is assigned to the preparation of such a plan, best management practices, restrictions and prohibitions for manure management, storage and handling of pesticides, reduced use of pesticides through pest management practices, integrated pest management, fertilizer management and underground and above-ground storage tanks and criteria and procedures for submission and review of farm resources management plans and amendments of such plans. In adopting such best management practices, restrictions and prohibitions, the commissioner shall consider existing state and federal guidelines or regulations affecting aquifers and agricultural resources management.

(P.A. 89-305, S. 6, 32; P.A. 90-275, S. 3, 9; P.A. 98-209, S. 10; June 30 Sp. Sess. P.A. 03-6, S. 146(e); P.A. 04-189, S. 1; P.A. 11-80, S. 65; P.A. 13-209, S. 5.)

History: P.A. 90-275 increased the annual gross sales requirement from \$1,000 to \$2,500, provided if a farm is located in two or more districts that the district in which the greater part of the farm is located shall be deemed to be the district in which the entire farm is located, extended the earliest time in which a plan is required to July 1, 1992, provided that the commissioner shall publish notice of intent to adopt regulations concerning farm resources management plans on or before July 1, 1991, and required the regulations to include best management practices, restrictions and prohibitions for designated items; P.A. 98-209 amended Subsec. (a) to make submittal of farm resources management plans discretionary on the part of the commissioner, and amended Subsec. (d) to extend the date for notice of intent to adopt regulations under this section and to authorize certain priorities within such regulations; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Agriculture with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; P.A. 11-80 changed "Commissioner of Environmental Protection" to "Commissioner of Energy and Environmental Protection", effective July 1, 2011; P.A. 13-209 amended Subsec. (d) by deleting "On or before July 1, 1999," and making provision to adopt regulations discretionary rather than mandatory.

See Sec. 22-6c re reimbursement by commissioner for costs of comprehensive farm nutrient management plan or farm resources management plan.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354n. Delineation of aquifer protection areas on maps prepared by zoning commissions, planning commissions or planning and zoning commissions. Challenges to boundaries. The zoning commission, planning commission or planning and zoning commission of each municipality with an aquifer protection area shall, in accordance with regulations adopted by the commissioner pursuant to section 22a-354i, delineate on any map showing zoning districts prepared in accordance with chapter 124 or 126 or any special act the boundaries of aquifer protection areas, including areas of contribution and recharge areas as shown on level A maps approved or done by the commissioner pursuant to section 22a-354c or any other provision of the general statutes. An aquifer protection commission shall not delineate or alter the boundary of an aquifer protection area except in accordance with regulations adopted by the commissioner. No person may challenge the boundaries of the aquifer protection area at the local level unless such challenge is based solely on a failure by the aquifer protection agency to properly delineate the boundaries in accordance with regulations of the commissioner. Any other challenge to established aquifer protection area boundaries shall be in the form of a petition to the commissioner to amend the boundaries, in accordance with regulations adopted by him.

(P.A. 89-305, S. 7, 32; P.A. 90-275, S. 4, 9.)

History: P.A. 90-275 provided that the delineation of the boundaries of aquifer protection areas be in accordance with regulations, provided that the only ground for challenging the boundaries of the aquifer protection area be that the agency failed to delineate such in accordance with regulations and specified that any other challenge to established boundaries shall be a petition to amend the boundaries.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354o. Municipal aquifer protection agency: Creation; members; regulation; training. Fines. (a) Each municipality in which an aquifer protection area is located shall authorize by ordinance an existing board or commission to act as such agency not later than three months after adoption by the commissioner of regulations for aquifer protection areas pursuant to section 22a-354i and approval by the commissioner of mapping of areas of contribution and recharge areas for wells located in stratified drift aquifers in the municipality at level B pursuant to section 22a-354d. The ordinance authorizing the agency shall determine the number of members and alternate members, the length of their terms, the method of selection and removal and the manner for filling vacancies. No member or alternate member of such agency shall participate in any hearing or decision of such agency of which he is a member upon any matter in which he is directly or indirectly interested in a personal or

financial sense. In the event of disqualification, such fact shall be entered on the records of the agency and replacement shall be made from alternate members of an alternate to act as a member of such commission in the hearing and determination of the particular matter or matters in which the disqualification arose.

(b) Not more than six months after approval by the commissioner of mapping at level A, pursuant to section 22a-354d, the aquifer protection agency of the municipality in which such aquifer protection area is located shall adopt regulations for aquifer protection.

(c) At least one member of the agency or staff of the agency shall be a person who has completed the course in technical training formulated by the commissioner pursuant to section 22a-354v. Failure to have a member of the agency or staff with training shall not affect the validity of any action of the agency and shall be grounds for revocation of the authority of the agency under section 22a-354t.

(d) Any municipality may establish, by ordinance, a fine for violations of regulations adopted pursuant to section 22a-354p, provided the amount of any such fine shall not be more than one thousand dollars and further provided no such fine may be levied against the state or any employee of the state acting within the scope of his employment. Any police officer or other person authorized by the chief executive officer of the municipality may issue a citation to any person who commits such a violation. Any municipality that adopts an ordinance pursuant to this subsection shall also adopt a citation hearing procedure pursuant to section 7-152c. Any fine collected by a municipality pursuant to this section shall be deposited into the general fund of the municipality or in any special fund designated by the municipality. The provisions of this subsection shall not apply to agricultural uses, provided such uses are following best management practices.

(P.A. 89-305, S. 8, 32; P.A. 95-218, S. 6; P.A. 07-85, S. 5.)

History: P.A. 95-218 amended Subsec. (b) to change “well” to “aquifer protection area” for consistency in the text; P.A. 07-85 added Subsec. (d) re fines.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-354p. Municipal aquifer protection agency: Regulations, permits, fees. Approval of regulations. Authority of commissioner. Submission of documents. (a) The aquifer protection agency authorized by section 22a-354o shall, by regulation, provide for (1) the manner in which the boundaries of aquifer protection areas shall be established and amended or changed, (2) the form for an application to conduct regulated activities within the area, (3) notice and publication requirements, (4) criteria and procedures for the review of applications, and (5) administration and enforcement.

(b) No regulations of an aquifer protection agency shall become effective or be established until after a public hearing in relation thereto is held by the agency at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing at least twice in a newspaper having a substantial circulation in the municipality at intervals of not less than two days, the first not more than twenty-five days or less than fifteen days, and the last not less than two days, before such hearing, and a copy of such proposed regulation shall be filed in the office of the town, city or borough clerk, as the case may be, in such municipality, for public inspection at least ten days before such hearing, and may be published in full in such paper. A copy of the notice and the proposed regulations or amendments thereto shall be provided to the Commissioner of Energy and Environmental Protection, the town clerk and any affected water company at least thirty-five days before such hearing. Such regulations may be from time to time amended, changed or repealed after a public hearing in relation thereto is held by the agency at which parties in interest and citizens shall have an opportunity to be heard and for which notice shall be published in the manner specified in this subsection. Regulations or changes therein shall become effective at such time as is fixed by the agency, provided a copy of such regulation or change shall be filed in the office of the town, city or borough clerk, as the case may be. Whenever an agency makes a change in regulations, it shall state upon its records the reason why the change was made. All petitions submitted in writing and in a form prescribed by the agency requesting a change in the regulations shall be considered at a public hearing in the

manner provided for establishment of such regulations within ninety days after receipt of such petition. The agency shall act upon the changes requested in the petition within sixty days after the hearing. The petitioner may consent to extension of the periods provided for a hearing and for adoption or denial or may withdraw such petition.

(c) Pursuant to municipal regulations adopted under subsection (b) of this section, no regulated activity shall be conducted within any aquifer protection area without a permit. Any person proposing to conduct or cause to be conducted a regulated activity within an aquifer protection area shall file an application with the aquifer protection agency of each municipality wherein the aquifer in question is located. The application shall be in such form and contain such information as the agency may prescribe. The date of receipt of an application shall be determined in accordance with the provisions of subsection (c) of section 8-7d. The agency may hold a public hearing on such application. Such hearing shall be held in accordance with the provisions of section 8-7d. In addition to the requirements of section 8-7d, the agency shall send to any affected water company, at least ten days before the hearing, a copy of the notice by certified mail, return receipt requested.

(d) In granting, denying or limiting any permit for a regulated activity the aquifer protection agency shall state upon the record the reason for its decision. In granting a permit the agency may grant the application as filed or grant it upon such terms, conditions, limitations or modifications of the activity as are intended to carry out the policies of section 22a-354g. No person shall conduct any regulated activity within an aquifer protection area which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance, or other documentation establishing that the proposal complies with the zoning or subdivision requirements adopted by the municipality pursuant to chapters 124 to 126, inclusive, or any special act. The agency may suspend or revoke a permit if it finds, after giving notice to the permittee of the facts or conduct which warrants the intended action and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit, that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The agency shall send to any affected water company a copy of the notice at least ten days before the hearing by certified mail, return receipt requested. Any affected water company may, through a representative, appear and be heard at any such hearing. The applicant or permittee shall be notified of the agency's decision by certified mail, return receipt requested, within fifteen days of the date of the decision and the agency shall cause notice of its order in issuance, denial, revocation or suspension of a permit to be published in a newspaper having a general circulation in the municipality in which the aquifer protection area is located.

(e) The aquifer protection agency may require a filing fee to be deposited with the agency. The amount of such fee shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including, but not limited to, the costs of certified mailings, publications of notices and decisions, and monitoring compliance with permit conditions, regulations adopted pursuant to sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84, or agency orders.

(f) Any regulations adopted by an agency under this section shall not be effective unless the Commissioner of Energy and Environmental Protection determines that such regulations are reasonably related to the purpose of groundwater protection and not inconsistent with the regulations adopted pursuant to section 22a-354i. A regulation adopted by a municipality shall not be deemed inconsistent if such regulation establishes a greater level of protection. The commissioner shall provide written notification to the agency of approval or the reasons such regulations cannot be approved within sixty days of receipt by the commissioner of the regulations adopted by the agency.

(g) (1) Notwithstanding any other provision of the general statutes, the commissioner shall have sole authority to grant, deny, limit or modify, in accordance with regulations adopted by him, a permit for any regulated activity in an aquifer protection area proposed by (A) any person to whom the commissioner has issued an individual permit for the subject site under the national pollutant discharge elimination system of the federal Clean Water Act (33 USC 1251 et seq.) or under the state pollutant discharge elimination system pursuant to section 22a-430 or any person to whom the commissioner has issued a permit for the subject site under the provisions of the

federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) for a treatment, storage or disposal facility, (B) any public service company, as defined in section 16-1, providing gas, electric, pipeline, water or telephone service, (C) any large quantity generator, as defined in regulations adopted by the commissioner under section 22a-449, or (D) any state department, agency or instrumentality, except any local or regional board of education. Such authority may be exercised only after an advisory decision on such permit has been rendered to the commissioner by the aquifer protection agency of the municipality within which such aquifer protection area is located or thirty-five days after receipt by the commissioner of the application for such permit, whichever occurs first. The commissioner shall provide prompt notice of receipt of an application to the municipal aquifer protection agency.

(2) If the commissioner requires the submission of a registration or other document under regulations adopted pursuant to section 22a-354i, such submission shall be made to the commissioner by any person to whom the commissioner has issued an individual permit under the national pollutant discharge elimination system of the federal Clean Water Act, or an individual permit under the state pollutant discharge elimination system pursuant to section 22a-430, or by any person to whom the commissioner has issued a permit under the provisions of the federal Resource Conservation and Recovery Act for a treatment, storage or disposal facility, or any public service company, as defined in section 16-1, providing gas, electric, pipeline, water or telephone service, or a large quantity generator, as defined in regulations adopted by the commissioner under section 22a-449, or any state department, agency or instrumentality, except any local or regional board of education.

(P.A. 89-305, S. 9, 32; P.A. 90-275, S. 8, 9; P.A. 92-162, S. 8, 25; P.A. 97-124, S. 6, 16; P.A. 07-85, S. 6; P.A. 08-124, S. 23, 24; P.A. 11-80, S. 1.)

History: P.A. 90-275 in Subsec. (e) required the amount of the filing fee to be sufficient to cover costs of monitoring compliance with regulations; P.A. 92-162 added Subsec. (g) re authority of commissioner re permits for state agencies for regulated activities in an aquifer protection area; P.A. 97-124 amended Subsec. (g) by designating existing provisions as Subdiv. (1) and adding new Subparas. (A) to (C), inclusive, providing that the commissioner shall have the authority to issue permits under this section to utilities and certain other companies, and by adding new Subdiv. (2) re submission of registration or other document, effective June 6, 1997; P.A. 07-85 made a technical change in Subsec. (a), amended Subsec. (c) to make timeframes the same as Sec. 8-7d and amended Subsec. (g)(1) to add “for the subject site” re permit issued; P.A. 08-124 made a technical change in Subsecs. (b) and (d), effective June 2, 2008; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection” in Subsecs. (b) and (f), effective July 1, 2011.

Subsec. (b):

Notice requirement re municipal planning and zoning commission's amendment of aquifer protection area regulations was satisfied because notice had sufficient information re date, time and location of hearing and contents of amendments to be considered. 149 CA 325.

Subsec. (f):

Municipal planning and zoning commission's amendment of aquifer protection area regulations reasonably supported by the record and was proper; substantial evidence standard of review not applicable to agency's legislative act. 149 CA 325.

[\(Return to Chapter](#) [\(Return to Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354q. Appeals. (a) The Commissioner of Energy and Environmental Protection or any person aggrieved by any regulation, order, decision or action made pursuant to sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* by the commissioner or municipality, within fifteen days after publication of such regulation, order, decision or action may appeal to the superior court for the judicial district where the land affected is located, and if located in more than one judicial district, to said court in any such judicial district,

except if such appeal is from a contested case, as defined in section 4-166, such appeal shall be in accordance with the provisions of section 4-183 and venue shall be in the judicial district where the land affected is located, and if located in more than one judicial district to the court in any such judicial district. Such appeal shall be made returnable to said court in the same manner as that prescribed for civil actions brought to said court. Notice of such appeal shall be served upon the aquifer protection agency and the commissioner. The commissioner may appear as a party to any action brought by any other person within thirty days from the date such appeal is returned to the court. The appeal shall state the reasons upon which it is predicated and shall not stay proceedings on the regulation, order, decision or action, but the court may, on application and after notice, grant a restraining order. Such appeal shall have precedence in the order of trial.

(b) The court, upon the motion of the person who applied for such order, decision or action, shall make such person a party defendant in the appeal. Such defendant may, at any time after the return date of such appeal, make a motion to dismiss the appeal. At the hearing on such motion to dismiss, each appellant shall have the burden of proving his standing to bring the appeal. The court may, upon the record, grant or deny the motion. The court's order on such motion shall be a final judgment for the purpose of the appeal as to each such defendant. No appeal may be taken from any such order except within seven days of the entry of such order.

(c) No appeal taken under subsection (a) of this section shall be withdrawn and no settlement between the parties to any such appeal shall be effective unless and until a hearing has been held before the Superior Court and such court has approved such proposed withdrawal or settlement.

(P.A. 89-305, S. 10, 32; P.A. 11-80, S. 1.)

*Note: Section 14 of public act 89-305 is special in nature and therefore has not been codified but remains in full force and effect according to its terms.

History: Pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-354r. Findings on appeal. Setting aside or modifying action. Authority to purchase land. (a) If upon appeal pursuant to section 22a-354q, the court finds that the action appealed from constitutes the equivalent of a taking without compensation, it shall set aside the action or it may modify the action so that it does not constitute a taking. In both instances the court shall remand the order to the aquifer protection agency for action not inconsistent with its decision.

(b) To carry out the purposes of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305*, a municipality may at any time purchase land or an interest in land in fee simple or other acceptable title, or subject to acceptable restrictions or exceptions, and enter into covenants and agreements with landowners.

(P.A. 89-305, S. 11, 32.)

*Note: Section 14 of public act 89-305 is special in nature and therefore has not been codified but remains in full force and effect according to its terms.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-354s. Penalty. Court orders. (a) If the aquifer protection agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which violates any provision of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305*, or any regulation or permit adopted or issued thereunder, the agency or its duly authorized agent may issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to

cease such activity immediately or to correct such facility or condition. The agency shall send a copy of such order to any affected water company by certified mail, return receipt requested. Within ten days of the issuance of such order the agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. Any affected water company may testify at the hearing. The agency shall consider the facts presented at the hearing and, within ten days of the completion of the hearing, notify the person by certified mail, return receipt requested, that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the agency affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to subsection (b) of this section. The commissioner may issue orders pursuant to sections 22a-6 to 22a-7, inclusive, concerning an activity, facility or condition which is in violation of said sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* if the municipality in which such activity, facility or condition is located has failed to enforce its aquifer protection regulations.

(b) Any person who commits, takes part in, or assists in any violation of any provision of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* or any ordinance or regulation promulgated by municipalities pursuant to the grant of authority herein contained, shall be assessed a civil penalty of not more than one thousand dollars for each offense. Each violation of said sections shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Superior Court, in an action brought by the commissioner, municipality, district or any person shall have jurisdiction to restrain a continuing violation of said sections, to issue orders directing that the violation be corrected or removed, and to assess civil penalties pursuant to this section. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator together with reasonable attorney's fees which may be allowed, all of which shall be awarded to the municipality, district or person bringing such action.

(c) Any person who wilfully or knowingly violates any provision of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* shall be fined not more than one thousand dollars for each day during which such violation continues or be imprisoned not more than six months or both. For a subsequent violation, such person shall be fined not more than two thousand dollars for each day during which such violation continues or be imprisoned not more than one year or both. For the purposes of this subsection, "person" shall be construed to include any responsible corporate officer.

(P.A. 89-305, S. 12, 32.)

*Note: Section 14 of public act 89-305 is special in nature and therefore has not been codified but remains in full force and effect according to its terms.

In claim brought pursuant to Subsec. (b), corporate officer may not be held personally liable for corporate defendants' civil violations of the Aquifer Protection Act under the responsible corporate officer doctrine; legislature has evinced an intent that, for purposes of the Aquifer Protection Act, the responsible corporate officer doctrine applies only to criminal violations under Subsec. (c). 319 C. 80.

[\(Return to Chapter](#) [\(Return to Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354t. Revocation of municipal authority to regulate aquifer protection areas. (a) The Commissioner of Energy and Environmental Protection may revoke the authority of a municipality to regulate aquifer protection areas pursuant to sections 22a-354o to 22a-354s, inclusive, this section or section 14 of public act 89-305*, upon determination after a hearing that such municipality has, over a period of time, consistently failed to perform its duties under said sections. Prior to the hearing on revocation, the commissioner shall send a notice to the aquifer protection agency, by certified mail, return receipt requested, asking such agency to show cause, within thirty days, why such authority should not be revoked. A copy of the show cause notice shall be sent to the chief executive officer of the municipality that authorized the agency and to any water company owning or operating a

public water supply well within such municipality. Such water company may, through a representative, appear and be heard at any such hearing. The commissioner shall send a notice to the aquifer protection agency, by certified mail, return receipt requested, stating the reasons for the revocation and the circumstances for reinstatement. Any municipality aggrieved by a decision of the commissioner under this section to revoke its authority under said sections 22a-354o to 22a-354s, inclusive, this section and section 14 of public act 89-305*, may appeal therefrom in accordance with the provisions of section 4-183. The commissioner shall have jurisdiction over aquifers in any municipality whose authority to regulate such aquifers has been revoked. Any costs incurred by the state in reviewing applications to conduct an activity within an aquifer protection area for such municipality shall be paid by the municipality. Any fees that would have been paid to such municipality if such authority had been retained shall be paid to the state.

(b) The commissioner shall cause to be published notice of the revocation or reinstatement of the authority of a municipality to regulate aquifers in a newspaper of general circulation in the area of such municipality.

(c) The commissioner shall adopt regulations in accordance with the provisions of chapter 54 establishing standards for the revocation and reinstatement of municipal authority to regulate aquifers pursuant to section 22a-354o.

(P.A. 89-305, S. 13, 32; P.A. 11-80, S. 1.)

*Note: Section 14 of public act 89-305 is special in nature and therefore has not been codified but remains in full force and effect according to its terms.

History: Pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354u. Incentive program for public recognition of users of land within aquifer protection areas who implement innovative approaches to groundwater protection. The Commissioner of Energy and Environmental Protection shall develop an incentive program to provide public recognition of users of land located within aquifer protection areas who demonstrate successful and committed efforts to protect drinking water supplies by implementing innovative approaches to groundwater protection. Such program shall also promote groundwater protection through education of members of businesses and industry and the public.

(P.A. 89-305, S. 15, 32; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354v. Technical training classes for members and staff of municipal aquifer protection agencies. The Commissioner of Energy and Environmental Protection shall formulate courses in technical training for members and staff of municipal aquifer protection agencies. Such courses shall provide instruction in the regulations developed pursuant to section 22a-354i, potential options for monitoring and enforcement and technical requirements for site plan review. The commissioner may designate any organization or educational institution to provide such instruction.

(P.A. 89-305, S. 16, 32; P.A. 11-80, S. 1.)

History: Pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354w. Guidelines for acquisition of lands surrounding public water supply well fields. The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health and the chairperson of the Public Utilities Regulatory Authority, shall prepare guidelines for acquisition of lands surrounding existing or proposed public water supply well fields. In preparing such guidelines the commissioner shall consider economic implications for mandating land acquisition including, but not limited to, the effect on land values and the ability of small water companies to absorb the cost of acquisition.

(P.A. 89-305, S. 17, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 96-180, S. 79, 166; P.A. 11-80, S. 1, 69.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 96-180 changed "Department of Public Utilities Control" to "Public Utilities Control Authority", effective June 3, 1996; P.A. 11-80 changed "Commissioner of Environmental Protection" to "Commissioner of Energy and Environmental Protection" and changed "Public Utilities Control Authority" to "Public Utilities Regulatory Authority", effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354x. Duties of the commissioner. Technical, coordinating and research services. Supervision. Powers of the commissioner. Annual report. (a) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health and water companies, shall provide, within available appropriations, technical, coordinating and research services to promote the effective administration of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84 at the federal, state and local levels.

(b) The commissioner shall have the overall responsibility for general supervision of the implementation of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84 and shall monitor and evaluate the activities of federal and state agencies and the activities of municipalities to assure continuing, effective, coordinated and consistent administration of the requirements and purposes of said sections.

(c) The commissioner shall exercise all incidental powers, including, but not limited to, the issuance of orders necessary to enforce rules and regulations adopted in accordance with sections 22a-354i to 22a-354m, inclusive, to carry out the purposes of sections 22a-354a to 22a-354bb, inclusive.

(d) The commissioner shall prepare and submit to the General Assembly and the Governor, on or before December first of each year, a written report summarizing the activities of the department concerning the development and implementation of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84 during the previous year. Such report shall include, but not be limited to: (1) The department's accomplishments and actions in achieving the goals and policies of said sections including, but not limited to, coordination with other state, regional, federal and municipal programs established to achieve the purposes of said sections; (2) recommendations for any statutory or regulatory amendments necessary to achieve such purposes; (3) a summary of municipal and federal programs and actions which affect aquifer protection areas; (4) recommendations for any programs or plans to achieve such purposes; (5) any aspects of the program or said sections which are proving difficult to accomplish, suggested reasons for such difficulties and proposed solutions to such difficulties; (6) a summary of the expenditure of federal and state funds under said sections; and (7) a request for an appropriation of funds necessary to match federal funds and provide continuing financial support for the program. Such report shall

comply with the provisions of section 46a-78. On and after October 1, 1996, the report shall be submitted to the Governor, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and budgets of state agencies and relating to the environment and, upon request, to any member of the General Assembly. A summary of the report shall be submitted to each member of the General Assembly if the summary is two pages or less and a notification of the report shall be submitted to each member if the summary is more than two pages. Submission shall be by mailing the report, summary or notification to the legislative address of each member of the committee or the General Assembly, as applicable.

(P.A. 89-305, S. 18, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 96-251, S. 11; P.A. 07-85, S. 7; P.A. 11-80, S. 1.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 96-251 amended Subsec. (c) by requiring that on and after October 1, 1996, the report also be submitted to Governor and appropriations and environment committees and to legislators upon request and by adding provisions re submission of report summaries to legislators; P.A. 07-85 inserted new Subsec. (c) re powers of commissioner and redesignated existing Subsec. (c) as Subsec. (d); pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354y. Preparation of municipal assistance program by water companies. Each water company serving ten thousand or more customers with wells in stratified drift aquifers shall prepare a municipal assistance program, which includes recommendations for site plan reviews, evaluation of risks and advice on procedures for dealing with hazardous waste spills in aquifers. Such program shall be made available to any municipality in which wells owned by the water company are located.

(P.A. 89-305, S. 19, 32.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354z. Mapping by water companies of areas of contribution and recharge areas for existing and potential stratified drift wells. (a) Not later than three years after the adoption by the Commissioner of Energy and Environmental Protection of a model municipal aquifer protection ordinance under section 22a-354l, each public or private water company serving at least one thousand persons but not more than ten thousand persons shall map areas of contribution and recharge areas at level A for each existing stratified drift well located within its water supply area.

(b) Each public or private water supply company serving at least one thousand but not more than ten thousand persons shall map areas of contribution and recharge areas for all of the potential wells located in stratified drift aquifers identified as future sources of water supply in accordance with the plan submitted pursuant to section 25-33h at level B not more than two years after the Commissioner of Energy and Environmental Protection requests such mapping.

(c) For the purpose of this section, any community water system which is part of an existing water company but which is not physically connected to such existing water company shall be considered a separate water company for purposes of determining the number of persons served by the existing water company's system and any of its separate systems.

(P.A. 89-305, S. 23, 32; P.A. 91-386, S. 2; May Sp. Sess. P.A. 92-11, S. 64, 70; P.A. 93-337, S. 2; P.A. 07-85, S. 8; P.A. 11-80, S. 1.)

History: P.A. 91-386 added a new Subsec. (c) to specify how water companies shall be classified for purposes of determining their responsibilities under this section; May Sp. Sess. P.A. 92-11 amended Subsec. (a) by changing date for aquifer mapping from July 1, 1995, to January 1, 1996; P.A. 93-337 amended Subsec. (a) to change deadline for mapping from January 1, 1996, to three years after adoption by commissioner of model ordinance under Sec. 22a-354l; P.A. 07-85 amended Subsec. (b) to delete reference to level A and require submission of plan two years after the request for, rather than the approval of, mapping by commissioner; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354aa. Strategic groundwater monitoring program in aquifer protection areas. The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health, water companies, and business and industry, shall develop a strategic groundwater monitoring plan to be implemented in aquifer protection areas not more than one year after completion of level A mapping pursuant to sections 22a-354b to 22a-354d, inclusive.

(P.A. 89-305, S. 25, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 11-80, S. 1.)

History: P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354bb. Inventory of agricultural land uses overlying mapped well fields. Not more than two months after approval by the Commissioner of Energy and Environmental Protection of mapping at level B pursuant to section 22a-354d, the commissioner, in consultation with the Commissioner of Agriculture, the Cooperative Extension Service at The University of Connecticut and any other person or agency the Commissioner of Energy and Environmental Protection deems necessary, shall inventory agricultural land uses overlying the mapped area. Such inventory shall include, but not be limited to, the type and size of any agricultural operation and existing farm resource management practices. Any such inventory shall be completed not more than four months after commencement and shall be made available to technical teams established pursuant to subsection (b) of section 22a-354k.

(P.A. 89-305, S. 30, 32; June 30 Sp. Sess. P.A. 03-6, S. 146(e); P.A. 04-189, S. 1; P.A. 11-80, S. 1.)

History: June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Agriculture with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004 (Revisor's note: In 2005 the Revisors editorially replaced “overlying” with “overlying”); pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-354cc. Regulated activity allowed in municipal aquifer protection areas undergoing remedial action. Restrictions. Regulated activity, as defined in section 22a-354h, shall not be prohibited in aquifer protection areas on any municipally owned site undergoing remedial action pursuant to 40 CFR 271 at the time the applicable aquifer protection area is designated on a municipal zoning district map or inland wetland map, provided: (1) No such regulated activity substantially commenced or was in active operation for the five-year period preceding the date that the applicable aquifer protection area is designated on a municipal zoning district map or inland wetland map, and (2) any person who engages in such regulated activity for the ten-year period commencing on the date that such applicable aquifer protection area is designated on a municipal zoning district map or inland wetland map registers such regulated activity on a form prescribed by the Commissioner of Energy and Environmental Protection and in accordance with the provisions of section 22a-354i-7 of the regulations of Connecticut state agencies.

(P.A. 10-86, S. 2; 10-135, S. 6; P.A. 11-80, S. 1.)

History: P.A. 10-86 effective June 2, 2010; P.A. 10-135 effective June 8, 2010 (Revisor's note: The provisions of P.A. 10-86, S. 2, and P.A. 10-135, S. 6, were identical with the exception of the words "municipally owned", re site undergoing remedial action, that appeared in the act which passed later, P.A. 10-135); pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-355. (Formerly Sec. 25-5e). Land sales by water companies. Commissioner's duties. (a) The Commissioner of Energy and Environmental Protection shall study the distribution of dedicated open space within the state in relation to proposed land sales by water companies and shall assist in and, at the request of affected towns, coordinate the public acquisition of water company owned lands.

(b) Upon filing of a water supply plan pursuant to section 25-32d, said commissioner shall designate water utility lands which will contribute to recognized programs of the department and shall recommend their acquisition to the General Assembly. Said commissioner shall also recommend the acquisition of water company lands when such acquisition is less costly than the continued monitoring and enforcement of approved sales or changes in use of such lands.

(c) Water utility lands acquired by the Department of Energy and Environmental Protection shall be subject to Department of Public Health review and such lands, as restricted by such review, shall be put into dedicated ownership and shall not be sold except by a special act of the General Assembly.

(P.A. 77-456, S. 1; 77-614, S. 323, 587, 610; P.A. 78-303, S. 85, 136; P.A. 85-142, S. 2; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 11-80, S. 1.)

History: P.A. 77-614 and P.A. 78-303 replaced department of health with department of health services, effective January 1, 1979; Sec. 25-5e transferred to Sec. 22a-355 in 1983; P.A. 85-142 amended Subsec. (b) by replacing reference to forecast of land sales with reference to water supply plan; P.A. 93-381 replaced department of health services with department of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" and "Department of Environmental Protection" were changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" and "Department of Energy and Environmental Protection", respectively, effective July 1, 2011.

Cited. 215 C. 616.

Cited. 3 CA 53.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-356. (Formerly Sec. 25-5f). Cost estimates re groundwater recharge and discharge. Section 22a-356 is repealed, effective October 1, 2002.

(P.A. 77-456, S. 2; 77-614, S. 323, 587, 610; P.A. 78-303, S. 85, 136; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 02-89, S. 90.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-357. (Formerly Sec. 25-6). Special reports. The Governor may, at any time, require the Commissioner of Energy and Environmental Protection to secure the necessary information and submit a special report upon any of the matters contained in sections 22a-337 and 22a-350, and if the Governor finds, upon an examination of such report, that the interests of the state require, or that there exists a serious menace to the lives or property of the people of the state, he may order the commissioner to take such action as the Governor determines to be necessary to protect the interests of the state or the lives or property of its citizens. In such case, the Governor may make available, out of the civil list funds of the state not otherwise appropriated, a sufficient sum or sums required to protect such interests.

(1949 Rev., S. 3570; 1971, P.A. 872, S. 55; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with environmental protection commissioner; Sec. 25-6 transferred to Sec. 22a-357 in 1983; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-358. (Formerly Sec. 25-7a). Sale of water by public water systems. (a) Whenever any public water system has water reserves in excess of those required to maintain an abundant supply of water to inhabitants of its service area, such system may sell such excess water to any other public water system upon approval of the Commissioner of Public Health. Such approval shall be given only after (1) the applicant has clearly established to the satisfaction of the commissioner that such abundant supplies are in existence and will continue to be in existence for ten years, and (2) the purchasing community water system being supplied has agreed to restrict water usage in the same manner as the applicant when necessary in accordance with the emergency contingency provisions of the applicant's water supply plan. The commissioner shall make such determination on the basis of generally accepted engineering principles and techniques. The commissioner shall make an appropriate investigation in making such determination or shall have an investigation made by an independent person; in either event the cost of such investigation shall be borne by the applicant. Permission granted under this subsection shall be valid for such period up to ten years as the commissioner shall approve, and may be renewed in the same manner as an original application. "Public water system" includes a corporation, company, municipality, political subdivision, association, joint stock association, partnership or person, or lessee thereof, owning, maintaining, operating, managing or controlling any pond, lake, reservoir or distributing plant employed for the purpose of supplying water for general domestic use in any town, city or borough, or portion thereof, within this state. Permission granted under this section shall be in addition to any approval or other authorization which a public water system must by law receive from the Public Utilities Regulatory Authority, and nothing in this section shall be construed to impair the jurisdiction of the Public Utilities Regulatory Authority.

(b) Any company, town, city, borough, corporation or person may appeal from any decision of said commissioner issued under the provisions of subsection (a) of this section to the superior court as provided in section 4-183.

(1959, P.A. 652, S. 1, 2; 1971, P.A. 870, S. 77; 872, S. 56; P.A. 75-486, S. 57, 69; P.A. 76-436, S. 466, 681; P.A. 77-603, S. 106, 125; 77-614, S. 162, 610; P.A. 80-482, S. 181, 348; P.A. 85-142, S. 3; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 02-85, S. 22; P.A. 11-80, S. 1.)

History: 1971 acts replaced superior court with court of common pleas, effective September 1, 1971, except that courts with cases pending retain jurisdiction unless pending matters deemed transferable, and replaced water resources commission with environmental protection commissioner; P.A. 75-486 replaced public utilities commission with public utilities control authority; P.A. 76-436 replaced court of common pleas with superior court, added reference to chapter 54 and updated section references under Subsec. (b), effective July 1, 1978; P.A. 77-603 required that appeals be made in accordance with Sec. 4-183 rather than in accordance with Secs. 16-35, 16-36, 16-39 and chapter 54; P.A. 77-614 replaced public utilities control authority with division of public utility control within the department of business regulation, effective January 1, 1979; P.A. 80-482 made division of public utility control an independent department and deleted reference to abolished department of business regulation; Sec. 25-7a transferred to Sec. 22a-358 in 1983; P.A. 85-142 required approval of health services commissioner rather than of environmental protection commissioner for sales of excess water; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 02-85 amended Subsec. (a) to change requirement for continuation of abundant supplies from 5 to 10 years, delete language re such longer period as the applicant seeks, add requirement for purchasing system to agree to restrict water usage, make technical changes, and add “municipality” and “political subdivision” to the list of entities included in a public water system, effective January 1, 2003; pursuant to P.A. 11-80, “Department of Public Utility Control” was changed editorially by the Revisors to “Public Utilities Regulatory Authority” in Subsec. (a), effective July 1, 2011.

See Sec. 52-192 re precedence of appeal.

Cited. 215 C. 616.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-359. (Formerly Sec. 25-7b). Regulation of dredging, erection of structures and placement of fill in tidal, coastal or navigable waters. Sunken or grounded vessels. Definitions. (a) The Commissioner of Energy and Environmental Protection shall regulate dredging and the erection of structures and the placement of fill, and work incidental thereto, in the tidal, coastal or navigable waters of the state waterward of the coastal jurisdiction line. Any decisions made by the commissioner pursuant to this section shall be made with due regard for indigenous aquatic life, fish and wildlife, the prevention or alleviation of shore erosion and coastal flooding, the use and development of adjoining uplands, the improvement of coastal and inland navigation for all vessels, including small craft for recreational purposes, the use and development of adjacent lands and properties and the interests of the state, including pollution control, water quality, recreational use of public water and management of coastal resources, with proper regard for the rights and interests of all persons concerned.

(b) After consultation with the Connecticut Port Authority, the Commissioner of Energy and Environmental Protection may consider any sunken or grounded vessel, scow, lighter or similar structure lying within the tidal, coastal or navigable waters of the state to be an encroachment subject to the provisions of this section and sections 22a-360 to 22a-363, inclusive.

(c) As used in this section and sections 22a-360 to 22a-363b, inclusive, “coastal jurisdiction line” means the location of the topographical elevation of the highest predicted tide for the period beginning in 1983 and ending in 2001, referenced to the most recent National Tidal Datum Epoch as published by the National Oceanic and

Atmospheric Administration and described in terms of feet of elevation above the North American Vertical Datum of 1988.

(d) For any tidal, coastal or navigable waters of the state located upstream of a tide gate, weir, or other device that modifies the flow of tidal waters, the coastal jurisdiction line for such tidal, coastal or navigable waters shall be the elevation of mean high water as found at the downstream location of such device.

(e) As used in this section and sections 22a-360 to 22a-363a, inclusive, “navigable waters” means Long Island Sound, any cove, bay or inlet of Long Island Sound, and that portion of any tributary, river or stream that empties into Long Island Sound upstream to the first permanent obstruction to navigation for watercraft from Long Island Sound.

(1963, P.A. 569, S. 1; 1971, P.A. 872, S. 57; P.A. 78-102, S. 1; P.A. 79-201; P.A. 82-191, S. 2; P.A. 87-495, S. 2; P.A. 11-80, S. 1; P.A. 12-101, S. 4; June Sp. Sess. P.A. 15-5, S. 34.)

History: 1971 act replaced water resources commission with commissioner of environmental protection; P.A. 78-102 authorized commissioner to regulate placement of fill, required consideration of aquatic life, fish and wildlife, coastal flooding and water quality with regard to erecting structures and placing fill in state waters; P.A. 79-201 required consideration of management of coastal resources; P.A. 82-191 added Subsec. (b) re consideration of sunken or grounded vessels or similar structures as encroachments requiring a permit; Sec. 25-7b transferred to Sec. 22a-359 in 1983; P.A. 87-495 amended Subsec. (a) to apply section to dredging and to clarify that structures and fill are regulated waterward of the high tide line and added a new Subsec. (c) defining “high tide line”; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011; P.A. 12-101 amended Subsec. (a) to replace “high tide line” with “coastal jurisdiction line”, amended Subsec. (c) to replace definition of “high tide line” with definition of “coastal jurisdiction line” and replace “22a-363” with “22a-363b”, added Subsec. (d) re coastal jurisdiction line for any tidal, coastal or navigable waters of the state located upstream of a tide gate, weir or other device that modifies the flow of tidal waters, and added Subsec. (e) re definition of “navigable waters”; June Sp. Sess. P.A. 15-5 amended Subsec. (b) by replacing “Commissioner of Transportation” with “Connecticut Port Authority”, effective July 1, 2016.

Annotations to former section 25-7b:

No determination of littoral rights of applicant and neighboring owners made in issuance of permits under section; commission only determining under police power necessary curtailment of applicant's common law littoral rights. 157 C. 528. Applications under section and to dredge under Sec. 25-7d (22a-361) could be heard together by water resources commission. 159 C. 82. Standards set forth in statute are specific enough to be constitutionally sound. 161 C. 50. Applicable to power lines over or under rivers. 162 C. 89. Cited. 165 C. 224. Commission is not precluded from granting an otherwise proper application because of some prior unlicensed activity by an applicant. Id., 231. Cited. 175 C. 483.

Cited. 29 CS 298.

Annotations to present section:

Cited. 215 C. 616. By its plain meaning, the term “high tide line” refers to the highest point at which the water's surface intersects with the land over the course of the entire yearly tidal cycle, excluding only the extraordinary conditions created by a hurricane or other intense storm; the maximum height of water may be higher than what is observed at any given moment, but it must be at least as high as what is observed under nonextreme weather conditions; if, absent intense storm activity, the water level at high tide ever reaches a given location, that location is necessarily waterward of the high tide line as defined in Subsec. (c); section not unconstitutionally void for vagueness as applied. 305 C. 681. Under 2003 revision, use of the 1-year frequency tidal flood elevation as a method to determine the location of the high tide line was entirely consistent with section; section allows for use of different measurements or surveys by department when determining location of the high tide line, and the

only limitations as to permissible methods are that the method used must be suitable and that storm surges due to hurricanes or other intense storms may not be included when determining high tide line. 308 C. 359.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-360. (Formerly Sec. 25-7c). Establishment of boundaries. In order to carry out the purposes of sections 22a-359 to 22a-363, inclusive, the commissioner is authorized to establish boundaries waterward of the coastal jurisdiction line along tidal, coastal and navigable waters for equitable regulation of use, dredging, obstruction and encroachment thereof, and to establish areas for development of small boat basins or other facilities, provided such establishments shall be made in accordance with a general plan prepared for the orderly development of the area or region.

(1963, P.A. 569, S. 2; 1971, P.A. 872, S. 58; P.A. 87-495, S. 3; P.A. 12-101, S. 5.)

History: 1971 act replaced reference to water resources commission with reference to environmental protection commissioner; Sec. 25-7c transferred to Sec. 22a-360 in 1983; P.A. 87-495 amended the section to apply to dredging and authorized the commissioner to establish boundaries waterward of the high tide line in lieu of seaward beyond the mean high water mark; P.A. 12-101 changed "high tide line" to "coastal jurisdiction line".

See Sec. 22a-342 re stream channel encroachment lines.

Annotation to former section 25-7c:

Cited. 162 C. 89.

Annotation to present section:

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-361. (Formerly Sec. 25-7d). Permit for dredging, structures, placement of fill, obstruction or encroachment, or mooring area or facility. Regulations. General permits. Removal of sand, gravel or other material. Fees. Prohibited docks or structures. (a)(1) No person, firm or corporation, public, municipal or private, shall dredge, erect any structure, place any fill, obstruction or encroachment or carry out any work incidental thereto or retain or maintain any structure, dredging or fill, in the tidal, coastal or navigable waters of the state waterward of the coastal jurisdiction line until such person, firm or corporation has submitted an application and has secured from the Commissioner of Energy and Environmental Protection a certificate or permit for such work and has agreed to carry out any conditions necessary to the implementation of such certificate or permit.

(A) Except as provided in subdivision (3) of this subsection, each application for a permit, except for an emergency authorization, for any structure, filling or dredging which uses or occupies less than five thousand five hundred square feet in water surface area based on the perimeters of the project shall be accompanied by a fee equal to eighty cents per square foot provided such fee shall not be less than six hundred sixty dollars.

(B) Except as provided in subdivision (3) of this subsection, each application for a permit for any structure, filling or dredging which uses or occupies five thousand five hundred square feet or more but less than five acres in water surface area based on the perimeters of the project shall be accompanied by a fee of three thousand five hundred fifty dollars plus ten cents per square foot for each square foot in excess of five thousand five hundred square feet.

(C) Except as provided in subdivision (3) of this subsection, each application for a permit for any structure, filling or dredging which uses or occupies five or more acres in water surface area based on the perimeters of the project shall be accompanied by a fee of nineteen thousand four hundred seventy-five dollars plus five hundred twenty-five dollars per acre for each acre or part thereof in excess of five acres.

(D) Except as provided in subdivision (3) of this subsection, each application for a mooring area or multiple mooring facility, regardless of the area to be occupied by moorings, shall be accompanied by a fee of six hundred sixty dollars provided that such mooring areas or facilities shall not include fixed or floating docks, slips or berths.

(E) Application fees for aquaculture activities shall not be based on areal extent.

(2) The commissioner may waive or reduce any fee payable pursuant to subdivision (1) of this subsection for (A) a tidal wetlands or coastal resource restoration or enhancement activity, (B) experimental activities or demonstration projects, (C) nonprofit academic activities, or (D) public access activities in tidal, coastal or navigable waters, provided no fee shall be waived or reduced for activities required by statute, regulation, permit, order or enforcement action. The application fee for the retention of a structure built in violation of this subsection where such structure is ineligible for a certificate of permission under section 22a-363b, shall be four times the fee calculated in accordance with subparagraphs (A) to (D), inclusive, of subdivision (1) of this subsection. The commissioner may lower any such fee based upon the commissioner's finding of significant extenuating circumstances, including, but not limited to, whether the applicant acquired such real estate interest in the work site after the date of the unauthorized activity and is not otherwise liable for the unauthorized activity as a result of actions taken prior to the acquisition and did not know and had no reason to know of the unauthorized activity. As used in this section, "resource restoration or enhancement activity" means an action taken to return a wetland or coastal resource to a prior natural condition or to improve the natural functions or habitat value of such resource, but shall not include actions required pursuant to an enforcement action of the commissioner, and "public access activities" means activities whose principal purpose is to provide or increase access for the general public to tidal, coastal or navigable waters, including, but not limited to, boardwalks, boat ramps, observation areas and fishing piers.

(3) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to vary the permit fees described in subdivision (1) of this subsection and the cost of public notice required pursuant to section 22a-6h, provided such regulations shall contain a simplified schedule that promotes expedited approval of applications that are consistent with all applicable standards and criteria. In the event the commissioner adopts such regulations, such permit fees shall be the amount established in such regulations.

(b) The commissioner, at least thirty days before approving or denying an application for a permit, shall provide or require the applicant to provide notice by certified mail, return receipt requested, or by electronic means to the applicant, to the Connecticut Port Authority, as appropriate, the Attorney General and the Commissioner of Agriculture and to the chief executive officer, the chairmen of the planning, zoning, harbor management and shellfish commissions of each town in which such structure, fill, obstruction, encroachment or dredging is to be located or work to be performed, and to the owner of each franchised oyster ground and the lessee of each leased oyster ground within which such work is to be performed and shall publish such notice once in a newspaper having a substantial circulation in the area affected. Such notice shall contain (1) the name of the applicant; (2) the location and nature of the proposed activities; (3) the tentative decision regarding the application; and (4) any additional information the commissioner deems necessary. There shall be a comment period following the public notice during which interested persons may submit written comments. The commissioner may hold a public hearing prior to approving or denying an application if, in the commissioner's discretion, the public interest will best be served by holding such hearing. The commissioner shall hold a public hearing if the commissioner receives: (A) A written request for such public hearing from the applicant, or (B) a petition, signed by twenty-five or more persons requesting such public hearing on an application. Following such notice and comment period and public hearing, if applicable, the commissioner may, in whole or in part, approve, modify and approve or deny the application. The commissioner shall provide to the applicant and the persons set forth above, by certified mail, return receipt requested, or by electronic means, notice of the commissioner's decision. If the commissioner requires the applicant to provide the notice specified in this subsection, the applicant shall

certify to the commissioner, not later than twenty days after providing such notice, that such notice has been provided in accordance with this subsection. Any person who is aggrieved by the commissioner's final decision on such application may appeal such decision to the Superior Court in accordance with section 4-183.

(c) The Commissioner of Energy and Environmental Protection may adopt regulations, in accordance with the provisions of chapter 54, to carry out the provisions of sections 22a-359 to 22a-363, inclusive. Such regulations shall establish the procedures for reviewing and acting upon applications for permits, certificates of permission and emergency authorizations. The regulations shall be consistent with sections 22a-28 to 22a-35, inclusive, and regulations adopted thereunder, sections 22a-90 to 22a-100, inclusive, and sections 22a-113k to 22a-113t, inclusive. They shall establish criteria for granting, denying, limiting, conditioning or modifying permits giving due regard for the impact of regulated activities and their use on the tidal, coastal or navigable waters of the state, adjoining coastal and tidal resources, tidal wetlands, navigation, recreation, erosion, sedimentation, water quality and circulation, fisheries, shellfisheries, wildlife, flooding and other natural disasters and water-dependent use opportunities as defined in section 22a-93. The regulations may provide for consideration of local, state and federal programs affecting tidal, coastal and navigable waters of the state and the development of the uplands adjacent thereto and may set forth informational material describing general categories of regulated activities for the purpose of providing permit applicants with a more explicit understanding of the regulations. Such informational material shall be consistent with and shall not increase the discretion granted to the commissioner under the policies, standards and criteria contained in sections 22a-359, 22a-92 and 22a-93 and this section.

(d) (1) The Commissioner of Energy and Environmental Protection may issue a general permit for any minor activity regulated under sections 22a-28 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, if the commissioner determines that such activity would (A) cause minimal environmental effects when conducted separately, (B) cause only minimal cumulative environmental effects, (C) not be inconsistent with the considerations and the public policy set forth in sections 22a-28 to 22a-35, inclusive, and section 22a-359, as applicable, (D) be consistent with the policies of the Coastal Management Act, and (E) constitute an acceptable encroachment into public lands and waters. Such activities may include routine minor maintenance and routine minor repair of existing structures, fill, obstructions, encroachments or excavations; substantial maintenance consisting of rebuilding, reconstructing or reestablishing to a preexisting condition and dimension any structure, fill, obstruction, encroachment or excavation; maintenance dredging of areas which have been dredged and continuously maintained as serviceable; activities allowed pursuant to a perimeter permit; the removal of structures, derelict vessels, debris, rubbish or similar discarded material or unauthorized fill material; minor alterations or amendments to authorized activities consistent with the authorization for such activities; activities which have been required or allowed by an order of the commissioner; open water marsh management by or under the supervision of the Department of Public Health or the Department of Energy and Environmental Protection; conservation activities of or under the supervision or direction of the Department of Energy and Environmental Protection; construction of individual residential docks which do not create littoral or riparian conflicts, navigational interference, or adverse impacts to coastal resources, as defined in section 22a-93, which are not located in tidal wetlands, as defined in section 22a-29, and which extend no further than forty feet waterward of mean high water or to a depth of minus four feet mean low water, whichever point is more landward; installation of scientific measuring or monitoring devices; survey activities including excavation of test pits and core sampling and driving of test pilings; construction of utility lines; aquacultural activities; and installation and removal of small seasonal structures including floats and moorings. Any person conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit or certificate under any other provision of sections 22a-28 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, for that activity except as provided in subdivision (3) of this subsection. A general permit shall clearly define the activity covered thereby and may include such conditions and requirements as the commissioner deems appropriate, including, but not limited to, construction timing, methodologies and durations, resource protection practices, management practices, and verification and reporting requirements. The general permit may require any person proposing to conduct any activity under the general permit to register such activity, including obtaining approval from the commissioner, before the general permit becomes effective as to such activity. Registrations and applications for approval under the general permit shall be submitted on forms prescribed by the commissioner. Any approval by the commissioner under a general permit may include conditions specific to

the proposed activity to ensure consistency with the requirements for issuance of the general permit. The commissioner shall prepare, and annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(2) Notwithstanding any other procedures specified in sections 22a-28 to 22a-35, inclusive, and sections 22a-359 to 22a-363f, inclusive, any regulations adopted thereunder, and chapter 54, the commissioner may issue a general permit in accordance with the following procedures: (A) The commissioner shall publish in a newspaper having a substantial circulation in the affected area or areas notice of intent to issue a general permit; (B) the commissioner shall allow a comment period of thirty days following publication of such notice during which interested persons may submit written comments concerning the permit to the commissioner and the commissioner shall hold a public hearing if, within said comment period, he receives a petition signed by at least twenty-five persons; (C) the commissioner may not issue the general permit until after the comment period; (D) the commissioner shall publish notice of any permit issued in a newspaper having substantial circulation in the affected area or areas; and (E) summary suspension may be ordered in accordance with subsection (c) of section 4-182. Any person may request that the commissioner issue, modify or revoke a general permit in accordance with this subsection.

(3) Subsequent to the issuance of a general permit, the commissioner may require any person whose activity is or may be covered by the general permit to apply for and obtain an individual permit or certificate under the provisions of sections 22a-28 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, for all or any portion of the activities covered by the general permit, if the commissioner determines that an individual permit is necessary to assure consistency with purposes and policies of such sections, and the Coastal Management Act. The commissioner may require an individual permit under this subdivision in cases including, but not limited to, the following: (A) The permittee is not in compliance with the conditions of the general permit; (B) an individual permit or certificate is appropriate because of circumstances specific to the site; (C) circumstances have changed since the time the general permit was issued so that the permitted activity is no longer acceptable under the general permit; or (D) a change has occurred in relevant law. The commissioner may require an individual permit or certificate under this section only if the affected person has been notified in writing that an individual permit or certificate is required. The notice shall include a brief statement of the reasons for the decision.

(4) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

(e) (1) No person, firm or corporation, public, municipal or private, who removes sand, gravel or other material lying waterward of the mean high water mark of the tidal, coastal or navigable waters of the state pursuant to a permit issued under this section on or after October 1, 1996, shall make any beneficial or commercial use of such sand, gravel or other material except upon payment to the state of a fee. Such payment shall be made at times and under conditions specified by the commissioner in such permit, provided the commissioner may waive such payment for the beneficial or commercial use of sand, gravel, or other material that such person, firm or corporation decontaminates or processes to meet applicable environmental standards for reuse. No fee shall be assessed for (A) the performance of such activities on land which is not owned by the state, (B) the use of sand, gravel or other materials for beach restoration projects, or (C) ultimate disposal of such sand, gravel or other materials which does not result in an economic benefit to any person. For the purposes of this subdivision, "beneficial or commercial use" includes, but is not limited to, sale or use of sand, gravel or other materials for construction, aggregate, fill or landscaping. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, establishing the amount of the fee required pursuant to this subsection. Such fee shall be four dollars per cubic yard of such sand, gravel and other material until such time as the commissioner adopts such regulations.

(2) The commissioner may require that any person, firm or corporation, public, municipal or private, who removes sand, gravel or other material lying waterward of the mean high water mark of the tidal, coastal or navigable waters shall make available such sand, gravel or other material of appropriate grain size and composition to any coastal municipality or to any district established pursuant to chapter 105 or by special act to plan, lay out, acquire, construct, reconstruct, repair, maintain, supervise and manage a flood or erosion control

system. Such sand, gravel or other material shall be offered for the purposes of an appropriately authorized beach nourishment or habitat restoration project and shall be available (A) to municipalities for the cost of transporting such sand, gravel or other material, and (B) to districts for a reasonable fee.

(f) When any damage may arise to any person, firm or corporation from the taking of sand, gravel or other material as provided in subsection (e) of this section and the applicant authorized by the commissioner to take sand, gravel or other material cannot agree with such person, firm or corporation as to the amount of damage which may result from such taking, the commissioner shall require the applicant, as a condition precedent to the taking of sand, gravel or material pursuant to any permit hereunder, to post bond, with good and sufficient surety, or to deposit such sum with the State Treasurer, for the protection of any person, firm or corporation claiming damage which may result from such taking, as the commissioner determines sufficient to cover all damages, including interest from the date of the taking, which could reasonably result to any person, firm or corporation from such taking.

(g) The procedure for the subsequent determination of the amount of actual damage shall be as follows: The commissioner shall prefer a petition to the superior court for the judicial district of Hartford or to a judge thereof in vacation, praying that the amount of such damage may be determined. Such petition shall be accompanied by a summons signed by competent authority, to be served as process in civil action before said court, notifying the applicant and any person, firm or corporation claiming damage from the taking, to appear before said court or such judge, and thereupon said court or judge shall appoint a committee of three disinterested persons, one of whom may be a state referee, who shall be sworn before commencing their duties. Such committee, after giving reasonable notice to all parties of the time and place of hearing, shall hear and receive evidence from all parties concerning the damage and shall make an award. Such committee shall make a report of its doings and the award to said court or such judge, who may accept such report or reject it for irregular or improper conduct by the committee in the performance of its duties. If the report is rejected, the court or judge shall appoint another committee, which shall proceed in the same manner as the first committee was required to proceed. If the report is accepted, such acceptance shall have the effect of a judgment and the applicant shall pay the amount of any such award to the clerk of the Superior Court for the account of the persons entitled thereto within sixty days after the judgment is entered or, in the case of an appeal, after the final judgment. Any party may, within sixty days, appeal such judgment in the manner provided by law.

(h) Notwithstanding any other provision of this section, the commissioner shall not issue a certificate or permit to authorize any dock or other structure in an area that was designated as inappropriate or unsuitable for such dock or other structure in a harbor management plan approved and adopted pursuant to section 22a-113m.

(1963, P.A. 569, S. 3; February, 1965, P.A. 587; 1969, P.A. 768, S. 256; 1971, P.A. 872, S. 59; P.A. 74-79; P.A. 78-102, S. 2; P.A. 87-495, S. 4; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; 90-111, S. 4; 90-231, S. 13, 28; P.A. 91-369, S. 27, 36; P.A. 92-162, S. 9, 25; P.A. 93-142, S. 4, 7, 8; 93-381, S. 9, 39; 93-428, S. 8, 39; P.A. 94-85, S. 2; P.A. 95-218, S. 10; 95-220, S. 4-6; 95-257, S. 12, 21, 58; P.A. 96-145, S. 1, 17; P.A. 97-124, S. 8, 16; P.A. 98-63, S. 1, 2; P.A. 03-263, S. 5; June 30 Sp. Sess. P.A. 03-6, S. 128, 129, 146(g), (h); P.A. 04-109, S. 8; 04-189, S. 1; June Sp. Sess. P.A. 09-3, S. 417; P.A. 10-106, S. 8, 9; P.A. 11-80, S. 1; P.A. 12-100, S. 3; 12-101, S. 6; P.A. 13-179, S. 8; 13-209, S. 6, 13; June Sp. Sess. P.A. 15-5, S. 35; P.A. 16-89, S. 9.)

History: 1965 act required notice to be given to chief executive officers and chairmen of planning and zoning commissions of affected towns of application for and issuance of certificates or permits; 1969 act required that like notice be given to commissioner of transportation and that his recommendations be considered by the commission; 1971 act replaced references to water resources commission with references to environmental protection commissioner and added phrase limiting commissioner's power to make and revise regulations, etc.; P.A. 74-79 required notification of owners and lessees of oyster grounds; P.A. 78-102 prohibited use of "fill" without certificate or permit and amended phrase limiting commissioner's regulatory powers by referring to entire section rather than "subdivision (a)"; Sec. 25-7d transferred to Sec. 22a-361 in 1983; P.A. 87-495 amended Subsec. (a) to clarify that permits are required for activity in navigable waters waterward of the high tide line and to require that notice be given to harbor management commission and added Subsec. (b) concerning regulation; P.A. 90-111 deleted existing application procedure, inserted new Subsec. (b) re notification to departments and publication of notice in newspaper, relettered the remaining Subsecs. accordingly

and required the regulations to establish application procedures; P.A. 90-231 amended Subsec. (a) to establish a schedule of application fees and to provide that on and after July 1, 1995, such fees shall be prescribed by regulations; P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; P.A. 92-162 added Subsec. (d) re general permits for certain minor activities regulated under this section; P.A. 93-381 replaced department of health services with department of public health and addiction services, effective July 1, 1993; P.A. 93-428 amended Subsec. (b) to authorize the commissioner to require the applicant to provide the notice specified in this section, effective July 1, 1993; P.A. 94-85 amended Subsec. (b) to delete a requirement that the commissioner or the permit applicant provide notice of a permit application to each abutting landowner; P.A. 95-218 amended Subsec. (a) to add provisions re mooring areas and resource restoration or enhancement activities; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 96-145 deleted references to repealed Secs. 22a-383 to 22a-390, inclusive, where appearing in Subsec. (c) and added Subsecs. (e), (f) and (g) re removal of sand, gravel or other material from waters of the state (Revisor's note: P.A. 88-230, 90-98, 93-142 and 95-220 authorized substitution of "judicial district of Hartford" for "judicial district of Hartford-New Britain" in public and special acts of the 1996 session of the General Assembly, effective September 1, 1998); P.A. 97-124 amended Subsec. (a) to define and provide for the waiver or reduction of fees for permits under this section for "public access activities", effective June 6, 1997; P.A. 98-63 amended Subsec. (a) to provide for limit on fees for aquaculture activities and to authorize waiver or reduction of fees for experimental activities, demonstration projects and nonprofit academic activities, and added Subsec. (d)(5) re authorization for aquaculture activities; P.A. 03-263 amended Subsec. (b) to include the Attorney General and the Commissioner of Agriculture re those who receive notice of application for a permit and to delineate when a public hearing is required on such application, effective July 9, 2003; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (a) to increase permit application fees and minimum permit application fees by 50% and to delete provisions re amount of fees prescribed by regulation, and amended Subsec. (e) to increase payment to the state for the beneficial or commercial use of materials from \$2 to \$4 per cubic yard and to delete provisions re amount of fees prescribed by regulation, effective August 20, 2003, and replaced Commissioner and Department of Agriculture with Commissioner and Department of Agriculture and Consumer Protection in Subsec. (b), effective July 1, 2004; P.A. 04-109 amended Subsec. (b) to make a technical change, effective May 21, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; June Sp. Sess. P.A. 09-3 amended Subsec. (a) by increasing fees; P.A. 10-106 amended Subsec. (a) by dividing existing provisions into Subdiv. (1), Subparas. (A) to (E) therein, and Subdiv. (2), making technical changes and adding exceptions re Subdiv. (3), adding provision in Subdiv. (2) re application fee for retention of a structure built in violation of subsection where such structure is ineligible for a certificate of permission, and adding Subdiv. (3) re regulations to vary permit fees, amended Subsec. (b) by adding provisions authorizing use of electronic means for notices and making a technical change and amended Subsec. (d) by deleting former Subdiv. (5) re exemption from permit requirement for placement, maintenance or removal of individual structures used for aquaculture and buoys used to mark such structures; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" and "Department of Environmental Protection" were changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" and "Department of Energy and Environmental Protection", respectively, effective July 1, 2011; P.A. 12-100 amended Subsec. (b) to require commissioner to hold a public hearing if commissioner receives a written request for such hearing from the applicant, add provision re appeal of commissioner's final decision to Superior Court by person aggrieved by such decision and make technical changes; P.A. 12-101 amended Subsec. (a) to change "high tide line" to "coastal jurisdiction line"; P.A. 13-179 amended Subsec. (e) by designating existing provisions as Subdiv. (1) and making technical changes therein and by adding Subdiv. (2) re authority of commissioner to make sand, gravel or other material available to coastal municipalities or districts for flood or erosion control systems; P.A. 13-209 amended Subsec. (b) by deleting former Subpara. (B) (i), (ii) and (iii) re petition for public hearing on application that will significantly impact any shellfish area, have interstate ramifications or involve any project that requires a certificate or federal approval, and amended Subsec. (e) by making a technical change, adding provision re authority of commissioner to waive payment of fee and adding provision authorizing commissioner to adopt regulations to establish the amount of fee; June Sp. Sess. P.A. 15-5 amended Subsec. (b) to replace "Commissioner of Transportation" with "Connecticut Port Authority, as appropriate", effective July 1, 2016; P.A. 16-89 added Subsec. (h) re prohibition on docks or

structures in any area designated as inappropriate or unsuitable for such dock or other structure in a harbor management plan, effective June 1, 2016.

See Sec. 22a-6/ re posting of notice of permit applications.

See Sec. 22a-27i re exemption of municipality for one year.

See Sec. 22a-363a re definitions.

Annotations to former section 25-7d:

Issuance of permit not an adjudicative action by commission as to plaintiff, neighbor landowner of permittee, and as to neighbors due process does not require hearing before issuance of permit. 157 C. 528. Applications for dredging under section and filling under Sec. 25-7b (22a-359) could be heard together by water resources commission. 159 C. 82. Power to make regulations need not be exercised; failure to provide for public hearings is not constitutionally repugnant as long as there are provisions for hearing before final determination. 161 C. 50. Cited. 168 C. 365; 175 C. 483; 177 C. 287.

Owner of upland adjoining tidewater cannot construct piers which will interfere with free and unobstructed use of navigable waters by the public and the right of other upland owners to use such waters for access to their lands. 21 CS 407. Cited. 29 CS 298.

Annotations to present section:

Cited. 215 C. 616; 232 C. 401. The phrase “work incidental thereto” in Subsec. (a)(1) necessarily refers to one of the enumerated activities that precede that phrase, and it is clear that the qualification “waterward of the high tide line” applies equally and independently to each of the regulated activities; the term “incidental” in Subsec. (a)(1) refers to subordinate or nonessential work conducted in the course of erecting a structure or performing any other activity specified in Subsec. (a)(1); department has not demonstrated its authority under section to order removal of any portion of plaintiff's seawall that is not waterward of high tide line. 305 C. 681. Because 2003 revision of Subsec. (a) is written in the disjunctive, department can assert jurisdiction over a structure if it is located in either tidal, coastal or navigable waters and waterward of the high tide line; “tidal waters” means of or relating to tides, caused by tides or having tides, and “tide” means the alternate rising and falling of the surface of the ocean and of gulfs, bays, estuaries and other water bodies connected with the ocean that occurs twice a day over most of the earth and is caused by the gravitational attraction of the sun and moon occurring unequally on different parts of the earth. 308 C. 359.

Cited. 15 CA 458.

Cited. 43 CS 386.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-361a. Civil penalty. Any person who violates, continues or maintains any violation of any provision of sections 22a-359 to 22a-363f, inclusive, or violates, continues or maintains a violation of any term or condition of any permit, certificate, authorization or order issued pursuant to said sections shall be liable for a civil penalty of not more than one thousand dollars for each offense. Each violation shall be a separate and distinct offense and in the case of a continuing violation each day's continuance thereof shall be deemed to be a separate and distinct offense. The Commissioner of Energy and Environmental Protection may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.

(P.A. 87-438, S. 3; P.A. 88-230, S. 1, 12; 88-364, S. 43, 123; P.A. 90-98, S. 1, 2; 90-111, S. 6; P.A. 93-142, S. 4, 7, 8; P.A. 95-218, S. 8, 24; 95-220, S. 4-6; P.A. 11-80, S. 1.)

History: P.A. 88-230 replaced “judicial district of Hartford-New Britain at Hartford” with “judicial district of Hartford”, effective September 1, 1991; P.A. 88-364 made technical change; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 90-111 provided that the penalty applies to a person who violates any provision of Secs. 22a-359 to 22a-361 or violates the conditions of a permit, certificate, authorization or order and deleted the provision that the penalty applies to a person who places a structure in waters without a permit or in violation of the terms of a permit; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-218 added violations of Secs. 22a-362 to 22a-363f, inclusive, to the scope of this section's penalty provisions; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-362. (Formerly Sec. 25-7e). Violations as public nuisance. Any violation of sections 22a-359 to 22a-361, inclusive, or any violation of the terms or conditions of a certificate, permit or authorization issued pursuant to said sections shall be considered a public nuisance. The Attorney General shall, at the request of the commissioner, institute proceedings to enjoin or abate any such nuisance.

(1963, P.A. 569, S. 4; 1971, P.A. 872, S. 60; P.A. 78-102, S. 3; P.A. 87-495, S. 5; P.A. 90-111, S. 7.)

History: 1971 act replaced references to water resources commission with references to environmental protection commissioner; P.A. 78-102 prohibited use of “fill” without certificate or permit; Sec. 25-7e transferred to Sec. 22a-362 in 1983; P.A. 87-495 amended the section to apply provisions to dredging and to make violations of a permit a nuisance; P.A. 90-111 provided violations of Secs. 22a-359 to 22a-361 or the terms of a certificate, permit or authorization are a public nuisance and deleted the reference to dredging, or any structure, fill, obstruction or encroachment being a public nuisance.

See Sec. 22a-346 re encroachment as nuisance.

Annotations to former section 25-7e:

Cited. 157 C. 536; 162 C. 89. Public nuisance provision is in aid of navigation, not basis of claim for damages by plaintiffs not in class of interests protected. 177 C. 287.

Annotations to present section:

Cited. 215 C. 616.

Cited. 15 CA 458.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-363. (Formerly Sec. 25-7f). Penalty for violation. Any person violating any provision of sections 22a-359 to 22a-362, inclusive, shall be fined not more than two hundred fifty dollars.

(1963, P.A. 569, S. 5; P.A. 12-80, S. 17.)

History: Sec. 25-7f transferred to Sec. 22a-363 in 1983; P.A. 12-80 replaced penalty of a fine of not less than \$15 or more than \$50 or imprisonment of not less than 10 days or more than 30 days or both with a fine of not more than \$250.

Annotations to former section 25-7f:

Cited. 157 C. 536; 162 C. 89.

Annotation to present section:

Cited. 215 C 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-363a. Definitions. For the purposes of this section and sections 22a-361, 22a-361a, 22a-362, 22a-363b and 22a-363d to 22a-363f, inclusive: “Substantial maintenance” means rebuilding, reconstructing, or reestablishing to a preexisting condition and dimension any structure, fill, obstruction or encroachment; “routine maintenance” means replacement and repair of out-of-water structures including the surfaces of docks, piers, wharves and bridges, replacement or repair in any year of up to fifty per cent of all pilings approved in accordance with section 22a-361 and seasonal installation, reinstallation or repair of floating docks, provided that all locations, dimensions, elevations and materials shall remain the same as or equivalent to that approved in accordance with said section; “perimeter permit” means a permit issued in accordance with said section, establishing boundaries waterward of the coastal jurisdiction line within which recreational marinas layout of in-water slips, docks and moorings may be reconfigured; “work” means any activity, construction, or site preparation, erection of structures or placement of fill, including but not limited to grading, excavating, dredging or disposing of dredged material, depositing of soil, stones, sand, gravel, mud, aggregate or construction materials, filling, removing vegetation or other material, or other modification of a site within the tidal, coastal or navigable waters of the state waterward of the coastal jurisdiction line.

(P.A. 90-111, S. 1; P.A. 10-106, S. 11; P.A. 12-101, S. 7; P.A. 13-179, S. 9.)

History: P.A. 10-106 redefined “substantial maintenance”; P.A. 12-101 changed “high tide line” to “coastal jurisdiction line”; P.A. 13-179 redefined “routine maintenance”.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-363b. Activities eligible for certificate of permission. Exemptions. Issuance of certificate. Failure of commissioner to respond. (a) Routine maintenance of permitted structures, fill, obstructions or encroachments or routine maintenance of structures, fill, obstructions or encroachments in place prior to June 24, 1939, and continuously maintained and serviceable since that date shall be exempt from the requirements of obtaining certificates of permission or permits pursuant to section 22a-363a, this section or section 22a-361. The following activities may be eligible for a certificate of permission, in accordance with the provisions of subsections (c) and (d) of this section: (1) Substantial maintenance or repair of existing structures, fill, obstructions or encroachments authorized pursuant to section 22a-33 or 22a-361; (2) substantial maintenance of any structures, fill, obstructions or encroachments in place prior to January 1, 1995, and continuously maintained and serviceable since such time; (3) maintenance dredging of areas which have been dredged and continuously maintained and serviceable as authorized pursuant to section 22a-33 or 22a-361; (4) activities allowed pursuant to a perimeter permit and requiring authorization by the commissioner; (5) the removal of derelict structures or vessels; (6) minor alterations or amendments to permitted activities consistent with the original permit; (7) minor alterations or amendments to activities completed prior to January 1, 1995; (8) placement of temporary structures for water-dependent uses, as defined in section 22a-93; (9) open water marsh management, tidal wetland restoration, resource restoration or enhancement activity, as defined in subsection (a) of section 22a-361, including beach nourishment, and conservation activities undertaken by or under the supervision of the Department of Energy and Environmental Protection; (10) the placement or reconfiguration of piers, floats, docks or moorings within existing waterward boundaries of recreational marinas or yacht clubs which have been authorized pursuant to section 22a-33 or 22a-361; and (11) substantial maintenance or repair of structures, fill,

obstructions or encroachments placed landward of the mean high waterline and waterward of the coastal jurisdiction line completed prior to October 1, 1987, and continuously maintained and serviceable since said date. Notwithstanding the provisions of sections 22a-29 to 22a-35, inclusive, the commissioner may issue a certificate of permission for activities enumerated in this subsection which are to be conducted in tidal wetlands. Upon issuance, such certificate shall be in lieu of the permit required pursuant to section 22a-32.

(b) (1) The commissioner shall issue a certificate of permission for activities that were completed prior to January 1, 1995, for which permits, certificates or emergency authorizations were required pursuant to section 22a-32, this section, section 22a-361 or section 22a-363d, which were conducted without such permit, certificate or emergency authorization, provided the applicant demonstrates that such activity substantially complies with all applicable standards and criteria. The commissioner shall authorize the maintenance of or minor alterations to unauthorized activities consistent with this subsection, including, but not limited to, the use of alternative deck surfacing materials and the use of alternative materials for seawalls designed using generally accepted engineering practices. Unauthorized activities which are ineligible for certificates of permission may be subject to applicable enforcement actions by the commissioner.

(2) In the event of an initial denial of a certificate of permission, the applicant, not later than thirty days after the issuance of such initial denial, shall be entitled to request a meeting with a mediator in the department's Office of Adjudication for the purpose of attempting to resolve any disagreement concerning such initial denial.

(c) A request for a certificate of permission shall be made to the Commissioner of Energy and Environmental Protection. If a proposed activity is within a category listed in subsection (a) or (b) of this section, the commissioner shall, in whole or in part, approve, modify and approve or deny a certificate. The commissioner shall issue such a certificate if the eligible proposed activity is consistent with a permit issued pursuant to section 22a-33 or 22a-361 or was in place prior to June 24, 1939, and continuously maintained and serviceable since such time. If the eligible proposed activity does not have a permit or has not received any prior permits, the commissioner shall determine if the information provided is sufficient to determine if the proposed activity complies with the applicable standards and criteria and may (1) issue a certificate of permission if the commissioner finds that the information indicates compliance with all applicable standards and criteria, or (2) require the submittal of a complete application for a permit pursuant to section 22a-32 or 22a-361, if the commissioner finds that the information is not sufficient to indicate compliance with the standards and criteria. If the commissioner finds that the structure, fill, obstruction or encroachment is not in substantial compliance with the permit or authorization under which a certificate of permission is requested, and is not consistent with applicable standards and criteria, the commissioner shall not issue a certificate of permission. For the purposes of this section, standards and criteria are those specified in sections 22a-33 and 22a-359 and regulations adopted pursuant to section 22a-30, in any regulations adopted pursuant to subsection (c) of said section 22a-361, in the water quality standards of the Department of Energy and Environmental Protection, and in sections 22a-92 and 22a-98 for activities within the coastal boundary, as defined in section 22a-93.

(d) The commissioner shall, within forty-five days of receipt of a request for a certificate of permission, issue such certificate or notify the person making such request that (1) additional information or an application for a permit pursuant to section 22a-32 or 22a-361 is required, or (2) the structure, fill, obstruction or encroachment is not eligible for a certificate of permission. If the commissioner requests additional information from an applicant, the commissioner shall make a determination on the application no later than ninety days from the date of receipt of the request for a certificate of permission. If the commissioner fails to respond within forty-five days of receipt of a request, the certificate of permission shall be deemed approved, except that no certificate of permission for dredging or activities located within tidal wetlands, as defined in section 22a-29, or activities conducted without prior authorization shall be deemed approved by virtue of the commissioner's failure to respond.

(e) Notwithstanding the provisions of the general statutes, the commissioner shall not issue a certificate of permission for a pound net, weir or similar fish harvesting structure that was not utilized prior to June 6, 2001. The commissioner may issue a permit for such fish harvesting structure, in accordance with section 22a-361, provided, if the commissioner receives a petition signed by twenty-five or more persons during the public

comment period provided in subsection (b) of section 22a-361 for the application for any such permit, the commissioner shall hold a public hearing on such permit application.

(f) The existence of any waterfront access easement created after January 1, 1995, shall not entitle an owner of the dominant or servient estate to additional structures for riparian or littoral access.

(P.A. 90-111, S. 2; P.A. 93-381, S. 9, 39; P.A. 95-37, S. 1, 2; P.A. 96-118, S. 5; P.A. 01-98, S. 1, 4; P.A. 10-106, S. 10; P.A. 11-80, S. 1; P.A. 12-101, S. 8; P.A. 13-179, S. 10.)

History: P.A. 93-381 replaced department of health services with department of public health and addiction services, effective July 1, 1993; P.A. 95-37 amended Subsec. (a) to allow certificate of permission for maintenance of structures, fill, obstructions or encroachments authorized in tidal wetlands and for placement or reconfiguration of piers, floats, docks or moorings at marinas and to make technical changes, added a new Subsec. (b) re certificates of permission for activities completed prior to January 1, 1980, relettered former Subsecs. (b) and (c) as (c) and (d) respectively, and amended those Subsecs. to add a criterion for not issuing a certificate of permission, effective May 16, 1995; P.A. 96-118 amended Subsec. (c) to make minor technical revisions for clarity; P.A. 01-98 amended Subsecs. (b) and (c) to make technical changes for purposes of gender neutrality and added Subsec. (e) prohibiting the issuance of certificates of permission for pound nets, weirs or similar fish harvesting structures not utilized prior to June 6, 2001, authorizing the issuance of permits for fish harvesting structures and providing for public hearing on issuance of permit, effective June 6, 2001; P.A. 10-106 amended Subsec. (a) by adding tidal wetland restoration, resource restoration or enhancement activity in Subdiv. (9) and adding Subdiv. (11) re substantial maintenance or repair of structures, fill, obstructions or encroachments placed landward of mean high waterline and waterward of high tide line completed prior to October 1, 1987, amended Subsec. (b) by changing January 1, 1980, to January 1, 1995, re completed activities, making technical changes replacing requirement for applicant to show that activity does not interfere with navigation or littoral or riparian rights and does not cause adverse impacts with requirement that activity complies with all applicable standards and criteria and adding provision allowing commissioner to authorize minor alterations to unauthorized activities, and made technical changes in Subsecs. (c) and (d); pursuant to P.A. 11-80, "Commissioner of Environmental Protection" and "Department of Environmental Protection" were changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" and "Department of Energy and Environmental Protection", respectively, effective July 1, 2011; P.A. 12-101 amended Subsec. (a) (11) to change "high tide line" to "coastal jurisdiction line"; P.A. 13-179 amended Subsec. (a) by replacing references to June 24, 1939, with references to January 1, 1995, in Subdivs. (2) and (7) and adding "including beach nourishment" in Subdiv. (9), amended Subsec. (b) by designating existing provisions as Subdiv. (1) and amending same to change "may" to "shall" re issuance of certificate, delete provision re determining eligibility of activities conducted without prior authorization and add provision re use of alternative materials and by adding Subdiv. (2) re meeting request after initial denial, amended Subsec. (c) by changing "may" to "shall" re approval, modification or denial of certificate and deleting provision re commissioner requiring application for permit if significant impact to environment or coastal resources is found, added Subsec. (f) re entitlement to additional structures for riparian or littoral access, and made technical changes.

Subsec. (a)(2) has no retroactive effect. 314 C. 1.

The phrase "continuously maintained and serviceable" in Subsec. (a)(2) requires that the structure be kept in a state of repair and fit for use without interruption, and gives effect to the legislative intent to permit substantial maintenance to the preexisting conditions and dimensions of pre-1939 structures in limited circumstances while requiring a permit for modification or expansion of such structures. 136 CA 135; judgment affirmed, see 314 C. 1.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-363c. Application fee. Each application for a certificate of permission, pursuant to section 22a-363b shall be accompanied by a fee of three hundred seventy-five dollars.

(P.A. 90-231, S. 14, 28; P.A. 91-369, S. 28, 36; June 30 Sp. Sess. P.A. 03-6, S. 130; June Sp. Sess. P.A. 09-3, S. 418.)

History: P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; June 30 Sp. Sess. P.A. 03-6 increased application fee from \$200 to \$300 and deleted provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased application fee from \$300 to \$375.

See Sec. 22a-27i re exemption of municipality for one year.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-363d. Emergency authorization. Expiration. In situations which may result in immediate, unforeseen and unacceptable hazards to life, health or welfare or significant loss of property if corrective action otherwise requiring a permit or a certificate of permission is not undertaken, the commissioner shall expeditiously approve or deny, upon notification and request by the affected property owner, the authorized person or the appropriate federal, state or local authority, the issuance of an emergency authorization to take any corrective action the commissioner deems necessary. The commissioner shall establish the duration of the emergency authorization and such emergency authorization may be extended for a specified period of time if, after all reasonable efforts by the applicant, the emergency has not been abated or for other reasonable cause. Upon the expiration of an emergency authorization, a complete application, in accordance with section 22a-361 or a request for a certificate of permission, in accordance with section 22a-363b, for the retention or continuation of the work performed under the emergency authorization shall be submitted. Any work, structure, fill, obstruction or encroachment authorized on an emergency basis for which an application or request is not received within thirty days after the expiration of the emergency authorization shall be considered unauthorized and subject to all enforcement authorities of the commissioner. This section shall include the repair or reconstruction of structures, fill, obstructions or encroachments damaged or destroyed by an act of nature or casualty loss necessary to avoid economic damage to ongoing commercial activities if the commissioner is notified by the property owner or authorized person of the damage and proposed corrective action within fifteen days of the causative event. Failure to continuously maintain, except for hidden physical or structural damage, a structure, fill, obstruction or encroachment shall not be grounds for emergency authorization.

(P.A. 90-111, S. 3.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-363e. Failure to comply with order. Littoral owner as responsible party. When, notwithstanding any request for a hearing or a pending appeal, any person fails to comply, within a reasonable time as established by order of the commissioner, with any requirement to discontinue, remove or otherwise abate or alleviate any condition found by the commissioner to constitute an imminent and substantial hazard to public safety or navigation or likely to cause imminent and substantial damage to the environment, the commissioner shall have authority to remove, abate or alleviate any such condition. The commissioner may assess reasonable costs and expenses incurred in such removal, abatement or alleviation against the person responsible. The Attorney General shall, at the request of the commissioner, institute proceedings to collect any such assessment. For the purposes of this section, in the event that the person responsible for causing, retaining or maintaining such condition cannot be determined, the littoral owner shall be deemed to be the responsible person except in the case of vessels abandoned on the property of such owner. Nothing in this section shall be construed to preclude the commissioner from exercising any other enforcement authority.

(P.A. 90-111, S. 5.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

[Table of Contents](#)) [List of Chapters](#)) [List of Titles](#))

Sec. 22a-363f. Cease and desist orders. Hearing. Decision. Whenever the commissioner finds after investigation that any person is conducting or is about to conduct an activity for which a certificate, permit or authorization is required without obtaining such certificate, permit or authorization he may, without prior hearing, issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition or activity. Upon receipt of such order and until such time as a new decision based upon a hearing is made such person shall immediately discontinue, abate or alleviate or shall refrain from causing, engaging in or maintaining such condition or activity. The commissioner shall, within ten days of such order, hold a hearing to provide the person with an opportunity to be heard and show that (1) no certificate, permit or authorization was required, or (2) required certificates, permits or authorizations have been obtained. A new decision based on the hearing shall be made within ten days of the close of the hearing or the filing of briefs.

(P.A. 90-111, S. 8.)

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents](#)) [List of Chapters](#)) [List of Titles](#))

Sec. 22a-363g. Filing of permit, certificate or authorization on municipal land records. (a) Any recipient of a permit, certificate or other authorization issued pursuant to sections 22a-32, 22a-361, 22a-363b and 22a-363d on or after October 1, 2010, shall file on the land records of the municipality in which the subject property is located a certified copy or notice of such permit, certificate or authorization not later than thirty days after the issuance of such permit, certificate or authorization.

(b) Prior to transferring any real property on which an activity regulated pursuant to sections 22a-32, 22a-361, 22a-363b and 22a-363d exists, the owner of such property shall file a certified copy or notice of the most recent permit, certificate or authorization issued under said sections on the land records of the municipality in which such property is located.

(P.A. 10-106, S. 1.)

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents](#)) [List of Chapters](#)) [List of Titles](#))

Sec. 22a-363h. Approaches to shoreline protection. Pilot program and projects. Shoreline management study. Program to develop and maintain science and engineering capacity to support shoreline planning and management. (a) The Commissioner of Energy and Environmental Protection may, within available appropriations, establish a pilot program to encourage innovative and low-impact approaches to shoreline protection and adaptation to a rise in sea level. Such approaches may include living shorelines techniques utilizing a variety of structural and organic materials, including, but not limited to, tidal wetland plants, submerged aquatic vegetation, coir fiber logs, sand fill and stone to provide shoreline protection and maintain or restore coastal resources and habitat. The commissioner may solicit proposals for site-specific pilot projects utilizing such approaches and may offer technical assistance for such projects. Whenever such projects are proposed within the Department of Energy and Environmental Protection's regulatory jurisdiction under section 22a-32 or 22a-361, the commissioner may select not more than three projects per year to receive expedited regulatory approval pursuant to section 22a-363b.

(b) The Commissioner of Energy and Environmental Protection, within available appropriations, may, in conjunction with academic institutions, nongovernmental organizations or federal agencies, seek funds for and prepare a shoreline management study for the purpose of enhancing the resilience of coastal communities to coastal hazards and a rise in sea level, with special consideration for areas significantly impacted by coastal storms.

(c) The University of Connecticut and the Connecticut State University System may, within available appropriations, in conjunction with other academic institutions and state and federal agencies, seek funds for and establish a program to develop and maintain science and engineering capacity within the state to support shoreline planning and management to enhance the resilience of coastal communities to coastal hazards and a rise in sea level.

(P.A. 12-101, S. 10.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-364. (Formerly Sec. 25-8). Stream gauging stations. The Commissioner of Energy and Environmental Protection is directed to establish, operate and maintain stream gauging stations in connection with the investigation of the water resources of the state in cooperation with the United States Geological Survey.

(1949 Rev., S. 4047; 1957, P.A. 364, S. 14; 1971, P.A. 872, S. 61; P.A. 11-80, S. 1.)

History: 1971 act replaced water resources commission with commissioner of environmental protection; Sec. 25-8 transferred to Sec. 22a-364 in 1983; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection", effective July 1, 2011.

Cited. 215 C. 616.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-365. Short title: Connecticut Water Diversion Policy Act. Sections 22a-365 to 22a-378, inclusive, shall be known and may be cited as the "Connecticut Water Diversion Policy Act".

(P.A. 82-402, S. 1, 16.)

Cited. 28 CA 674.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-366. Legislative findings. In recognition that the waters of Connecticut are a precious, finite and invaluable resource upon which there is an ever increasing demand for present, new and competing uses; and in further recognition that an adequate supply of water for domestic, agricultural, industrial and recreational use and for fish and wildlife is essential to the health, safety and welfare of the people of Connecticut, it is found and declared that diversion of the waters of the state shall be permitted only when such diversion is found to be necessary, is compatible with long-range water resource planning, proper management and use of the water resources of Connecticut and is consistent with Connecticut's policy of protecting its citizens against harmful interstate diversions and that therefore the necessity and public interest for sections 22a-365 to 22a-378, inclusive, and the protection of the water resources of the state is declared a matter of legislative determination.

(P.A. 82-402, S. 2, 16; P.A. 05-205, S. 15.)

History: P.A. 05-205 deleted reference to state plan of conservation and development, effective July 1, 2005.

Cited. 28 CA 674.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-367. Definitions. As used in sections 22a-365 to 22a-378, inclusive:

- (1) "Commissioner" means the Commissioner of Energy and Environmental Protection;
- (2) "Diversion" means any activity which causes, allows or results in the withdrawal from or the alteration, modification or diminution of the instantaneous flow of the waters of the state;
- (3) "Divert" means to engage in any act of diversion;
- (4) "Instantaneous flow" means the volume of water that would occur in waters at a given point at any given moment;
- (5) "Interbasin transfer" means any transfer of waters for use from one subregional drainage basin to another. Subregional drainage basins are those basins delineated on a map compiled by the Connecticut Geological and Natural History Survey and entitled "Natural Drainage Basins in Connecticut, 1981", as amended;
- (6) "Municipality" means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district and any municipal organization authorized to levy and collect taxes or make charges;
- (7) "Person" means any individual, partnership, association, firm, limited liability company, corporation or other entity, except a municipality, and includes the federal government, the state or an instrumentality of the state, and any officer or governing or managing body of a partnership, association, firm or corporation or any member or manager of a limited liability company;
- (8) "Regional drainage basins" means those basins delineated on a map compiled by the Connecticut geological and natural history survey and entitled "Natural Drainage Basins in Connecticut, 1981", as amended;
- (9) "Waters" means all tidal waters, harbors, estuaries, rivers, brooks, watercourses, waterways, wells, springs, lakes, ponds, marshes, drainage systems and all other surface or underground streams, bodies or accumulations of water, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof.

(P.A. 82-402, S. 3, 16; P.A. 85-243, S. 3; P.A. 95-79, S. 100, 189; P.A. 11-80, S. 1.)

History: P.A. 85-243 inserted new Subdiv. (8) defining "regional drainage basins", renumbering former Subdiv. (8) accordingly; P.A. 95-79 redefined "person" to include a limited liability company and any member or manager of a limited liability company, effective May 31, 1995; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subdiv. (1), effective July 1, 2011.

Cited. 28 CA 674.

[\(Return to Chapter](#) [\(Return to Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-368. Registration of existing diversions. Permits. Transfer. (a) Any person or municipality maintaining a diversion prior to or on July 1, 1982, shall register on or before July 1, 1983, with the commissioner on a form prescribed by him the location, capacity, frequency and rate of withdrawals or discharges of said diversion and a description of the water use and water system. Any such diversion which is not so registered may be subject to the permit requirements of sections 22a-365 to 22a-378, inclusive.

(b) Notwithstanding any other provision of the general statutes or any special act to the contrary, no person or municipality shall, after July 1, 1982, commence to divert water from the waters of the state without first

obtaining a permit for such diversion from the commissioner.

(c) No permit shall be transferred to another person or municipality without the written approval of the commissioner.

(P.A. 82-402, S. 4, 16.)

See Secs. 22a-208l and 22a-208o re wood-burning facilities.

Cited. 233 C. 486.

Cited. 28 CA 674; 41 CA 89; Id., 120.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-368a. Reporting of current operating data. (a) The Commissioner of Energy and Environmental Protection shall publish a dated notice of (1) the availability of forms for the reporting of operating data for diversions pursuant to this section, and (2) a deadline for submission of such forms. Such forms shall be developed pursuant to subsection (b) of this section.

(b) Any person or municipality maintaining a diversion that was registered in accordance with the provisions of section 22a-368 and which continues to be in use as of July 1, 2001, shall report to the Commissioner of Energy and Environmental Protection current operating data for such diversion not later than six months after the publication of notice pursuant to subsection (a) of this section and annually thereafter not later than January thirty-first. Such data shall be provided on forms developed by the Commissioner of Energy and Environmental Protection, in consultation with the Commissioners of Public Health and Agriculture, the chairperson of the Public Utilities Regulatory Authority and the working group established pursuant to subsection (f) of this section. Such forms shall be in a format determined by the Commissioner of Energy and Environmental Protection. Such data shall include the most detailed available monitoring data collected for each subsequent calendar year, provided such data shall not be required to be detailed more frequently than daily. Engineering estimates of withdrawals or discharges may be permitted in the absence of a meter. A person or municipality maintaining a diversion exclusively for agricultural purposes may report estimated water use for the reporting period. The provisions of this subsection shall not apply to an owner or operator of an existing electric generating facility utilizing fossil fuel, provided the diversion is used to comply with state and federal environmental laws, and further provided such owner or operator reports to the Commissioner of Energy and Environmental Protection an estimate of future water use necessary to comply with state and federal environmental laws.

(c) Any person or municipality maintaining a diversion that was eligible for registration in accordance with section 22a-368 but failed to so register, which diversion continues to be in use as of July 1, 2001, shall report to the commissioner the operating data for such diversion not later than six months after the publication of notice pursuant to subsection (a) of this section. Such data shall be provided on a form developed by the Commissioner of Energy and Environmental Protection, in consultation with the Commissioners of Public Health and Agriculture and the chairperson of the Public Utilities Regulatory Authority. Such data shall include (1) the location, capacity, frequency and rate of withdrawals or discharges of such diversion as of July 1, 1982, (2) a description of the water use and water system on or before July 1, 1982, including information to evidence its operation at that time, and (3) the monthly data for the calendar years 1997 to 2001, inclusive, (A) for the actual frequency and actual rate of water withdrawals or discharges of such diversion if such diversion is metered, or (B) that estimates the withdrawals or discharges in the absence of a meter. A person or municipality maintaining a diversion exclusively for agricultural purposes may report estimated water use for the reporting period in subdivision (3) of this subsection.

(d) Any person or municipality maintaining a diversion that was not eligible for registration in accordance with section 22a-368 and is not currently authorized by permit issued by the commissioner pursuant to said section,

which diversion is in use as of July 1, 2001, shall report to the Commissioner of Energy and Environmental Protection operating data for the diversion not later than six months after the publication of notice pursuant to subsection (a) of this section. Such data shall be provided on a form developed by the Commissioner of Energy and Environmental Protection, in consultation with the Commissioners of Public Health and Agriculture and the chairperson of the Public Utilities Regulatory Authority. Such data shall include (1) information as to when the diversion was initiated, (2) a description of the water use and water system operation, and (3) the monthly data for the calendar years 1997 to 2001, inclusive, (A) for the location, capacity, actual frequency and actual rate of water withdrawals or discharges of said diversion if such diversion is metered, or (B) that estimates the withdrawals or discharges in the absence of a meter. A person or municipality maintaining a diversion used exclusively for agricultural purposes may report estimated water use for the reporting period in subdivision (3) of this subsection.

(e) Information reported by a person or municipality for the purposes of subsection (c) or (d) of this section shall not be used by the Commissioner of Energy and Environmental Protection to order the payment of civil penalties pursuant to section 22a-6b and subsection (b) of section 22a-376 provided the person or municipality has filed a permit application pursuant to section 22a-368 on or before July 1, 2003. This subsection shall not apply to any information the commissioner can document independent of a submission pursuant to this section. Failure to report the information required in this section may result in civil penalties in accordance with section 22a-6b and subsection (b) of section 22a-376.

(f) The Water Planning Council shall appoint at least five persons who are required to register diversions pursuant to this section to a working group for the purpose of developing forms pursuant to subsection (b) of this section. Such members shall serve at the pleasure of the council.

(P.A. 01-202, S. 1, 2; P.A. 02-102, S. 5; P.A. 04-185, S. 2; P.A. 11-80, S. 1.)

History: P.A. 01-202 effective July 11, 2001; P.A. 02-202 added new Subsec. (a) re form for reporting operating data for diversions, redesignated existing Subsecs. (a) to (d) as Subsecs. (b) to (e), amended redesignated Subsecs. (b), (c) and (d) by replacing reporting requirement of “on or before July 1, 2002,” with “not later than six months after the publication of notice pursuant to subsection (a) of this section” and made technical changes in redesignated Subsec. (e); P.A. 04-185 amended Subsec. (a) to make technical changes, amended Subsec. (b) to add “and annually thereafter not later than January thirty-first”, to add working group to the list of entities to develop forms, to require forms to be in a format determined by the Commissioner of Environmental Protection, to add provision re submission of the most detailed available monitoring data collected for each subsequent calendar year, to delete provisions re monthly data for calendar years 1997 to 2001, to allow engineering estimates of withdrawals or discharges absent a meter, and to make technical changes, and added Subsec. (f) re appointment of persons to working group to assist with developing forms; pursuant to P.A. 11-80, “Commissioner of Environmental Protection” was changed editorially by the Revisors to “Commissioner of Energy and Environmental Protection”, effective July 1, 2011 (Revisor's note: In Subsecs. (b), (c) and (d), references to Commissioner of Public Utility Control were changed editorially by the Revisors to “chairperson of the Public Utilities Regulatory Authority” to conform with changes made by P.A. 11-80).

See Sec. 25-33o re Water Planning Council.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-369. Application for permit. Information required. The applicant shall submit an application on such form as the commissioner may prescribe and with such information as the commissioner deems necessary to fulfill the purposes of sections 22a-365 to 22a-378, inclusive, including but not limited to:

- (1) The need for the diversion;
- (2) The reasons for the diversion and the use of the diverted water;

- (3) A description of the existing water system where the diversion is proposed;
- (4) The locations of withdrawals and discharges of water the applicant proposes to divert;
- (5) The quantity, frequency and rate of water the applicant proposes to divert;
- (6) The length of time for which the diversion permit is sought;
- (7) The effect of the proposed diversion on public water supplies, water quality, wastewater treatment needs, flood management, water-based recreation, wetland habitats, waste assimilation, agriculture, fish and wildlife and low flow requirements;
- (8) The alternatives, if any, to the proposed diversion including a study of cost factors, feasibility and environmental effects of such alternatives;
- (9) Conservation measures instituted by the applicant prior to the application and the applicant's long-range water conservation plan to be implemented or continued after the issuance of a permit pursuant to sections 22a-365 to 22a-378, inclusive. The plan shall be prepared in accordance with the memorandum of understanding entered into pursuant to section 4-67e and shall provide for: (A) The identification of and cost effectiveness of distribution system rehabilitation to correct sources of lost water; (B) measures which encourage proper maintenance and water conservation; (C) a public information program to promote water conservation, including industrial and commercial recycling and reuse and (D) contingency measures for limiting water use during seasonal or drought shortages;
- (10) In the case of a proposed interbasin transfer the commissioner may request the applicant to file an environmental impact report on the transfer which (A) considers the effect of the transfer on present and future water uses in the proposed donor basin; (B) includes a plan for meeting water supply needs and demands in the donor basin for a minimum of twenty-five years; and (C) analyzes the alternative solutions to the water supply or wastewater problem including comparative cost analysis of the proposed transfer relative to alternative measures. In making such request, the commissioner shall indicate which aspect of such report enumerated in subparagraphs (A), (B) and (C) of this subdivision requires the submission of the environmental impact report with the application.

(P.A. 82-402, S. 5, 16; P.A. 89-327, S. 4, 7; P.A. 95-94, S. 2.)

History: P.A. 89-327 amended Subdiv. (9) to require that long-range water conservation plan be prepared in accordance with the memorandum of understanding; P.A. 95-94 amended Subdiv. (10) to delete the requirement that an applicant file an environmental impact report and instead allowed the commissioner to request it and to require the commissioner to indicate which aspect requires an impact report.

The Connecticut Water Diversion Policy Act generally does not empower department to request information to determine the extent and environmental effects of diversions other than those for which a permit is sought; in the context of the permit review process for plaintiff's proposed withdrawals of water, department's attempt to regulate plaintiff's excavation activities either as an effect of the proposed diversion or as a diversion in and of itself, by requesting information about the effect of excavation activities on wetlands, exceeds the authority granted by the act and constitutes a regulatory end run around the requirement that department determine, in the first instance, that plaintiff's excavation activities constitute diversions. 317 C. 628.

Cited. 28 CA 674.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-370. Notice to town re application. Section 22a-370 is repealed, effective October 1, 2013.

(P.A. 82-402, S. 6, 16; P.A. 93-428, S. 11, 39; P.A. 13-209, S. 20.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-371. Request for additional information. Notice of completed application. Notice of hearing. Waiver of hearing. (a) Within one hundred eighty days of receipt of an application for a permit, the commissioner shall determine if there is any additional information that he deems necessary to carry out the purposes of sections 22a-365 to 22a-378, inclusive. The applicant shall provide such information to the commissioner upon request.

(b) If the applicant does not furnish the requested information, the commissioner shall publish notice of his tentative determination on the application in accordance with section 22a-6h and shall hold or waive a public hearing in accordance with the provisions of subsection (f) of this section.

(c) If the commissioner finds that an application is complete, he shall notify the applicant by electronic means or certified mail, return receipt requested. The commissioner shall also notify the applicant of the time, date and location of any public hearing to be held on the application.

(d) Upon notifying the applicant in accordance with subsection (c) of this section that the application is complete, the commissioner shall immediately provide, by electronic means, notice of the application and a concise description of the proposed diversion to the Governor, the Attorney General, the speaker of the House of Representatives, the president pro tempore of the Senate, the Secretary of the Office of Policy and Management, the Commissioners of Public Health and Economic and Community Development, the chairperson of the Public Utilities Regulatory Authority, the chief executive officer and chairmen of the conservation commission and wetlands agency of the municipality or municipalities in which the proposed diversion will take place or have effect, and any person who has requested notice of such activities.

(e) As used in this section, "municipality" means a city, town or borough of the state.

(f) The commissioner shall hold a public hearing before approving or denying an application, except that, when the commissioner determines that the proposed diversion (1) is necessary, (2) will not significantly affect long-range water resource management or the environment, and (3) will not impair proper management and use of the water resources of the state, he may waive the requirement for a hearing after publishing notice of his tentative decision regarding the application and of his intent to waive the requirement for a hearing in a newspaper having general circulation in the area where the proposed diversion will take place or have effect; provided the commissioner shall hold a hearing upon receipt, within thirty days after such notice is published or mailed, of a petition signed by at least twenty-five persons. If a hearing is to be held, the commissioner, at the applicant's expense, shall (A) cause notice of the time, date and location of the commencement of the hearing, a concise description of the proposed diversion, and the commissioner's tentative determination regarding the application to be published not less than thirty days prior to the commencement of the hearing in a newspaper having a general circulation in the area where the proposed diversion will take place or have effect, and (B) provide the same notice to the officials listed in subsection (d) of this section not less than thirty days prior to the commencement of the hearing.

(P.A. 82-402, S. 7, 16; P.A. 84-29, S. 1, 2; 84-546, S. 75, 173; P.A. 85-243, S. 1; P.A. 92-162, S. 10, 25; P.A. 93-381, S. 9, 39; 93-428, S. 6, 39; P.A. 95-94, S. 1; 95-250, S. 1; 95-257, S. 12, 21, 58; P.A. 96-211, S. 1, 5, 6; P.A. 04-151, S. 4; P.A. 10-32, S. 163; P.A. 11-80, S. 70; P.A. 13-209, S. 7.)

History: P.A. 84-29 added Subsec. (g) authorizing the commissioner to waive the public hearing requirement for intrabasin transfers; P.A. 84-546 made technical change in Subsec. (e); P.A. 85-243 amended Subsec. (g) to apply public hearing waiver to cases which do not involve water transfers between regional rather than subregional drainage basins; P.A. 92-162 amended Subsec. (c) to revise some language for clarity and to delete requirement that hearings on applications under this section be held within 120 days of notification by the commissioner of a complete application, amended Subsec. (d) to modify the notice requirements for certain officials and to add conservation commissions, wetlands agencies and interested persons as recipients of notice

under this section, deleted former Subsecs. (e) and (g), relettering Subsec. (f) accordingly and added new Subsec. (f) re notice and hearing requirements for approval of permits under this section; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 93-428 amended Subsec. (f) to specify that notice include commissioner's tentative decision in cases where he intends to waive hearing, effective July 1, 1993; P.A. 95-94 amended Subsec. (a) to change from 30 to 120 the number of days the commissioner has to determine if additional information is needed and to give the applicant the option of asking the application to be deemed complete as is rather than submit more information and amended Subsec. (b) to require the commissioner to publish notice and hold or waive a public hearing, eliminating the requirement that he return the application; P.A. 95-250 and P.A. 96-211 replaced Commissioner and Department of Economic Development with Commissioner and Department of Economic and Community Development; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 04-151 amended Subsec. (a) to change determination deadline from 120 days to 180 days and to remove provision re requesting that application be deemed complete and amended Subsec. (f) to change publication and notice requirements from 20 days to 30 days prior to commencement of hearing and to remove provision re publication twice at intervals of not less than 2 days, effective May 21, 2004; P.A. 10-32 made a technical change in Subsec. (d), effective May 10, 2010; P.A. 11-80 amended Subsec. (d) by changing "Public Utilities Control Authority" to "Public Utilities Regulatory Authority", effective July 1, 2011; P.A. 13-209 amended Subsecs. (c) and (d) by authorizing commissioner to provide notification by electronic means.

Cited. 28 CA 674. Because commissioner did not give plaintiff an opportunity to remedy application's deficiencies or to request that application be deemed complete as submitted and have those deficiencies examined in the forum of a public hearing, notice of rejection was a final decision in a contested case and meets requirements for appeal pursuant to Sec. 4-183, despite absence of a public hearing. 71 CA 395.

[\(Return to Chapter](#) [\(Return to Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-372. Commencement of hearing. Application and documents available for public inspection. Parties to proceedings. Regulations. Fees. (a) The commissioner or the commissioner's designated hearing officer shall commence a hearing on the application at the time, date and location specified in the notification required by subsection (c) of section 22a-371 and may continue the hearing on such additional dates as may be necessary. Notice of the continuance shall be by announcement by the commissioner or the commissioner's designated hearing officer prior to the close of a scheduled session.

(b) The application and all other documents related to the proceedings shall be available for inspection by the public at the commissioner's office during any business day prior to the close of the hearing.

(c) The parties to the proceedings shall include: (1) The applicant; (2) each person receiving notice pursuant to subsection (d) of section 22a-371, and (3) such other persons or municipalities as the commissioner or the commissioner's designated hearing officer may deem appropriate at any time prior to the close of the hearing.

(d) The commissioner shall adopt regulations in accordance with chapter 54 establishing rules of practice and procedures for hearings held pursuant to this section.

(e) Each application for a permit shall be accompanied by a fee as follows: (1) Withdrawal for consumptive use of more than fifty thousand gallons but less than five hundred thousand gallons in any twenty-four-hour period, two thousand fifty dollars; (2) five hundred thousand gallons or more but less than two million gallons in any twenty-four-hour period, four thousand dollars; (3) two million gallons or more in any twenty-four-hour period, six thousand two hundred fifty dollars; (4) for nonconsumptive uses where the tributary watershed area above the point of diversion is one-half square mile or smaller, two thousand fifty dollars; (5) for nonconsumptive uses where the tributary watershed area above the point of diversion is larger than one-half square mile but smaller than two square miles, four thousand dollars; and (6) for nonconsumptive uses where the tributary watershed area above the point of diversion is two square miles or larger, six thousand two hundred fifty dollars.

(P.A. 82-402, S. 8, 16; P.A. 90-231, S. 12, 28; P.A. 91-369, S. 29, 36; June 30 Sp. Sess. P.A. 03-6, S. 131; June Sp. Sess. P.A. 09-3, S. 419.)

History: P.A. 90-231 added Subsec. (e) re schedule of permit fees; P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; June 30 Sp. Sess. P.A. 03-6 amended Subsec. (e) to increase permit application fees by 50% and to delete provisions re amount of fees prescribed by regulation, effective August 20, 2003; June Sp. Sess. P.A. 09-3 amended Subsec. (e) by increasing fees.

See Sec. 22a-27i re exemption of municipality for one year.

Cited. 28 CA 674.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-373. Decision. (a) The commissioner shall, not later than one hundred twenty days after the close of the hearing, make a decision either granting or denying the application as deemed complete in section 22a-371, or granting the application upon such terms, limitations or conditions, including, but not limited to, provisions for monitoring, schedule of diversion, duration of permit and reporting as the commissioner deems necessary to fulfill the purposes of sections 22a-365 to 22a-378, inclusive. The commissioner shall state in full the reasons for the commissioner's decision.

(b) In making the commissioner's decision, the commissioner shall consider all relevant facts and circumstances including, but not limited to:

- (1) The effect of the proposed diversion on related needs for public water supply including existing and projected uses, safe yield of reservoir systems and reservoir and groundwater development;
- (2) The effect of the proposed diversion on existing and planned water uses in the area affected such as public water supplies, relative density of private wells, hydropower, flood management, water-based recreation, wetland habitats, waste assimilation and agriculture;
- (3) Compatibility of the proposed diversion with the policies and programs of the state of Connecticut, as adopted or amended, dealing with long-range planning, management, allocation and use of the water resources of the state;
- (4) The relationship of the proposed diversion to economic development and the creation of jobs;
- (5) The effect of the proposed diversion on the existing water conditions, with due regard to watershed characterization, groundwater availability potential, evapotranspiration conditions and water quality;
- (6) The effect, including thermal effect, on fish and wildlife as a result of flow reduction, alteration or augmentation caused by the proposed diversion;
- (7) The effect of the proposed diversion on navigation;
- (8) Whether the water to be diverted is necessary and to the extent that it is, whether such water can be derived from other alternatives including, but not limited to, conservation;
- (9) Consistency of the proposed diversion with action taken by the Attorney General, pursuant to sections 3-126 and 3-127; and
- (10) The interests of all municipalities which would be affected by the proposed diversion.

(c) In making a decision on an application, the commissioner shall consider (1) capital expenditures and other resource commitments made prior to July 1, 1982, in connection with a proposed diversion, except that such

expenditures or commitments shall not be binding in favor of such proposed diversion, and (2) proposed diversions recommended in any water supply plan developed pursuant to section 25-32d or coordinated water system plan prepared pursuant to section 25-33h in the same manner as proposed diversions not recommended in any such plan.

(d) If a decision is not made in the time required pursuant to subsection (a) of this section, the application shall be deemed granted.

(P.A. 82-402, S. 9, 16; P.A. 85-544, S. 5, 6; P.A. 89-301, S. 8; P.A. 10-32, S. 88.)

History: P.A. 85-544, effective July 5, 1985, added Subsec. (b)(10) re interests of municipalities affected by proposed diversion; P.A. 89-301 added Subsec. (c)(2) re consideration of proposed diversions in water supply plans; P.A. 10-32 made technical changes in Subsecs. (a), (b) and (c), effective May 10, 2010.

If the legislature had intended the Connecticut Water Diversion Policy Act to confer the authority to consider or regulate activities facilitated or enabled by a proposed diversion whose sole relation to such diversion is the use of the diverted water at any point during the facilitated activity, it certainly could have inserted language to that effect; the single reference to “area of influence” in regulation re mapping wells in stratified drift aquifers is not intended to incorporate the area of influence metric into the act as a universal substantive element. 317 C. 628.

Cited. 28 CA 674.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-374. Appeals. Any person or municipality aggrieved by the decision of the commissioner made pursuant to section 22a-373 may appeal to the Superior Court pursuant to the provisions of section 4-183, except that the appeal shall be instituted by filing a petition in the superior court for the judicial district of New Britain.

(P.A. 82-402, S. 10, 16; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4–6; P.A. 99-215, S. 24, 29; P.A. 04-151, S. 5.)

History: P.A. 88-230 replaced “judicial district of Hartford-New Britain” with “judicial district of Hartford”, effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 99-215 replaced “judicial district of Hartford” with “judicial district of New Britain”, effective June 29, 1999; P.A. 04-151 deleted provision re right to appeal for person or municipality aggrieved by the return of an application by the commissioner as incomplete, effective May 21, 2004.

Cited. 28 CA 674. Commissioner may not make threshold determinations of insufficiency of information on an application without a hearing. 71 CA 395.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-375. Investigation, suspension or revocation of permits. Inventory of diversions. (a) The commissioner may periodically investigate and review those diversions which are taking place pursuant to a permit issued in accordance with sections 22a-365 to 22a-378, inclusive. If he determines that there is any violation of the terms, limitations or conditions of the permit, he may suspend or revoke said permit in accordance with the provisions of chapter 54 or may request the Attorney General to bring an action to enjoin such violation in accordance with the provisions of subsection (a) of section 22a-376.

(b) The commissioner shall prepare an inventory of those diversions registered in accordance with section 22a-368. The commissioner shall prepare a report for the General Assembly which shall be delivered on or before January 1, 2000, and shall include: (1) An inventory of diversion registrations filed on or before July 1, 1983; (2) an inventory of the withdrawal quantities acknowledged for such registration; and (3) an identification of those registrations which are planned to be used by the registrants.

(P.A. 82-402, S. 11, 16; P.A. 98-224, S. 1.)

History: P.A. 98-224 designated existing provisions as Subsec. (a) and added new Subsec. (b) re an inventory of diversions.

Cited. 28 CA 674.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-376. Injunctions. Forfeiture. Penalties. (a) If any person or municipality violates any provision of sections 22a-365 to 22a-378, inclusive, or regulations issued in accordance with the provisions of said sections and chapter 54, the commissioner may request the Attorney General to bring an action in the superior court for the judicial district of Hartford to enjoin such person or municipality from continuing such violation. All actions brought by the Attorney General pursuant to the provisions of this section shall have precedence in the order of trial as provided in section 52-191.

(b) Any person who or municipality which violates any provision of sections 22a-365 to 22a-378, inclusive or regulations issued in accordance with the provisions of said sections and chapter 54, shall forfeit to the state a sum not to exceed one thousand dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in case of a continuing violation, each day's continuance thereof shall be deemed a separate and distinct offense. The Attorney General, upon request of the commissioner, shall institute a civil action to recover such forfeiture.

(c) Any person who or municipality which knowingly makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained under sections 22a-365 to 22a-378, inclusive, or who falsifies, tampers with or knowingly renders inaccurate any monitoring or method required to be maintained under said sections shall be subject to the provisions of sections 53a-155, 53a-156 and 53a-157b and in addition, upon conviction, shall be fined not more than ten thousand dollars.

(P.A. 82-402, S. 12, 16; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; P.A. 93-142, S. 4, 7, 8; P.A. 95-220, S. 4-6; P.A. 13-144, S. 4; 13-258, S. 92.)

History: P.A. 88-230 replaced "judicial district of Hartford-New Britain" with "judicial district of Hartford", effective September 1, 1991; P.A. 90-98 changed the effective date of P.A. 88-230 from September 1, 1991, to September 1, 1993; P.A. 93-142 changed the effective date of P.A. 88-230 from September 1, 1993, to September 1, 1996, effective June 14, 1993; P.A. 95-220 changed the effective date of P.A. 88-230 from September 1, 1996, to September 1, 1998, effective July 1, 1995; P.A. 13-144 amended Subsec. (c) to replace reference to Secs. 53a-155 to 53a-157 with reference to Secs. 53a-155, 53a-156 and 53a-157b; P.A. 13-258 made identical changes as P.A. 13-144.

Cited. 28 CA 674; 41 CA 120.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-377. Exemptions. Regulations. (a) The following diversions are exempt from the provisions of sections 22a-365 to 22a-378a, inclusive: (1) One or more wells joined in one system whose combined maximum withdrawal will not exceed fifty thousand gallons of water during any twenty-four-hour period; (2) the

maximum withdrawal of fifty thousand gallons of surface water during any twenty-four-hour period; (3) discharges permitted under the provisions of section 22a-430; (4) a storm drainage system which collects the surface water runoff of an area of less than one hundred acres; (5) water for fire emergency purposes; (6) diversions within, extensions and relocation of water supply system distribution mains; (7) roadway crossings or culverts which allow for continuous flow or passage of an existing watercourse; (8) diversions directly related to routine maintenance and emergency repairs of dams; and (9) diversions by a water company, as defined in section 25-32a, that are necessary to protect the security of public water supplies, including: (A) A diversion from a back-up well where a primary well is out of service, provided (i) the back-up well is located within two hundred fifty feet of such primary well, (ii) the total quantity of water withdrawn does not result in an increase in the rate or quantity of a diversion registered or permitted by the commissioner pursuant to section 22a-368 or 22a-378a, and (iii) not later than January thirtieth of each year, the commissioner is supplied a written annual report, for the prior year, that identifies the location of each back-up well, the construction type of each back-up well, the date of installation and the daily water use from each primary well and each back-up well for those days on which the back-up well operated; or (B) a transfer of water from one distribution system to another during a water supply emergency declared pursuant to section 22a-378 or 25-32b or otherwise declared according to law, provided the transfer (i) is limited to the period during which the emergency exists, (ii) does not result in an increase in the rate or quantity of a diversion registered or permitted by the commissioner pursuant to section 22a-368 or 22a-378a, (iii) is accomplished through existing, authorized, installed capacity to transfer or through temporary equipment that is removed within thirty days after the last day of the water supply emergency, and (iv) the commissioner is notified, in writing, of any such transfer and its location within three days of the transfer and the commissioner is provided a written report of the daily transfer of water that occurred during the emergency and any other related information the commissioner may request.

(b) The commissioner may, by regulations adopted in accordance with the provisions of chapter 54, define and establish additional exempt categories or classes of diversions which would not by themselves or in combination with each other have a substantial effect on the long-range planning for and allocation of the water resources of the state.

(c) The commissioner shall adopt regulations in accordance with the provisions of chapter 54 establishing the database, criteria and policies to be used by the commissioner to insure the proper planning, management, allocation and use of the water resources of the state and to fulfill the provisions of sections 22a-365 to 22a-378, inclusive.

(P.A. 82-402, S. 13, 16; P.A. 85-243, S. 2; P.A. 03-141, S. 1.)

History: P.A. 85-243 amended Subsec. (a) by adding an exemption for diversions related to routine maintenance and emergency repairs of dams; P.A. 03-141 amended Subsec. (a) to change reference from Sec. 22a-378 to Sec. 22a-378a and to add Subdiv. (9) re diversions necessary to protect the security of public water supplies, effective July 1, 2003.

Cited. 28 CA 674.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-378. Water supply emergency. Violation of water supply emergency order. (a) If a water supply emergency has been declared by the Governor or otherwise according to law, the commissioner shall have the power to: (1) Temporarily suspend a permit for diversion or impose conditions upon permit holders without a hearing for a period of thirty days, which period may be extended once for a similar period. If the commissioner determines that it is necessary to extend a temporary suspension or the conditions imposed upon a permit holder, he shall, upon written request from the permit holder, hold a hearing on such determination within ten days of the extension order; (2) with the approval of the Governor, authorize a person or municipality, without hearing and notwithstanding any provisions of sections 22a-365 to 22a-378, inclusive, or the general statutes or any special act to the contrary, to divert such quantities of water as the commissioner deems necessary and proper to

ease emergency conditions for a period of thirty days, which period may be extended twice for like periods except that the commissioner shall not authorize a diversion if such diversion would adversely impact an area where a public drinking water supply emergency has been declared pursuant to section 25-32b. In taking such action, the commissioner shall consult with the Commissioner of Public Health and such other state agencies and municipal officials as he deems necessary and advisable.

(b) Any person who during the course of a water supply emergency declared in accordance with subsection (a) of this section violates the provisions of any order issued pursuant to subsection (a) of this section or who impedes, interferes with or obstructs any lawful water supply emergency activities pursuant to subsection (a) of this section, shall be fined not more than one thousand dollars or imprisoned not more than one year, or both, for each offense.

(P.A. 82-402, S. 14, 16; P.A. 84-281, S. 3, 4; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58.)

History: P.A. 84-281 amended Subsec. (a) by adding provision prohibiting a diversion which would adversely impact an area where a public drinking water supply emergency has been declared; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995.

Cited. 28 CA 674.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-378a. General permits for minor activities. Regulations. (a) The Commissioner of Energy and Environmental Protection may issue a general permit for any minor activity regulated under sections 22a-365 to 22a-378, inclusive, except for any activity covered by an individual permit, if the commissioner determines that such activity would cause minimal environmental effects when conducted separately and would cause only minimal cumulative environmental effects, and will have no adverse effect on existing or potential uses of water for potable water supplies, hydropower, flood management, water-based recreation, industry or waste assimilation. Such activities may include diversions which were eligible for registration under subsection (a) of section 22a-368 but were not registered; backup wells, provided such wells are not used to increase the quantity of water diverted from a well-field permitted or registered under said section 22a-368; transferring water from one distribution system or service area to another distribution system or service area or the installation of the capacity to transfer such water in anticipation of a water supply emergency for public water supply; and collection and discharge of runoff, including stormwater runoff and skimming of flood flows, from a watershed area less than equal to one square mile. On or before April 1, 1995, the commissioner shall issue a general permit for public water systems, as defined in section 25-33d, in accordance with this section and the regulations adopted pursuant to sections 22a-365 to 22a-378, inclusive, for diversions maintained by any entity which is acquired by such systems which diversions were eligible for registration under subsection (a) of section 22a-368 but were not registered and for backup wells provided such wells are not used to increase the quantity of water diverted from a well-field permitted or registered under said section 22a-368. Any person or municipality conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit under any other provision of said sections 22a-365 to 22a-378, inclusive, except as provided in subsection (c) of this section. A general permit shall clearly define the activity covered thereby and may include such conditions and requirements as the commissioner deems appropriate, including but not limited to, management practices and verification and reporting requirements. The general permit may require any person or municipality conducting any activity under the general permit to report, on a form prescribed by the commissioner, such activity to the commissioner before it shall be covered by the general permit. The commissioner shall prepare, and shall annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(b) Notwithstanding any other procedures specified in said sections 22a-365 to 22a-378, inclusive, any regulations adopted thereunder, and chapter 54, the following procedures shall apply to the issuance, renewal, modification and revocation or suspension of a general permit: (1) The commissioner shall publish in a newspaper having a substantial circulation in the affected area or areas notice of intent to issue a general permit; (2) the commissioner shall allow a comment period of thirty days following publication of such notice during which interested persons may submit written comments concerning the permit to the commissioner and the commissioner shall hold a public hearing if, within said comment period, he receives a petition signed by at least twenty-five persons; (3) the commissioner may not issue the general permit until after the comment period; and (4) the commissioner shall publish notice of any issued permits in a newspaper having substantial circulation in the affected area or areas. Any person may request that the commissioner issue, modify or revoke a general permit in accordance with this subsection.

(c) Subsequent to the issuance of a general permit, the commissioner may require any person or municipality to apply for an individual permit under the provisions of said sections 22a-365 to 22a-378, inclusive, for all or any portion of the activities covered by the general permit, if in the commissioner's judgment the purposes and policies of said sections would be best served by requiring an application for an individual permit. The commissioner may require an individual permit under this subsection only if the affected person or municipality has been notified in writing that an individual permit is required. The notice shall include a brief statement of the reasons for the decision and a statement that upon the date of issuance of such notice the general permit as it applies to the individual activity will terminate.

(d) Any general permit issued under subsection (a) of this section may require that any person or municipality intending to conduct an activity covered by such general permit give written notice of such intention to the inland wetlands agency, zoning commission, planning commission or combined planning and zoning commission, and conservation commission of any municipality which will or may be affected by such activity. The general permit shall specify the information which must be contained in the notice.

(e) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of this section.

(P.A. 91-263, S. 5, 8; P.A. 92-162, S. 17, 25; P.A. 94-89, S. 7; P.A. 03-141, S. 2; P.A. 11-80, S. 1.)

History: P.A. 92-162 amended Subsec. (d) to provide that any person may submit comments to the commissioner concerning regulated activities permitted under this section prior to commencement of such activities and changed the deadline for such comments from 30 days prior to such commencement to 25 days; P.A. 94-89 authorized general permits for certain intersystem transfers of water and required such permits for certain preexisting diversions and for certain back-up wells; P.A. 03-141 amended Subsec. (d) to add reference to Subsec. (a), to make the notice requirement discretionary rather than mandatory, to delete provisions requiring that notice be provided at least 60 days before initiating the activity, that written notice be provided to the department and that department make the written notices available to the public, and to delete provision re submission of written comments, effective July 1, 2003; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-379. Diversion permit. Fee. Each person or municipality holding a diversion permit authorizing a consumptive use of waters of the state shall pay an annual fee of nine hundred forty dollars to the commissioner. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

(P.A. 90-231, S. 16, 28; P.A. 91-369, S. 30, 36; June 30 Sp. Sess. P.A. 03-6, S. 132; June Sp. Sess. P.A. 09-3, S. 420.)

History: P.A. 91-369 restated commissioner's authority to adopt regulations setting the fees required by this section; June 30 Sp. Sess. P.A. 03-6 increased annual fee from \$500 to \$750, effective August 20, 2003; June Sp. Sess. P.A. 09-3 increased annual fee from \$750 to \$940.

See Sec. 22a-27i re exemption of municipality for one year.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-380. Water resources policy. The following are declared to be the goals and policies of the state: (1) To preserve and protect water supply watershed lands and prevent degradation of surface water and groundwaters; (2) to protect groundwater recharge areas critical to existing and potential drinking water supplies; (3) to make water resources conservation a priority in all decisions; (4) to conserve water resources through technology, methods and procedures designed to promote efficient use of water and to eliminate the waste of water; (5) to prevent contamination of water supply sources or reduction in the availability of future water supplies; (6) to balance competing and conflicting needs for water equitably and at a reasonable cost to all citizens; and (7) to reduce or eliminate the waste of water through water supply management practices.

(P.A. 89-327, S. 1, 7.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-381. Invasive Plants Council: Membership; meetings. (a) There shall be an Invasive Plants Council which shall consist of the following members: (1) The Commissioner of Agriculture, or the commissioner's designee; (2) the Commissioner of Energy and Environmental Protection, or the commissioner's designee; (3) the director of the Connecticut Agricultural Experiment Station, or the director's designee; (4) the dean of the College of Agriculture and Natural Resources at The University of Connecticut, or the dean's designee; (5) a representative of Invasive Plant Atlas of New England appointed by the minority leader of the Senate; (6) one representative of a nonprofit environment association with a demonstrated knowledge of invasive plants appointed by the speaker of the House of Representatives; (7) one representative of a nonprofit association concerned with growers and retailers of plants and flowers appointed by the president pro tempore of the Senate; (8) one representative of a nonprofit association concerned with oceans, lakes and rivers appointed by the Governor; and (9) one representative from a company that grows or sells flowers and plants appointed by the minority leader of the House of Representatives.

(b) The council shall annually elect a chairperson from among its members who shall convene and preside over the council meetings. Such meetings shall be held at least twice per year. The council may create work groups as necessary.

(P.A. 03-136, S. 1; June 30 Sp. Sess. P.A. 03-6, S. 146(h); P.A. 04-189, S. 1; P.A. 11-80, S. 1.)

History: P.A. 03-136 effective June 26, 2003; June 30 Sp. Sess. P.A. 03-6 replaced Commissioner of Agriculture with Commissioner of Agriculture and Consumer Protection, effective July 1, 2004; P.A. 04-189 repealed Sec. 146 of June 30 Sp. Sess. P.A. 03-6, thereby reversing the merger of the Departments of Agriculture and Consumer Protection, effective June 1, 2004; pursuant to P.A. 11-80, "Commissioner of Environmental Protection" was changed editorially by the Revisors to "Commissioner of Energy and Environmental Protection" in Subsec. (a), effective July 1, 2011.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-381a. Duties and recommendations of the Invasive Plants Council. (a) The Invasive Plants Council shall: (1) Develop and conduct a program to educate the general public and merchants and consumers of aquatic

and land-based plants as to the problems associated with invasive plants; (2) make recommendations to control and abate the spread of invasive plants; (3) make available information regarding invasive plants available to any person or group who requests such information; (4) annually publish and periodically update a list of plants considered to be invasive or potentially invasive; and (5) support those state agencies charged with protecting the environment in conducting research into the control of invasive plants, including, but not limited to, the development of new varieties of plant species that do not harm the environment and methods of eradicating and managing existing species of invasive plants.

(b) The council may, with a two-thirds vote of its membership, make a recommendation to the joint standing committee of the General Assembly having cognizance of matters relating to the environment that the import or export, retail sale or wholesale and purchase of any plant listed as an invasive plant or a potentially invasive plant pursuant to section 22a-381b be prohibited. In considering whether to make such recommendation, the council may consider: (1) The estimated dollar value of sales of said plant in the state; (2) the estimated costs associated with eradication of the plant in the state; (3) the potential effect of the plant on the environmental resources of the state or a region within the state; and (4) the estimated effect on property values in the state or a region of the state where said plant may propagate.

(c) The council may conduct or recommend research on the problem of invasive plants.

(d) The council may use such funds as may be available from federal, state or other sources and may enter into contracts to carry out the purposes of this section.

(e) The council shall report, in accordance with section 11-4a, to the joint standing committee of the General Assembly having cognizance of matters relating to the environment on or before February 1, 2005, and on January first annually thereafter, concerning the council's accomplishments of the past year and recommendations for the upcoming year, including, but not limited to, recommendations to prohibit the import or export, retail sale or wholesale and purchase of any invasive or potentially invasive plant listed pursuant to section 22a-381b. In reporting recommendations to prohibit the import or export, retail sale or wholesale and purchase of any invasive or potentially invasive plant, the council shall also submit the names of any plant considered for such recommendation, information relating to any findings made pursuant to subsection (b) of this section and the vote of each council member on such recommendation.

(P.A. 03-136, S. 2; P.A. 04-203, S. 1.)

History: P.A. 03-136 effective June 26, 2003; P.A. 04-203 amended Subsec. (e) to change the council's reporting date from February 1, 2004, to February 1, 2005, effective June 3, 2004.

[\(Return to Chapter](#) [\(Return to](#) [\(Return to](#)
[Table of Contents\)](#) [List of Chapters\)](#) [List of Titles\)](#)

Sec. 22a-381b. Listing of invasive and potentially invasive plants by council. Criteria for listing. Approval by majority of council's membership. (a) In publishing and updating the list of invasive plants required under section 22a-381a, the Invasive Plants Council shall determine that a plant possesses the following characteristics before it is included on such list: (1) The plant is nonindigenous to the state; (2) the plant is naturalized or has the potential to become naturalized or occurring without the aid and benefit of cultivation in an area where the plant is nonindigenous; (3) under average conditions, the plant has the biological potential for rapid and widespread dispersion and establishment in the state or region within the state; (4) under average conditions, the plant has the biological potential for excessive dispersion over habitats of varying sizes that are similar or dissimilar to the site of the plant's introduction into the state; (5) under average conditions, the plant has the biological potential for existing in high numbers outside of habitats that are intensely managed; (6) the plant occurs widely in a region of the state or a particular habitat within the state; (7) the plant has numerous individuals within many populations; (8) the plant is able to out-compete other species in the same natural plant community; and (9) the plant has the potential for rapid growth, high seed production and dissemination and establishment in natural plant communities.

(b) In publishing and updating the list of potentially invasive plants required under section 22a-381a, before including a plant on such list the Invasive Plants Council shall determine that a plant: (1) Possesses each of the characteristics set forth in subdivisions (1) to (5), inclusive, of subsection (a) of this section; and (2) possesses at least one of the characteristics set forth in subdivisions (6) to (9), inclusive, of subsection (a) of this section.

(c) Upon a finding that a plant meets the criteria for listing as an invasive plant under subsection (a) of this section, or as a potentially invasive plant under subsection (b) of this section, prior to listing such plant as invasive or potentially invasive, as applicable, the majority of the council's membership shall approve of such listing. On the request of two or more members of the council, the council shall hold a meeting, open to the public, not later than thirty days prior to the publication of the initial invasive plant list or the addition of any plant to the invasive plant list, as applicable.

(d) In listing a plant as invasive or potentially invasive, the council may make recommendations on how to discourage the sale and import of such plants in the state and identify alternative plants to the listed plant for growing purposes.

(P.A. 03-136, S. 3; P.A. 04-109, S. 9.)

History: P.A. 03-136 effective June 26, 2003; P.A. 04-109 amended Subsec. (a) to make technical changes, effective May 21, 2004.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-381c. Prohibition on purchase of invasive or potentially invasive plants by state agencies. No state agency, department or institution shall purchase any plant listed as invasive or potentially invasive pursuant to section 22a-381b, provided nothing in this section shall be construed to prohibit such purchase if such purchase is necessary to honor a state contract in effect as of the date any such plant is listed as invasive or potentially invasive pursuant to section 22a-381b. Nothing in this section shall be construed to prohibit any state agency, department or institution, or the agents of such agency, department or institution, from transporting any invasive or potentially invasive plant for educational, research or eradication purposes.

(P.A. 03-136, S. 4; P.A. 09-52, S. 4.)

History: P.A. 03-136 effective June 26, 2003; P.A. 09-52 added reference to agents of state agency, department or institution and expanded exception to include transport for eradication purposes, effective July 1, 2009.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-381d. Prohibited actions re certain invasive plants. Exceptions. Municipal ordinances prohibited. Penalty. (a) Except as provided in subsection (d) of this section and notwithstanding the provisions of any ordinance adopted by a municipality, no person shall import, move, sell, purchase, transplant, cultivate or distribute any of the following invasive plants: (1) Curly leaved Pondweed (*Potamogeton crispus*); (2) fanwort (*Cabomba caroliniana*); (3) eurasian water milfoil (*Myriophyllum spicatum*); (4) variable water milfoil (*Myriophyllum heterophyllum*); (5) water chestnut (*Trapa natans*); (6) egeria (*Egeria densa*); (7) hydrilla (*Hydrilla verticillata*); (8) common barberry (*Berberis vulgaris*); (9) autumn olive (*Elaeagnus umbellata*); (10) Bell's honeysuckle (*Lonicera xbella*); (11) amur honeysuckle (*Lonicera maackii*); (12) Morrow's honeysuckle (*Lonicera morrowii*); (13) common buckthorn (*Rhamnus cathartica*); (14) multiflora rose (*Rosa multiflora*); (15) Oriental bittersweet (*Celastrus orbiculatus*); (16) garlic mustard (*Alliaria petiolata*); (17) narrowleaf bittercress (*Cardamine impatiens*); (18) spotted knapweed (*Centaurea biebersteinii*); (19) black swallow-wort (*Cynanchum louiseae*); (20) pale swallow-wort (*Cynanchum rossicum*); (21) leafy spurge (*Euphorbia esula*); (22) Dame's rocket (*Hesperis matronalis*); (23) perennial pepperweed (*Lepidium latifolium*); (24) Japanese knotweed (*Polygonum cuspidatum*); (25) mile-a-minute vine (*Polygonum perfoliatum*); (26) fig buttercup (*Ranunculus*

ficaria); (27) coltsfoot (*Tussilago farfara*); (28) Japanese stilt grass (*Microstegium vimineum*); (29) common reed (*Phragmites australis*); (30) sycamore maple (*Acer pseudoplatanus*); (31) princess tree (*Paulownia tomentosa*); (32) white poplar (*Populus alba*); (33) false indigo (*Amorpha fruticosa*); (34) Russian olive (*Eleagnus angustifolia*); (35) wineberry (*Rubus phoenicolasius*); (36) kudzu (*Pueraria montana*); (37) Canada thistle (*Cirsium arvense*); (38) jimsonweed (*Datura stramonium*); (39) crested late-summer mint (*Elsholtzia ciliata*); (40) Cypress spurge (*Euphorbia cyparissias*); (41) slender snake cotton (*Froelichia gracilis*); (42) ground ivy (*Glechoma hederacea*); (43) giant hogweed (*Heracleum mantegazzianum*); (44) Japanese hops (*Humulus japonicus*); (45) ornamental jewelweed (*Impatiens glandulifera*); (46) common kochia (*Kochia scoparia*); (47) ragged robin (*Lychnis flos-cuculi*); (48) Scotch thistle (*Onopordum acanthium*); (49) bristle knotweed (*Polygonum caespitosum*); (50) giant knotweed (*Polygonum sachalinense*); (51) sheep sorrel (*Rumex acetosella*); (52) ragwort (*Senecio jacobaea*); (53) cup plant (*Silphium perfoliatum*); (54) bittersweet nightshade (*Solanum dulcamara*); (55) garden heliotrope (*Valeriana officinalis*); (56) hairy jointgrass (*Arthraxon hispidus*); (57) drooping brome-grass (*Bromus tectorum*); (58) Japanese sedge (*Carex kobomugi*); (59) reed managrass (*Glyceria maxima*); (60) Canada bluegrass (*Poa compressa*); and (61) tree of heaven (*Ailanthus altissima*).

(b) Except as provided in subsection (d) of this section and notwithstanding the provisions of any ordinance adopted by a municipality, on or after October 1, 2005, no person shall import, move, sell, purchase, transplant, cultivate or distribute any of the following invasive plants: (1) Purple loosestrife (*Lythrum salicaria*); (2) forget-me-not (*Myosotis scorpioides*); (3) Japanese honeysuckle (*Lonicera japonica*); (4) goutweed (*Aegopodium podagraia*); (5) flowering rush (*Butomus umbellatus*); (6) pond water-starwort (*Callitriche stagnalis*); (7) European waterclover (*Marsilea quadrifolia*); (8) parrotfeather (*Myriophyllum aquaticum*); (9) brittle water-nymph (*Najas minor*); (10) American water lotus (*Nelumbo lutea*); (11) yellow floating heart (*Nymphoides peltata*); (12) onerow yellowcress (*Rorippa microphylla*); (13) watercress (*Rorippa nasturtium-aquaticum*), except for watercress sold for human consumption without its reproductive structure; (14) giant salvinia (*Salvinia molesta*); (15) yellow iris (*Iris pseudacorus*); (16) border privet (*Ligustrum obtusifolium*); (17) tatarian honeysuckle (*Lonicera tatarica*); (18) dwarf honeysuckle (*Lonicera xylostemum*); and (19) garden loosetrife (*Lysimachia vulgaris*).

(c) Except as provided in subsection (d) of this section, and notwithstanding the provisions of any ordinance adopted by a municipality, no person shall move, import, sell, purchase, transplant, cultivate or distribute any reproductive portion of any invasive plant listed in subsection (a) or (b) of this section. For the purposes of this section, “reproductive portion” includes, but is not limited to, seeds, flowers, roots and tubers.

(d) The provisions of subsections (a) to (c), inclusive, of this section shall not apply to the moving for eradication, research or educational purposes of any invasive plant listed in subsection (a) or (b) of this section or of any reproductive portion of such an invasive plant or to the cultivating for research purposes of any such plant or reproductive portion.

(e) From July 1, 2009, until October 1, 2014, no municipality shall adopt any ordinance regarding the retail sale or purchase of any invasive plant.

(f) Any person who violates the provisions of this section shall be fined not more than one hundred dollars per plant.

(P.A. 03-136, S. 8; P.A. 04-203, S. 2; P.A. 09-52, S. 3.)

History: P.A. 03-136 effective June 26, 2003; P.A. 04-203 amended Subsec. (a) to change “possess” to “transplant”, to insert new Subdivs. (8) to (61), inclusive, re additional invasive plants, and to make conforming changes, added new Subsec. (b) re prohibition against certain invasive plants on or after October 1, 2005, redesignated existing Subsec. (b) as new Subsec. (c) and amended same to change “May 5, 2004” to “October 1, 2005”, and added new Subsec. (d) re penalty provisions repositioned from Subsec. (a) and amended to add “per plant” to such provisions; P.A. 09-52 amended Subsecs. (a) and (b) to reference exception in Subsec. (d), amended Subsec. (b) to delete former Subdiv. (16) re water lettuce and redesignate existing Subdivs. (17) to (20) as Subdivs. (16) to (19), added new Subsecs. (c) and (d) re reproductive portion and exceptions, redesignated

existing Subsecs. (c) and (d) as Subsecs. (e) and (f), and amended redesignated Subsec. (e) to change “June 26, 2003” to “July 1, 2009” and “October 1, 2005” to “October 1, 2014”, effective July 1, 2009.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-381e. Prohibited actions re running bamboo. Disclosure statement. Penalties. Enforcement. Running bamboo as nuisance. (a) For the purpose of this section, “running bamboo” means any bamboo in the genus *Phyllostachys*, including *Phyllostachys aureosulcata*.

(b) No person who plants running bamboo or who allows running bamboo to be planted on his or her property shall permit such bamboo to grow beyond the boundaries of his or her property. On and after October 1, 2013, any person who violates the provisions of this subsection shall be liable for any damages caused to any neighboring property by such bamboo, including, but not limited to, the cost of removal of any running bamboo that grew beyond the boundaries of his or her property.

(c) No person shall plant running bamboo or allow running bamboo to be planted on his or her property at a location that is forty feet or less from any abutting property or public right-of-way. Any person who violates the provisions of this subsection shall be fined one hundred dollars. In the case of a continuing violation, each day of continuance shall be deemed a separate and distinct offense until such time as such bamboo is removed.

(d) Each retail seller or installer of running bamboo shall provide to each customer who purchases running bamboo from such seller or installer a statement that discloses that running bamboo is a fast growing plant that may spread if not properly contained and a plain language summary of the provisions contained in subsections (b) and (c) of this section. Such statement shall also provide recommendations, based on best available information, on how to properly contain running bamboo. Any retail seller or installer of running bamboo who violates the provisions of this subsection shall be fined one hundred dollars for each plant sold in violation of this section.

(e) The Department of Energy and Environmental Protection, any duly authorized municipal constable, municipal tree warden, zoning enforcement officer or inland wetlands and watercourses enforcement officer may enforce the provisions of subsections (c) and (d) of this section.

(f) Allowing running bamboo to grow beyond the boundaries of a parcel of property that a person owns shall be deemed to be a nuisance.

(P.A. 13-82, S. 1; P.A. 14-100, S. 1, 2; P.A. 16-89, S. 7.)

History: P.A. 13-82 effective June 5, 2013; P.A. 14-100 amended Subsec. (c) by replacing reference to 100 feet or less with reference to 40 feet or less, deleting exceptions re barrier system or contained plantings and deleting provision re applicability to running bamboo planted on or before October 1, 2013, and added Subsec. (f) re running bamboo beyond boundaries of property deemed to be a nuisance, effective June 6, 2014; P.A. 16-89 amended Subsec. (c) to delete reference to containment of bamboo by properly installed and constructed barrier system, effective June 1, 2016.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Sec. 22a-382. Reserved for future use.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

PART II

REMOVAL OF SAND AND GRAVEL

Secs. 22a-383 to 22a-390. (Formerly Secs. 25-10 to 25-12, 25-14 to 25-18). Removal of sand and gravel from lands under tidal and coastal waters. Sections 22a-383 to 22a-390, inclusive, are repealed.

(1957, P.A. 554, S. 1–3, 5–9; March, 1958, P.A. 14, S. 1; 1961, P.A. 273, S. 3; 1963, P.A. 574, S. 1, 2; 1969, P.A. 768, S. 257; 1971, P.A. 872, S. 67–73; P.A. 73-665, S. 7, 17; P.A. 74-187, S. 1; P.A. 75-472, S. 1, 2; P.A. 77-603, S. 15, 125; P.A. 78-280, S. 6, 127; P.A. 80-483, S. 163, 186; P.A. 87-438, S. 5; P.A. 88-230, S. 1, 12; P.A. 90-98, S. 1, 2; 90-231, S. 15, 28; P.A. 91-369, S. 31, 36; P.A. 93-142, S. 4, 7, 8; 93-428, S. 9, 39; P.A. 95-220, S. 4–6; P.A. 96-145, S. 19.)

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)

Secs. 22a-391 to 22a-400. Reserved for future use.

[\(Return to Chapter Table of Contents\)](#) [\(Return to List of Chapters\)](#) [\(Return to List of Titles\)](#)