

Cited. 32 CS 104.

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Sec. 22a-32. (Formerly Sec. 22-71). Regulated activity permit. Application. Hearing. Waiver of hearing. No regulated activity shall be conducted upon any wetland without a permit. Any person proposing to conduct or cause to be conducted a regulated activity upon any wetland shall file an application for a permit with the commissioner, in such form and with such information as the commissioner may prescribe. Such application shall include a detailed description of the proposed work and a map showing the area of wetland directly affected, with the location of the proposed work thereon, together with the names of the owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice. The commissioner shall cause a copy of such application to be mailed or sent by electronic means to the chief administrative officer in the town or towns where the proposed work, or any part thereof, is located, and the chairman of the conservation commission and shellfish commission of the town or towns where the proposed work, or any part thereof, is located. The commissioner or the commissioner's duly designated hearing officer shall hold a public hearing on such application, provided, whenever the commissioner determines that the regulated activity for which a permit is sought is not likely to have a significant impact on the wetland, the commissioner may waive the requirement for public hearing after publishing notice, in a newspaper having general circulation in each town wherever the proposed work or any part thereof is located, of the commissioner's intent to waive said requirement and of the commissioner's tentative decision regarding the application, except that the commissioner shall hold a hearing on such application upon request of the applicant or upon receipt of a petition, signed by at least twenty-five persons, requesting such a hearing. The following shall be notified of the hearing by mail or by electronic means not less than fifteen days prior to the date set for the hearing: All of those persons and agencies who are entitled to receive a copy of such application in accordance with the terms hereof and all owners of record of adjacent land and known claimants to water rights in or adjacent to the wetland of whom the applicant has notice. The commissioner shall cause notice of the commissioner's tentative decision regarding the application and such hearing to be published at least once not more than thirty days and not fewer than ten days before the date set for the hearing in the newspaper having a general circulation in each town where the proposed work, or any part thereof, is located. All applications and maps and documents relating thereto shall be open for public inspection at the office of the commissioner. At such hearing any person or persons may appear and be heard.

(1969, P.A. 695, S. 5, 6; 1971, P.A. 872, S. 401; P.A. 73-590, S. 1, 3; P.A. 93-428, S. 7, 39; P.A. 94-154, S. 1; P.A. 95-218, S. 3; P.A. 10-106, S. 3.)

History: 1971 act deleted from list of those who receive copies of applications state board of fisheries and game, open spaces section and soil and water conservation section of department of agriculture and natural resources and shellfish commission; Sec. 22-71 transferred to Sec. 22a-32 in 1972; P.A. 73-590 added proviso re waiver of public hearing and petition for hearing; P.A. 93-428 specified that notice include commissioner's tentative decision in cases where he intends to waive hearing, effective July 1, 1993; P.A. 94-154 added provision re waiver or reduction of fees and defined "resource restoration or enhancement activity" (Revisor's note: In the phrase "no sooner than thirty days and not later than sixty days of the receipt of such application," the word "of" was replaced editorially by the Revisors with "after" for grammatical sense); P.A. 95-218 deleted a provision re reduction or waiver of fee for resource restoration or enhancement activities; P.A. 10-106 added provision authorizing commissioner to send copy of application to chief administrative officer of town by electronic means,

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Sec. 22a-36. Inland wetlands and watercourses. Legislative finding. The inland wetlands and watercourses of the state of Connecticut are an indispensable and irreplaceable but fragile natural resource with which the citizens of the state have been endowed. The wetlands and watercourses are an interrelated web of nature essential to an adequate supply of surface and underground water; to hydrological stability and control of flooding and erosion; to the recharging and purification of groundwater; and to the existence of many forms of animal, aquatic and plant life. Many inland wetlands and watercourses have been destroyed or are in danger of destruction because of unregulated use by reason of the deposition, filling or removal of material, the diversion or obstruction of water flow, the erection of structures and other uses, all of which have despoiled, polluted and eliminated wetlands and watercourses. Such unregulated activity has had, and will continue to have, a significant, adverse impact on the environment and ecology of the state of Connecticut and has and will continue to imperil the quality of the environment thus adversely affecting the ecological, scenic, historic and recreational values and benefits of the state for its citizens now and forever more. The preservation and protection of the wetlands and watercourses from random, unnecessary, undesirable and unregulated uses, disturbance or destruction is in the public interest and is essential to the health, welfare and safety of the citizens of the state. It is, therefore, the purpose of sections 22a-36 to 22a-45, inclusive, to protect the citizens of the state by making provisions for the protection, preservation, maintenance and use of the inland wetlands and watercourses by minimizing their disturbance and pollution; maintaining and improving water quality in accordance with the highest standards set by federal, state or local authority; preventing damage from erosion, turbidity or siltation; preventing loss of fish and other beneficial aquatic organisms, wildlife and vegetation and the destruction of the natural habitats thereof; deterring and inhibiting the danger of flood and pollution; protecting the quality of wetlands and watercourses for their conservation, economic, aesthetic, recreational and other public and private uses and values; and protecting the state's potable fresh water supplies from the dangers of drought, overdraft, pollution, misuse and mismanagement by providing an orderly process to balance the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology in order to forever guarantee to the people of the state, the safety of such natural resources for their benefit and enjoyment and for the benefit and enjoyment of generations yet unborn.

(1972, P.A. 155, S. 1.)

Cited. 179 C. 250; 180 C. 421; Id., 692. To interpret Sec. 22a-430 as precluding municipal regulation of sewerage systems would clearly work to undermine some of the basic purposes of the act as expressed in statute. 183 C. 532. Inland Wetlands and Watercourses Act cited. 186 C. 67. Cited. 193 C. 414; 196 C. 218; 203 C. 525; 209 C. 544; Id., 652; 211 C. 416. Inland Wetlands and Watercourses Act cited. 212 C. 710; Id., 727; 213 C. 604. Cited. 216 C. 320. Inland Wetlands and Watercourses Act cited. 217 C. 164; 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476; 226 C. 579; 227 C. 71; Id., 175. Inland Wetlands and Watercourses Act cited. 228 C. 95. Cited. 229 C. 247; Id., 627; Id., 654; 235 C. 448. Inland Wetlands and Watercourses Act cited. 242 C. 335. Although one of the broad purposes of act is to prevent "loss of fish and other beneficial aquatic organisms, wildlife and vegetation", when viewed in context of the act as a whole, the intent to protect wildlife is a secondary effect of protecting the wetlands and watercourses themselves. 266 C. 150. Inland Wetlands and Watercourses Act does not provide inland wetlands agencies with jurisdiction to regulate activities that solely affect the wildlife that uses the wetlands and watercourses without affecting the wetlands or watercourses themselves. 269 C. 57.

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. 73-571, S. 6, 9.)

Cited. 180 C. 421; Id., 692. Inland Wetlands and Watercourses Act cited. 186 C. 67; 196 C. 218. Cited. 203 C. 525; 209 C. 544; Id., 652; 211 C. 416. Inland Wetlands and Watercourses Act cited. 212 C. 710; Id., 727; 213 C. 604. Cited. 216 C. 320. Inland Wetlands and Watercourses Act cited. 217 C. 164; 218 C. 703. Cited. 219 C. 404; 220 C. 362; Id., 476. Inland Wetlands and Watercourses Act cited. 226 C. 579; 228 C. 95; 229 C. 247. Cited. Id., 627; Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 355.

Cited. 5 CA 70; 6 CA 715. Inland Wetlands and Watercourses Act cited. 12 CA 47; 15 CA 336; 18 CA 440. Cited. 19 CA 713. Inland Wetlands and Watercourses Act cited. 20 CA 309; 26 CA 564; 27 CA 590; 28 CA 780; 29 CA 12; Id., 105; 30 CA 85; 31 CA 105; Id., 599; judgment reversed, see 229 C. 627; 32 CA 799; 34 CA 385; 36 CA 270; 37 CA 166.

Cited. 41 CS 444; 42 CS 57.

Subsec. (a):

Trial court should decide a "taking without compensation" issue de novo since administrative agency has been held incompetent to decide constitutional issues. 209 C. 544.

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Sec. 22a-44. Penalty. Court orders. (a) If the inland wetlands agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which is in violation of sections 22a-36 to 22a-45, inclusive, or of the regulations of the inland wetlands agency, the agency or its duly authorized agent may issue a written order, by certified mail, to such person conducting such activity or maintaining such facility or condition to cease immediately such activity or to correct such facility or condition. 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. 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 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 agency may file a certificate of such order in the office of the town clerk of the town in which the land is located and the town clerk shall record such certificate on the land records of such town. Such certificate shall be released upon compliance with such order. The commissioner may issue orders pursuant to sections 22a-6 to 22a-7, inclusive, concerning an activity, facility or condition (1) which is in violation of said sections 22a-36 to 22a-45, inclusive, if the municipality in which such activity, facility or condition is located has failed to enforce its inland wetlands regulations, or (2) for which an approval is required under sections 22a-36 to 22a-45, inclusive, and for which such approval has not been obtained.

(b) Any person who commits, takes part in, or assists in any violation of any provision of sections 22a-36 to 22a-45, inclusive, including regulations adopted by the commissioner and ordinances and

regulations promulgated by municipalities or districts 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 commissioner, municipality, district or person which brought such action. All penalties collected pursuant to this section shall be used solely by the Commissioner of Energy and Environmental Protection (1) to restore the affected wetlands or watercourses to their condition prior to the violation, wherever possible, (2) to restore other degraded wetlands or watercourses, (3) to inventory or index wetlands and watercourses of the state, or (4) to implement a comprehensive training program for inland wetlands agency members.

(c) Any person who wilfully or knowingly violates any provision of sections 22a-36 to 22a-45, inclusive, 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.

(1972, P.A. 155, S. 9; P.A. 75-387, S. 2; P.A. 76-330; P.A. 77-599, S. 4, 7; P.A. 81-125, S. 1; P.A. 87-338, S. 9, 11; P.A. 95-151, S. 2; 95-218, S. 13, 24; P.A. 96-269, S. 2; P.A. 11-80, S. 1.)

History: P.A. 75-387 made previous provisions Subsec. (b) and inserted new Subsec. (a) re orders issued upon discovery of violation of Secs. 22a-36 to 22a-45 or regulations of inland wetlands agency; P.A. 76-330 allowed assessment of attorneys fees against violator and required that all costs, etc. be awarded to the initiator of the action; P.A. 77-599 amended Subsec. (a) to allow issuance of orders to cease an activity as well as orders to correct facilities or conditions; P.A. 81-125 amended Subsec. (a) to authorize agents of inland wetlands agencies to issue orders and amended Subsec. (b) to clarify the superior court's jurisdiction to impose fines; P.A. 87-338 amended Subsec. (a) to authorize the commissioner to issue orders concerning violations if the municipality in which the violation occurred has failed to enforce its regulations and added Subsec. (c) re wilful or knowing violations; P.A. 95-151 amended Subsec. (a) to provide for recording of certificate of order by inland wetlands agency on land records; P.A. 95-218 amended Subsec. (b) to allow use of penalties collected under this section for restoring other degraded wetlands, an inventory of wetlands in the state and training for wetlands officials (Revisor's note: The word "to" was inserted editorially by the Revisors following Subdiv. indicators (2), (3) and (4) for grammatical accuracy); P.A. 96-269 added Subsec. (a)(2) re enforcement by the commissioner concerning unauthorized activities; 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), effective July 1, 2011.

Cited. 179 C. 250; 180 C. 421; Id., 692; 183 C. 85; Id., 532. Inland Wetlands and Watercourses Act cited. 186 C. 67. Cited. 193 C. 414. Inland Wetlands and Watercourses Act cited. 196 C. 218. Cited. 203 C. 525; 209 C. 544; Id., 652; 211 C. 416. Inland Wetlands and Watercourses Act cited. 212 C. 710; Id., 727; 213 C. 604. Cited. 216 C. 320. Inland Wetlands and Watercourses Act cited. 217 C. 164; 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476; 221 C. 46; 225 C. 185. Inland Wetlands and Watercourses Act cited. 226 C. 579; 228 C. 95; 229 C. 247. Cited. Id., 627; Id., 659. Inland Wetlands