

Regulations of Connecticut State Agencies

TITLE 22a. Environmental Protection

Agency

Department of Environmental Protection

Subject

Tidal Wetlands

Inclusive Sections

§§ 22a-30-1—22a-30-17

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Tidal Wetlands

Sec. 22a-30-1. Title and authority

These regulations shall be known as the “Tidal Wetlands Regulations of the Connecticut Department of Environmental Protection.” They are promulgated under the authority of Sections 22a-30 and 22a-6 of the General Statutes.

(Effective September 24, 1996)

Sec. 22a-30-2. Definitions

As used in sections 22a-30-1 to 22a-30-17, inclusive, of the Regulations of Connecticut State Agencies:

(a) The following terms are used as defined in section 22a-29 of the General Statutes: “commissioner”, “person”, “regulated activity”, “wetland”;

(b) The following terms are used as defined in section 22a-93 of the General Statutes: “adverse impacts on coastal resources”, “coastal resources”; “coastal waters”, “water-dependent uses”;

(c) “Applicant” means a person who files an application for a permit issued by the department pursuant to section 22a-32 of the General Statutes and who is either the owner of the land on which the proposed regulated activity will be located, a contract vendee of such owner, a lessee of such owner, or the person who will actually control and direct the undertaking of the proposed activity;

(d) “Department” means the department of environmental protection;

(e) “Party” means party as defined by section 4-166 of the General Statutes;

(f) “Permit or license” means license as defined by section 4-166 of the General Statutes;

(g) “Areas formerly connected to tidal waters” means those areas which have retained tidal wetland soil characteristics, which can support some but not necessarily all of the vegetation specified in section 22a-29 of the General Statutes upon reestablishment of a tidal connection, and to which a tidal connection can be reestablished. Areas formerly connected to tidal waters shall not include:

(1) Areas which have been filled to an elevation greater than one foot above local extreme high water where such filling occurred prior to 1972 or to the adoption of a tidal wetland map for such area pursuant to section 22a-30 of the General Statutes, whichever is later;

(2) Areas to which a tidal connection has been permanently blocked or severed and where re-establishment of a tidal connection would endanger existing structures for which alternative means of protection such as floodproofing and elevation are not feasible; or

(3) Areas which are no longer wetland but which are another coastal resource as defined by section 22a-93 of the General Statutes and which function as a healthy, stable habitat.

(h) “Local extreme high water” means the elevation of the one year frequency tidal flood at a particular location as shown on the most recently adopted U.S. Army Corps of engineers tidal flood profile.

Other terms used but not defined herein shall be construed to have their meaning

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determined by common usage.

(Effective September 24, 1996)

Sec. 22a-30-3. Entrance onto private property

In the performance of his duties under sections 22a-8 through 22a-35 and section 22a-5 (d) of the General Statutes, the commissioner or his designated agent pursuant to section 22a-6 of the General Statutes may enter at all reasonable times upon any public or private property, for the purpose of inspection and investigation to ascertain possible violations of these regulations or for the purpose of inventorying, mapping and revising maps of all wetlands.

(Effective August 11, 1980)

Sec. 22a-30-4. Repealed

Repealed September 24, 1996.

Sec. 22a-30-5. Activities not regulated

In accordance with the provisions of sections 22a-29, 22a-361, and 22a-363b of the General Statutes, the following activities are excluded from regulation under section 22a-32 of the General Statutes and these regulations:

- (1) Activities conducted by the mosquito control division of the department of health services;
- (2) Conservation activities of the state department of environmental protection;
- (3) Construction or maintenance of aids to navigation which are authorized by governmental authority;
- (4) The emergency decree of any duly appointed health officer of a municipality acting to protect the public health;
- (5) Activities authorized under a general permit issued pursuant to section 22a-361 of the General Statutes;
- (6) Activities authorized under a certificate of permission pursuant to section 22a-363b of the General Statutes.

(Effective September 24, 1996)

Sec. 22a-30-6. Form and content of applications

An original application for a permit and seven (7) copies shall be filed with the commissioner containing such information and in such form as he may prescribe. Said application shall include at a minimum, the following written information and drawings:

- (1) A certified copy of a notice of application published in accordance with section 22a-6g of the General Statutes;
- (2) The name, home and business addresses and telephone numbers of the applicant and his agent (if the application is being submitted by a person other than the applicant);
- (3) The address at which the proposed activity is to be conducted, the name of the

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waterbody on or adjacent to the site of the proposed activity, and any coastal resources on or adjacent to the site;

(4) If the applicant is not the owner of the property on which the activity is to take place, the name(s), home and business addresses and telephone number(s) of the owner(s) of the property(ies) on which the proposed regulated activity is to take place;

(5) The applicant's legal interest in the property on which the proposed activity is to take place, (if the applicant is not the owner);

(6) The purpose of the proposed activity, and any alternative means, other than the proposed activity, for achieving such purpose;

(7) A detailed description of the proposed activity, including construction methodology;

(8) A description of any adverse environmental impacts associated with the proposed activity;

(9) The schedule and estimated time required to complete the activity;

(10) A listing of state and federal licenses, permits or certificates which have been obtained or which are being sought for existing facilities and for the proposed activity;

(11) A listing of local permits which have been obtained or which are being sought for the proposed activity;

(12) Names and mailing address of current owners of record of adjacent lands and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice;

(13) A listing of state statutes or rules which the applicant believes support the application, and a description of how the proposed activity is consistent with the applicable statutes and regulations, including but not limited to why any adverse impacts of the proposed activity are consistent with such statutes and regulations;

(14) A map or maps showing:

(A) The geographic vicinity of the property which is to be affected by the proposed activity;

(B) The area of wetland directly affected by the proposed activity including, where applicable, the ecological unit, subdivision, drawing and parcel number as shown on maps of designated wetlands on file at the offices of the department or in the town clerk's office of the town(s) in which the wetlands are located, and the surface area of the affected wetland;

(C) The site, and the location of the proposed activity thereon;

(D) Any coastal resources on or adjacent to the site;

(E) The location and design of all facilities, structures, filling, dredging or excavation which are existing at the site or are part of the proposed activity and the boundary of the affected wetland;

(15) If the proposed activity is located within the coastal boundary as defined in section 22a-94 of the General Statutes, additional information as required by the commissioner to determine whether the proposed activity is consistent with sections 22a-90 through 22a-96 of the General Statutes, including but not limited to any adverse impacts of the proposed activity on coastal resources, future water-dependent development activities, or public access to or along the public beach and tidelands waterward of mean high water;

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(16) Additional information required by the commissioner based on his preliminary review of the application;

(17) Additional information which the applicant considers relevant.

(Effective September 24, 1996)

Sec. 22a-30-7. Processing of an application

(a) **Copies of application to be provided.** The commissioner shall cause copies of all complete applications submitted under these regulations to be provided to all persons required to receive such applications pursuant to section 22a-32 of the General Statutes.

(b) **Public notice.** Following the receipt of a complete application, the commissioner shall publish a public notice of his intent to conduct or waive a hearing on such application in a newspaper having general circulation in the town or towns in which the proposed regulated activity or any part thereof is located. Such notice shall contain the information listed in subsection (c) and shall be issued in accordance with the provisions of sections 22a-361 and 22a-32 of the General Statutes.

(c) **Content of public notices.** Public notices issued pursuant to subsection (b) of these regulations shall include at a minimum the following:

(1) A reference to the particular sections of the statutes and regulations pertinent to the consideration of the application;

(2) A short and plain statement of the matters relevant to the consideration and evaluation of the application including:

(A) A concise description of the proposed activity;

(B) The specific geographic location of the activity or address of the property on which the proposed activity is to occur;

(C) The name of the applicant and his designated agent if applicable;

(D) The name of the owner of record of the property on which the proposed regulated activity is to be conducted, if the applicant is not the owner;

(E) Where applicable, the ecological unit, subdivision, drawing and parcel number(s) from the wetland map showing the wetland on which the proposed regulated activity is to be conducted;

(F) The date of the plans showing the proposed activity;

(G) The address and location of the office(s) at which the complete applications on file for inspection; and

(H) Any additional information the commissioner deems necessary.

(3) In the event a hearing is to be held, a statement of the date, time, place, nature of the hearing and a statement of the legal authority and jurisdiction under which the hearing is to be held;

(4) In the event the hearing is proposed to be waived, a comment period for receipt of written comments on the application. The comment period shall run for a period not less than forty (40) days nor more than forty-five (45) days from the date of issuance of the notice of intent to waive the public hearing.

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(5) The commissioner's tentative decision regarding the application, pursuant to sections 22a-32 and 22a-361 of the General Statutes.

(d) **Hearing upon receipt of a petition.** When the commissioner receives a petition submitted in accordance with section 22a-32 of the General Statutes, he shall hold a public hearing on the application in question and shall publish a public notice of said hearing in accordance with said section.

(e) **Copies of public notices of applications to be provided.** The commissioner shall provide, by certified mail, return receipt requested, copies of all public notices of applications issued pursuant to section 22a-32 of the General Statutes to all persons required to receive such notice under sections 22a-32 and 22a-361 of the General Statutes.

The commissioner may provide, by first class mail, copies of all public notices of application issued pursuant to section 22a-32 of the General Statutes to the following persons or agencies:

(9) Any state, federal and municipal agencies whose regulatory or managerial functions or interests are affected by the project or its effect on the wetland as determined by the commissioner;

(10) Other persons or agencies which have indicated in writing to the commissioner, their desire to receive such notices.

(Effective September 24, 1996)

Sec. 22a-30-8—22a-30-9. Repealed

Repealed September 24, 1996.

Sec. 22a-30-10. Criteria for review

(a) In accordance with section 22a-30 of the General Statutes, as amended by Public Act 79-170 and Public Act 80-356, the commissioner establishes the criteria of this section for granting, denying or limiting permits giving due regard to the impact of regulated activities on the wetlands of the state, adjoining coastal and tidal resources, navigation, recreation, erosion, sedimentation, water quality and circulation, fisheries, shellfisheries, wildlife, flooding and other natural disasters and water-dependent use opportunities as defined in chapter 444. These criteria are consistent with and implement the statutory policies and standards contained in sections 22a-28 and 22a-33 of the General Statutes and section 22a-92 of the General Statutes, as amended by Public Act 79-535. The commissioner shall grant, or grant with limitations or conditions a permit to conduct a proposed activity on any wetland only if it is determined that the application is consistent with all applicable criteria set forth herein.

(b) **Criteria for preservation of wetlands and prevention of their despoliation and destruction.** In order to make a determination that a proposed activity will preserve the wetlands of the state and not lead to their despoliation and destruction the commissioner shall, as applicable, find that:

(1) There is no alternative for accomplishing the applicant's objectives which is

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technically feasible and would further minimize adverse impacts;

(2) Any structure or fill will be no greater in length, width and height than necessary to accomplish its intended function;

(3) Pile supported construction will be used to the fullest extent practicable;

(4) All reasonable measures which would minimize the adverse impacts of the proposed activity on the wetlands of the state and adjoining coastal and tidal resources are incorporated as limitations on or conditions to the permit.

(c) **Recreational and navigational uses.** In order to make a determination that a proposed activity will not destroy existing or potential recreational or navigational uses, the commissioner shall, as applicable, find that:

(1) The proposed activity will not unreasonably interfere with established public rights of access to and use of wetlands, or with access to the portion of the shoreline below the mean high tide elevation that is held in public trust by the state, or with access to and use of public recreational facilities, both in operation and planned;

(2) The proposed activity will not be located in a way which unreasonably interferes with a navigable channel or small craft navigation;

(3) The proposed activity will not cause or contribute to sedimentation problems in adjacent or nearby navigable waters, navigation channels, anchorages or turning basins.

(d) **Erosion and sedimentation.** In order to make a determination that a proposed activity will not cause or produce unreasonable erosion or sedimentation the commissioner shall, as applicable, find that:

(1) The proposed activity will not cause significant changes in current patterns, water velocity or exposure to storm or wave conditions which result in adverse effects on erosion or sedimentation patterns;

(2) Temporary erosion control measures will be utilized on the project site both during and after construction;

(3) When permanent erosion control measures are proposed, non-structural alternatives are utilized unless structural alternatives are demonstrated to be unavoidable and necessary to protect infrastructural facilities, water-dependent uses and existing inhabited structures;

(4) Any structure or fill shall:

(A) Not cause a significant adverse impact on the movement of sediments on or along the shoreline;

(B) Not cause erosion of adjacent or downdrift areas;

(C) If necessary, include provision for the transfer of sediment to downdrift areas to prevent those areas from being deprived of sediments;

(5) The perimeter of all areas proposed to be filled, dredged or excavated are suitably stabilized to prevent spillover or erosion of material into adjoining wetland or watercourse areas;

(6) When areas are proposed to be dredged:

(A) They are laid out so as to make the best practical use of existing water depths;

(B) They are designed to avoid siltation of any existing natural or established navigation

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channel;

(C) The best available methods are used to reduce sedimentation.

(e) **Marine fisheries, shellfisheries, and wildlife.** In order to make a determination that a proposed activity will not result in significant adverse impacts on marine fisheries, shellfisheries or wildlife the commissioner shall, as applicable, find that:

(1) The existing biological productivity of any wetland will not be unreasonably affected;

(2) Habitat areas, such as habitat of rare and endangered wildlife and fish species, will not be destroyed, filled, or otherwise unreasonably affected;

(3) Wildlife and their nesting, breeding or feeding habitats will not be unreasonably reduced or altered;

(4) Erosion from the proposed activity will not result in the formation of deposits harmful to any fish, shellfish or wildlife habitat;

(5) Shellfish beds will not be adversely affected by changes in:

(A) Water circulation and depth patterns around and over the shellfish beds;

(B) Natural relief of shellfish beds;

(C) Grain size and distribution of sediment in shellfish beds;

(6) The timing of construction activities takes into consideration the movements and lifestages of fish, shellfish, and wildlife;

(7) The proposed activity will not unreasonably interfere with the harvesting or maintenance of leased, franchised or natural shellfish beds.

(f) **Circulation and quality of coastal or tidal waters.** In order to make a determination that a proposed activity will not result in a significant adverse impact on the circulation and quality of coastal or tidal waters the commissioner shall, as applicable, find that:

(1) The proposed activity will not cause the significant adverse alteration of patterns of tidal exchange or flushing rates, freshwater input or existing basin characteristics and channel contours;

(2) Water stagnation will be neither caused nor contributed to, and the ability of wetlands and adjacent water bodies to flush themselves will not be adversely affected;

(3) Pile-supported construction will be utilized to the fullest extent practical;

(4) The proposed activity will not result in water pollution which unduly affects:

(A) The bottom fauna;

(B) The physical or chemical nature of the bottom;

(C) The propagation and habitats of shellfish, finfish and wildlife.

(g) **Protection of life and property from hurricanes or natural disaster.** In order to make a determination that a proposed activity is consistent with the need to protect life and property from hurricanes or other natural disasters, including flooding, the commissioner shall, as applicable, find that:

(1) The proposed activity will not increase the potential for flood or hurricane damage on adjacent or adjoining properties;

(2) The proposed activity will not increase the exposure of any property, land or structures to damage from storm waves and erosion produced thereby;

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(3) The proposed activity will not result in significant increase in the velocity or volume of flood water flow both in streams and estuaries;

(4) The proposed activity will not significantly reduce the capacity of any stream, river, creek or other water course to transmit flood waters generated by hurricanes or other storm events and will not result in significantly increased flooding either up or downstream of its location.

(h) **Criteria for water dependent use of tidal wetlands.** In order to make a determination that a proposed activity within the coastal boundary, as defined and mapped in accordance with section 22a-94 of the General Statutes as amended by section 4 of Public Act 79-535, is consistent with the state policy that water-dependent uses of the shorefront be given highest priority and preference, the commissioner shall, as applicable, find that:

(1) When the proposed activity is not a water-dependent use:

(A) The wetland is unsuitable for or incapable of supporting a water-dependent use;

(B) There is little or no demonstrable demand for water-dependent uses suitable for or capable of being supported by the wetland;

(C) A non-water-dependent use has substantially fewer adverse impacts than all water-dependent uses suitable for or capable of being supported by the wetland;

(2) All reasonable measures which would minimize adverse impacts on future water-dependent uses are incorporated as limitations on or conditions to the permit;

(3) The proposed activity will not unreasonably interfere with the riparian rights of adjacent landowners or claimants of water or shellfish rights in or adjacent to the wetland.

(i) **Special standards for the placement of sewer or water services.** The commissioner shall disapprove extension of sewer and water services into tidal wetlands located within the coastal boundary, defined in section 22a-94 of the General Statutes as amended by section 4 of Public Act 79-535, except that, when necessary to abate existing sources of pollution, sewers that will accommodate existing uses with limited excess capacity may be used.

(j) **Special standards for the siting or expansion of airports.** The commissioner shall disallow the construction of major new airports and shall discourage the substantial expansion of existing airports on any wetland located within the coastal boundary defined by section 22a-94 of the General Statutes as amended by section 4 of Public Act 79-535. Further, he shall require that any expansion or improvement of airports involving regulated activities within any wetland located within said coastal boundary shall minimize adverse impacts on the wetland or other coastal resources, recreation or access.

(Effective August 11, 1980)

Sec. 22a-30-11. Use guidelines

(a) The classes of activities listed in this section are established for the purposes of providing guidance to prospective applicants and to the public when determining the potential acceptability of proposed regulated activities to be undertaken within the boundaries of a wetland. Nothing in this section shall be construed as constituting approval

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or disapproval of any activity prior to the decision on a permit. All activities except those specifically exempted by section 22a-29 (3) of the General Statutes are subject to the permit requirements of these regulations. Since the physical and biological conditions within the wetlands of the state vary with respect to location, tidal range, soil condition, water quality, sediment supply and the character of the surrounding upland each activity must be judged as to its acceptability on a case-by-case basis.

(b) **Activities which may be generally compatible under certain conditions.** The following activities may be generally compatible with the functions of wetlands and with established public policy for their management under certain conditions. Nothing in this subsection shall be construed as constituting conditional approval of any activity prior to regulatory review and the decision on a permit. The conditions listed with each activity are minimum conditions. All activities listed in this subsection are further subject to any conditions or limitations which the commissioner deems necessary on a case-by-case basis to carry out the provisions of these regulations:

(1) Conservation activities, except those not regulated pursuant to section 22a-29 of the General Statutes, such as habitat restoration or wildlife management, which:

- (A) Do not require significant physical alteration of the wetland;
- (B) Do not result in continuous compaction of the peat soils;

(2) Placement of small piers, catwalks, floats, docks, piles and other similar structures including trails and pedestrian access routes when:

- (A) They do not involve dredging or filling of the wetland surface;
- (B) They are elevated on low-impact pile foundations;
- (C) They do not interfere with or obstruct navigation;
- (D) They do not restrict tidal circulation or flushing;

(3) Repair, relocation and/or rearrangement of floating docks, open pile docks, and similar structures within an established marina or boat basin where such activities involve no disturbance of wetland other than removing and relocating anchors or pilings;

(4) Placement of pipes and cables when:

- (A) They are installed below grade;
- (B) They are sited to take advantage of existing areas of disturbances or existing transportation corridors;
- (C) Damage to the wetland systems as a result of construction activities is minimized;
- (D) The wetland is restored to its natural condition following construction;
- (E) Appropriate erosion and sedimentation controls are instituted so as to minimize impacts on water quality and sedimentation in surrounding areas;

(5) Stormwater drainage structures when:

(A) The pipe empties into streams or ditches within the wetland rather than directly onto the wetland surface;

(B) The discharge pipe and head wall do not project unnecessarily onto or require fill of the wetland surface;

(C) The velocities of the discharged water are not sufficiently large to cause erosion or

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scouring of the wetland's surface or vegetation;

(D) The discharge pipe is equipped with catch basins which are cleaned sufficiently often to maintain unimpaired function;

(6) Erection of water-dependent industrial and commercial facilities when:

(A) Elevated pile-supported construction is utilized;

(B) They do not interfere with the circulation of tidal or coastal waters;

(C) The facilities are designed to minimize the destruction of indigenous wetland vegetation;

(D) They do not significantly affect native wildlife, finfish or shellfish populations;

(E) Their encroachment into wetland areas is limited to that minimally necessary to provide structural stability;

(F) There is no alternative for accomplishing the applicant's objective which is technically feasible and which further minimizes adverse impacts;

(G) The height, width and length of structures are limited to the minimum dimensions necessary to accomplish their intended function;

(7) Construction of boat launching ramps when:

(A) All parking is provided on upland;

(B) Encroachment into the wetland is limited to the minimum necessary to provide access to coastal or tidal waters;

(8) Erection of power transmission lines when:

(A) They do not alter the topography of the wetland;

(B) Permanent' vehicular accessways to the structure are not constructed in the wetland;

(C) Alternative routes have been explored and found to be infeasible;

(D) Encroachment onto the wetland is limited to the minimum necessary to achieve structural stability.

(c) **Activities which are generally incompatible.** The following activities are generally incompatible with the functions of wetlands and with established public policy for their management. Nothing in this subsection shall be construed as constituting disapproval of any activity prior to regulatory review and the decision on a permit:

(1) Dredging;

(2) Filling;

(3) Installation of electric, gas, water or other utilities which would change the natural contours of the wetland or prevent reestablishment of wetland vegetation or impede tidal circulation;

(4) Installation of drainage control structures such as dry wells, retention basins, filters, open swales, or ponds;

(5) Disposal of dredged materials;

(6) Grading;

(7) Excavation;

(8) Construction of solid fill docks;

(9) Construction of bulkheads, groins, revetments, berms and other shoreline stabilization

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structures;

(10) Construction of dikes and tidal gates or maintenance, repair or replacement of dikes and tidal gates which have not been maintained in serviceable condition during the period immediately prior to the proposed maintenance, repair or replacement;

(11) Construction of single family dwellings or multiple family dwellings on fill;

(12) Construction of commercial or industrial use facilities or public buildings which do not require water access, and construction of water-dependent commercial or industrial use facilities or public buildings on fill;

(13) Construction or substantial expansion of airports, runways and any accessory facilities to support air transportation, not including maintenance of existing facilities.

(Effective August 11, 1980)

Sec. 22a-30-12. Permits

(a) **Duration of permit, initiation of activity.** All activities initiated under a permit issued pursuant to these regulations shall be completed within the time period specified in the permit. The commissioner, in writing, may extend a permit upon receipt of a written request stating a valid reason for such an extension.

(b) **Other permits and licenses; property rights.** Any permit issued pursuant to these regulations shall be subject to and in no way derogate any present or future property rights or powers of the State of Connecticut and convey no property rights in real estate or material including riparian or littoral rights nor any exclusive privileges, and is further subject to any and all public and private rights and to any federal, state or local laws or regulations pertinent to the property or activity affected by it. Obtaining any other applicable permit or license is solely the responsibility of the applicant.

(Effective August 11, 1980)

Sec. 22a-30-13. Financial security

The commissioner may require the posting of a bond, letter of credit, or other financial security in accordance with sections 22a-33 and 22a-6 of the General Statutes securing to the state compliance with conditions and limitations set forth in the permit.

(Effective September 24, 1996)

Sec. 22a-30-14. Monitoring and enforcement

(a) **Violations defined.** Any person who commits, takes part in, or assists in any violation enumerated herein shall be subject to the penalties and remedies provided in subsection (c) and to such other penalties and remedies as the law may provide. The commissioner may issue a notice of violation if he determines that any person has engaged in or is engaging in any activity not in compliance with these regulations or sections 22a-28 through 22a-35 of the General Statutes. Such activities may include but are not limited to:

(1) Engaging in any regulated activity in any wetland without having obtained a permit from the commissioner;

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- (2) Not complying with the conditions or limitations placed on a permit;
- (3) Exceeding the scope of work set forth in an application;
- (4) Not complying with the terms and conditions set forth in an application;
- (5) Obtaining a permit through deception or through inaccurate information as to either the activity or its environmental impact.

(b) **Notice of violation.** The notice of violation shall describe the nature of the violation, the section or sections of the statutes or these regulations with which the person is not in compliance, and request appropriate remedial action.

(c) **Remedies and penalties for violations.** If the commissioner determines that any person has committed, taken part in or assisted in any violation as described in subsection (a) of these regulations he may:

- (1) Issue an order, pursuant to section 22a-6 of the General Statutes, or, a cease and desist order, pursuant to section 22a-7 or section 22a-363f of the General Statutes, directing such person to halt any and all regulated activity or other violations, and to take appropriate remedial action, in accordance with the rules of practice of the department, sections 22a-3a-5 and 22a-3a-6 of the Regulations of Connecticut State Agencies;
- (2) Revoke or suspend any permit in accordance with subsection (e);
- (3) Bring an action for forfeiture and the cost of restoration pursuant to section 22a-35 of the General Statutes;
- (4) Seek a temporary or permanent injunction pursuant to section 22a-6(3) and section 22a-35 of the General Statutes;
- (5) Institute a suit to recover for damages, costs and expenses pursuant to section 22a-6a of the General Statutes;
- (6) Impose a civil penalty pursuant to section 22a-6a of the General Statutes and regulations thereunder;
- (7) Cause the bond or other security required pursuant to section 22a-30-13 of these regulations to be forfeited;
- (8) Institute other legal remedies provided for by statute;

(d) **Application for maintenance of a violation.** If any person files an application seeking the commissioner's authorization of an activity which, if unpermitted, would constitute a violation as described in subsection (a) of this section, the commissioner may suspend processing of such application until such violation has been abated and any enforcement action has been finally resolved. In determining whether to suspend processing of such application, the commissioner shall consider whether the activity constituting a violation occurred prior to 1980, interferes with navigation or littoral or riparian rights, or causes adverse impacts to coastal resources as defined by section 22a-93 of the General Statutes, and whether the applicant acquired his property interest in the site of the violation after such violation occurred, is not otherwise liable for the activity as a result of actions taken prior to the acquisition, and did not know and had no reason to know of the violation. The commissioner shall notify the applicant of any suspension of processing of such application and shall consider any arguments raised by the applicant as to why the

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processing of such application should not be suspended. The commissioner shall include as part of his final decision on such application a finding of whether or not the regulated activity was in violation of section 22a-32 of the General Statutes. If the commissioner determines that such violation has occurred he may: If the commissioner determines that such violation has occurred, a decision to grant a permit for the regulated activity in whole or in part shall not preclude his seeking other applicable remedies listed in subsection (c) or any other remedy concerning the violation available to him at law or in equity. If the commissioner determines that a violation has occurred and if the permit is granted in part and denied in part, the permit shall not be effective until the applicant has, as determined by the commissioner, restored that portion of the wetland for which the permit was denied.

(1) Deny the permit and refer the application to the office of the attorney general for action pursuant to section 22a-35 of the General Statutes;

(2) Grant the application in part with limitations and conditions and deny it in part, and refer the denied portion of the application to the office of the attorney general for action pursuant to section 22a-35 of the General Statutes;

(3) Grant the application with limitations and conditions;

(4) Institute other legal remedies provided for by statute.

(e) **Suspension and revocation.** In accordance with section 22a-33 of the General Statutes, the commissioner may suspend or revoke a permit if the commissioner finds that the applicant has not complied with any of the conditions or limitations set forth in the permit or has exceeded the scope of work as set forth in the application. The commissioner may suspend a permit if the permittee fails to comply with the terms and conditions set forth in the application. Such suspension or revocation shall be in accordance with section 4-182 of the General Statutes and 22a-3a-5 of the Regulations of Connecticut State Agencies.

(f) **Other remedies not excluded.** Nothing in these regulations shall be taken as limiting or excluding such other remedies as are available to the commissioner for the protection of wetlands.

(Effective September 24, 1996)

Sec. 22a-30-15. Appeals

An appeal may be taken by the applicant or any person or corporation, municipal corporation or interested community group other than the applicant who has been aggrieved by such order from the denial, suspension or revocation of a permit or the issuance of a permit or conditional permit in accordance with the provisions of section 22a-34 of the General Statutes and Chapter 54 of the General Statutes.

(Effective August 11, 1980)

Sec. 22a-30-16. Conflict and severance

(a) **Conflict with other regulations.** Where there is a conflict between the provisions of these regulations and those of any other regulation administered by the department, the

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provisions of the regulation which imposes the most stringent standards for the use of the wetland shall govern.

(b) **Invalidity of certain parts of regulations.** The invalidity of any word, clause, sentence, section, part or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

(Effective August 11, 1980)

Sec. 22a-30-17. Joint processing

In accordance with section 22a-96 of the General Statutes and section 21 of Public Act 79-535 the commissioner may, by mutual agreement with any federal body having jurisdiction over any activity in a wetland, provide for joint processing of any application under these regulations with any application for a permit or other processing required by such body, including provisions for joint notices and hearings, joint application materials and instructions for applicants, timely exchange of technical information related to permits, and coordination of the timing and sequence of issuance of permit decisions.

(Effective August 11, 1980)