



Connecticut Department of
**ENERGY &
ENVIRONMENTAL
PROTECTION**

To: Connecticut's Municipal Inland Wetlands Agencies

From: Betsey Wingfield, Bureau Chief
Bureau of Water Protection and Land Reuse

Dated: September 8, 2011

Re: 2011 Legislation and Regulations Advisory

In 2011 the Connecticut General Assembly amended the Inland Wetlands and Watercourses Act (IWWA) with the passage of two public acts: Public Act No. 11-5 and Public Act No. 11-184.

Public Act No. 11-5 amends sections 8-3(m), 8-26c(e), 8-26g(c), and 22a-42a(g) of the General Statutes of Connecticut. Specifically, section 4 of the public act, which amends section 22a-42a(g) of the IWWA, extends the deadlines that apply to certain inland wetlands agency permits. The new language states that any permit issued by a municipal inland wetlands agency that did not expire before May 9, 2011 (the effective date of the public act), is valid for nine years from the date of approval of such permit. Further, any permit that was issued before July 1, 2011 will also be valid for nine years from the date of approval of such permit. Pursuant to the new language of section 4 amending section 22a-42a(g) of the IWWA, the combined extensions of such permit, if renewal is sought, may lengthen the validity of such permit to a maximum of fourteen years.

It is important to note that for qualifying permits the extension of the initial length of the permit is automatic. Extensions by way of renewal are subject to a timely request by the permit holder.

Public Act No. 11-184 amends section 22a-40 of the General Statutes of Connecticut. Specifically, section 1 of the public act adds the withdrawal of water for fire emergency purposes as an as-of-right operation and use in wetlands and watercourses. Further, section 1 of the public act adds the installation of dry hydrants for firefighting purposes by or under the authority of a municipal fire department and under certain specified conditions as a new non-regulated use in wetlands and watercourses, and defines the term "dry hydrant".

A complete copy of Public Act No. 11-5 and Public Act No. 11-184 is attached for your information. Newly added language is underlined and deleted language is bracketed. You should plan to revise your inland wetlands agency regulations to reflect these amendments to the IWWA. The provisions of both section 22a-42a(g) and section 22a-40 of the General Statutes of Connecticut, as amended by both Public Act No. 11-5 and Public Act No. 11-184, govern until such time as your municipal regulations are amended. Section 4 of Public Act No. 11-5 became effective from the date of passage, which was May 9, 2011; and section 1 of Public Act No. 11-184 will become effective on October 1, 2011.

The following changes to the Inland Wetlands and Watercourses Model Municipal Regulations (IWWMMR) Fourth Edition, dated May 1, 2006, as amended by the Department of Energy and Environmental Protection's 2009 Legislation and Regulations Advisory, dated March 3, 2010, are made in order to conform to Public Act No. 11-5 and Public Act No. 11-184:

Section 4: Permitted Uses as of Right & Nonregulated Uses

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

4.1 The following operations and uses shall be permitted in inland wetlands and watercourses, as of right:

a. ...

b. a residential home [(i)] (A) for which a building permit has been issued or [(ii)] (B) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a, or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;

c. ...

d. ...

e. Construction and operation, by water companies as defined by section 16-1 of the Connecticut General Statutes or by municipal water supply systems as provided for in chapter 102 of the Connecticut General Statutes, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-403 of the Connecticut General Statutes [and];

f. Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a of the Connecticut General Statutes or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place[.]; and

g. Withdrawals of water for fire emergency purposes.

4.2 The following operations and uses shall be permitted, as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:

- a. Conservation of soil, vegetation, water, fish, shellfish and wildlife; [and]
- b. outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated [.] and
- c. The installation of a dry hydrant by or under the authority of a municipal fire department, provided such dry hydrant is only used for firefighting purposes and there is no alternative access to a public water supply. For purposes of this section, “dry hydrant” means a non-pressurized pipe system that: (A) is readily accessible to fire department apparatus from a proximate public road, (B) provides for the withdrawal of water by suction to such fire department apparatus, and (C) is permanently installed into an existing lake, pond or stream that is a dependable source of water.

Section 7: Application Requirements

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

- 7.10 Any application to renew a permit shall be granted upon request of the permit holder unless the Agency finds that there has been a substantial change in circumstances which requires a new permit application or an enforcement action has been undertaken with regard to the regulated activity for which the permit was issued, provided [a] no permit [issued during the time period from July 1, 2006, to July 1, 2009, inclusive,] shall be valid for more than [eleven] ten years, [; and b) no permit issued prior to July 1, 2006 or after July 1, 2009 may be valid for more than ten years.] and further provided that any permit issued prior to July 1, 2011 that did not expire prior to May 9, 2011 shall be valid for no more than fourteen years.

Section 11: Decision Process and Permit

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

- 11.6 Any permit issued by the Agency [prior to July 1, 2006 or after July 1, 2009] for the development of land for which an approval is required under section 8-3, 8-25 or 8-26 of the Connecticut General Statutes shall be valid for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted. Any permit issued by the Agency [prior to July 1, 2006 or after July 1, 2009] for any other activity shall be valid for not less than two years and not more than five years. Any permit issued by the Agency [during the time period from July 1, 2006, to July 1, 2009, inclusive, shall expire not less than six years] prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.

Should you have any further questions regarding the above changes, please feel free to contact Darcy Winther of the Wetlands Management Section at (860) 424-3019.