

Sec. 22a-42. Municipal regulation of wetlands and watercourses. Action by commissioner. (a)

To carry out and effectuate the purposes and policies of sections 22a-36 to 22a-45a, inclusive, it is hereby declared to be the public policy of the state to require municipal regulation of activities affecting the wetlands and watercourses within the territorial limits of the various municipalities or districts.

(b) Any municipality may acquire wetlands and watercourses within its territorial limits by gift or purchase, in fee or lesser interest including, but not limited to, lease, easement or covenant, subject to such reservations and exceptions as it deems advisable.

(c) On or before July 1, 1988, each municipality shall establish an inland wetlands agency or authorize an existing board or commission to carry out the provisions of sections 22a-36 to 22a-45, inclusive. Each municipality, acting through its legislative body, may authorize any board or commission, as may be by law authorized to act, or may establish a new board or commission to promulgate such regulations, in conformity with the regulations adopted by the commissioner pursuant to section 22a-39, as are necessary to protect the wetlands and watercourses within its territorial limits. The ordinance establishing the new board or commission 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 in the new board or commission. No member or alternate member of such board or commission shall participate in the hearing or decision of such board or commission 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 such disqualification, such fact shall be entered on the records of such board or commission 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. For the purposes of this section, the board or commission authorized by the municipality or district, as the case may be, shall serve as the sole agent for the licensing of regulated activities.

(d) At least one member of the inland wetlands agency or staff of the agency shall be a person who has completed the comprehensive training program developed by the commissioner pursuant to section 22a-39. Failure to have a member of the agency or staff with training shall not affect the validity of any action of the agency. The commissioner shall annually make such program available to one person from each town without cost to that person or the town. Each inland wetlands agency shall hold a meeting at least once annually at which information is presented to the members of the agency which summarizes the provisions of the training program. The commissioner shall develop such information in consultation with interested persons affected by the regulation of inland wetlands and shall provide for distribution of video presentations and related written materials which convey such information to inland wetlands agencies. In addition to such materials, the commissioner, in consultation with such persons, shall prepare materials which provide guidance to municipalities in carrying out the provisions of subsection (f) of section 22a-42a.

(e) Any municipality, pursuant to ordinance, may act through the board or commission authorized in subsection (c) of this section to join with any other municipalities in the formation of a district for the regulation of activities affecting the wetlands and watercourses within such district. Any city or borough may delegate its authority to regulate inland wetlands under this section to the town in which it is located.

(f) Municipal or district ordinances or regulations may embody any regulations promulgated hereunder, in whole or in part, or may consist of other ordinances or regulations in conformity with regulations promulgated hereunder. Any ordinances or regulations shall be for the purpose of effectuating the purposes of sections 22a-36 to 22a-45, inclusive, and, a municipality or district, in acting upon ordinances and regulations shall incorporate the factors set forth in section 22a-41.

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(g) Nothing contained in this section shall be construed to limit the existing authority of a municipality or any boards or commissions of the municipality, provided the commissioner shall retain authority to act on any application filed with said commissioner prior to the establishment or designation of an inland wetlands agency by a municipality.

(1972, P.A. 155, S. 7; P.A. 73-571, S. 3, 9; P.A. 74-133; P.A. 87-533, S. 5, 14; P.A. 96-157, S. 3; 96-269, S. 3, 4.)

History: P.A. 73-571 clarified provisions, included districts as well as municipalities under provisions, specified that ordinance establishing board or commission should determine number of members, length of terms, etc. in Subsec. (c) and added Subdiv. (2) in Subsec. (f) re commissioner's power to protect wetlands and watercourses if municipality does not exercise its regulatory authority; P.A. 74-133 added provisions re disqualification of members from participation in hearing or decision in which they are directly or indirectly personally or financially involved and selection of alternate in such cases under Subsec. (c); P.A. 87-533 amended Subsec. (a) to require rather than encourage municipal regulation of inland wetlands, amended Subsec. (c) to require all municipalities to establish inland wetlands agencies on or before July 1, 1988, amended Subsec. (d) to authorize towns or boroughs to delegate authority to regulate inland wetlands to the towns in which they are located, deleted former Subsec. (f) re state regulation of inland wetlands, relettering former Subsec. (g) as (f) and adding proviso re commissioner's authority to act on applications filed prior to designation of municipal agency; P.A. 96-157 inserted new Subsec. (d) re training of agency or staff and relettered former subsequent Subsecs. and amended Subsec. (f) to require incorporation of the factors for consideration set forth in Sec. 22a-41 in the agency's regulations or ordinances; P.A. 96-269 changed effective date of P.A. 96-157 from October 1, 1996, to January 1, 1997, effective June 12, 1996.

Cited. 179 C. 250. Cited. 180 C. 421; Id., 692. Cited. 183 C. 532. The inland wetlands and watercourses act cited. 186 C. 67. Cited. 192 C. 247. Cited. 193 C. 414. The inland wetlands and watercourses act cited. 196 C. 218. Cited. 203 C. 525. Cited. 209 C. 544; Id., 652. Cited. 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 (IWWA) Sec. 22a-36 et seq. cited. Id. Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703. Cited. 219 C. 404. Inland wetlands and watercourses act cited. Id. Cited. 220 C. 362; Id., 476. Cited. 226 C. 579. Inland wetlands and watercourses act. Secs. 22a-36-22a-45a cited. Id. Inland wetlands and watercourses act. Sec. 22a-36 et seq. cited. 228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627; Id., 654. Cited. 242 C. 335. Inland Wetlands and Watercourses Act cited. Id.

Cited. 4 CA 271. Cited. 5 CA 70. Cited. 6 CA 715. Inland wetland and watercourses act cited. 12 CA 47. Inland wetlands and watercourses act cited. 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. Cited. 28 CA 780. Inland wetlands and watercourses act cited. Id. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Inland wetlands act cited. 30 CA 85. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. 31 CA 105; Id., 599; judgment reversed, see 229 C. 627. see also 36 CA 270. Cited. 31 CA 643. Inland wetlands and watercourses act cited. 32 CA 799. Cited. 34 CA 385. Inland wetlands and watercourses. Sec. 22a-36 et seq. cited. Id. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166.

Cited. 35 CS 145. Cited. 36 CS 1. Cited. 41 CS 444. Cited. 42 CS 57.

Subsec. (a):

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Cited. 212 C. 710. Subdiv. (5) cited. 217 C. 164. Cited. 231 C. 451.

Cited. 18 CA 440. Cited. 37 CA 166.

Subsec. (c):

Cited. 186 C. 67.

Cited. 12 CA 47. Cited. 24 CA 708. Disqualification applies to ex officio members. 50 CA 548.

Cited. 43 CS 373. Once a municipality has established an agency to regulate activities affecting wetlands and watercourses within its territorial limits in accordance with this section, such agency is not subject to interference by municipality's legislative body. Inland Wetlands and Watercourses Act requires that the agency created pursuant to the act be sole agent for licensing of regulated activities in the municipality. 49 CS 188.

Subsec. (d):

Cited. 222 C. 98.

Subsec. (e):

Cited. 212 C. 710. Cited. 217 C. 164. Cited. 222 C. 98.

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Sec. 22a-42a. Establishment of boundaries by regulation. Adoption of regulations. Permits. Filing fee. (a) The inland wetlands agencies authorized in section 22a-42 shall through regulation provide for (1) the manner in which the boundaries of inland wetland and watercourse areas in their respective municipalities shall be established and amended or changed, (2) the form for an application to conduct regulated activities, (3) notice and publication requirements, (4) criteria and procedures for the review of applications and (5) administration and enforcement.

(b) No regulations of an inland wetlands agency including boundaries of inland wetland and watercourse areas shall become effective or be established until after a public hearing in relation thereto is held by the inland wetlands agency. Any such hearing shall be held in accordance with the provisions of section 8-7d. A copy of such proposed regulation or boundary 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, except determinations of boundaries, shall be provided to the commissioner at least thirty-five days before such hearing. Such regulations and inland wetland and watercourse boundaries may be from time to time amended, changed or repealed, by majority vote of the inland wetlands agency, after a public hearing in relation thereto is held by the inland wetlands agency, in accordance with the provisions of section 8-7d. Regulations or boundaries or changes therein shall become effective at such time as is fixed by the inland wetlands agency, provided a copy of such regulation, boundary or change shall be filed in the office of the town, city or borough clerk, as the case may be. Whenever an inland wetlands agency makes a change in regulations or boundaries it shall state upon its records the reason why the change was made and shall provide a copy of such regulation,

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boundary or change to the Commissioner of Environmental Protection no later than ten days after its adoption provided failure to submit such regulation, boundary or change shall not impair the validity of such regulation, boundary or change. All petitions submitted in writing and in a form prescribed by the inland wetlands agency, requesting a change in the regulations or the boundaries of an inland wetland and watercourse area shall be considered at a public hearing held in accordance with the provisions of section 8-7d. The failure of the inland wetlands agency to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the petition.

(c) (1) On and after the effective date of the municipal regulations promulgated pursuant to subsection (b) of this section, no regulated activity shall be conducted upon any inland wetland or watercourse without a permit. Any person proposing to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse shall file an application with the inland wetlands agency of the town or towns wherein the wetland or watercourse in question is located. The application shall be in such form and contain such information as the inland wetlands 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 inland wetlands agency shall not hold a public hearing on such application unless the inland wetlands agency determines that the proposed activity may have a significant impact on wetlands or watercourses, a petition signed by at least twenty-five persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, requesting a hearing is filed with the agency not later than fourteen days after the date of receipt of such application, or the agency finds that a public hearing regarding such application would be in the public interest. An inland wetlands agency may issue a permit without a public hearing provided no petition provided for in this subsection is filed with the agency on or before the fourteenth day after the date of receipt of the application. Such hearing shall be held in accordance with the provisions of section 8-7d. If the inland wetlands agency, or its agent, fails to act on any application within thirty-five days after the completion of a public hearing or in the absence of a public hearing within sixty-five days from the date of receipt of the application, or within any extension of any such period as provided in section 8-7d, the applicant may file such application with the Commissioner of Environmental Protection who shall review and act on such application in accordance with this section. Any costs incurred by the commissioner in reviewing such application for such inland wetlands agency shall be paid by the municipality that established or authorized the agency. Any fees that would have been paid to such municipality if such application had not been filed with the commissioner shall be paid to the state. The failure of the inland wetlands agency or the commissioner to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.

(2) An inland wetlands agency may delegate to its duly authorized agent the authority to approve or extend an activity that is not located in a wetland or watercourse when such agent finds that the conduct of such activity would result in no greater than a minimal impact on any wetland or watercourse provided such agent has completed the comprehensive training program developed by the commissioner pursuant to section 22a-39. Notwithstanding the provisions for receipt and processing applications prescribed in subdivision (1) of this subsection, such agent may approve or extend such an activity at any time. Any person receiving such approval from such agent shall, within ten days of the date of such approval, publish, at the applicant's expense, notice of the approval in a newspaper having a general circulation in the town wherein the activity is located or will have an effect. Any person may appeal such decision of such agent to the inland wetlands agency within fifteen days after the publication date of the notice and the inland wetlands agency shall consider such appeal at its next regularly scheduled meeting provided such meeting is no earlier than three business days after receipt by such agency or its agent of such appeal. The inland wetlands agency shall, at its discretion, sustain, alter or reject the decision of its agent or require an application for a permit in accordance with subdivision (1) of subsection (c) of this section.

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(d) (1) In granting, denying or limiting any permit for a regulated activity the inland wetlands agency, or its agent, shall consider the factors set forth in section 22a-41, and such agency, or its agent, shall state upon the record the reason for its decision. In granting a permit the inland wetlands agency, or its agent, may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: Restore, enhance and create productive wetland or watercourse resources. No person shall conduct any regulated activity within an inland wetland or watercourse 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 warrant 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 applicant shall be notified of the agency's decision by certified mail within fifteen days of the date of the decision and the agency shall cause notice of their order in issuance, denial, revocation or suspension of a permit to be published in a newspaper having a general circulation in the town wherein the wetland or watercourse lies. In any case in which such notice is not published within such fifteen-day period, the applicant may provide for the publication of such notice within ten days thereafter.

(2) Any permit issued under this section for the development of property for which an approval is required under section 8-3, 8-25 or 8-26 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 under this section for any other activity shall be valid for not less than two years and not more than five years. Any such permit shall be renewed 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 no permit may be valid for more than ten years.

(e) The inland wetlands 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 or agency orders.

(f) If a municipal inland wetlands agency regulates activities within areas around wetlands or watercourses, such regulation shall (1) be in accordance with the provisions of the inland wetlands regulations adopted by such agency related to application for, and approval of, activities to be conducted in wetlands or watercourses and (2) apply only to those activities which are likely to impact or affect wetlands or watercourses.

(P.A. 73-571, S. 4, 9; P.A. 75-387, S. 1; P.A. 77-599, S. 3, 7; P.A. 79-285, S. 1, 2; P.A. 81-125, S. 2; P.A. 83-109; P.A. 87-533, S. 6, 14; P.A. 89-356, S. 16; P.A. 92-148, S. 1, 2; P.A. 93-305; P.A. 95-313, S. 3; P.A. 96-157, S. 4; 96-269, S. 3, 4; P.A. 97-124, S. 10, 16; P.A. 98-209, S. 16; P.A. 99-225, S. 16, 33; P.A. 03-177, S. 11, 12; 03-276, S. 6.)

History: P.A. 75-387 specified in Subsec. (b) that amendment or repeal of regulations takes place only after public hearing is held, moved upper limit for hearing date from sixty to sixty-five days after

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receipt of application and required that action be taken within sixty-five rather than forty-five days after completion of hearing in Subsec. (c), and required that applicant be notified of decision within fifteen rather than five days after decision reached in Subsec. (d); P.A. 77-599 required that commissioner be sent a copy of changed regulations, boundaries, etc. in Subsec. (b) and a copy of permits or orders issued in Subsec. (d) and required that reasons for a decision be included in the record; P.A. 79-285 required publication of notice twice rather than once and set standards for times of posting and added Subsec. (e) re filing fee; P.A. 81-125 added the word "watercourse" after each use of the words "inland wetland" for consistency with other sections of the chapter; P.A. 83-109 amended Subsec. (c) by establishing the day of receipt of applications for permits to conduct a regulated activity upon an inland wetlands or watercourse; P.A. 87-533 amended Subsec. (a) to require regulations on forms for an application notice and publication requirements, criteria and procedures for review and administrative and enforcement, amended Subsec. (b) to require notice to the commissioner before a public hearing and to delete provision which had authorized imposition of filing fee, amended Subsec. (c) to require that public hearing be completed forty-five days after commencement and to reduce time for action on applications from sixty-five to thirty-five days, amended Subsec. (d) to require zoning compliance before regulated activity is conducted in an inland wetland and to delete provision requiring sending of copy of permit and order to commissioner within ten days of issuance and amended Subsec. (e) to authorize municipalities to charge filing fees sufficient to cover the reasonable cost of reviewing and acting on applications; P.A. 89-356 amended Subsec. (b) to authorize the petitioner to consent to more than one extension of the periods specified for the holding of the hearing and for action on the petition provided the total extension is not for longer than the original period and to add provision that the failure of the agency to act in a timely manner shall not be deemed to constitute approval of the petition, amended Subsec. (c) to add provisions authorizing the applicant to consent to one or more extensions of the time periods for agency action, provided the total extension is not for longer than the original period, or to withdraw the application, authorizing the applicant to file the application with the commissioner of environmental protection for review and action if the agency fails to act within specified time periods or any extension thereof, specifying that the costs of the review by the commissioner shall be paid by the municipality and that fees otherwise payable to the municipality shall be paid to the state, and specifying that the failure of the agency or commissioner to act in a timely manner shall not be deemed to constitute approval of the application, and amended Subsec. (d) to authorize the applicant to provide for the publication of the notice of the decision of the agency when such notice is not published in a timely manner; P.A. 92-148 amended Subsec. (b) to change the required time of the first newspaper advertisement for a hearing under that Subsec. to not more than fifteen days nor less than ten days before such hearing, reducing time frame by ten days, and amended Subsec. (d) to provide for specific time limits for permits issued under that Subsec; P.A. 93-305 amended Subsec. (d) to modify the authority of wetlands agencies re expiration dates of permits and time required for completion of regulated activities; P.A. 95-313 added Subsec. (1) re buffer areas; P.A. 96-157 amended Subsec. (c) to create Subdivs. (1) and (2), amended Subdiv. (1) to condition the holding of public hearings on applications and added Subdiv. (2) to provide for delegation by the agency of certain authority to an agent, amended Subsec. (d) to create Subdivs. (1) and (2) and amended Subdiv. (1) to include references to action by the agent, to provide for terms for permits, deleted provisions re time periods for permits and added Subdiv. (2) re time periods for permits, and amended Subsec. (f) to delete a reference to "buffer" areas and to include references to watercourses; P.A. 96-269 changed effective date of P.A. 96-157 from October 1, 1996, to January 1, 1997, effective June 12, 1996 (Revisor's note: Due to a clerical error in Subsec. (c)(1) the words "... impact on wetlands or watercourses, a petition signed ..." were incorrectly printed in the original engrossed bill version of P.A. 96-157 as "... impact on wetlands, watercourses or a petition signed ..."); P.A. 97-124 amended Subsec. (c) to modify the time period for making a request for a public hearing, to exempt the actions of an agent of the municipal agency from certain time period requirements and to make technical changes, effective June 6, 1997; P.A. 98-209 amended Subsec. (c) to add additional provision for issuance of a permit without a public hearing; P.A. 99-225 amended Subsec. (c)(1) to modify the deadline for receipt of a petition for a public hearing on

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applications under this section, effective June 29, 1999; P.A. 03-177 amended Subsec. (b) by eliminating provisions re public hearing notice and procedure and the time for an inland wetlands agency to render a decision on a petition and adding provisions requiring public hearing to be conducted in accordance with Sec. 8-7d, and amended Subsec. (c)(1) by replacing provisions re determination of date of receipt of application, public hearing notice and procedure and the time for rendering a decision with provisions requiring public hearing to be conducted in accordance with Sec. 8-7d, effective October 1, 2003, and applicable to applications filed on or after that date; P.A. 03-276 amended Subsec. (c)(1) to add age and residency requirements for persons who sign a petition, effective July 1, 2003.

See Sec. 7-159b re preapplication review of use of property.

Cited. 179 C. 250. Cited. 180 C. 421; Id., 692. The inland wetlands and watercourses act cited. 186 C. 67. Cited. 192 C. 247. The inland wetlands and watercourses act cited. 196 C. 218. Cited. 203 C. 525. Cited. 209 C. 544; Id., 652. Cited. 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 (IWWA) Sec. 22a-36 et seq. cited. Id. Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476. Inland wetlands and watercourses act. Secs. 22a-36-22a-45a cited. 226 C. 579. Inland wetlands and watercourses act. Sec. 22a-36 et seq. cited. 228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627; Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 335. Site inspection was not a "hearing" requiring stringent notice requirement of statute. 243 C. 266.

Cited. 4 CA 271. Cited. 5 CA 70. Cited. 6 CA 715. Inland wetlands and watercourses act cited. 12 CA 47. Inland wetlands and watercourses act cited. 15 CA 336, 337; 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. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Inland wetlands act cited. 30 CA 85. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. 31 CA 105; Id., 599; judgment reversed, see 229 C. 627, see also 36 CA 270. Cited. Id., 643. Inland wetlands and watercourses act cited. 32 CA 799. Cited. 34 CA 385. Inland wetlands and watercourses act. 22a-36 et seq. cited. Id. Inland Wetlands and Watercourses Act cited. 36 CA 270. Cited. 37 CA 166. Inland Wetlands and Watercourses Act cited. Id. Cited. 43 CA 227.

Cited. 41 CS 444. Cited. 42 CS 57.

Subsec. (a):

Subdiv. (4) cited. 21 CA 122, 131.

Subsec. (b):

Cited. 231 C. 451, 460.

Subsec. (c):

Cited. 183 C. 532. Cited. 196 C. 218. Cited. 222 C. 98. Time limits directory not mandatory. Id., 269. Cited. Id., 541. Cited. 231 C. 451.

Cited. 6 CA 715. Cited. 20 CA 309. Cited. 24 CA 708. Cited. 25 CA 61; Id., 164. Cited. 29 CA 12. Cited. 35 CA 317. Cited. 37 CA 166. Cited. 41 CA 39; Id., 89; Id., 120. Purpose of hearing under Subdiv. (1). Site inspections are not hearings. 49 CA 95.

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Subsec. (d):

Requirement of stating upon the record the reason for its decision is met by the commission's statement of the factors upon which it relied. 180 C. 692. Cited. 196 C. 218. Cited. 212 C. 710. Trial court on appeal must search record of hearings before commission to determine if an adequate reason exists for its decision. 213 C. 604. Cited. 217 C. 164. Cited. 222 C. 98; Id., 541. Cited. 231 C. 451.

Cited. 18 CA 440. Cited. 19 CA 334. Cited. 20 CA 309. Cited. 21 CA 122. Cited. 24 CA 708. Cited. 27 CA 214. Cited. 29 CA 469. Cited. 32 CA 799. Cited. 41 CA 421; judgment reversed, see 242 C. 550.

Subsec. (f):

Commission may regulate activities impacting the physical characteristics of wetlands and watercourses, but no other aspects, such as wildlife or biodiversity. 266 C. 150.

Inland wetlands commission, under this section, must first enact a formal regulation to exercise its authority over upland review areas. 79 CA 710.

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Secs. 22a-42b and 22a-42c. Notice to adjoining municipalities when traffic, sewer or water drainage and water runoff will affect such municipalities. Notice of application to adjacent municipality re conduct of regulated activities within five hundred feet of its boundaries. Sections 22a-42b and 22a-42c are repealed, effective October 1, 2003.

(P.A. 87-307, S. 4; 87-533, S. 12, 14; P.A. 88-364, S. 34, 123; P.A. 89-175, S. 6, 7; P.A. 96-118, S. 4; P.A. 03-177, S. 14.)

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Sec. 22a-42d. Revocation of authority to regulate inland wetlands. (a) The commissioner may revoke the authority of a municipality to regulate inland wetlands pursuant to section 22a-42 upon determination after a hearing that such municipality has, over a period of time, consistently failed to perform its duties under said section. Prior to the hearing on revocation, the commissioner shall send a notice to the inland wetlands 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. The commissioner shall send a notice to the inland wetlands 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 section 22a-42 may appeal therefrom in accordance with the provisions of section 4-183. The commissioner shall have jurisdiction over the inland wetlands in any municipality whose authority to regulate such inland wetlands has been revoked. Any costs incurred by the state in reviewing applications for inland wetlands activity 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.

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(b) The commissioner shall cause to be published notice of the revocation or reinstatement of the authority of a municipality to regulate inland wetlands 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 wetlands pursuant to section 22a-42.

(P.A. 87-533, S. 13, 14; P.A. 88-364, S. 35, 123.)

History: P.A. 88-364 made a technical change to Subsec. (a).

Cited. 209 C. 544; Id., 652. Cited. 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 (IWWA) Sec. 22a-36 et seq. cited. Id. Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476. Inland wetlands and watercourses act. Secs. 22a-36-22a-45a cited. 226 C. 579. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627. Cited. Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 335.

Inland wetlands and watercourses act cited. 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. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Inland wetlands act cited. 30 CA 85. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. 31 CA 105; Id., 599; judgment reversed, see 229 C. 627, see also 36 CA 270. Inland wetlands and watercourses act cited. 32 CA 799. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 34 CA 385. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166.

Cited. 41 CS 444. Cited. 42 CS 57.

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Sec. 22a-42e. Application filed prior to change in inland wetlands regulations not required to comply with change. Exceptions. An application filed with an inland wetlands agency which is in conformance with the applicable inland wetlands regulations as of the date of the receipt of such application shall not be required thereafter to comply with any change in inland wetlands regulations, including changes to setbacks and buffers, taking effect on or after the date of such receipt and any appeal from the decision of such agency with respect to such application shall not be dismissed by the Superior Court on the grounds that such a change has taken effect on or after the date of such receipt. The provisions of this section shall not be construed to apply (1) to the establishment, amendment or change of boundaries of inland wetlands or watercourses or (2) to any change in regulations necessary to make such regulations consistent with the provisions of this chapter as of the date of such receipt.

(P.A. 89-311, S. 3; 89-356, S. 17; P.A. 96-157, S. 5; 96-269, S. 3, 4.)

History: P.A. 89-356 provided that such application shall not be required to comply with subsequent "changes to setbacks and buffers", deleted provision that such application shall not be required to

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comply with any subsequent change in inland wetlands "boundaries", and added provision that the section shall not be construed to apply to the establishment, amendment or change of boundaries of inland wetlands or watercourses or any change in regulations necessary to make such regulations consistent with the provisions of chapter 440 as of the date of such decision; P.A. 96-157 changed the date for determining an application's compliance with the law from the date of the decision of the agency to the date the agency receives the application; P.A. 96-269 changed effective date of P.A. 96-157 from October 1, 1996, to January 1, 1997, effective June 12, 1996.

Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476; Id., 527. Inland wetlands and watercourses act, Secs. 22a-36-22a-45a cited. 226 C. 579. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 228 C. 95. Cited. 229 C. 247. Inland wetlands and watercourses act cited. Id. Cited. Id., 627; Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 355.

Cited. 25 CA 51; Id., 199. Inland wetlands and watercourses act cited. 26 CA 564, 566; 27 CA 590; 28 CA 780. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Inland wetlands act cited. 30 CA 85. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. 31 CA 105; Id., 599; judgment reversed, see 229 C. 622, see also 36 CA 270. Cited. 32 CA 799. Inland wetlands and watercourses act cited. Id. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 34 CA 385. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166.

Cited. 42 CS 57.

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Sec. 22a-42f. Notice of application to water company re conduct of regulated activities within watershed of water company. When an application is filed to conduct or cause to be conducted a regulated activity upon an inland wetland or watercourse, any portion of which is within the watershed of a water company as defined in section 25-32a, the applicant shall provide written notice of the application to the water company and the Commissioner of Public Health in a format prescribed by said commissioner, provided such water company or said commissioner has filed a map showing the boundaries of the watershed on the land records of the municipality in which the application is made and with the inland wetlands agency of such municipality. Such notice shall be made by certified mail, return receipt requested, and shall be mailed not later than seven days after the date of the application. The water company and the Commissioner of Public Health, through a representative, may appear and be heard at any hearing on the application.

(P.A. 89-301, S. 1; P.A. 90-230, S. 72, 101; P.A. 91-300, S. 2; P.A. 06-53, S. 2.)

History: P.A. 90-230 corrected an omission; P.A. 91-300 changed the statutory definition of water company by changing the statutory definition reference from Sec. 16-1 to Sec. 25-32a; P.A. 06-53 required Commissioner of Public Health to receive notice of proposed regulated activity upon an inland wetland or watercourse within water company watershed, gave commissioner right to appear and be heard at hearing on any such proposed regulated activity and made technical changes.

Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476. Inland wetlands and watercourses act, Secs. 22a-36-22a-45a cited. 226 C. 579. Inland wetlands and watercourses act. Sec. 22a-36 et seq. cited.

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228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627; Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 355.

Inland wetlands and watercourses act cited. 26 CA 564; 27 CA 590; 28 CA 780. Inland wetlands and watercourses act. Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Inland wetlands act cited. 30 CA 85. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. 31 CA 105; Id., 599; judgment reversed, see 229 C. 627. see also 36 CA 270. Inland wetlands and watercourses act cited. 32 CA 799. Inland wetlands and watercourses act. Sec. 22a-36 et seq. cited. 34 CA 385. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166.

Cited. 42 CS 57.

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Sec. 22a-42g. Municipal fine for violation of wetlands regulations. (a) Any municipality may establish, by ordinance, a fine for violations of regulations adopted pursuant to section 22a-42 provided the amount of any such fine shall be not 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.

(b) 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 which adopts an ordinance pursuant to subsection (a) of this section shall also adopt a citation hearing procedure pursuant to section 7-152c by which procedure such fine shall be imposed.

(c) 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.

(P.A. 96-269, S. 1.)

Inland Wetlands and Watercourses Act cited. 242 C. 335.

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Sec. 22a-43. Appeals. (a) The commissioner or any person aggrieved by any regulation, order, decision or action made pursuant to sections 22a-36 to 22a-45, inclusive, by the commissioner, a district or municipality or any person owning or occupying land which abuts any portion of land within, or is within a radius of ninety feet of, the wetland or watercourse involved in any regulation, order, decision or action made pursuant to said sections may, within the time specified in subsection (b) of section 8-8, from the publication of such regulation, order, decision or action, 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 the court in any such judicial district. Such appeal shall be made returnable to the court in the same manner as that prescribed for civil actions brought to the court, except that the record shall be transmitted to the court within the time specified in subsection (i) of section 8-8. If the inland wetlands agency or its agent does not provide a transcript of the stenographic or the sound recording of a meeting where the inland wetlands agency or its agent deliberates or makes a decision on a permit for which a public hearing was

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held, a certified, true and accurate transcript of a stenographic or sound recording of the meeting prepared by or on behalf of the applicant or any other party shall be admissible as part of the record. Notice of such appeal shall be served upon the inland wetlands agency and the commissioner, provided, for any such appeal taken on or after October 1, 2004, service of process for purposes of such notice to the inland wetlands agency shall be made in accordance with subdivision (5) of subsection (b) of section 52-57. 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 such appellant's standing to bring the appeal. The court may, upon the record, grant or deny the motion. The court's order on such motion may be appealed in the manner provided in subsection (p) of section 8-8.

(c) The proceedings of the court in the appeal may be stayed by agreement of the parties when a mediation conducted pursuant to section 8-8a commences. Any such stay shall terminate upon conclusion of the mediation.

(d) 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 the court has approved such proposed withdrawal or settlement.

(e) There shall be no right to further review except to the Appellate Court by certification for review in accordance with the provisions of subsection (p) of section 8-8.

(1972, P.A. 155, S. 8; P.A. 73-571, S. 5, 9; P.A. 76-436, S. 461, 681; P.A. 77-603, S. 13, 125; P.A. 78-280, S. 1, 127; P.A. 84-227, S. 3; P.A. 87-338, S. 8, 11; P.A. 89-356, S. 9; P.A. 91-136; P.A. 95-151, S. 1; P.A. 96-180, S. 76, 166; P.A. 00-108, S. 1; P.A. 01-47, S. 3; 01-195, S. 173, 181; P.A. 02-132, S. 66; P.A. 04-78, S. 2.)

History: P.A. 73-571 provided that appeals be made within fifteen days after publication of regulation, order, etc. rather than in accordance with Secs. 4-166 to 4-184 of the 1971 supplement to statutes, added provisions clarifying nature and effect of appeal and deleted Subsecs. (b) and (c) re assessment of damages and allotment of court costs and re power of commissioner, district or municipality to purchase land and contract with landowners; P.A. 76-436 replaced court of common pleas with superior court and added reference to judicial districts, effective July 1, 1978; P.A. 77-603 amended appeal provisions to specify that in contested cases appeals shall conform to Sec. 4-183 and to clarify venue; P.A. 78-280 deleted references to counties; P.A. 84-227 added Subsec. (b) re a hearing on a motion to dismiss the appeal made by the person who applied for the order, decision or action where each appellant has the burden of proving his standing to bring the appeal, and added Subsec. (c) re a prohibition on withdrawal or settlement without court approval; P.A. 87-338 amended Subsec. (a) to authorize appeals by the commissioner or persons owning or occupying abutting land and to authorize the commissioner to appear as a party to actions brought by other persons; P.A. 89-356 amended Subsec. (a) to replace provision that aggrieved person or abutter "may, within fifteen days after publication of such regulation, order, decision or action 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,

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such appeal shall be in accordance with the provisions of section 4-183" with "may appeal to the superior court in accordance with the provisions of section 4-183"; P.A. 91-136 deleted language that appeal to superior court be in accordance with Sec. 4-183 and substituted language that appeal be taken within the time specified in Subdiv. (b) of such regulation, order, decision or action; P.A. 95-151 amended Subsec. (b) and added Subsec. (d) to provide for appeal of Superior Court's decision in manner provided for appeal of court decisions re zoning appeals; P.A. 96-180 amended Subsec. (d) to change "right of further review" to "right to further review", effective June 3, 1996; P.A. 00-108 amended Subsec. (a) to make a technical change and add provision re transcripts of meetings; P.A. 01-47 amended Subsecs. (a), (b) and (d) by making technical changes, including changes for purposes of gender neutrality; P.A. 01-195 amended Subsec. (a) to substitute "portion of land within" for "portion of land" and make technical changes, effective July 11, 2001; P.A. 02-132 added new Subsec. (c) re stay of appeal upon commencement of mediation pursuant to Sec. 8-8a, redesignated existing Subsecs. (c) and (d) as Subsecs. (d) and (e) and made technical changes in Subsec. (a) and redesignated Subsec. (d); P.A. 04-78 amended Subsec. (a) by adding provision re requirements for service for purposes of notice to inland wetlands agency applicable to appeals taken on or after October 1, 2004.

Rule that party who seeks advantage under a statute or ordinance is precluded from subsequently attacking validity raises question that claim could properly be litigated by appeal: jurisdictional claims are appropriate for resolution by declaratory judgment. 178 C. 173. Cited. 179 C. 250. Cited. 180 C. 421; Id., 692. Cited. 183 C. 532. The inland wetlands and watercourses act cited. 186 C. 67. The inland wetlands and watercourses act cited. 196 C. 218. Cited. 203 C. 525. Cited. 209 C. 544; Id., 652. Cited. 211 C. 416. Inland wetlands and watercourses act cited. 212 C. 710; Id., 727; 213 C. 604. Cited. 215 C. 616. Cited. 216 C. 320. Inland wetlands and watercourses act (IWWA) Sec. 22a-36 et seq. cited. Id. Cited. 217 C. 164. Inland wetlands and watercourses act (IWWA) cited. Id. Inland wetlands and watercourses act cited. 218 C. 703. Cited. 219 C. 404. Inland wetlands and watercourses act cited. Id. Cited. 220 C. 362; Id., 476. Cited. 221 C. 46. Cited. 222 C. 98. Inland wetlands and watercourses act. Secs. 22a-36-22a-45a cited. 226 C. 579. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627; Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 355.

Cited. 4 CA 271. Cited. 5 CA 70. Cited. 6 CA 715. Cited. 7 CA 283. Inland wetlands and watercourses act cited. 12 CA 47. Inland wetlands and watercourses act cited. 15 CA 336; 18 CA 440. Exception clause applied to state agencies only. 19 CA 713. Inland wetlands and watercourses act cited. 20 CA 309. Cited. 24 CA 163; Id., 708. Cited. 25 CA 164; Id., 543; judgment reversed, see 222 C. 541. Inland wetlands and watercourses act cited. 26 CA 564. Cited. 27 CA 214; Id., 590. Inland wetlands and watercourses act cited. Id. Cited. 28 CA 262; Id., 435. Inland wetlands and watercourses act cited. Id., 780. Inland wetlands and watercourses act. Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Cited. 30 CA 85. Inland wetlands act cited. Id. Cited. 31 CA 105. Inland wetlands and watercourses act. Secs. 22a-36-22a-45 cited. Id.; Id., 599; judgment reversed, see 229 C. 627, see also 36 CA 270. Cited. 32 CA 799. Inland wetlands and watercourses act cited. Id. Inland wetlands and watercourses act Sec. 22a-36 et seq. cited. 34 CA 385. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166. Cited. 43 CA 239.

Cited. 35 CS 145. Cited. 36 CS 1. Cited. 41 CS 184; Id., 444. Cited. 42 CS 57.

Subsec. (a):

Related service of notice on commissioner is not defect that flaws subject matter jurisdiction. 211 C. 416. Cited. 212 C. 710. Cited. 222 C. 541. Cited. 242 C. 335.

Cited. 12 CA 47. Provisions govern appeals from commission to superior court not proceedings

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before the commission. 30 CA 85. Cited. 31 CA 155.

Subsec. (c):

Cited. 220 C. 54. Cited. 242 C. 355.

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Sec. 22a-43a. Findings on appeal. Setting aside or modifying action. Authority to purchase land. (a) If upon appeal pursuant to section 22a-43, 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 inland wetland agency for action not inconsistent with its decision.

(b) To carry out the purposes of sections 22a-38, 22a-40, 22a-42 to 22a-43a, inclusive, 22a-401 and 22a-403, the commissioner, district or 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. 73-571, S. 6, 9.)

Cited. 180 C. 421; Id., 692. The inland wetlands and watercourses act cited. 186 C. 67; 196 C. 218. Cited. 203 C. 525. Cited. 209 C. 544; Id., 652. Cited. 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 (IWWA) Sec. 22a-36 et seq. cited. Id. Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703. Cited. 219 C. 404. Inland wetlands and watercourses act cited. Id. Cited. 220 C. 362; Id., 476. Inland wetlands and watercourses act, Secs. 22a-36-22a-45a cited. 226 C. 579. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627; Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 355.

Cited. 5 CA 70. Cited. 6 CA 715. Inland wetlands and watercourses act cited. 12 CA 47. Inland wetlands and watercourses act cited. 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. Inland wetland and watercourses act, Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Inland wetlands act cited. 30 CA 85. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. 31 CA 105; 31 CA 599; judgment reversed, see 229 C. 627, see also 36 CA 270. Inland wetlands and watercourses act cited. 32 CA 799. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 34 CA 385. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166.

Cited. 41 CS 444. Cited. 42 CS 57.

Subsec. (a):

Court held 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 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.)

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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 amended Subsec. (a) to add Subdiv. (2) re enforcement by the commissioner concerning unauthorized activities.

Cited. 179 C. 250. Cited. 180 C. 421; Id., 692. Cited. 183 C. 85; Id., 532. The inland wetlands and watercourses act cited. 186 C. 67. Cited. 193 C. 414. The inland wetlands and watercourses act cited. 196 C. 218. Cited. 203 C. 525. Cited. 209 C. 544; Id., 652. Cited. 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 (IWWA) Sec. 22a-36 et seq. cited. Id. Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476. Cited. 221 C. 46. Cited. 225 C. 185. Inland wetlands and watercourses act, Secs. 22a-36-22a-45a, cited. 226 C. 579. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627; Id., 659. Inland Wetlands and Watercourses Act cited. 242 C. 355. Trial court properly concluded that corporate officer was personally liable for cutting trees. 275 C. 105.

Cited. 4 CA 271. Cited. 5 CA 70. Cited. 6 CA 715. Inland wetlands and watercourses act cited. 12 CA 47. Inland wetlands and watercourses act cited. 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. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 29 CA 12, 15; Id., 105. Inland wetlands act cited. 30 CA 85. As a matter of law DEP could not properly issue an administrative order under Subsec. (a) having three years earlier elected to bring action against plaintiff under Subsec. (b). 31 CA 105. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. Id.; Id., 599; judgment reversed, see 229 C. 627. see also 36 CA 270. Inland wetlands and watercourses act cited. 32 CA 799. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 34 CA 385. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166.

Cited. 35 CS 145. Cited. 36 CS 1. Cited. 41 CS 444. Cited. 42 CS 57.

Subsec. (a):

Cited. 227 C. 904.

Cited. 18 CA 440.

Subsec. (b):

Trial court properly determined per diem monetary penalties. 275 C. 105.

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Cited. 8 CA 254. Cited. 32 CA 799. Supreme court in *Stamford v. Kovac*, 229 C. 622, reversed judgment of appellate court in 31 CA 599 and remanded case for consideration of remaining issues raised by defendant. 36 CA 270. Cited. 41 CA 120.

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Sec. 22a-45. Property revaluation. Any owner of wetlands and watercourses who may be denied a license in connection with a regulated activity affecting such wetlands and watercourses, shall upon written application to the assessor, or board of assessors, of the municipality, be entitled to a revaluation of such property to reflect the fair market value thereof in light of the restriction placed upon it by the denial of such license or permit, effective with respect to the next succeeding assessment list of such municipality, provided no such revaluation shall be effective retroactively and the municipality may require as a condition therefor the conveyance of a less than fee interest to it of such land pursuant to the provisions of sections 7-131b to 7-131k, inclusive.

(1972, P.A. 155, S. 10.)

See Sec. 12-63g re assessment of buffers.

Cited. 179 C. 250. Cited. 180 C. 421; Id., 692. Cited. 183 C. 532. The inland wetlands and watercourses act cited. 186 C. 67; 196 C. 218. Cited. 203 C. 525. Cited. 209 C. 544; Id., 652. Cited. 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 (IWWA) Sec. 22a-36 et seq. cited. Id. Inland wetlands and watercourses act (IWWA) cited. 217 C. 164. Inland wetlands and watercourses act cited. 218 C. 703; 219 C. 404. Cited. 220 C. 362; Id., 476. Inland wetlands and watercourses act, Secs. 22a-36-22a-45a cited. 226 C. 579. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 228 C. 95. Inland wetlands and watercourses act cited. 229 C. 247. Cited. Id., 627; Id., 654. Inland Wetlands and Watercourses Act cited. 242 C. 355.

Cited. 4 CA 271. Cited. 5 CA 70. Cited. 6 CA 715. Inland wetlands and watercourses act cited. 12 CA 47. Inland wetlands and watercourses act cited. 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. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 29 CA 12; Id., 105. Inland wetlands act cited. 30 CA 85. Inland wetlands and watercourses act, Secs. 22a-36-22a-45 cited. 31 CA 105; Id., 599; judgment reversed, see 229 C. 627, see also 36 CA 270. Inland wetlands and watercourses act cited. 32 CA 799. Inland wetlands and watercourses act, Sec. 22a-36 et seq. cited. 34 CA 385. Inland Wetlands and Watercourses Act cited. 36 CA 270; 37 CA 166. Section does not limit a property owner's remedy under Sec. 12-117a. 80 CA 630.

Cited. 35 CS 145. Cited. 36 CS 1. Cited. 41 CS 444. Cited. 42 CS 57.

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Sec. 22a-45a. General permits for minor activities. Regulations. (a) The Commissioner of Environmental Protection may issue a general permit for any minor activity regulated under sections