This document contains the Connecticut regulations for Inland Wetlands and Watercourses. This document was prepared by the State of Connecticut Department of Environmental Protection and is provided for the convenience of the reader. This is not the official version of the regulations. The official regulations are published by the State of Connecticut, Judicial Branch, Commission on Official Legal Publications in the Connecticut Law Journal. In the event there is inconsistency between this document and the regulations as published in the Connecticut Law Journal, the Connecticut Law Journal publication will serve as the official version.

Inland Wetlands and Water Courses Regulations of the Connecticut Department of Environmental Protection

Sec. 22a-39-1. Title and authority

These regulations shall be known as the "Inland Wetlands and Water Courses Regulations of the Connecticut Department of Environmental Protection."

(Effective February 25, 1974)

Sec. 22a-39-2. Definitions

Definitions, as used in these regulations:

1. "The Act" means Sections 22a-36 to 45 inclusive of the General Statutes, as amended;

2. "Commissioner" means the Commissioner of the Department of Environmental Protection;

3. "Department" means the Department of Environmental Protection;

4. "Deposit" includes, but shall not be limited to fill, grade, dump, place, discharge or emit;

5. "Discharge" means the emission of any water, substance or material into waters of the State of Connecticut whether or not such substance causes pollution;

6. "License" means the whole or any part of a permit, certificate of approval or similar form of permission which may be required of any person by the provisions of these regulations or the Act;

7. "Local Inland Wetlands Agency" means the agency empowered by municipal ordinance to implement and administer the Act and having jurisdiction over the inland wetlands and water courses of such municipality;

8. "Material" means any substance, solid or liquid, organic or inorganic, including but not limited to soil, sediment, aggregate, land, gravel, clay, bog, mud, debris, sand, refuse, or waste;

9. "Person" means any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including municipal corporations, government agencies or subdivisions thereof;

10. "Pollution" means any harmful thermal effect or the contamination or rendering unclean or impure of any wetlands or water courses of the State of Connecticut by reason of any waste or other materials discharged or deposited therein by any public or private sewer, or otherwise, so as directly or indirectly to come in contact with any wetlands or water courses;

11. "Regulated activity" means any operation within or use of a wetland or water course as listed in Section 4.2 of these regulations;

12. "Regulated Area" means any wetland or water course as defined in these regulations;

13. "Remove" includes, but shall not be limited to drain, excavate, mine, dig, dredge, suck, bulldoze, dragline, or blast;

14. "Rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any wetlands or water courses of the State of Connecticut, including but not limited to change in color, odor, turbidity or taste;

15. "Significant impact or major effect" means:

a. Any activity involving a deposition of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or water course system or

b. Any activity involving a removal of material which will or may have a substantial adverse effect on the regulated area or on another part of the inland wetland or water course system or

c. Any activity which substantially changes the natural channel or may inhibit the natural dynamics of a water course system or

d. Any activity which substantially diminishes the natural capacity of an inland wetland or water course to support desirable biological life, prevent flooding, supply water, assimilate waste, facilitate drainage, and/or provide recreation and open space;

16. ''Soil Scientist'' means an individual duly qualified in accordance with standards set by the United States Civil Service Commission;

17. ''Waste'' means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any wetlands or water courses of the State of Connecticut;

18. ''Water Courses'' means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, public or private, which are contained within, flow through or border upon the State of Connecticut or any portion thereof, not regulated pursuant to Sections 22-7h to 22-7o inclusive of the General Statutes, as amended;

19. ''Wetlands'' means land, including submerged land, not regulated pursuant to Sections 22-7h to 22-7o inclusive of the General Statutes, as amended, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and flood plain by the National Cooperative Soil Survey (as may be amended from time to time) of the U.S. Soil Conservation Service.

(Effective February 25, 1974)

Sec. 22a-39-3. Permitted operations and uses

Sec. 22a-39-3.1. Uses permitted as of right

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

a. Grazing, farming, nurseries, gardening, and harvesting of crops and farm ponds of three acres or less;

b. A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, providing the permit has been issued or the subdivision has been approved as of the effective date of promulgation of municipal regulations pursuant to the Act or in the absence thereof, as of the effective date of these regulations, whichever occurs first;

c. Boat anchorage or mooring;

d. Uses incidental for the enjoyment and maintenance of a residential property, such property defined as the largest minimum residential lot site permitted anywhere in the municipality, provided that in any town where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping, but shall not include removal or deposition of substantial amounts of material from or into a wetland or water course, or diversion or alteration of a water course;

e. Construction and operation, by water companies as defined in Section 16-1 of the General Statutes, or by municipal water supply systems as provided for in Chapter 102 of the 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 25-110 and 25-112 of the General Statutes, as amended.

(Effective February 25, 1974)

Sec. 22a-39-3.2. Uses permitted where indigenous character of land is not disturbed

The following operations and uses shall be permitted, as nonregulated uses in wetlands and water courses provided they do not disturb the natural and indigenous character of the land. "Disturbing the natural and indigenous character of the land" means that the activity will significantly disturb the inland wetland or water course by reason of removal or deposition of material, will cause the alteration or obstruction of water flow, or will result in the pollution of the wetland or water course.

a. Conservation of soil, vegetation, water, fish, shellfish and wildlife;

b. Outdoor recreation including play and sporting areas, golf courses, field trails, nature study, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.

(Effective February 25, 1974)

Sec. 22a-39-4. Licensing of regulated activities within regulated areas

Sec. 22a-39-4.1. Regulated activities to be licensed

Subject to the provisions of Sections 3, 4.3 and 4.4 hereof, regulated activities affecting wetlands and water courses within the State of Connecticut are prohibited except as they may be licensed 1) by the local inland wetlands agency, or 2) after June 30, 1974 by the Commissioner in the event that no local inland wetlands agency of competent jurisdiction is in operation.

(Effective February 25, 1974)

Sec. 22a-39-4.2. Regulated activities

The local inland wetlands agency or the Commissioner shall regulate only those activities which:

a. remove material from,

b. deposit material in,

c. obstruct,

d. construct,

e. alter, or

f. pollute inland wetlands and water courses.

(Effective February 25, 1974)

Sec. 22a-39-4.3.a. Activities to be regulated solely by the commissioner

The Commissioner shall regulate the following activities to the exclusion of the local inland wetlands agencies:

(1) Construction or modification of any dam, pursuant to Sections 25-110 and 25-112 of the General Statutes, as amended;

(2) Construction or placement of any obstruction within channel encroachment lines, pursuant to Sections 25-4a to g of the General Statutes, as amended;

(3) Construction or placement of any structure or obstruction within tidal, coastal and navigable waters, pursuant to Sections 25-7b to e of the General Statutes, as amended;

(4) Diversion of water for public and domestic use, pursuant to Sections 25-8a to e of the General Statutes, as amended;

(5) Discharges into waters of the state, pursuant to Section 25-54i of the General Statutes, as amended.

(Effective February 25, 1974)

Sec. 22a-39-4.3.b. Submission and processing of applications

Each application to undertake an activity specified in Section 4.3.a of these regulations shall be submitted to the Commissioner and processed in accordance with the statutes, regulations and procedures which are applicable to the proposed activity.

(Effective February 25, 1974)

Sec. 22a-39-4.3.c. Submission of application to local wetlands agency

Except as provided in Section 4.4 of these regulations, if any application submitted pursuant to Section 4.3.b of these regulations includes a regulated activity as defined by Section 4.2 of these regulations, the Commissioner shall direct the applicant to submit such portion of the application to the appropriate local inland wetlands agency.

(Effective February 25, 1974)

Sec. 22a-39-4.3.d. Local agency to direct certain applicants to commissioner

If a local inland wetlands agency receives an application to undertake an activity specified in Section 4.3.a of these regulations, the local inland wetlands agency shall in writing direct the applicant to apply to the Commissioner for the required license. The local wetlands agency may, in its discretion, review the remaining portions of the application, or may deem such application incomplete until the Commissioner issues a final decision concerning any related application subject to his jurisdiction.

(Effective February 25, 1974)

Sec. 22a-39-4.3.e. Permits granted by commissioner to be binding on local agency

Any permit granted or denied by the Commissioner shall be binding upon the local inland wetlands agencies as to matters within the Commissioner's jurisdiction.

(Effective February 25, 1974)

Sec. 22a-39-4.3.f. Commissioner may consult local agency

Upon receipt of any application to conduct an activity which will affect a wetland or water course, the Commissioner may submit a copy of the application to the local inland wetlands agency in any affected municipality for review and comment. The failure to receive a written reply shall not delay a public hearing or prejudice the final decision.

(Effective February 25, 1974)

Sec. 22a-39-4.4. Exclusive jurisdiction of commissioner

The Commissioner shall license and maintain exclusive jurisdiction over regulated activities as defined in Section 4.2 of these regulations to be undertaken by any department, agency or instrumentality of the State of Connecticut.

(Effective February 25, 1974)

Sec. 22a-39-4.5. Issuance of permit by commissioner before July 1, 1974

After the effective date of these Regulations, but before July 1, 1974, the Commissioner may issue such permits as he deems necessary to implement the purposes of the Act and of these Regulations.

(Effective February 25, 1974)

Sec. 22a-39-4.6. Boundary maps to be established

The local inland wetlands agency or the Commissioner shall establish or amend area boundary maps in accordance with the procedures of subsections f and g of Section 22a-39 of the General Statutes. Such maps shall be on file in the offices of the municipal clerks and at the Department, and titled "Designated Inland Wetlands and Water Courses of the . . . . . (City or town) of . . . . . (Name of Municipality)."

(Effective February 25, 1974)

Sec. 22a-39-4.7. Disputation of designations

Wetlands and Watercourses—Inland wetlands and water courses are defined in Sections 2 (18) and 2 (19) of these regulations.

a. If any person disputes the designation or the failure to designate any wetland or water course as a regulated area, such person may be required to produce such information as the local inland wetlands agency or the Commissioner deems necessary to permit an informed decision.

b. To meet the burden of proof for wetlands exemption under subsection (a), the petitioner may be directed to present documentation by a soil scientist that the wetland in question, or a portion of it, does not have a soil type classified by the National Cooperative Soils Survey as poorly drained, very poorly drained, alluvial, or flood plain.

(Effective February 25, 1974)

Sec. 22a-39-5. Application procedure

Sec. 22a-39-5.1.a. Where applications to be submitted

Any person wishing to carry out a regulated activity shall submit an application to the local inland wetlands agency. After June 30, 1974, if there is no such operating wetlands agency within the municipality, such person shall apply to the Commissioner.

(Effective February 25, 1974)

Sec. 22a-39-5.1.b. Complete application

No application submitted to the Commissioner shall be deemed complete unless it shall be in such form and contain such information as the Commissioner deems necessary for a fair determination of the issues. The Commissioner shall inform all applicants of such necessary information.

(Effective February 25, 1974)

Sec. 22a-39-5.1.c. Five copies of information required

Written information and maps required by the Commissioner shall be furnished in no fewer than five (5) copies.

(Effective February 25, 1974)

Sec. 22a-39-5.2. Information required on applications

All applications to the Commissioner shall include the following information in writing on a form provided by him.

a. The applicant's name, home and business addresses, and telephone numbers;

b. The owner's name (if applicant is not the owner of the property), home and business addresses, telephone numbers, and written consent to the proposed activity set forth in the application;

c. Applicant's interest in the land;

d. The geographical location of the property which is to be affected by the proposed activity, including a description of the land in sufficient detail to allow identification of the properties on the Inland Wetlands and Water Courses Map;

e. Purpose and description of the proposed activity;

f. A site plan;

g. Names of adjacent property owners;

h. Required additional information.

(Effective February 25, 1974)

Sec. 22a-39-5.3. Summary ruling

If the Commissioner finds that a proposed activity is a regulated activity not involving significant impact or major effect on the inland wetland or water course as defined in Section 2 of these regulations, he may allow the activity with or without conditions or limitations. The Commissioner, after full review of the considerations set forth in Sections 6.1.d through 6.1.h and other pertinent factors, shall issue a permit with or without conditions or limitations.

(Effective February 25, 1974)

Sec. 22a-39-5.4. Plenary rulings

If the Commissioner finds that the activity applied for does or may involve a significant impact or major effect on a wetland or water course, he may request additional information which may include but is not limited to:

a. **Site plan**—a map of the proposed use and the property which will be affected, drawn by a licensed surveyor, professional engineer, or professional architect, registered in the State of Connecticut or in an adjoining state, or by such other person acceptable to the Commissioner. The map shall be at a scale to be determined by the Commissioner. Detailed information to be included on this site plan shall be requested by the Commissioner according to his evaluation requirements.

b. **Soil sample data**—if the parcel lies within or partly within an area containing poorly drained, very poorly drained, alluvial, and/or flood plain soils, the data shall show precisely where each specific soil type is found. Soil types identified must be consistent with the categories established by the National Cooperative Soil Survey of the U.S. Soil Conservation Service.

c. **Biological information**—The applicant may be required to submit 1) an evaluation of the extent of the presence of plant species commonly associated with water courses, and 2) an analysis of the probable effect of his proposed activity upon the plant and animal ecosystem.

d. **Water course characteristics**—if the proposed activity may affect a water course lying within, partly within, or flowing through or adjacent to the affected property, the applicant may be required to submit information relative to the present character and the projected impact of the proposed activity upon the water course.

e. **Analysis of material to be deposited**—the applicant may be required to describe any materials to be deposited on the affected property in terms of volume, composition, and the possibility of erosion or leaching from deposited materials. The applicant may also be required to estimate the probable environmental impact of the deposition of materials on the affected wetlands or water courses.

f. A description of the proposed construction or the erection of structures on the affected property, including blueprints, engineering and architectural plans or designs. Such description should include the purposes of such construction or activity.

g. A list of other property owners whose rights or interests may be affected by the proposed activity.

(Effective February 25, 1974)

Sec. 22a-39-5.5. Public hearing may be held

If the Commissioner finds, on the basis of the evidence before him, that a regulated activity is involved which may have significant impact or major effect on a wetland or water course, he may docket such proposal for public hearing.

(Effective February 25, 1974)

Sec. 22a-39-5.6.e. Public hearings

All public hearings shall commence not sooner than thirty (30) days nor later than sixty (60) days after the receipt of a complete application. Notice of the hearing shall be published at least once not more than thirty (30) days and not fewer than ten (10) days before the date set for the hearing in a newspaper having a general circulation in each town where the affected wetlands or water courses are located. All applications, maps, and documents relating to this hearing shall be open for public inspection at the Office of the Clerk of the municipality wherein the affected inland wetland or water course is located, or at the Department. Notices of hearings shall be sent to the applicant, adjacent property owners, all known interested parties and groups, and to chief executive officers of the town wherein the wetland or water course lies.

(Effective February 25, 1974)

Sec. 22a-39-5.7.a. Review by county soil and water conservation district

The Commissioner may submit one copy of the application to the County Soil and Water Conservation District for review. Such submission shall be made upon the receipt of a complete application, but failure to receive a written review from the Soil and Water Conservation District shall not delay a public hearing or prejudice the final decision.

(Effective February 25, 1974)

Sec. 22a-39-5.7.b. Review by conservation commission

The Commissioner may submit one copy of the application to the Conservation Commission of the municipality wherein the wetland is located for review. Such submission shall be made upon receipt of a complete application, but failure to receive a written reply from the Conservation Commission shall not delay a public hearing or prejudice the final decision.

(Effective February 25, 1974)

Sec. 22a-39-5.7.c. Review by conservation or planning commissions of adjoining municipality

The Commissioner may submit one copy of the application to the Conservation Commission or Planning Commission in any municipality whose border lies within five hundred (500) feet of any wetland or water course that may be affected by the proposed activity. Such submission shall be made upon receipt of a complete application, but failure to receive a written reply shall not delay a public hearing or prejudice the final decision.

(Effective February 25, 1974)

Sec. 22a-39-6. Rendering a decision

Sec. 22a-39-6.1. Considerations for decision

The Commissioner shall, consistent with applicable requirements of Sections 4-166 to 185 of the General Statutes, as amended, consider the following in making his final decision on a permit application:

a. All evidence offered at any public hearing;

b. Any reports from other commissions and/or federal or state agencies, including the Soil and Water Conservation District and the Connecticut Department of Environmental Protection;

c. Additional requested information;

d. All relevant facts and circumstances, including but not limited to the following:

(i) The environmental impact of the proposed action, including the effects of the inland wetland's and water course's natural capacity to support desirable biological life, to prevent flooding, to supply water, to control sediment, to facilitate drainage, and to promote public health and safety.

(ii) The alternatives to the proposed action including a consideration of alternatives which might enhance environmental quality or have a less detrimental effect, and which could feasibly attain the basic objectives of the activity. This should include but is not limited to the alternative of taking no action, or postponing action pending further study; the alternative of requiring actions of different nature which would provide similar benefits with different environmental impacts, such as using a different location for the activity.

(iii) The relationship between the short-term uses of the environment and the maintenance and enhancement of long-term productivity, including consideration of the extent to which the proposed activity involves trade-offs between short-term environmental gains at the expense of long-term losses, or vice versa, and consideration of the extent to which the proposed action forecloses future options.

(iv) Irreversible and irretrievable commitments of resources which would be involved in the proposed activity. This requires recognition that the inland wetlands and water courses of the State of Connecticut are an indispensable and irreplaceable but fragile natural resource, and that these areas may be irreversibly destroyed by deposition, filling, and removal of material, by the diversion or obstruction of waterflow, and by the erection of structures and other uses.

(v) The character and degree of injury to, or interference with, safety, health, or the reasonable use of property which would be caused or threatened. This includes recognition of potential damage from erosion, turbidity, or siltation, loss of fish and other beneficial aquatic organisms, wildlife and vegetation; the dangers of flooding and pollution; and destruction of the economic, aesthetic, recreational and other public and private uses and values of wetlands and water courses.

(vi) The suitability of such action to the area for which it is proposed. This requires the agency to balance the need for the economic growth of the state and the use of its land, with the need to protect its environment and ecology for the people of the state and the benefit of generations yet unborn.

e. Measures which would mitigate the impact of the proposed activity and may be imposed as conditions of the permit. Such measures include the availability of further technical improvements or safeguards which could feasibly be added to the plan or action to avoid the reduction of the wetland's or water course's natural capacity to support desirable biological life, prevent flooding, supply water, control

sedimentation and/or prevent erosion, assimilate wastes, facilitate drainage, and provide recreation and open space.

(Effective February 25, 1974)

Sec. 22a-39-6.2.a. When commissioner must render decision

In the absence of a public hearing, the Commissioner shall render a final decision within ninety (90) days from the receipt of a complete application. The Commissioner shall notify the applicant by certified mail of his decision within ten (10) days of the date of the decision and the Commissioner shall cause notice of his decision to be published in a newspaper having a general circulation in the municipality wherein the regulated area lies.

(Effective February 25, 1974)

Sec. 22a-39-6.2.b. When commissioner must render decision after public hearing

Action shall be taken on applications within forty-five (45) days after certification of a transcript of the public hearing. The Commissioner shall inform the applicant and any other parties of his decision in granting a permit with or without conditions, or in denying a permit, by certified mail within ten (10) days of the date of such decision.

(Effective February 25, 1974)

Sec. 22a-39-7. The permit

Sec. 22a-39-7.1. Written opinion required

At the time of granting a permit, granting a permit with conditions or limitations, or denying a permit following a public hearing, the Commissioner shall issue a written opinion presenting his reasons.

(Effective February 25, 1974)

Sec. 22a-39-7.2. Modification and resubmission of denied application

The Commissioner may deny a permit with or without prejudice. If a permit is denied with prejudice, the application shall not be resubmitted for one year following the date of such denial. If a permit is denied without prejudice, the applicant may modify, amend or correct his proposal. The rejection of a modified proposal shall be equivalent to the denial of an application for the purposes of Section 10 of these regulations.

(Effective February 25, 1974)

Sec. 22a-39-7.3. Modification of application granted with conditions

If a permit is granted with conditions or limitations, and the applicant disputes such conditions or limitations, he may modify, amend or correct his proposal. Rejection of a modified, amended or corrected proposal shall be equivalent to the denial of an application for the purposes of Section 10 of these regulations.

(Effective February 25, 1974)

Sec. 22a-39-7.4. Initiation of activity to be within one year

Initiation of activity under a permit shall be within one year of the granting of the permit, unless the time period is extended by the Commissioner.

(Effective February 25, 1974)

Sec. 22a-39-7.5. Assignment of permits

No permit may be assigned or transferred without the written consent of the Commissioner.

(Effective February 25, 1974)

Sec. 22a-39-8. Other permits and licenses

Nothing in these regulations shall obviate any requirement for the applicant to obtain any other permit or license required by law or regulation of the Government of the United States or of the State of Connecticut or any political subdivision is solely the responsibility of the applicant.

(Effective February 25, 1974)

Sec. 22a-39-9. Enforcement

Sec. 22a-39-9.1. Entrance onto private property

In the performance of his duties under the Act, and under Section 22a-5 (d) of the General Statutes, the Commissioner or his designated agent pursuant to Section 22a-6 (d), may enter at all reasonable times upon any public or private property, except a private residence, for the purpose of inspection and investigation to ascertain possible violations of these regulations.

(Effective February 25, 1974)

Sec. 22a-39-9.2. Issuance of orders

If the Commissioner finds that any person is maintaining any facility or condition which reasonably can be expected to impair, alter or destroy the wetlands and water courses of the State or which is creating or reasonably can be expected to create a source of pollution to the wetlands and water courses of the State, he may issue an order to such person maintaining such facility or condition to take the necessary steps to correct such facility or condition.

(Effective February 25, 1974)

Sec. 22a-39-9.3. Appeal of order

Each order issued pursuant to Section 9.2 shall be sent by certified mail, return receipt requested, to the subject of such order and shall be deemed issued upon deposit in the mail. Any person aggrieved by any such order may, within thirty (30) days from the date such order is sent, request a hearing before the Commissioner. After such hearing the Commissioner shall consider the facts presented to him and shall revise and resubmit the order to the person or inform the person that the previous order has been affirmed. All such orders and hearings shall be issued and held in conformance with Sections 4-166 to 185 of the General Statutes, as amended, and with The Rules of Practice of the Dept. of Environmental Protection adopted pursuant to § 2 (a) of the P.A. 854 of 1971, as amended. The request for a hearing as provided for in this section shall be a condition precedent to the taking of an appeal under the provisions of Section 10 of these regulations. The Commissioner may, after the hearing provided for in this section, or at any time after the issuance of his order, modify such order by agreement or extend the time schedule therefor if he deems such modification or extension to be advisable or necessary. Any modification or extension shall be deemed to be a revision of an existing order and shall not constitute a new order.

(Effective February 25, 1974)

Sec. 22a-39-9.4. Penalties for violation of regulations

Any person who commits, takes part in, or assists in any violation of any provision of these regulations shall be subject to the penalties provided in Section 22a-44 of the General Statutes, and to such other penalties as the law may provide. If the Commissioner determines that any person is engaging in any regulated activity without a proper permit, or is exceeding the conditions or limitations placed on his permit or the scope of work as set forth in the application, or has obtained a permit through deception or through inaccurate information as to either the activity or its environmental impact, or has engaged or is engaging in any other violation of these regulations or the Act, the Commissioner may:

a. Issue a cease and desist order to such person, pursuant to Section 22a-7 of the General Statutes, as amended, directing him to halt any and all regulated activities or other violations;

b. Revoke or suspend any permit whose conditions or limitations have been exceeded, or which was secured through deception or through inaccurate information as to either the scope of its activity or its environmental impact;

c. Bring an action pursuant to Section 22a-44 of the General Statutes, as amended; or

d. Bring an action pursuant to Public Act No. 73-665 or any regulations promulgated thereunder.

(Effective February 25, 1974)

Sec. 22a-39-9.5. Suspension or revocation of permits

In the event that the Commissioner shall suspend or revoke a permit pursuant to Section 9.4.b above, the applicant shall be notified of the Commissioner's decision by certified mail within five (5) days of the date of the decision and the Commissioner shall cause notice of his order in revocation or suspension of a permit to be published in a newspaper having general circulation in the municipality wherein the wetland or water course lies. Before such suspension or revocation may take effect, the Commissioner shall afford the applicant opportunity to show compliance with all lawful requirements for retention of the permit. However, if the Commissioner finds that public health, safety or welfare imperatively requires emergency action, and incorporates a finding to that effect in his order, he may order summary suspension of a license pending proceedings for revocation or other action.

(Effective February 25, 1974)

Sec. 22a-39-9.6. Monies to be maintained in separate account

All monies collected pursuant to this section shall be maintained in a separate account and shall be used by the Commissioner to restore the affected wetlands or water courses to their condition prior to violation, wherever possible.

(Effective February 25, 1974)

Sec. 22a-39-9.7. Introduction of evidence

All parties may, subject to the ruling of the Commissioner, request summonses and examinations of witnesses; cross-examine witnesses; introduce records, papers, documents, or other evidence into the record; and submit oral arguments and file briefs for the purpose of showing compliance with requirements for retention of a permit and for the purpose of showing the absence of any violation.

(Effective February 25, 1974)

Sec. 22a-39-9.8. 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 and water courses.

(Effective February 25, 1974)

Sec. 22a-39-10. Appeals

Any person aggrieved by any regulation, order, decision or action made by the Commissioner pursuant to these regulations and/or the General Statutes of Connecticut may appeal to the court of common pleas in and for the county where the land affected is located within fifteen (15) days after publication of such regulation, order, decision, or action. All appeals shall follow the procedure outlined in Section 22a-43 of the General Statutes, as amended.

(Effective February 25, 1974)

Sec. 22a-39-11. Conformity of local wetlands agency regulations

Sec. 22a-39-11.1. Submission of local regulations to commissioner

All regulations, including regulated area boundary maps, promulgated or amended by local wetlands agencies, pursuant to the Act, shall be submitted to the Commissioner not later than ten (10) days after their adoption.

(Effective February 25, 1974)

Sec. 22a-39-11.2. Conformity of local regulations

The Commissioner shall examine such regulations, including maps and amendments, to determine their conformity with the Act and with these regulations in terms of a) procedural safeguards, b) completeness of wetland and water course coverage, c) adequacy of enforcement machinery and information gathering procedures, and d) substantial adherence to the policies and goals of the Act.

(Effective February 25, 1974)

Sec. 22a-39-11.3. Notice of nonconformance

In the event that the Commissioner shall find any part of such local inland wetlands agency regulation not in conformity, the Commissioner shall issue a notice of nonconformance which shall include:

a. the reasons for holding any part to be nonconforming;

b. the section or sections whose operation and effect shall be suspended until they shall be amended and resubmitted;

c. the extent to which the Commissioner shall exercise jurisdiction over the municipal wetlands and water courses, for their protection, in the interval between the issuance of a notice of nonconformance and the resubmission of amended regulations, including boundary maps.

(Effective February 25, 1974)

Sec. 22a-39-11.4.a. Amendment of nonconforming regulations

The local wetlands agency shall, pursuant to the provisions for adopting and amending regulations contained in the Act, initiate proceedings to amend such nonconforming regulations within twenty (20) days of the receipt of a notice of nonconformance.

(Effective February 25, 1974)

Sec. 22a-39-11.4.b. Jurisdiction where local regulations disapproved

Upon disapproval of any municipal regulations, the Commissioner shall assume jurisdiction over those portions of such municipality's regulations as may be necessary to assure continuity of wetland and water course regulation in such municipality. This jurisdiction shall cease upon approval of the municipality's regulations by the Commissioner.

(Effective February 25, 1974)

Sec. 22a-39-11.5.a. Where commissioner does not issue notice

Failure of the Commissioner to issue a notice of nonconformance within sixty (60) days of the receipt of such regulations, maps, or amendments shall be taken as approval of such regulations, except as provided in Section 11.5.b of these regulations.

(Effective February 25, 1974)

Sec. 22a-39-11.5.b. Final written approval

If municipal regulations were not submitted to and granted approval by the Commissioner in a preliminary form prior to adoption, they shall not become effective until granted final written approval by the Commissioner.

(Effective February 25, 1974)

Sec. 22a-39-11.6. Local regulations approved before effective date of these regulations

All municipal maps and regulations approved by the Commissioner before the effective date of these regulations shall be deemed sufficient to satisfy the requirements of the Act and these regulations. Such regulations shall be deemed fully operative as of their effective date.

(Effective February 25, 1974)

Sec. 22a-39-11.7. Jurisdiction of municipality

After July 1, 1974, any municipality which designates a local wetlands agency and adopts regulations shall, upon approval of such regulations by the Commissioner, exercise jurisdiction over regulated activities.

(Effective February 25, 1974)

Sec. 22a-39-11.8. Reports to commissioner

All enforcement activities undertaken by a municipality and all appeals involving a municipality which pertain to the wetlands and water courses of the State shall be reported, on a form supplied by the Commissioner, to the Commissioner within fifteen (15) days of the commencement of such action.

(Effective February 25, 1974)

Sec. 22a-39-12. Bond and insurance

Sec. 22a-39-12.1. Bond may be required

The applicant, upon approval of the license, and at the discretion of the Commissioner, may be required to file a performance bond or other adequate security in an amount and with sureties and in a form approved by the Commissioner.

(Effective February 25, 1974)

Sec. 22a-39-12.2. Condition for bond

The bond and sureties shall be conditioned on substantial compliance with all provisions of these regulations and conditions imposed on license approval.

(Effective February 25, 1974)

Sec. 22a-39-12.3. Public insurance

The applicant may be directed to certify that he has public insurance against liability which might result from the proposed operation or use covering any and all damages which might occur within three (3) years of completion of such operations, in an amount to be determined by the Commissioner commensurate with the projected operation.

(Effective February 25, 1974)

Sec. 22a-39-13. Conflict and severance

Sec. 22a-39-13.1. 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 provisions of the regulation which imposes the most stringent standards for the use of the wetland or water course shall govern.

(Effective February 25, 1974)

Sec. 22a-39-13.2. 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 February 25, 1974)

Sec. 22a-39-14. Reporting requirements for municipal inland wetland agencies

(a) Each inland wetland and watercourses agency established pursuant to section 22a-42 of the General Statutes, as amended, shall report the following actions to the Commissioner on a form provided by the Department:

(1) permits issued;
(2) permits denied;
(3) enforcement notices and orders;
(4) map amendments; and
(5) jurisdictional rulings.

(b) The information reported to the Commissioner shall include, but is not limited to:

(1) name of the town and reporting agency;
(2) reporting period;
(3) action category;
(4) date action was taken;
(5) location of activity;
(6) name for project site;
(7) name of applicant, petitioner or violator;
(8) activity category;
(9) activity purpose;
(10) public hearings;
(11) permit duration;

(12) area of wetland soils and watercourse altered;

(13) area of wetland and watercourse created;

(14) lineal feet of brook, river or stream altered;

(15) acreage of lake, pond or similar open water body filled or dredged;

(16) total land area of the project including uplands and wetlands and watercourses;

(17) soil classifications; and

(18) name of the person(s) who completed the form.

(c) The location of the action reported shall be outlined or pinpointed on an eight and one half by eleven inch (8½ by 11 inch) photocopy of a portion of the USGS quadrangle map for the area in question. The Commissioner shall provide a single set of U.S. Fish & Wildlife Service National Wetland Inventory Maps to each municipal inland wetland agency for this purpose.

(d) The municipal inland wetland agency may require applicants or petitioners for map changes to complete appropriate portions of the form as part of the application filing.

(e) The inland wetland agency shall ensure that the information provided on reporting forms is accurate and that it reflects the final action of the agency.

(f) Completed reporting forms for actions taken during a calendar month shall be mailed by the municipal wetland agency to the Commissioner at the address noted on the form no later than the 15th day of the following month.

(g) The Commissioner may revise the inland wetland activity reporting form and may issue instructions or guidelines to help municipal inland wetland agencies complete and file them in a timely fashion.

(Effective December 29, 1988)

Sec. 22a-39-15. Payments to the state for acting on inland wetlands and watercourses permit applications

(a) After July 1, 1988 any applicant for an inland wetlands and watercourses permit filed with the commissioner pursuant to section 22a-39 (i) of the General Statutes for activity in a town which has not established an inland wetlands and watercourses agency pursuant to section 22a-42 of the General Statutes, shall pay the state an application fee based on the fee schedules established in subsection (i) of this section.

(b) Any municipality whose jurisdiction under sections 22a-36 through 22a-45 of the General Statutes has been revoked by the Commissioner, shall pay the state for its acting on applications for inland wetland or watercourse activity in such municipality in accordance with the fee schedules established in subsection (i) of this section. All fees payable to the state by the municipality shall be billed to the municipality after final action has been taken on the application. Payment shall be made within 90 days.

(c) If the Commissioner revokes municipal jurisidiction, any fees due the municipality from applicants for inland wetland activity under the municipal inland wetland regulations, shall instead be paid by the applicant to the state. All such fees shall be paid at the time the application is filed with the Commissioner.

(d) In the case of inland wetland applications pending before a municipality whose jurisdiction has been revoked, the municipality shall refund to the applicant any application fees submitted to it with instruction to remit such fees to the state pursuant to subsection (c) of this section.

(e) Application fees are not refundable.

(f) No application shall be deemed complete unless the correct application fee required from the applicant is paid in full or unless a waiver has been granted to the applicant by the Commissioner pursuant to subsection (j) of this Section.

(g) **Method of Payment.** All fees required by these regulations shall be submitted to the Commissioner by certified check or money order made payable to the "Treasurer of the State of Connecticut" provided payments by municipalities may be made by the draft of such municipality.

(h) **Definitions:**

"residential uses" means activities carried out on property developed for permanent housing or being developed to be occupied by permanent housing on an individual building lot or as part of a subdivision of land for housing.

"commercial uses" means activities carried out on property developed for industry, commerce, trade, recreation, or business or being developed to be occupied for such purposes, for profit or nonprofit.

"other uses" means activities other than residential uses or commercial uses.

(i) **Fee Schedule.** Application fees shall be based on the following schedule:

(1) Regulated Uses

Residential uses on single lot $400.00
plus fee from schedule A

Commercial uses of single lot. $500.00
plus fee from schedule A

Subdivision. $200.00

Plus:

(A) $45.00 for each proposed subdivision lot whether or not such lots contain wetlands or watercourses, and

(B) $110.00 for each lot on which a regulated activity is proposed, and

(C) fee from schedule A

All other uses 170.00
plus fee from schedule A

(2) Significant Activity Fee $525.00

(A) A significant activity fee shall be paid if the application involves an activity upon a wetland or watercourse which will have or is likely to have a "significant impact or major effect" as these terms are defined in section 22a-39-2 of the Inland Wetlands and Water Courses Regulations of the Connecticut Department of Environmental Protection and a public hearing is required pursuant to section 22a-29 (k) of the General Statutes.

(B) If the Commissioner waives the requirement for the public hearing and subsequently holds a public hearing solely as a result of a petition pursuant to section 22a-39 (k) of the General Statutes, the significant activity fee shall be waived, except in any case where municipal jurisdiction to regulate wetlands and watercourses has been revoked in accordance with section 13 of Public Act 87-533, a $525.00 public hearing fee shall be paid by the municipality in which the regulated activity is proposed to take place.

(3) Post Permit Inspection $150.00

A post permit inspection fee of $150.00 shall be paid prior to the issuance of any permit. In any case where additional scheduled inspections are required, the commissioner shall determine the number of, and schedule for, post permit inspections and provide the applicant an opportunity to contest the additional fees prior to the issuance of the permit. The fee for such additional inspections shall be $150.00 each.

(4) Modification of Existing Permit $25.00

This fee applies to the transfer of a permit to a new permittee, minor plan revisions within the scope of the original application and permit, modification of specific terms or conditions imposed as part of the permit, and similar administrative actions. There shall be no fee for correcting typographical or other errors which are the responsibility of the Department of Environmental Protection.

SCHEDULE A. The regulated area in schedule A is the total area of wetlands and watercourses upon which a regulated activity is proposed. To calculate the fee, round up to the next highest 1000 square feet (example: 2340 square feet is rounded up to 3000 square feet).

SQ. Ft. Regulated Area	Fee/1000 Sq. Ft. Regulated Area
Less than 2,000	$18.00 per 1000 square feet
2,000 to 50,000	$36.00 plus $12.00 per 1000 square feet
More than 50,000	$600.00 plus $6.00 per 1000 square feet

(j) **Waiver.** The applicant may petition the Commissioner to waive, reduce or allow delayed payment of the fee required by this section. Such petitions shall be in writing and shall state fully the facts and circumstances the Commissioner should consider in his or her determination under this section. The Commissioner may waive all or part of the application fee if:

(1) the activity applied for would clearly result in a subtantial public benefit to the environment or to the public health and safety and the applicant would reasonably be deterred from initiating the activity solely or primarily as a result of the amount of the application fee, or

(2) the amount of the application fee is clearly excessive in relation to the cost to the State for reviewing and processing the application.

The Commissioner shall state upon the record the basis for all actions under this subsection.

(Effective December 29, 1988)