

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 13-209—sHB 6653

Environment Committee

Planning and Development Committee

AN ACT CONCERNING DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION REGULATORY STREAMLINING TO ASSIST MUNICIPALITIES

SUMMARY: This act makes many changes in the state's environmental laws. Among other things, it:

1. modifies the public notice information certain permit and license applicants must provide to the Department of Energy and Environmental Protection (DEEP) commissioner (§ 1);
2. eliminates the commissioner's authority to inventory and map the state's tidal wetlands (§§ 2 & 19);
3. allows the commissioner to provide certain notices electronically (§§ 3, 7, & 8);
4. removes the (a) 60-day deadline by which certain inland wetlands general permit applicants must notify local land use agencies and (b) provision allowing the agencies or any person to submit written comments on the applicant's proposed activity to the commissioner (§ 4);
5. expands the circumstances where the commissioner must hold a public hearing for a permit to conduct certain activities below the coastal jurisdiction line (§ 6);
6. extends the date by which regulations exempting categories of water discharges from certain plan and specification requirements must be adopted (§ 9);
7. requires the commissioner to issue and record a certificate of revocation when he revokes a final order to correct potential sources of, or abate, water pollution (§ 11); and
8. allows the commissioner to (a) set the fee, by regulation, for beneficial or commercial use of sand, gravel, or other material removed from certain tidal, coastal, or navigable waters and (b) waive the fee (§ 13).

The act repeals several environmental statutes, including those concerning a (1) public education program on solid waste disposal practices, (2) program related to greenhouse gas labeling for motor vehicles, and (3) requirement that DEEP offer certain carbon dioxide allowances. It also eliminates requirements that DEEP adopt regulations on (1) farm resources management plans, (2) sewage system additive registration, (3) residential underground heating oil storage tank systems, and (4) official recycling symbols (§§ 5, 10, 12, 14-18, & 20, see Table 1).

Lastly, the act makes many technical and conforming changes.

EFFECTIVE DATE: October 1, 2013

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§ 1 — NOTICE FOR INDIVIDUAL PERMITS OR LICENSES

By law, applicants for certain permits or licenses must publish a notice in a newspaper of general circulation in the affected area. These applicants must also notify the chief elected official in the town where the regulated activity is proposed. These requirements apply to permits or licenses for (1) conducting regulated activities in tidal or inland wetlands or certain activities below the coastal jurisdiction line, (2) solid waste facility construction, (3) dam construction or alteration, and (4) water diversion, among other things.

Prior law also required such applicants to (1) include with the application a signed statement certifying that they would publish notice of the activity on a form the DEEP commissioner supplied and (2) send a certified copy of the notice, as it appeared in the newspaper, to the commissioner. The act instead requires them to include with the application a (1) copy of the notice as it appeared in the newspaper and (2) signed statement certifying that they notified the town's chief elected official.

The act prohibits the commissioner from processing an application until the applicant submits the signed statement and a copy of the newspaper notice, instead of only the notice which prior law required.

§§ 2 & 19 — TIDAL WETLANDS INVENTORY

The act eliminates DEEP's authority to inventory Connecticut's tidal wetlands. It correspondingly removes prior law's requirements on the:

1. depiction of tidal wetlands in boundary maps;
2. procedure by which the maps are created, provided to the public, and appealed; and
3. process for the commissioner to (a) periodically inspect the wetlands to determine if revisions to the maps are necessary and (b) update the maps.

§§ 3, 7, & 8 — ELECTRONIC NOTICE

The act allows the DEEP commissioner to provide certain notices by electronic means, instead of only by mail, in connection with permit applications for (1) inland wetlands regulated activities, (2) water diversion, and (3) dam construction.

Inland Wetlands Regulated Activity

By law, the DEEP commissioner reviews applications to conduct regulated activities in inland wetlands (1) by most state departments, agencies, or instrumentalities and (2) in towns that do not regulate such wetlands. He can waive the public hearing required on the application if he determines the activity is not likely to significantly impact the wetlands involved. To do so, he must (1) publish, in a newspaper with general circulation in the affected towns, notice of his intent to waive the hearing and (2) mail notice of his intent to (a) the chief administrative officer in the towns where the activity will occur and (b) such towns' conservation commission and inland wetlands agency. The act allows the commissioner to notify the town officials electronically, instead of by mail.

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If the commissioner holds a public hearing on an application, the act allows him to provide the required notice electronically to the chief administrative officer in the towns where the activity will occur and the towns' conservation commission and inland wetlands agency. Prior law required him to do so by mail.

Diversion Permit

The act allows the commissioner to electronically notify a water diversion permit applicant when the application is complete. Prior law limited the notification method to certified mail, return receipt requested.

By law, after the commissioner notifies the applicant about a complete application, he must immediately provide notice of the application and a description of the proposed diversion to the:

1. governor,
2. attorney general,
3. House speaker,
4. Senate president pro tempore,
5. Office of Policy and Management secretary,
6. public health and economic and community development commissioners,
7. Public Utilities Regulatory Authority (PURA) chairperson,
8. chief executive officer and chairpersons of the conservation commission and wetlands agency of towns affected by the diversion, and
9. anyone who requested notice.

The act requires this notice and description to be provided electronically.

Dam Work Permit

The act allows the commissioner to notify an applicant to conduct certain dam work of his intent to grant or deny a permit by electronic means. Prior law limited this notice to certified mail, return receipt requested.

The act also allows the commissioner to provide notice of his intent by electronic means, instead of only by mail, to the chief executive officer; inland wetlands agency; and planning, zoning, and conservation commissions of each town where the work will occur or have an effect.

§ 4 — INLAND WETLANDS GENERAL PERMIT NOTICE

By law, state agencies, departments, or instrumentalities, except regional or local boards of education, intending to conduct minor regulated activities in inland wetlands under a general permit (see BACKGROUND) must provide written notice to the:

1. inland wetlands agency, zoning commission, planning commission or combined planning and zoning commission, and conservation commission of a municipality that will or may be affected by the activity and
2. departments that make such notices publicly available.

Prior law required an applicant to provide the notice at least 60 days before the activity began. Under the act, there is no specific timeframe to give this notice.

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The act also eliminates a provision allowing any person, inland wetlands agency, planning and zoning commission, or conservation commission to submit written comments on the activity to the commissioner at least 25 days before the activity starts.

§ 5 — FARM RESOURCES MANAGEMENT PLANS

The act allows, rather than requires, the DEEP commissioner to adopt regulations for farm resources management plans. Prior law required him to publish notice of intent to adopt such regulations by July 1, 1999, but they have not been adopted. The act also allows, rather than requires, the regulations to include such things as:

1. a priority system and procedures for deciding if a farm management plan is necessary;
2. best management practices, restrictions, and prohibitions for manure management, pesticide storage and handling, fertilizer management, and storage tanks; and
3. criteria and procedures for submitting and reviewing the plans and amendments to them.

By law, the commissioner may require a farm resources management plan from anyone engaged in agriculture on land in an aquifer protection area with gross sales from agricultural products of at least \$2,500 during the prior calendar year. But he must do so according to the above regulations.

§ 6 — HEARINGS BY PETITION

The act expands the circumstances in which the DEEP commissioner must hold a public hearing, upon petition, on a permit application to conduct certain activities below the coastal jurisdiction line in tidal, coastal, or navigable waters. These activities include such things as dredging, erecting structures, placing fill, and other related work.

Prior law required the commissioner to hold a public hearing on a permit application if (1) he received a petition requesting one signed by at least 25 people and (2) the application would (a) significantly affect a shellfish area, (b) have interstate ramifications, or (c) require a certificate of environmental compatibility and public need or approval from the Federal Energy Regulatory Commission. The act instead requires him to hold a public hearing on an application if he receives a petition signed by at least 25 people requesting one for any reason.

Existing law allows the commissioner to hold a public hearing on a permit application if he believes it is in the public interest and requires him to do so if the applicant requests one.

§ 9 — REGULATIONS FOR EXEMPTING DISCHARGE SYSTEMS

The act extends, from June 30, 2011 to February 1, 2015, the date by which the DEEP commissioner must adopt regulations exempting additional categories of wastewater discharges from submitting certain plans and specifications with

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their permit applications. By law, these regulations may (1) set minimum standards for designing and operating a discharge treatment system and (2) impose reporting requirements.

The law already allows the commissioner to exempt people and municipalities from the plan and specification submission requirement if the discharge:

1. comes from a new system that is substantially the same as the current one, if the current one is operating in compliance with a DEEP permit;
2. is described in a general permit;
3. comes from a system the commissioner determines was not designed to treat toxic or hazardous substances; or
4. is one the commissioner determined is not likely to cause substantial pollution.

§ 11 — CERTIFICATE OF REVOCATION

The act requires the DEEP commissioner to issue a certificate of revocation when he revokes a final order to abate water pollution or correct potential sources of such pollution. He must record the certificate on the land records in the town where the land at issue is located and send a certified copy of it to the landowner. Existing law requires him to issue and record a certificate of compliance and mail a copy of it to the landowner when such an order is complied with.

§ 13 — BENEFICIAL OR COMMERCIAL USE FEE

By law, anyone who conducts certain work in Connecticut’s tidal, coastal, or navigable waters waterward of the coastal jurisdiction line, such as dredging, erecting structures, or placing obstructions, must obtain a certificate or permit from DEEP.

The law generally requires anyone removing sand, gravel, or other material lying waterward of the mean high water mark in the tidal, coastal, or navigable waters under this permit to pay a fee to the state if making beneficial or commercial use of it. Under prior law, the fee was \$4 per cubic yard. The act authorizes the DEEP commissioner to adopt regulations establishing the fee amount. Until then, the fee remains \$4 per cubic yard. The act also allows the commissioner to waive the fee if the sand, gravel, or other material is decontaminated or processed to meet applicable environmental standards for reuse.

§§ 10, 12, 14-18, & 20 — REPEALED STATUTES AND REGULATIONS

The act repeals many environmental statutes and eliminates several provisions requiring DEEP to adopt regulations, as described in Table 1. It also makes technical and conforming changes based on their removal.

Table 1: Repealed Statutes and DEEP Regulation Requirements

<i>Statutory Citation</i>	<i>Description</i>	<i>Act §</i>
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§§ 16-246g and 22a-174f	DEEP must issue a general permit for constructing and operating certain emergency engines and distributed generation resources. Related pilot program to increase the operation of these electric generation resources, implemented by PURA.	14 & 20
§ 22a-31	DEEP must appoint hearing officers for tidal wetlands applications proceedings.	20
§ 22a-174m	DEEP must offer for sale carbon dioxide allowances to certain combined heat and power sources (cogeneration) subject to long-term power purchase agreements.	14 & 20
§§ 22a-201 to 22a-201b; 22a-201c(b)	DEEP must establish programs for (1) greenhouse gas labeling for new vehicles sold or leased in Connecticut and (2) public education about the labeling. Prohibition on selling or leasing a new motor vehicle without the Connecticut-specific label. Authority to use up to 40% of funds from a "greenhouse gas reduction fee" charged on the registration of new motor vehicles to implement the labeling and education programs. (Federal law requires similar informational labels on new motor vehicles.)	14, 15, & 20
§ 22a-213a	Each biomedical waste generator must inform DEEP of its disposal contractor, waste amount, and disposal site. (The state's solid waste management regulations require providing this information.)	14 & 20
§ 22a-240	Public education program requirement for DEEP to inform the public on risk assessment and risk management of solid waste disposal practices.	14, 16, 17, & 20
§ 22a-255c	DEEP must adopt, by regulation, official recycling symbols and procedures for their use.	14, 18, & 20
§ 22a-370	People requesting a water diversion permit must inform the chief executive officer of the towns where the diversion will occur. (Another law, § 22a-6g, requires water diversion permit applicants to provide the same notice.)	20
§ 22a-449m(b)	DEEP must adopt regulations (1) establishing standards and criteria for residential underground heating oil storage tank systems and (2) regarding the removal of pipes connected to aboveground and	12

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	underground residential heating oil storage tank systems when a tank is removed. (The former DEEP residential underground heating oil tank program expired in 2001.)	
§ 22a-461(e)	DEEP must adopt regulations requiring registration of sewage system additives.	10

BACKGROUND

General Permits

DEEP uses both individual and general permits to regulate activities. Individual permits are issued directly to an applicant; general permits authorize similar minor activities by one or more applicants. The authorization of an activity under a general permit is governed by that general permit.

OLR Tracking: KLM:LH:JKL:RO