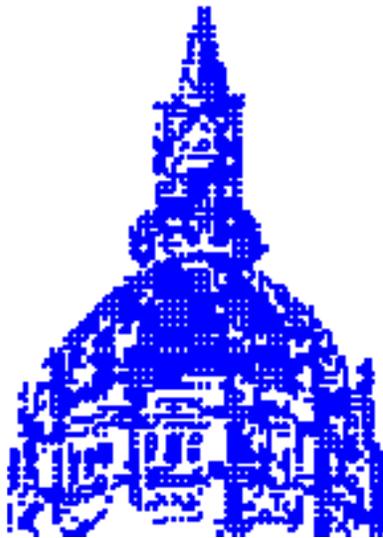


Office of Legislative Research
Connecticut General Assembly



OLR ACTS AFFECTING

Environment



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Notice to Readers

This report highlights 2004 acts affecting the environment. The acts are listed in numeric order by subject. In cases where a public act affects the environment and other areas, we have limited our summary to its environmental provisions. In some instances an act affecting more than one environmental area (for example, water quality and hazardous materials) will be listed under both headings. Unless otherwise noted, all references to the commissioner, department or agency refer to the Department of Environmental Protection (DEP).

Readers should examine the full text of the acts that interest them. They can obtain the acts from the Connecticut State Library or the House Clerk's office, [Office of the House Clerk-Home Page. http://www.cga.state.ct.us/hco](http://www.cga.state.ct.us/hco). Complete analyses of all public acts passed during the regular and special sessions will be available in early fall, when OLR releases its Public Act Summary book, but most analyses are now available on the OLR web site, [Office of Legislative Research](#).

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AGRICULTURE

An Act Continuing The Departments Of Agriculture And Consumer Protection As Separate Agencies

This act eliminates the merger of the departments of Agriculture and Consumer Protection authorized by PA 03-6, June 30 Special Session, and that was scheduled to take effect on July 1, 2004. It leaves both as stand-alone departments. **(PA 04-189, effective June 1, 2004)**

Farm Waste Management

Under prior law, the agriculture commissioner could reimburse farmers for up to 75% of the cost of complying with a farm resources management plan that the U.S. Department of Agriculture's (USDA) Farm Service Agency or the DEP certifies. The act:

1. increases the maximum reimbursement rate to 90% of compliance cost;
2. makes the DEP commissioner the only official who can approve farm resource management plans; and
3. allows farmers to seek reimbursement (up to 90%) for the costs of complying with a DEP-approved comprehensive farm nutrient management plan (CNMP), in addition to a

farm resources management plan.

The act retains the requirement that priority be given to capital improvement reimbursement and makes it equally applicable to CNMPs. It also makes the agriculture commissioner, in cooperation with the USDA, the payment certifying authority (replacing DEP or the USDA Farm Services Agency under prior law) for both types of programs.

A farm resources management plan must include best practices for managing farm waste to protect natural resources. A CNMP identifies the management and conservation actions that a farmer must follow to meet specific soil and water conservation goals, including nutrient management, on an animal feeding operation. **(PA 04-65, effective upon passage)**

Oyster Harvesting License And Tax

The act eliminates requirements that people who harvest oysters from state-seeded shellfish grounds (1) be licensed by the Department of Revenue Services (DRS), (2) pay a quarterly tax of 10% of the retail value of the harvested oysters as determined by regulations adopted by the agriculture commissioner, and (3) keep records of amounts harvested for three years and allow the DRS commissioner or her agents and

officers to inspect them on demand.

It also eliminates:

1. the requirement that revenue from assessments be deposited in the state Shellfish Fund;
2. the penalty for failing to pay the assessments;
3. requirements for harvesters to file quarterly returns with DRS;
4. a requirement that the DRS commissioner adopt regulations to implement the licenses and assessments;
5. provisions making the DRS collection procedures and powers under the admissions and dues taxes apply to the oyster tax; and
6. an obsolete requirement that the DRS and agriculture commissioners report on the oyster licensing and tax program to the Finance, Revenue and Bonding Committee by February 1, 1990 (**PA 04-201**, effective upon passage and applicable to calendar quarters starting on or after July 1, 2004).

The Preservation Of The Family Farm And Long Island Sound

This act requires the agriculture commissioner to impose an annual fee of 40 cents per linear foot on the owner of certain facilities that cross any grounds of the Sound within

Connecticut's jurisdiction, including any shellfish area or leased, designated, or granted grounds. The fee applies to facilities that require either (1) a Connecticut Siting Council certificate or (2) Federal Energy Regulatory Commission approval. The commissioner must (1) deposit 75% of the fee proceeds in the "expand and grow Connecticut agriculture" account, which the act establishes, and (2) transfer the remaining 25% to the DEP commissioner for deposit into the Environment Quality Fund.

The act requires any municipality or district that plans to take active agricultural land by eminent domain to purchase an easement on agricultural lands within its jurisdiction that meets certain size and soil quality criteria. If no such land is available, the municipality or district must pay for development rights to active agricultural land outside of its jurisdiction that is the same size and of equivalent or better soil quality than the land to be taken. The municipality or district must inform the agriculture commissioner which alternative it will take. The commissioner determines the amount the municipality or special district pays for the easement or purchase. The municipality or district cannot proceed with the taking until the commissioner approves of the easement purchase.

The act requires the agriculture commissioner to establish and administer Connecticut Farm Fresh programs that allow grocery stores, schools, and restaurants to be certified as using certain percentages of Connecticut-grown or produced farm products. It requires a grocery store to be certified in order to be eligible for loans and incentives from the Department of Economic Community Development (DECD).

The act requires the (1) Department of Administrative Services commissioner to give preference to dairy products, poultry, eggs, and fruits or vegetables grown in the state if they compare in cost to those grown outside the state when he contracts for or purchases such farm products and (2) DECD commissioner to consult with the agriculture commissioner regarding state housing policy, activities, programs, and plans and their impact on, and protection for, agricultural land.

PA 04-222

EFFECTIVE DATE: July 1, 2004, except for the Connecticut Farm Fresh programs, which is effective upon passage.

***State Shellfisheries,
Standards For Shellfish
Testing, Leasing Of Shellfish
Grounds, Shellfishing
Violations, The Use Of Power
Dredges To Restore Shellfish
Beds And The Agricultural
Technology Development
Advisory Board***

This act:

1. enhances and expands penalties for illegally harvesting shellfish;
2. permits local shellfish commissions to allow the use of power dredges to cultivate, enhance, or restore natural shellfish beds in certain areas;
3. requires the Department of Agriculture (DoAg) to promulgate health standards for shellfish testing based on the U. S. Food and Drug Administration's National Shellfish Sanitation Program (NSSP) Model Ordinance rather than requiring the Department of Public Health (DPH) to recommend health standards for shellfish testing and authorize a private laboratory to conduct tests;
4. increases the minimum fee the state charges for leasing shellfish grounds from \$2 to \$4 dollars per acre for both new leases and renewals and specifies that, when a lease ends, the lessee or holder must

- have met his obligations in order to receive preference in re-letting the grounds;
5. allows the agriculture commissioner, when a lessee requests, to divide or consolidate the lessee's grounds, if doing so is in the state's best interest (the minimum \$4 fee applies to divided or consolidated shellfish grounds);
 6. requires DoAg's Aquaculture Bureau director to study the effects of disease, pollution, siltation, and storm damage on oyster populations and report his findings to the Environment Committee by January 1, 2006; and
 7. eliminates the Agriculture Technology Development Advisory Board (**PA 04-223**, effective July 1, 2004 for the increased penalties for violating shellfish laws and adoption of the NSSP model ordinance and corresponding conforming changes; June 1, 2004 for shellfish bed fees, lease renewal and obligations, bed consolidation, and power dredges; and upon passage for the study and Agriculture Technology Development Advisory Board elimination)

AIR QUALITY

Clean Cars

This act requires the DEP commissioner to adopt, by December 31, 2004, regulations implementing California's emissions standards for light-duty motor vehicles (trucks with a maximum loaded weight of 8,500 pounds and passenger cars) and to keep them current with changes California makes. The regulations apply beginning with the 2008 model year. The act explicitly authorizes the commissioner to regulate motor vehicle emissions for other vehicle classes.

Under the federal Clean Air Act (42 USC § 7507) all new cars sold in the U.S. must comply either with emission standards set by EPA or California.

The most significant difference between the California and federal standards is California's requirement that a growing proportion of a motor vehicle fleet comprise zero-emission vehicles (ZEVs). Vehicles that meet certain emission and durability requirements or that achieve near-zero emissions through the use of advanced technology and alternative fuels may be counted towards the ZEV requirements. (**PA 04-84**, effective October 1, 2004)

Funding For Indoor Air Quality Projects

This act adds indoor air quality programs relating to energy conservation to the programs electric companies may develop and implement with funding from the Conservation and Load Management Fund. By law, the companies must use the fund to implement cost-effective energy management programs and electricity market transformation initiatives. The fund is paid for by a surcharge on retail customers of 0.3 cents per kilowatt-hour of electricity electric companies sell. **(PA 04-129)**, effective October 1, 2004

Minor Revisions To The Environmental Protection Statutes

This act:

1. modifies filing requirements for certain DEP air pollution orders and exempts orders to create or use emission reduction credits from these filing requirements;
2. combines separate construction and operating permits for air pollution sources into a single permit; and
3. repeals outdated air pollution source registration and annual fees.

(PA 04-151), effective upon passage)

Clean And Alternative Fuel Vehicles

This act exempts from the sales tax, until October 1, 2008, hybrid passenger cars that achieve a U.S. Environmental Protection Agency estimated highway gasoline mileage rating of at least 40 miles per gallon. It extends until 2008 sales and other tax credits and exemptions encouraging the use and sale of, and investment in, alternative fuels and alternative fuel vehicles, facilities and equipment.

It requires that the fleet average for each class of cars or light duty trucks the state buys have the best achievable mileage per pound of carbon dioxide emitted. **(PA 04-231)**, effective July 1, 2004, except for the provision affecting the state motor vehicle fleet and the sales tax exemption for hybrid passenger cars which takes effect October 1, 2004. The provision for business tax credits is applicable to income years beginning January 1, 2004.

Climate Change

This act requires (1) the state to take steps to reduce greenhouse gas emissions, which are thought to contribute to global warming, as part of a regional effort to reduce such emissions in the short and long-term, and (2) the Governor's Steering Committee on Climate Change to develop plans to help

achieve the reduction goals. It requires the commissioner to (1) report annually on progress in achieving the goals and (2) work to establish a regional greenhouse gas registry and regional reporting system with other states or a regional consortium. The act requires certain electric generators and commercial and industrial sites annually to report their greenhouse gas emissions to the registry. The commissioner must also annually consider requiring (1) additional facilities or sectors to report to the regional greenhouse gas registry and (2) the reporting of additional greenhouse gases, and direct and indirect emissions.

The commissioner must also:

1. provide for the voluntary reporting of greenhouse gas emissions by entities not required to report,
2. evaluate the feasibility of creating and administering a statewide registry if a regional registry is not developed and implemented, and
3. publish a greenhouse gas emissions inventory every three years.

The act authorizes the commissioner to adopt regulations to implement the greenhouse gas registry and reporting provisions, and gives him broad authority to adopt regulations to implement the act. Under the act, a greenhouse gas is any chemical or physical substance emitted into the air

that the commissioner may reasonably expect to cause, or contribute to, climate change. These include carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

The act also requires the Department of Administrative Services (DAS) to develop and maintain information about environmentally preferable practices, in addition to environmentally preferable products and services the law already requires, including those practices, products, and services that minimize the impact of global warming. But it limits those practices, products, and services to those DAS procures. **(PA 04-252**, effective October 1, 2004)

BOND AUTHORIZATIONS

This act (1) reduces the bond authorization for the Clean Water Fund by \$60 million, from \$801,030,000 to \$741,030,000; (2) reduces the bond authorization for the Special Contaminated Property Remediation and Insurance Fund by \$2 million, from \$5 million to \$3 million; and (3) increase the bond authorization for the Farmland Preservation Program by \$1,990,000, from \$87,750,000 to \$89,740,000. **(PA-04-1**, May Special session, effective July 1, 2004)

DOMESTIC ANIMALS

Companion Animal Health Certificates, Establishing An Animal Abuse Cost Recovery Account And The Restraint Or Disposal Of Dogs

This act (1) creates an account for the cost of caring for abused animals seized by the agriculture department; (2) establishes a time limit on the validity of health certificates for cats and dogs brought into the state, and (3) requires the agriculture commissioner to adopt regulations expediting hearings on appeals involving restraint or disposal of biting dogs. The regulations must require the commissioner to make a final ruling on such appeals within 60 days of their filing. (**PA 04-145**, effective upon passage)

ENERGY EFFICIENCY

Energy Efficiency Standards

This act requires the Department of Public Utility Control (DPUC) to establish, by regulation, energy efficiency standards for specified heating, cooling, and lighting, and other types of products. DPUC must establish the standards in consultation with the Office of Policy and Management (OPM) by July 1, 2005. The act repeals existing standards for fluorescent

ballasts and lamps and showerheads.

Under prior law, showerheads and fluorescent lamps that did not meet state standards generally could not be sold, offered for sale, or installed in the state. The act instead subjects the products it covers, and additional products as designated by DPUC, to this prohibition generally starting July 1, 2006. Under the act, commercial clothes washers must meet the standards by July 1, 2007; commercial refrigerators and freezers by July 1, 2008; and large packaged air conditioning equipment, by July 1, 2009.

The act requires DPUC, in consultation with OPM, to adopt procedures for testing the energy efficiency of the new products. It requires the products' manufacturers to have samples tested for compliance with the standards and certify to the OPM secretary that they meet them. It requires DPUC, in consultation with the OPM secretary, to adopt regulations regarding certification. It also requires OPM annually to publish a list of the products requiring certification. Under prior law, the Department of Consumer Protection was responsible for adapting testing procedures and certifications regulations for fluorescent lamps and ballasts and shower hooks.

The act does not apply to products (1) manufactured in Connecticut but sold elsewhere, (2) manufactured outside the

state and sold at wholesale here for retail sale and installation outside of the state, (3) installed in mobile homes at the time of construction, or (4) designed expressly for installation and use in recreational vehicles.

The act eliminates a requirement that the commissioner of agriculture and consumer protection investigate complaints of violations of the law, have inspections made of the products covered under prior law, and report the results to the attorney general. By law, violators are subject to a civil penalty of \$250 for each violation, with each day constituting a separate offense. (PA 04-85 effective July 1, 2004)

FISH AND WILDLIFE

Commercial Fisheries License Requirements And Wildlife Permits

This act:

1. reinstates a moratorium on the issuance of new commercial finfish and fishing licenses, restricting licenses to people who held them anytime between June 1, 1995 and December 31, 2003;
2. extends the moratorium to cover lobster pot licenses;
3. allows the transfer of existing licenses under limited circumstances similar to those that applied under the former moratorium;

4. expands reporting requirements for people in the seafood industry and adds species about which a report must be submitted.

The act also requires both a commercial fisherman and a seafood dealer to hold DEP licenses before the fisherman can sell certain species he caught in Connecticut to the dealer for resale.

The act makes the following changes that affect charter, party, and head boats. It:

1. expands what is considered a charter, party, or head boat;
2. requires a person operating these vessels for fishing to hold a current U. S. Coast Guard-issued passenger-for-hire license; and
3. limits to tuna species the part of the catch the owner, operator, or captain of these vessels can sell.

For purposes of allowing an unlicensed person to accompany and assist a person who has a commercial license, the act bases the restrictions on using commercial fishing gear on the type of gear used rather than on the type of license the person has. It distinguishes the American shad from other shad species for purposes of licensing fees. It adds fish to the list of species that state residents and nonresidents may use or sell when they take them with lobster pots.

The act limits the exemption from the requirement to hold a

DEP permit to possess, import, introduce, or liberate a live fish, wild bird, wild mammal, reptile, amphibian or invertebrate. Under prior law, the requirement did not apply to animals in the state before October 1, 2003. Under the act, only primates that (1) weigh 50 pounds or less and (2) were imported into or possessed in the state before October 1, 2003, remain exempt from the permit requirement (**PA 04-97**, effective upon passage)

HAZARDOUS MATERIALS

Notification Of Contamination

By law, the owner of a contaminated parcel of land must notify the commissioner when he takes action that increases the likelihood of human exposure to known contaminants. The act requires the landowner to post notice of contamination in a conspicuous place on the affected property and in his place of business (if one exists) no later than five days after an activity begins. Activities requiring posting under the act include construction, demolition, significant soil disruption, or utilities installation. The act requires the commissioner, no more than 10 days after receiving a notice, to forward a copy to the (1) chief elected official of the town where the contaminated property is located and (2) the state senator and representative who represent that town. It also requires the commissioner to

maintain a list on DEP's website of all contamination notices he receives.

Landowners who fail to post the notices must pay a civil penalty of \$100 per day for violations. The act requires the attorney general to sue the owner in Hartford Superior Court to recover the penalty upon complaint by the commissioner. (**PA 04-134**, effective October 1, 2004)

Minor Revisions to the Environmental Protection Statutes

This act:

1. allows marinas and recreational or commercial boating facilities to sell or provide gasoline containing methyl tertiary butyl ether (MTBE) to boats, ships, vessels, barges, and other floating craft as long as the seller bought and stored the gasoline on site before January 1, 2004, when the state banned the use of MTBE in gasoline; and
2. requires a study of, and recommendations concerning, the regulation of mercury-containing lamps scheduled to be banned starting July 1, 2006. **PA 04-151**, effective upon passage)

Revisions To The Underground Storage Tank Account Provisions And A Stay Of Certain Administrative Costs And Accrual Of Interest

This act stays administrative and interest costs associated with the removal of lead paint for certain property owners while a criminal investigation or prosecution is pending. (PA 04-172, effective upon passage)

LAND USE AND OPEN SPACE

Municipal Conservation Easements

This act specifies that the state, or any of its political subdivisions, may establish a conservation or preservation restriction on land it owns, in the same way the law already allows certain government bodies, charitable corporations, and trusts to establish them (PA 04-96, effective upon passage)

The Conveyance Of Interests In Real Property To Land Trusts And Other Nonprofit Land-Holding Organizations

This act requires any deed or other instrument that conveys an interest in real estate to a nonprofit landholding organization (e.g., a land trust) after September 30, 2004 to be signed by a duly authorized officer of the organization to indicate the organization's acceptance. The act specifies that a conveyance includes a

conservation restriction or easement.

The act makes a violation an unfair or deceptive trade practice, punishable by a civil penalty of \$500. (PA 04-114, effective October 1, 2004)

Forestry Management

This act makes several changes in the "490" program, which provides tax relief to owners of eligible forest land to reduce the financial pressure to convert their property to other uses. Among other things, it requires the state to adopt regulations setting forest stocking, distribution and condition standards, and requires that landowners hire DEP-certified foresters to determine if their land meets these standards. It eliminates an exemption for property designated forest land before July 1, 1976, requires assessors to report annually on the number of acres of farm, forest and open space land in their towns, and makes others changes. It also authorizes the commissioner to apply for certification or licensure of publicly owned woodlands and products from those woodlands under at least one of nine specified sustainable forest programs (PA 04-115, effective July 1, 2004, except for the certification provisions, which take effect October 1, 2004)

Water Company Property Acquired by a Municipality for Construction of A School

This act requires that land a municipality with a population of between 11,600 and 11,900 (Plymouth) acquires from a private water company to build a school be treated as though it were open space for certain purposes (**PA 04-156**, effective upon passage)

Floodplain Management And Hazard Mitigation

This act establishes policies for reducing flooding and other potential natural hazards. It requires the state to address these goals when it revises its five-year conservation and development plan after March 1, 2006. It requires towns to adopt regulatory standards for managing floodplains and reducing other potential hazards. The act requires the DEP commissioner to develop and publically disseminate guidelines, which must include a model ordinance towns can use when revising their land use regulations and ordinances.

The act provides funding to implement local floodplain management and natural hazard mitigation projects. It specifically allows towns to use Local Capital Improvement Program funds for these purposes. The law already allowed them to use these funds for constructing, renovating, enlarging, or repairing flood

control projects. Beginning October 1, 2005, the act requires the DEP commissioner to provide grants for local and regional projects and plans to minimize flooding and other natural hazards.

The act funds the grants by increasing the existing state fee on local land use applications and dedicating about a third of the revenue generated to the grants. By law, towns collect and remit most of the fee revenue to the state and keep a portion to cover the administrative cost of doing so. The act increases the towns' portion of the revenue. It also increases the total annual amount by which the state can reduce a town's Mashantucket Pequot and Mohegan Fund payments if it fails to remit the fee revenue.

Lastly, the act specifically requires residential property condition reports to disclose information about flood hazards. Existing law requires these reports to include information about lead, radon, subsurface sewage disposal, and other environmental information the consumer protection commissioner believes would interest buyers. By law, people offering residential real estate for sale, exchange, or lease must give prospective buyers the report before completing the transaction. (**PA 04-144**, effective October 1, 2004, except for the

provisions increasing the fee, establishing the grant program, and authorizing regulations, which take effect July 1, 2004)

An Act Concerning Harbor Management Plans

This act creates a mechanism for recommending standards and criteria for (1) constructing and locating private residential docks and piers and (2) managing scenic resources and visual impacts within the limits of navigable waters in that part of the Connecticut River that flows through Chester, Deep River, East Haddam, Essex, Haddam, Lyme, Old Lyme, and Old Saybrook.

The act requires the environmental protection commissioner to select two harbor management commissions from these towns to jointly recommend standards and criteria to him for his and the transportation commissioner's approval. The commissioners must approve or reject a recommendation within 120 days after receiving it. Any harbor management commission in the eight towns may adopt, in their harbor management plans, any of the recommendations the commissioners approve. Essex, Old Lyme, and Old Saybrook have established commissions. **(PA 04-183**, effective upon passage)

Electric Transmission Line Siting Criteria

By law, a Siting Council certificate is required to build electric transmission lines and certain other energy and telecommunications facilities. The act requires that an application for a certificate to build an electric or gas transmission line or an electric substation address the impact of any electromagnetic fields (EMF) the proposed facility may produce. It also requires that maps submitted with the application show residential areas, schools, and certain other land uses.

The act requires the council to adopt standards for best management practices for EMFs. By January 1, 2005, the council must report to the Energy and Technology and Environment committees its best management practices for EMFs from electric transmission lines and how the council selected these standards.

The act specifically requires the council to make findings on the impact of EMFs in deciding whether to grant a certificate for the energy (other than power plants) and telecommunications facilities it regulates. It requires that an electric transmission line be consistent with the council's best management practices.

The act eliminates a rebuttable presumption that an application for a transmission line with a capacity of 345 kilovolts or more that proposes

placing the line underground in all residential areas and overhead in industrial open space areas meets the law's standards as to public need or benefit that apply to underground and overhead lines.

The act instead establishes a presumption that transmission lines of this capacity located adjacent to residential areas and certain land uses should be buried. But it allows an applicant to rebut this presumption by showing the council that burial is technologically infeasible, taking into account the reliability of the state's electric grid. It requires that overhead portions of transmission lines be located in a buffer zone.

Under the act, if legislation passed on or after January 1, 2004 results in the reconfiguration or burial of a transmission line, all of the prudent costs incurred by an electric company as a result must be considered reasonable for purposes of the laws governing utility ratemaking and must be recovered by the company in its rates. **(PA 04-246**, effective upon passage, except for certain conforming provisions that are effective October 1, 2004, and applies to applications filed on or after October 1, 2003 for which the council has not already rendered a decision)

LONG ISLAND SOUND

A Marine Protection Area And The Recommendations Of The Long Island Sound Task Force

Under existing law, the Connecticut Energy Advisory Board must develop, by December 1, 2004, guidelines to evaluate proposals for alternative solutions addressing the state's energy needs. The guidelines must include environmental preference standards. The act requires the board, in developing these standards, to consider the recommendations and findings of the Task Force on Long Island Sound. The task force, in conjunction with Executive Order 26, examined ways to provide for the region's energy needs while protecting the Sound. It issued its report in June 2003.

The act also requires the board to identify any data or information, in addition to the task force findings, that would enhance state agencies' ability to plan for, manage, and evaluate proposed uses of, and encroachment onto, the bottom of the Sound. The board must report its findings and any recommendations to the Environment Committee by January 1, 2005. **(PA 04-191**, effective upon passage for the board to identify additional data, and July 1, 2004 for consideration of the task force findings.

Preservation of the Family Farm and Long Island Sound

This act extends for a third year, until June 3, 2005, the moratorium on state agency considerations or final decisions on applications relating to electric power line, gas pipeline, or telecommunications crossings of Long Island Sound. The act allows applicants to submit a petition for a waiver of the moratorium to (1) the chairpersons and ranking members of the Energy and Technology and Environment committees, (2) the Connecticut Siting Council and Public Utilities Control Authority chairpersons, (3) the Department of Environmental Protection (DEP) commissioner, and (4) any other state agency with jurisdiction over the petition subject. It allows these officials to grant the petition by unanimous consent. (**PA-222**, effective upon passage)

RECREATION AND NATURAL RESOURCES

Fines For Banned Invasive Plants

Prior law prohibited people from importing, moving, selling, buying, possessing, cultivating, or distributing seven species of invasive plants, regardless of any municipal ordinance to the contrary. The act permits possession of such plants but bars transplanting them. The act

therefore prohibits importing, moving, selling, buying, cultivating, distributing, or transplanting these invasive plants.

Regardless of any municipal ordinance to the contrary, the act imposes these prohibitions on 54 additional invasive plants starting October 1, 2004 and 20 more starting October 1, 2005. The act therefore covers a total of 81 invasive plants.

It extends, from May 5, 2004 to October 1, 2005, a prohibition against municipalities enacting any ordinance regarding the retail sale or purchase of any invasive plant.

Under prior law, the fine for violations was a maximum of \$100. Under the act, the fine is a maximum of \$100 per plant.

By law, the Invasive Plants Council must annually report on January 1 to the Environment Committee. The act extends the council's 2005 reporting deadline by one month, to February 1, 2005. (**PA 04-203**, effective October 1, 2004, except for the change in the council's reporting deadline, which takes effect upon passage)

UNDERGROUND STORAGE TANKS

Registering Underground Fuel Tank Removers

This act prohibits the consumer protection commissioner from issuing a home improvement contractor

registration certificate to a contractor who holds himself out to be an underground fuel tank remover unless the applicant can show that he has (1) completed a hazardous material training program approved by the Department of Environmental Protection and (2) presented evidence of liability insurance coverage of \$1 million and a surety bond of at least \$250,000.

The act explicitly applies the Home Improvement Act (HIA) to the removal or replacement of residential underground heating oil storage tank systems. The HIA generally applies to, among other things, the repair, replacement, or improvement of land or buildings used as private residences. The act defines "residential underground heating oil storage tank systems" as underground tanks or tank combinations used in connection with property having four or fewer residential units with underground pipes and ancillary equipment or connected containment systems used to contain petroleum that is at least 10% underground. **(PA 04-21, effective October 1, 2004)**

Revisions To The Underground Storage Tank Account Provisions And A Stay Of Certain Administrative Costs And Accrual Of Interest

This act expands the circumstances under which the Underground Storage Tank Petroleum Clean-Up Account

Review Board may reimburse certain homeowners and contractors for their clean-up costs. **(PA 04-172, effective upon passage)**

The Commercial Underground Storage Tank Account

Prior law prohibited the commissioner or the Underground Storage Tank Petroleum Clean-Up Account Review Board from accepting applications for reimbursement and payment from the commercial underground storage tank account until October 1, 2005. The act allows them to resume accepting applications from May 19, 2004 through June 30, 2005. Under the act, the ban resumes July 1, 2005 and continues, as under prior law, until October 1, 2005.

The act bars the board, starting June 1, 2004, from making any payment or reimbursement from the account for any costs, expenses, or other obligations paid or incurred for remediation, including monitoring, if the remediation is to a level more stringent than that set by regulation, unless the applicant can show DEP ordered the remediation. This prohibition applies regardless of (1) other laws or regulations concerning payment or reimbursement under the program and (2) when an application is submitted. The act makes an applicant's compliance with this requirement one of several criteria the board

must consider in deciding whether to order payment or reimbursement to a responsible party.

Under the act, the board cannot order payment from the account for work or services performed or material provided before October 1, 2004 unless it receives the application or preauthorization request by April 1, 2005. It cannot order payment for work or services performed, or material provided, after October 1, 2004 unless it receives the application or preauthorization request within 180 days of the date the work or services were rendered or performed, or the material was provided. Work or services are considered rendered or performed on the date the work is rendered or performed, and material is considered provided on the date it is made available for use. (**PA 04-244**, effective upon passage)

WATER POLLUTION AND WATER QUALITY

Minor Revisions To The Environmental Protection Statutes

This act:

1. requires DEP to hold hearings on certain decisions by municipal water pollution control authorities and other agencies only when the commissioner has delegated authority for

those decisions to those agencies, and restricts appeals to Superior Court;

2. expands the methods of paying for nitrogen credits;
3. allows public water supply companies to use solid by-products of water treatment processes according to best management practices and controls under a plan the DEP commissioner approves in writing; and
4. changes the composition and expands the responsibilities of a council concerned with soil conservation and water erosion control;

(**PA 04-151**, effective upon passage, except for the provision on solid by-products of water treatment processes, which takes effect October 1, 2004)

Funding Of Municipal Clean Water Projects And The Registration Of Water Diversions

This act allows the DEP to continue to provide grants to eligible water quality projects after July 1, 2006 by repealing a law restricting such projects only to loans after that date. By law, eligible water quality projects generally receive grants for 20% of their cost and a loan for the remainder. Certain types of projects are eligible for larger grants (**PA 04-185**, effective October 1, 2004)

WATER SUPPLY

Abandoning Water Sources

This act establishes two sets of criteria by which the public health commissioner must determine whether a water supply source may be abandoned. The criteria are based on the volume of dependable water that the source can supply during a critical dry period without considering available water limitations. One set of criteria, which are essentially the current ones for abandoning any water source, apply only to water company-owned sources that yield less than .75 million gallons per day under these conditions. The second set apply to sources that are capable of producing larger volumes that are owned by water companies or other entities (e. g., a community water system or state agency). (**PA 04-2**, May Special Session)

Minor Revisions To The Environmental Protection Statutes

This act extends from 120 to 180 days the time the commissioner has to determine if a water diversion permit application is complete, and makes other changes in the application hearing and appeal process;

(**PA 04-151**, effective upon passage)

Funding Of Municipal Clean Water Projects And The Registration Of Water Diversions

By law, any person or town who withdrew more than 50,000 gallons of water from wells or surface water in any 24-hour period before July 1, 1982 had to register these water diversions with the DEP commissioner. This act modifies reporting requirements for such people or towns for water diversions in use as of July 1, 2001 and changes how the commissioner develops the reporting forms. (**PA 04-185**, effective October 1, 2004)

Water Company Lands

This act modifies how the Department of Public Utility Control (DPUC) allocates the benefits of sales of water company land.

The law gives various entities a right of first refusal to buy land owned by a water company, in a specified order depending on who seeks to acquire the land and its subsequent use. The act extends these provisions to sales of reservoirs and other water supply sources and modifies the priority with regard to acquisitions by municipalities.

The act expands the corporation tax credit for donations of open space land and establishes a parallel credit for donations of land for educational uses. (**PA 04-200**, effective upon passage)

WETLANDS

Jurisdiction Of Municipal Inland Wetlands Commissions

This act defines wetlands to include aquatic plant and animal life and habitats in the wetlands. In doing so, it supersedes a state Supreme Court decision that the inland wetlands and watercourses act protects the physical characteristics of wetlands, but not wildlife or biodiversity.

By law, municipal inland wetland agencies can regulate certain activities that occur outside wetlands or watercourses if they might impact wetlands or watercourses. Such activities include any operation within or use of wetlands or watercourses involving removal or deposit of

material, or any obstruction, construction, alteration, or pollution of wetlands or watercourses. The law exempts certain agricultural, residential, and other activities.

The act bars an agency from denying or making conditional an application to conduct a regulated activity outside wetlands or watercourses on the basis of its impact or effect on aquatic, plant, or animal life or habitats in the wetlands or watercourses, unless the proposed activity will likely impact or affect (1) the physical characteristics of such life or habitat in the wetlands or watercourse or (2) the wetlands or watercourses themselves. **(PA 04-209**, effective upon passage)

PF/JH:ro