Connecticut’s Inland Wetlands and Watercourses Act

In 1972, the Connecticut Inland Wetlands and Watercourse Act (IWWA, Connecticut General Statutes (C.G.S.) sections 22a-36 through 22a-45) was enacted. By doing so, the Connecticut General Assembly recognized that Connecticut’s inland wetlands and watercourses are an indispensable and irreplaceable natural resource essential to:

- an adequate supply of surface water;
- hydrological stability and the control of flooding and erosion;
- the recharging and purification of groundwater; and
- the existence of many forms of animal, aquatic and plant life.

The General Assembly also acknowledged that many inland wetlands and watercourses had been destroyed due to unregulated uses such as filling, diversion of water flow, and pollution; and that such unregulated use has had, and will continue to have, a significant and adverse impact on the ecological, scenic, historic and recreational values and benefits provided by wetlands and watercourses.

The General Assembly further found that the preservation and protection of inland wetlands and watercourses was in the public interest and essential to the health, welfare and safety of the citizens of Connecticut.

The IWWA provides an orderly regulatory permitting process that balances the need for the economic growth of the state and the use of its land with the need to protect its environment and ecology.

How are Inland Wetlands and Watercourses Defined?

The IWWA defines wetlands as land, including submerged land, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, of the Natural Resources Conservation Service, of the U.S. Department of Agriculture.

Tidal wetlands are not part of this definition and are not subject to regulation under the IWWA.

Inland wetlands that have been subject to prior disturbances from grading, draining, and/or filling may still meet the definition noted above. A soil scientist should be retained to make that determination.

The IWWA defines watercourses as rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs, and all other bodies of water, natural or artificial, vernal or intermittent, public or private. Additionally, the IWWA states that intermittent watercourses are delineated by a defined permanent channel and bank, and the occurrence of two or more of the following characteristics:

1. evidence of scour or deposits of recent alluvium or detritus,
2. the presence of standing or flowing water for a duration longer than a particular storm incident, and
3. the presence of hydrophytic vegetation.

Please see the IWWA for complete definitions.
How are Agriculture and Forestry Defined?

The IWVA does not define agriculture or forestry. Agriculture and farming are defined in CGS section 1-1(a) and includes the cultivation of soil, dairying, forestry, and the raising or harvesting of any agricultural or horticultural commodity. The definition states that agriculture and farming includes the operation, management, improvement or maintenance of a farm and its buildings, tools and equipment. CGS section 1-1(a) also defines aquaculture as the farming of the waters of the state and the production of protein food, including fish and shellfish, on leased, franchised and public underwater farm lands. Please see CGS section 1-1(a) for the full definition.

The definition of agriculture includes forestry. Since forestry is not specifically defined in the CGS, we look to its commonly understood meaning. Forestry is the science, art and practice of developing, managing, cultivating, and harvesting a stand of trees.

When discussing forestry activities, the term silviculture is often used. Silviculture is the art and science of growing and tending forests for the production of wood and other benefits.

Sylviculture encompasses a wide range of practices intended to reproduce forest stands or to increase the growth rate, vigor and value of trees. The benefits that healthy forests provide are numerous and include the production of saw timber, firewood, and maple syrup; the protection of drinking water; fish and wildlife habitat; and recreational opportunities.

What Agriculture and Forestry Activities Require a Permit?

The IWVA states that a regulated activity requires a permit. The IWVA defines a regulated activity as any operation within or upon use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses.

The following agriculture and forestry activities are regulated activities:

- Construction of farm ponds greater than 3 acres;
- Construction of farm ponds of 3 acres or less not essential to the farming operation;
- Construction of roads not directly related to the farming operation;
- Erection of buildings not directly related to the farming operation;
- Filling of wetlands;
- Reclamation of wetlands;
- Filling of watercourses with continual flow;
- Reclamation of watercourses with continual flow;
- Relocation of watercourses with continual flow;
- Clearcutting of timber for reasons other than the expansion of agricultural crop land; and
- Mining of top soil, peat, sand, gravel or similar material for the purposes of sale.

Are There Any Agriculture or Forestry Activities that Do Not Require a Permit?

In recognition of the important role of agriculture and forestry to Connecticut’s economy and quality of life, the IWVA states that certain farming activities are permitted as of right, regardless of their impact or affect to inland wetlands and watercourses. Further, these activities may be associated with existing operations and uses, as well as new operations and uses.

The following agriculture and forestry activities are permitted as of right:

- Grazing;
- Farming;
- Nurseries;
- Gardening;
- Harvesting of crops;
- Construction of farm ponds of 3 acres or less essential to the farming operation; and
- Construction of roads or the erosion of buildings directly related to the farming operation.

Clearcutting of timber for the expansion of agricultural crop land; and

Mining of top soil, peat, sand, gravel or similar material, except for the purposes of sale.

Do Permitted as of Right Activities Require Any Authorizations?

The appropriate permitting agency must be consulted before conducting any agriculture or forestry activity that may be eligible for authorization as permitted as of right.

Connecticut’s courts have affirmed that the permitting agency is legally entitled to review the proposed activity and make a judgment regarding the propriety of the project, whether such activity is permitted as of right or requires a permit under the IWVA. This determination cannot be made by the person proposing the activity. Depending on the full scope of all activities being proposed, the agency will make a jurisdictional ruling that an agriculture or forestry operation is either permitted as of right, requires a permit, or some combination of the two.

It is important to note that the permitting agency should not require the review of ongoing activities such as the grazing of livestock, the routine tilling of soil, and planting or harvesting of crops.

In addition, a jurisdictional ruling only applies to that particular proposed activity for which the finding was made. No new activity should proceed, which may impact or affect inland wetlands or watercourses, until either the agency makes a jurisdictional ruling that the proposed activity is permitted as of right, or until a permit is obtained.

If a proposed agriculture or forestry activity is to be conducted by, or on land owned or controlled by any


What Happens If an Agriculture or Forestry Activity is Conducted Without the Proper Authorization?

If an agriculture or forestry activity is conducted without obtaining a permitted as of right jurisdictional ruling, or without obtaining a permit, then the conduct of such activity is done in violation of the IWWA. Any person conducting or maintaining any activity, facility or condition which is in violation of the IWWA may be subject to enforcement action. Such action may include a fine up to $1,000.00, an order to cease activity and/or to correct conditions at the site, or the pursuit of an action in Superior Court. The Superior Court can restrain a continuing violation, issue orders to correct or remove the violation, assess civil penalties, and pursue the assessment of damages including all costs, including attorney fees and disbursements, together with reasonable attorney’s fees. Any person who willfully or knowingly violates the IWWA shall be fined for each day the violation continues or be imprisoned or both.
Are There Other Regulatory Requirements?

The U.S. Army Corps of Engineers, the U.S. Environmental Protection Agency, and/or the U.S. Department of Agriculture may have authority over agriculture and forestry activities within wetlands and waters of the United States. Contact these federal agencies directly for details on their regulatory requirements. Contact information is available in this brochure under: “Where Can Further Assistance be Obtained?”

The State of Connecticut has additional regulatory programs which may affect an agriculture or forestry activity. The following is a list of the programs and contacts:

**FOREST PRACTITIONER CERTIFICATION**
DEEP Division of Forestry
(860) 424-3630

The Forest Practices Act defines a *forest practitioner* as anyone who advertises, solicits, contracts or engages in a commercial forest practice, at any time. A *commercial forest practice* is any forest practice performed by a person other than the owner of the subject forest land for remuneration, or which, when performed, yields commercial forest products.

**AGRICULTURAL WASTE MANAGEMENT**
DEEP Subsurface and Agriculture Section
(860) 424-3025

Livestock manure and agricultural wastewater management planning, technical, and financial assistance information, and help in procuring required permits is available for farm businesses.

**AQUACULTURE PERMIT**
CT Department of Agriculture, Bureau of Aquaculture & Laboratory Services
(203) 577-0696

Public Act No. 99-93 directs that the Department of Agriculture shall have exclusive authority for granting or denying aquaculture permits. Questions regarding inland wetland or other water resource regulatory (permitting) requirements for any activity associated with aquaculture should be directed to the CT Department of Agriculture.

**WATER DIVERSION PERMIT**
DEEP Bureau of Water Protection & Land Reuse
(860) 424-3019

A permit is required to withdraw surface or groundwater in quantities greater than 50,000 gallons during any twenty-four hour period and any alteration or modification of a wetland or watercourse, including but not limited to filling, dredging, draining, excavation, relocation, and channelization.

**DAM CONSTRUCTION PERMIT**
DEEP Bureau of Water Protection & Land Reuse
(860) 424-3706

A permit may need to be obtained to construct, repair or alter a dam, dike or similar structure.

**PESTICIDE APPLICATION PERMIT**
DEEP Pesticide Management Program
(860) 424-3369

A permit is required for the use of chemicals proposed for introduction into the waters of the state, public or private, for the control of aquatic organisms; and a permit is required for the use of pesticides and fertilizers when applied by aircraft.

**U.S. ENVIRONMENTAL PROTECTION AGENCY REGION 1**
(617) 910-1111
www.epa.gov/region1

**U.S. DEPARTMENT OF AGRICULTURE**
Natural Resources Conservation Service
Connecticut
(860) 871-4011
www.nrcs.usda.gov/ssp/portal/nrcs/site/ct

**U.S. DEPARTMENT OF INTERIOR**
Fish and Wildlife Service Region 5
(413) 253-8200
www.fws.gov/northeast

**CONNECTICUT DEEP**
(860) 424-3000
www.ct.gov/deep

**DEEP INLAND WETLANDS MANAGEMENT SECTION**
(860) 424-3019
www.ct.gov/deep/inlandwetlands