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To: Connecticut's Municipal Inland Wetlands Agencies

From: Betsey Wingfield, Bureau Chief 
Bureau of Water Protection and Land Reuse

Dated: August 29, 2012

Re: 2012 Legislation and Regulation Advisory

In 2012 the Connecticut General Assembly amended the Inland Wetlands and Watercourses Act (IWWA) with the passage of Public Act No. 12-151.

Public Act No. 12-151 amends section 22a-42a(d)(1) and section 22a-42a(d)(2) of the General Statutes of Connecticut. Specifically, the Public Act amends (d)(1) by stating that permit conditions can include seasonal restrictions provided the inland wetlands agency or its agent determines that such restrictions are necessary to carry out the policy of the IWWA; and amends (d)(2) by specifying that for regulated activities involving development projects also requiring approval under Connecticut General Statutes Chapter 124 (Zoning), Chapter 124b (Incentive Housing Zones), Chapter 126 (Municipal Planning Commissions) or Chapter 126a (Affordable Housing Land Use Appeals), the wetlands permit approval is valid until the companion planning and/or zoning permit approval expires, or for ten years from the date of issuance of the wetlands permit, whichever is earlier.

A complete copy of Public Act No. 12-151 is attached for your information. Newly added language is underlined and deleted language is bracketed. The provisions of section 22a-42a(d) of the Connecticut General Statutes, as amended by Public Act No. 12-151, take effect October 1, 2012. You should plan to revise your inland wetlands agency regulations to reflect these amendments to the IWWA.

The following changes to the Inland Wetlands and Watercourses Model Municipal Regulations (IWWMMR) Fourth Edition, dated May 1, 2006, as amended by the Department of Energy and Environmental Protection's Legislation and Regulation Advisories dated February 1, 2007; December 10, 2007; October 14, 2008; March 3, 2010; November 17, 2010; and September 8, 2011 are made in order to conform to Public Act No. 12-151:

Section 11: Decision Process and Permit

The underlined language noted below is new and should be added to your regulations. The bracketed language noted below should be deleted from your regulations.

11.1 The Agency, or its duly authorized agent acting pursuant to Section 12 of these regulations, may, in accordance with Section 10 of these regulations, grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity designed to carry out the purposes and policies of the Act, or deny the application. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (a) prevent or minimize pollution or other environmental damage, (b) maintain or enhance existing environmental quality, or (c) in the following order of priority: restore, enhance and create productive wetland or watercourse resources. Such terms may include restrictions as to the time of year in which a regulated activity may be conducted, provided the Agency, or its agent, determines that such restrictions are necessary to carry out the policy of sections 22a-36 to 22a-45, inclusive, of the Connecticut General Statutes.

11.2 ... 11.5

11.6 Any permit issued by the Agency for the development of land for which an approval is required under [section 8-3, 8-25 or 8-26] chapter 124, 124b, 126 or 126a of the Connecticut General Statutes shall be valid [for five years provided the Agency may establish a specific time period within which any regulated activity shall be conducted] until the approval granted under such chapter expires or for ten years, whichever is earlier. Any permit issued by the Agency for any [other] activity for which an approval is not required under chapter 124, 124b, 126 or 126a shall be valid for not less than two years and not more than five years. [Any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.]

11.6.1 Notwithstanding the provisions of Section 11.6 of these regulations, any permit issued by the Agency prior to July 1, 2011 that was in effect and did not expire prior to May 9, 2011 shall be valid for a period not less than nine years after the date of such approval.

To assist your agency in understanding the various permit expiration dates, a flow chart of relevant statutory permit approval timeframes is attached.

Finally, please note that within your inland wetlands agency regulations all references to the "Department of Environmental Protection" and "DEP" should be changed to the "Department of Energy and Environmental Protection" and "DEEP".

Should you have any further questions regarding the above changes, please feel free to contact Darcy Winther of the Wetlands Management Section at (860) 424-3019.