



Statutes and Regulations

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13.1 | State Statutes 22a-354a to 354bb

Aquifer Protection Area Program Statutes

Sections 22a-354a through 22a-354bb of the Connecticut General Statutes

Sec. 22a-354a. “Existing well fields” and “potential well fields,” defined. As used in sections 22a-354b to 22a-354f, inclusive, “existing well fields” means well fields in use by a public water supply system when mapping is required pursuant to section 22a-354c, and “potential well fields” means those well fields identified as future sources of supply in the water supply plan of the public water supply system approved pursuant to section 25-32d. (P.A. 88-324, S. 1.) Cited. 215 C. 616, 625.

Sec. 22a-354b. Standards for modeling and mapping of locations of aquifers. The Commissioner of Energy and Environmental Protection shall establish standards for two levels of modeling and mapping of the location in aquifers of well field areas, zones of contribution and recharge areas. Standards for mapping at Level A shall be established by regulations adopted by the Commissioner in accordance with the provisions of chapter 54, except that notice of intent to adopt such regulations shall be published on or before July 1, 1990, and shall be based on hydrogeological data of aquifer geometry, hydraulic characteristics and connection to surface water features, groundwater level data and surface water discharge information for model calibration, and pump test data for model verification. Standards for mapping at Level B shall be established by guidelines developed by the Commissioner and shall be based on existing geologic mapping of known aquifer characteristics, limited field verification, the location of existing and potential well fields and pumping rates. (P.A. 88-324, S. 2; P.A. 90-275, S. 7, 9.)

History: P.A. 90-275 required the notice of intent to adopt the regulations to be published on or before July 1, 1990. Cited. 215 C. 616, 625.

Sec. 22a-354c. Mapping of well fields by water companies. (a) On or before July 1, 1990, each public or private water company serving one thousand or more persons shall map at Level B all areas of contribution and recharge areas for its existing wells located in stratified drift aquifers. Not later than three years after the adoption by the Commissioner of Energy and Environmental Protection of a model municipal aquifer protection ordinance under section 22a-354l, each public and private water company serving ten thousand or more persons shall map at level A all areas of contribution and recharge areas for its existing wells located in stratified drift aquifers. The Commissioner of Energy and Environmental Protection may map at level A and at level B all areas of contribution and recharge areas for existing wells located in stratified drift aquifers that are used by any public or private water company serving less than one thousand persons.

(b) Each public or private water company serving ten thousand or more persons shall map all areas of contribution and recharge areas for potential wells that are located within stratified drift aquifers identified as future sources of water supply to meet their needs in accordance with the plan submitted pursuant to section 25-33h, (1) at level B two years after approval of such plan and, (2) at level A four years after approval of such plan. The Commissioner of Energy and Environmental Protection shall identify and make recommendations for mapping, or shall map, all remaining significant areas of contribution and recharge areas for potential wells located in stratified drift aquifers not identified by a public or private water company as a potential source of water supply within the region of an approved plan. Mapping of any other area of contribution and recharge areas for potential wells located in stratified drift aquifers by the Commissioner shall be completed at a time determined by the Commissioner. (P.A. 88-324, S. 3; P.A. 89-305, S. 22, 32; P.A. 90-275, S. 5, 9; P.A. 91-386, S. 1; May Sp. Sess. P.A. 92-11, S. 63, 70; P.A. 93-337, S. 3.)

History: P.A. 89-305 specified that mapping is required of areas of contribution and recharge areas for wells located in stratified drift aquifers and made technical changes; P.A. 90-275 deleted the requirement that the areas to be mapped at Level B by water companies be within their water supply service area, authorized the Commissioner to map at level A and at Level B areas of contribution and recharge areas for wells located in stratified drift aquifers which are used by water companies serving less than one thousand persons, and required the Commissioner to either map or make recommendations for mapping all remaining significant areas of contribution and recharge areas for potential wells located in stratified drift aquifers not identified by water companies as a potential source of water supply; P.A. 91-386 amended Subsec. (a) to extend the time for mapping at Level A from July 1, 1992, to July 1, 1994; May Sp. Sess. P.A. 92-11 amended Subsec. (a) to change date from July 1, 1994, to January 1, 1996, for aquifer mapping; P.A. 93-337 amended Subsec. (a) to change deadline for mapping from January 1, 1996, to three years after adoption by Commissioner of model ordinance under Sec. 22a-354l. Cited. 215 C. 616, 625.

Sec. 22a-354d. Completion of mapping of well fields. The mapping of aquifers by a public or private water company at Level B and Level A required pursuant to section 22a-354c shall not be deemed to be complete unless approved by the Commissioner of Energy and Environmental Protection. (P.A. 88-324, S. 4.) Cited. 215 C. 616, 625.

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Sec. 22a-354e. Inventory of land uses overlying aquifers. Not later than three months after approval of the Commissioner of Energy and Environmental Protection of mapping of aquifers at Level B, each municipal Aquifer Protection Agency authorized pursuant to section 22a-354o shall inventory land uses overlying the mapped zone of contribution and recharge areas of such aquifers in accordance with guidelines established by the Commissioner pursuant to section 22a-354f. Such inventory shall be completed not more than one year after authorization of the Agency. (P.A. 88-324, S. 5; P.A. 89-305, S. 27, 32.)

History: P.A. 89-305 required inventory to be completed within a year of Agency authorization and made technical changes. Cited. 215 C. 616, 625.

Sec. 22a-354f. Guidelines for inventory. The Commissioner of Energy and Environmental Protection shall develop guidelines to be used by municipal boards or commissions in conducting the inventory of land uses required under section 22a-354e. (P.A. 88-324, S. 6.) Cited. 215 C. 616, 625.

Sec. 22a-354g. Findings. The General Assembly finds that aquifers are an essential natural resource and a major source of public drinking water; that reliance on groundwater will increase because opportunities for development of new surface water supplies are diminishing due to the rising cost of land and increasingly intense development; that numerous drinking water wells have been contaminated by certain land use activities and other wells are now threatened; that protection of existing and future groundwater supplies demands greater action by state and local government; that a groundwater protection program requires identification and delineation of present and future water supplies in stratified drift aquifers supplying drinking water wells; that a comprehensive and coordinated system of land use regulations should be established that includes state regulations protecting public drinking water wells located in stratified drift aquifers; that municipalities with existing or proposed public drinking water wells in stratified drift aquifers should designate Aquifer Protection Agencies, and that the state should provide technical assistance and education programs on aquifer protection to ensure a plentiful supply of public drinking water for present and future generations. (P.A. 89-305, S. 1, 32.)

Sec. 22a-354h. Definitions. For the purposes of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h, 25-33n and subsection (a) of section 25-84:

- (1) "Regulated activity" means any action, process or condition which the Commissioner of Energy and Environmental Protection determines, by regulations adopted in accordance with section 22a-354i, to involve the production, handling, use, storage or disposal of material that may pose a threat to groundwater in an Aquifer Protection Area, including structures and appurtenances utilized in conjunction with the regulated activity;
- (2) "Commissioner" means the Commissioner of Energy and Environmental Protection;
- (3) "Well field" means the immediate area surrounding a public drinking water supply well or group of wells;
- (4) "Area of contribution" means the area where the water table or other potentiometric surface is lowered due to the pumping of a well, and groundwater flows directly to the well;
- (5) "Recharge area" means the area from which groundwater flows directly to the area of contribution;
- (6) "Aquifer" means a geologic formation, group of formations or part of a formation that contains sufficient saturated, permeable materials to yield significant quantities of water to wells and springs;
- (7) "Affected water company" means any public or private water company owning or operating a public water supply well within an Aquifer Protection Area;
- (8) "Stratified drift" means a predominantly sorted sediment laid down by or in meltwater from glaciers and includes sand, gravel, silt and clay arranged in layers;
- (9) "Municipality" means any town, consolidated town and city, consolidated town and borough, city or borough;
- (10) "Aquifer Protection Area" means any area consisting of well fields, areas of contribution and recharge areas, identified on maps approved by the Commissioner of Energy and Environmental Protection pursuant to sections 22a-354b to 22a-354d, inclusive, within which land uses or activities shall be required to comply with regulations adopted pursuant to section 22a-354o by the municipality where the Aquifer Protection Area is located; and
- (11) "Best management practice" means a practice, procedure or facility designed to prevent, minimize or control spills, leaks or other releases that pose a threat to groundwater. (P.A. 89-305, S. 2, 32; P.A. 90-275, S. 1, 9; P.A. 95-218, S. 5.)

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13.1 | State Statutes 22a-354a to 354bb (continued)

History: P.A. 90-275 redefined “regulated activity” to include a condition which may pose a threat to groundwater and specified that the threatened groundwater must be in an Aquifer Protection Area; P.A. 95-218 redefined “area of contribution” to include other potentiometric surfaces in the location of such areas.

Sec. 22a-354i. Regulations.

- (a) On or before July 1, 1991, the Commissioner of Energy and Environmental Protection shall publish notice of intent to adopt regulations in accordance with chapter 54 for land use controls in Aquifer Protection Areas. The regulations shall establish (1) best management practice standards for existing regulated activities located entirely or in part within Aquifer Protection Areas and a schedule for compliance of nonconforming regulated activities with such standards, (2) best management practice standards for and prohibitions of regulated activities proposed to be located entirely or in part within Aquifer Protection Areas, (3) procedures for exempting regulated activities in Aquifer Protection Areas upon determination solely by the Commissioner that such regulated activities do not pose a threat to any existing or potential drinking water supply, and (4) requirements for design and installation of groundwater monitoring within Aquifer Protection Areas. In addition, the Commissioner may adopt such other regulations as deemed necessary to carry out the purposes of sections 22a-354b, 22a-354c, 22a-354h, this section, sections 22a-354m, 22a-354n, subsection (e) of section 22a-354p and subsection (d) of section 22a-451 including, but not limited to, regulations which provide for the manner in which the boundaries of Aquifer Protection Areas shall be established and amended; criteria and procedures for submission and review of applications to construct or begin regulated activities; procedures for granting, denying, limiting, revoking, suspending, transferring and modifying permits for regulated activities; controls regarding the expansion of nonconforming regulated activities, including procedures for offsetting impacts from the expansion or modification of nonconforming regulated activities or procedures for modifying permits of regulated activities by the removal of other potential pollution sources within the subject well field, procedures for the granting of permits for such expansion or modification based on the certification of a qualified person that such expansion meets criteria established by the Commissioner; registration requirements for existing regulated activities and procedures for transferring registrations; procedures for landowners to notify a municipality or the Commissioner of a change in use and other provisions for administration of the aquifer protection program.
- (b) In adopting such regulations, the Commissioner shall consider the guidelines for Aquifer Protection Areas recommended in the report prepared pursuant to special act 87-63, as amended, and shall avoid duplication and inconsistency with other state or federal laws and regulations affecting aquifers. The regulations shall be developed in consultation with an advisory committee appointed by the Commissioner. The advisory committee shall include the Commissioners of Public Works and Public Health and the chairperson of the Public Utilities Control Authority, or their designees, members of the public, and representatives of businesses affected by the regulations, agriculture, environmental groups, municipal officers and water companies. (P.A. 89-305, S. 3, 32; P.A. 90-275, S. 2, 9; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 98-209, S. 9.)

History: P.A. 90-275 amended Subsec. (a) to require publication of the notice of intent on or before July 1, 1991, and authorized the Commissioner to adopt other regulations; P.A. 93-381 replaced Commissioner of Health Services with Commissioner of Public Health and Addiction Services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 98-209 amended Subsec. (a) to authorize provision in regulations for procedures for offsetting nonconforming regulated activities.

Sec. 22a-354j. Consistency of aquifer regulations with regulations re: farm resources management plans. State regulations for Aquifer Protection Areas adopted by the Commissioner of Energy and Environmental Protection pursuant to section 22a-354i shall be consistent with regulations adopted by said Commissioner for farm resources management plans pursuant to section 22a-354m. (P.A. 89-305, S. 31, 32.)

Sec. 22a-354k. Groundwater education program. The Commissioner of Energy and Environmental Protection shall develop and implement a groundwater education program. In developing such program, the Commissioner shall consult with the Commissioner of Public Health, water utilities, state educational and research institutions, nonprofit environmental organizations and any other person or Agency the Commissioner deems necessary. The Cooperative Extension Service at the University of Connecticut shall assist the Commissioner in implementation of the program. (P.A. 89-305, S. 4, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58.)

History: P.A. 93-381 replaced Commissioner of Health Services with Commissioner of Public Health and Addiction Services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995.

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13.1 | State Statutes 22a-354a to 354bb (continued)

Sec. 22a-354l. Model municipal aquifer protection ordinance. Not later than October 1, 1995, the Commissioner of Energy and Environmental Protection shall prepare a model municipal aquifer protection ordinance, consistent with regulations adopted under section 22a-354i. The ordinance may be considered by municipal Aquifer Protection Agencies in adopting regulations pursuant to section 22a-354p. (P.A. 89-305, S. 5, 32; P.A. 93-337, S. 1.)

History: P.A. 93-337 added a deadline of October 1, 1995, for adoption of a model ordinance.

Sec. 22a-354m. Farm resources management plans.

- (a) The Commissioner of Energy and Environmental Protection may, in accordance with regulations adopted pursuant to subsection (d) of this section, require any person engaged in agriculture on land located within an Aquifer Protection Area and whose annual gross sales from agricultural products during the preceding calendar year were two thousand five hundred dollars or more to submit a farm resources management plan.
- (b) The soil and water conservation district where the Aquifer Protection Area is located shall establish and coordinate a technical team to develop each plan. Such team shall include a representative of the municipality in which the land is located and a representative of any affected water company upon request of such municipality or water company. For the purposes of developing the plan required pursuant to this section, if a farm is located in two or more soil and water conservation districts, the district in which the greater part of such farm is located shall be deemed to be the district in which the entire farm is located. In developing a plan, a district shall consult with the Commissioners of Energy and Environmental Protection and Agriculture, the College of Agriculture and Natural Resources at the University of Connecticut, the Connecticut Agricultural Experiment Station, the Soil Conservation Service, the state Agricultural and Conservation Committee and any other person or Agency the district deems appropriate.
- (c) The plan shall include a schedule for implementation and shall be periodically updated as required by the Commissioner. In developing a schedule for implementation, the technical team shall consider technical and economic factors including, but not limited to, the availability of state and federal funds. Any person engaged in agriculture in substantial compliance with a plan approved under this section shall be exempt from regulations adopted under section 22a-354o by a municipality in which the land is located. No plan shall be required to be submitted to the Commissioner before July 1, 1992, or six months after completion of level B mapping where the farm is located, whichever is later.
- (d) On or before July 1, 1999, the Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Agriculture, the United States Soil Conservation Service, the Cooperative Extension Service at the University of Connecticut and the Council for Soil and Water Conservation, shall publish notice of intent to adopt regulations in accordance with chapter 54 for farm resources management plans. Such regulations shall include, but not be limited to, a priority system and procedures for determining if a farm management plan is required and the priority that is assigned to the preparation of such a plan, best management practices, restrictions and prohibitions for manure management, storage and handling of pesticides, reduced use of pesticides through pest management practices, integrated pest management, fertilizer management and underground and above-ground storage tanks, and criteria and procedures for submission and review of farm resources management plans and amendments of such plans. In adopting such best management practices, restrictions and prohibitions, the Commissioner shall consider existing state and federal guidelines or regulations affecting aquifers and agricultural resources management. (P.A. 89-305, S. 6, 32; P.A. 90-275, S. 3, 9; P.A. 98-209, S. 10.)

History: P.A. 90-275 increased the annual gross sales requirement from one thousand to two thousand five hundred dollars, provided if a farm is located in two or more districts that the district in which the greater part of the farm is located shall be deemed to be the district in which the entire farm is located, extended the earliest time in which a plan is required to July 1, 1992, provided that the Commissioner shall publish notice of intent to adopt regulations concerning farm resources management plans on or before July 1, 1991, and required the regulations to include best management practices, restrictions and prohibitions for designated items; P.A. 98-209 amended Subsec. (a) to make submittal of farm resources management plans discretionary on the part of the Commissioner, and amended Subsec. (d) to extend the date for notice of intent to adopt regulations under this section and to authorize certain priorities within such regulations.

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Sec. 22a-354n. Delineation of Aquifer Protection Areas on maps prepared by zoning commissions, planning commissions, or planning and zoning commissions. Challenges to boundaries. The zoning commission, planning commission, or planning and zoning commission of each municipality with an Aquifer Protection Area shall, in accordance with regulations adopted by the Commissioner pursuant to section 22a-354i, delineate on any map showing zoning districts prepared in accordance with chapter 124 or 126 or any special act, the boundaries of Aquifer Protection Areas, including areas of contribution and recharge areas as shown on level A maps approved or done by the Commissioner pursuant to section 22a-354c or any other provision of the general statutes. An aquifer protection commission shall not delineate or alter the boundary of an Aquifer Protection Area except in accordance with regulations adopted by the Commissioner. No person may challenge the boundaries of the Aquifer Protection Area at the local level unless such challenge is based solely on a failure by the Aquifer Protection Agency to properly delineate the boundaries in accordance with regulations of the Commissioner. Any other challenge to established Aquifer Protection Area boundaries shall be in the form of a petition to the Commissioner to amend the boundaries, in accordance with regulations adopted by him. (P.A. 89-305, S. 7, 32; P.A. 90-275, S. 4, 9.)

History: P.A. 90-275 provided that the delineation of the boundaries of Aquifer Protection Areas be in accordance with regulations, provided that the only ground for challenging the boundaries of the Aquifer Protection Area be that the agency failed to delineate such in accordance with regulations and specified that any other challenge to established boundaries shall be a petition to amend the boundaries.

Sec. 22a-354o. Municipal regulation of Aquifer Protection Areas.

- (a) Each municipality in which an Aquifer Protection Area is located shall authorize by ordinance an existing board or commission to act as such Agency not later than three months after adoption by the Commissioner of regulations for Aquifer Protection Areas pursuant to section 22a-354i and approval by the Commissioner of mapping of areas of contribution and recharge areas for wells located in stratified drift aquifers in the municipality at Level B, pursuant to section 22a-354d. The ordinance authorizing the Agency shall determine the number of members and alternate members, the length of their terms, the method of selection and removal, and the manner for filling vacancies. No member or alternate member of such Agency shall participate in any hearing or decision of such Agency of which he is a member upon any matter in which he is directly or indirectly interested in a personal or financial sense. In the event of disqualification, such fact shall be entered on the records of the Agency and replacement shall be made from alternate members or an alternate to act as a member of such commission in the hearing and determination of the particular matter or matters in which the disqualification arose.
- (b) Not more than six months after approval by the Commissioner of mapping at Level A, pursuant to section 22a-354d, the Aquifer Protection Agency of the municipality in which such Aquifer Protection Area is located shall adopt regulations for aquifer protection.
- (c) At least one member of the Agency or staff of the Agency shall be a person who has completed the course in technical training formulated by the Commissioner pursuant to section 22a-354v. Failure to have a member of the Agency or staff with training shall not affect the validity of any action of the Agency and shall be grounds for revocation of the authority of the Agency under section 22a-354t. (P.A. 89-305, S. 8, 32; P.A. 95-218, S. 6.)

History: P.A. 95-218 amended Subsec. (b) to change “well” to “Aquifer Protection Area” for consistency in the text.

Sec. 22a-354p. Adoption of regulations. Permits.

- (a) The Aquifer Protection Agency authorized by section 22a-354o shall, by regulation, provide for (1) the manner in which the boundaries of Aquifer Protection Areas shall be established and amended or changed, (2) the form for an application to conduct regulated activities within the area, (3) notice and publication requirements, (4) criteria and procedures for the review of applications, and (5) administration and enforcement.
- (b) No regulations of an Aquifer Protection Agency shall become effective or be established until after a public hearing in relation thereto is held by the Agency at which parties in interest and citizens shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing at least twice in a newspaper having a substantial circulation in the municipality at intervals of not less than two days, the first not more than twenty-five days nor less than fifteen days, and the last not less than two days, before such hearing, and a copy of such proposed regulation shall be filed in the office of the town, city or borough clerk, as the case may be, in such municipality, for public inspection at least ten days before such hearing, and may be published in full in such paper. A copy of the notice and the proposed regulations or

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amendments thereto shall be provided to the Commissioner of Energy and Environmental Protection, the town clerk and any affected water company at least thirty- five days before such hearing. Such regulations may, from time to time, be amended, changed or repealed after a public hearing in relation thereto is held by the Agency at which parties in interest and citizens shall have an opportunity to be heard, and for which notice shall be published in the manner specified in this subsection. Regulations or changes therein shall become effective at such time as is fixed by the Agency, provided a copy of such regulation or change shall be filed in the office of the town, city or borough clerk, as the case may be. Whenever an Agency makes a change in regulations, it shall state upon its records the reason why the change was made. All petitions submitted in writing and in a form prescribed by the Agency requesting a change in the regulations shall be considered at a public hearing in the manner provided for establishment of such regulations within ninety days after receipt of such petition. The Agency shall act upon the changes requested in the petition within sixty days after the hearing. The petitioner may consent to extension of the periods provided for a hearing and for adoption or denial or may withdraw such petition.

- (c) Pursuant to municipal regulations adopted under subsection (b) of this section, no regulated activity shall be conducted within any Aquifer Protection Area without a permit. Any person proposing to conduct or cause to be conducted a regulated activity within an Aquifer Protection Area shall file an application with the Aquifer Protection Agency of each municipality wherein the aquifer in question is located. The application shall be in such form and contain such information as the Agency may prescribe. The day of receipt of an application shall be the day of the next regularly scheduled meeting of such Agency immediately following the day of submission to such Agency or its agent of such application, provided such meeting is no earlier than three business days after receipt, or within thirty-five days after such submission, whichever is sooner. No later than sixty-five days after the receipt of such application, the Agency may hold a public hearing on such application. Notice of the hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days and not fewer than ten days, and the last not less than two days before the date set for the hearing in a newspaper having a general circulation in each town where the affected aquifer, or any part thereof, is located. The Agency shall send to any affected water company, at least ten days before the hearing, a copy of the notice by certified mail, return receipt requested. All applications, maps and documents relating thereto shall be open for public inspection. At such hearing, any person or persons may appear and be heard. The hearing shall be completed within forty-five days of its commencement. Action shall be taken on applications within thirty-five days after the completion of a public hearing, or in the absence of a public hearing, within sixty-five days from the date of receipt of the application.
- (d) In granting, denying or limiting any permit for a regulated activity, the Aquifer Protection Agency shall state upon the record the reason for its decision. In granting a permit, the Agency may grant the application as filed or grant it upon such terms, conditions, limitations or modifications of the activity intended to carry out the policies of section 22a-354g. No person shall conduct any regulated activity within an Aquifer Protection Area which requires zoning or subdivision approval without first having obtained a valid certificate of zoning or subdivision approval, special permit, special exception or variance, or other documentation establishing that the proposal complies with the zoning or subdivision requirements adopted by the municipality pursuant to chapters 124 to 126, inclusive, or any special act. The Agency may suspend or revoke a permit if it finds, after giving notice to the permittee of the facts or conduct which warrants the intended action and after a hearing at which the permittee is given an opportunity to show compliance with the requirements for retention of the permit, that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The Agency shall send to any affected water company a copy of the notice at least ten days before the hearing by certified mail, return receipt requested. Any affected water company may, through a representative, appear and be heard at any such hearing. The applicant or permittee shall be notified of the Agency's decision by certified mail, return receipt requested, within fifteen days of the date of the decision, and the Agency shall cause notice of its order in issuance, denial, revocation or suspension of a permit to be published in a newspaper having a general circulation in the municipality in which the Aquifer Protection Area is located.
- (e) The Aquifer Protection Agency may require a filing fee to be deposited with the Agency. The amount of such fee shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including, but not limited to, the costs of certified mailings, publications of notices and decisions, and monitoring compliance with permit conditions, regulations adopted pursuant to sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h, 25-33n and subsection (a) of section 25-84, or Agency orders.

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- (f) Any regulations adopted by an Agency under this section shall not be effective unless the Commissioner of Energy and Environmental Protection determines that such regulations are reasonably related to the purpose of groundwater protection and not inconsistent with the regulations adopted pursuant to section 22a-354i. A regulation adopted by a municipality shall not be deemed inconsistent if such regulation establishes a greater level of protection. The Commissioner shall provide written notification to the Agency of approval or the reasons such regulations cannot be approved within sixty days of receipt by the Commissioner of the regulations adopted by the Agency.
- (g) (1) Notwithstanding any other provision of the general statutes, the Commissioner shall have sole authority to grant, deny, limit or modify, in accordance with regulations adopted by him, a permit for any regulated activity in an Aquifer Protection Area proposed by (A) any person to whom the Commissioner has issued an individual permit under the national pollutant discharge elimination system of the federal Clean Water Act (33 USC 1251 et seq.) or under the state pollutant discharge elimination system pursuant to section 22a-430 or any person to whom the Commissioner has issued a permit under the provisions of the federal Resource Conservation and Recovery Act (42 USC 6901 et seq.) for a treatment, storage or disposal facility, (B) any public service company, as defined in section 16-1, providing gas, electric, pipeline, water or telephone service, (C) any large quantity generator, as defined in regulations adopted by the Commissioner under section 22a-449, or (D) any state department, Agency or instrumentality, except any local or regional board of education. Such authority may be exercised only after an advisory decision on such permit has been rendered to the Commissioner by the Aquifer Protection Agency of the municipality within which such Aquifer Protection Area is located or thirty-five days after receipt by the Commissioner of the application for such permit, whichever occurs first. The Commissioner shall provide prompt notice of receipt of an application to the municipal Aquifer Protection Agency.
- (2) If the Commissioner requires the submission of a registration or other document under regulations adopted pursuant to section 22a-354i, such submission shall be made to the Commissioner by any person to whom the Commissioner has issued an individual permit under the national pollutant discharge elimination system of the federal Clean Water Act, or an individual permit under the state pollutant discharge elimination system pursuant to section 22a-430, or by any person to whom the Commissioner has issued a permit under the provisions of the federal Resource Conservation and Recovery Act for a treatment, storage or disposal facility, or any public service company, as defined in section 16-1, providing gas, electric, pipeline, water or telephone service, or a large quantity generator, as defined in regulations adopted by the Commissioner under section 22a-449, or any state department, Agency or instrumentality, except any local or regional board of education. (P.A. 89-305, S. 9, 32; P.A. 90-275, S. 8, 9; P.A. 92-162, S. 8, 25; P.A. 97-124, S. 6, 16.)

History: P.A. 90-275 in Subsec. (e) required the amount of the filing fee to be sufficient to cover costs of monitoring compliance with regulations; P.A. 92-162 added Subsec. (g) re: authority of Commissioner re: permits for state agencies for regulated activities in an Aquifer Protection Area; P.A. 97-124 amended Subsec. (g) by designating existing provisions as Subdiv. (1) and adding new Subparas. (A) to (C), inclusive, providing that the Commissioner shall have the authority to issue permits under this section to utilities and certain other companies, and by adding new Subdiv. (2) re: submission of registration or other document, effective June 6, 1997.

Sec. 22a-354q. Appeals.

- (a) The Commissioner of Energy and Environmental Protection or any person aggrieved by any regulation, order, decision or action made pursuant to sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* by the Commissioner or municipality, within fifteen days after publication of such regulation, order, decision or action may appeal to the Superior Court for the judicial district where the land affected is located, and if located in more than one judicial district, to said court in any such judicial district, except if such appeal is from a contested case, as defined in section 4-166, such appeal shall be in accordance with the provisions of section 4-183 and venue shall be in the judicial district where the land affected is located, and if located in more than one judicial district, to the court in any such judicial district. Such appeal shall be made returnable to said court in the same manner as that prescribed for civil actions brought to said court. Notice of such appeal shall be served upon the Aquifer Protection Agency and the Commissioner. The Commissioner may appear as a party to any action brought by any other person within thirty days from the date such appeal is returned to the court. The appeal shall state the reasons upon which it is predicated and shall not stay proceedings on the regulation, order, decision or action, but the court may, on application and after notice, grant a restraining order. Such appeal shall have precedence in the order of trial.

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- (b) The court, upon the motion of the person who applied for such order, decision or action, shall make such person a party defendant in the appeal. Such defendant may, at any time after the return date of such appeal, make a motion to dismiss the appeal. At the hearing on such motion to dismiss, each appellant shall have the burden of proving his standing to bring the appeal. The court may, upon the record, grant or deny the motion. The court's order on such motion shall be a final judgment for the purpose of the appeal as to each such defendant. No appeal may be taken from any such order except within seven days of the entry of such order.
- (c) No appeal taken under subsection (a) of this section shall be withdrawn and no settlement between the parties to any such appeal shall be effective unless and until a hearing has been held before the Superior Court and such court has approved such proposed withdrawal or settlement. (P.A. 89-305, S. 10, 32.)

Sec. 22a-354r. Findings on appeal. Setting aside or modifying action. Authority to purchase land.

- (a) If upon appeal pursuant to section 22a-354q, the court finds that the action appealed from constitutes the equivalent of a taking without compensation, it shall set aside the action or it may modify the action so that it does not constitute a taking. In both instances, the court shall remand the order to the Aquifer Protection Agency for action not inconsistent with its decision.
- (b) To carry out the purposes of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305*, a municipality may at any time purchase land or an interest in land in fee simple or other acceptable title, or subject to acceptable restrictions or exceptions, and enter into covenants and agreements with landowners. (P.A. 89-305, S. 11, 32.)

Sec. 22a-354s. Penalty. Court orders.

- (a) If the Aquifer Protection Agency or its duly authorized agent finds that any person is conducting or maintaining any activity, facility or condition which violates any provision of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305*, or any regulation or permit adopted or issued thereunder, the Agency or its duly authorized agent may issue a written order by certified mail, return receipt requested, to such person conducting such activity or maintaining such facility or condition to cease such activity immediately or to correct such facility or condition. The Agency shall send a copy of such order to any affected water company by certified mail, return receipt requested. Within ten days of the issuance of such order, the Agency shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. Any affected water company may testify at the hearing. The Agency shall consider the facts presented at the hearing and, within ten days of the completion of the hearing, notify the person by certified mail, return receipt requested, that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The original order shall be effective upon issuance and shall remain in effect until the Agency affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar an action pursuant to subsection (b) of this section. The Commissioner may issue orders pursuant to sections 22a-6 to 22a-7, inclusive, concerning an activity, facility or condition which is in violation of said sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* if the municipality in which such activity, facility or condition is located has failed to enforce its aquifer protection regulations.
- (b) Any person who commits, takes part in, or assists in any violation of any provision of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* or any ordinance or regulation promulgated by municipalities pursuant to the grant of authority herein contained, shall be assessed a civil penalty of not more than one thousand dollars for each offense. Each violation of said sections shall be a separate and distinct offense, and, in the case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Superior Court, in an action brought by the Commissioner, municipality, district or any person shall have jurisdiction to restrain a continuing violation of said sections, to issue orders directing that the violation be corrected or removed, and to assess civil penalties pursuant to this section. All costs, fees and expenses in connection with such action shall be assessed as damages against the violator together with reasonable attorney's fees, which may be allowed, all of which shall be awarded to the municipality, district or person bringing such action.
- (c) Any person who wilfully or knowingly violates any provision of sections 22a-354o to 22a-354t, inclusive, or section 14 of public act 89-305* shall be fined not more than one thousand dollars for each day during which such violation continues or be imprisoned not more than six months or both. For a subsequent violation, such person shall be fined not more than two thousand dollars for each day during which such violation continues or be imprisoned not more than one year or both. For the purposes of this subsection, "person" shall be construed to include any responsible corporate officer. (P.A. 89-305, S. 12, 32.)

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13.1 | State Statutes 22a-354a to 354bb (continued)

Sec. 22a-354t. Revocation of municipal authority to regulate Aquifer Protection Areas.

- (a) The Commissioner of Energy and Environmental Protection may revoke the authority of a municipality to regulate Aquifer Protection Areas pursuant to sections 22a-354o to 22a-354s, inclusive, this section or section 14 of public act 89-305*, upon determination after a hearing that such municipality has, over a period of time, consistently failed to perform its duties under said sections. Prior to the hearing on revocation, the Commissioner shall send a notice to the Aquifer Protection Agency, by certified mail, return receipt requested, asking such Agency to show cause, within thirty days, why such authority should not be revoked. A copy of the show cause notice shall be sent to the Chief Executive Officer of the municipality that authorized the Agency and to any water company owning or operating a public water supply well within such municipality. Such water company may, through a representative, appear and be heard at any such hearing. The Commissioner shall send a notice to the Aquifer Protection Agency, by certified mail, return receipt requested, stating the reasons for the revocation and the circumstances for reinstatement. Any municipality aggrieved by a decision of the Commissioner under this section to revoke its authority under said sections 22a-354o to 22a-354s, inclusive, this section and section 14 of public act 89-305*, may appeal therefrom in accordance with the provisions of section 4-183. The Commissioner shall have jurisdiction over aquifers in any municipality whose authority to regulate such aquifers has been revoked. Any costs incurred by the state in reviewing applications to conduct an activity within an Aquifer Protection Area for such municipality shall be paid by the municipality. Any fees that would have been paid to such municipality if such authority had been retained shall be paid to the state.
- (b) The Commissioner shall cause to be published notice of the revocation or reinstatement of the authority of a municipality to regulate aquifers in a newspaper of general circulation in the area of such municipality.
- (c) The Commissioner shall adopt regulations in accordance with the provisions of chapter 54 establishing standards for the revocation and reinstatement of municipal authority to regulate aquifers pursuant to section 22a-354o. (P.A. 89-305, S. 13, 32.)

Sec. 22a-354u. Incentive program for public recognition of users of land within Aquifer Protection Areas who implement innovative approaches to groundwater protection.

The Commissioner of Energy and Environmental Protection shall develop an incentive program to provide public recognition of users of land located within Aquifer Protection Areas who demonstrate successful and committed efforts to protect drinking water supplies by implementing innovative approaches to groundwater protection. Such program shall also promote groundwater protection through education of members of businesses and industry and the public. (P.A. 89-305, S. 15, 32.)

Sec. 22a-354v. Technical training classes for members and staff of municipal Aquifer Protection Agencies.

The Commissioner of Energy and Environmental Protection shall formulate courses in technical training for members and staff of municipal Aquifer Protection Agencies. Such courses shall provide instruction in the regulations developed pursuant to section 22a-354i, potential options for monitoring and enforcement, and technical requirements for site plan review. The Commissioner may designate any organization or educational institution to provide such instruction. (P.A. 89-305, S. 16, 32.)

Sec. 22a-354w. Guidelines for acquisition of lands surrounding public water supply well fields.

The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health and the chairperson of the Public Utilities Control Authority, shall prepare guidelines for acquisition of lands surrounding existing or proposed public water supply well fields. In preparing such guidelines, the Commissioner shall consider economic implications for mandating land acquisition including, but not limited to, the effect on land values and the ability of small water companies to absorb the cost of acquisition. (P.A. 89-305, S. 17, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 96-180, S. 79, 166.)

History: P.A. 93-381 replaced Commissioner of Health Services with Commissioner of Public Health and Addiction Services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 96-180 changed "Department of Public Utilities Control" to "Public Utilities Control Authority," effective June 3, 1996.

Sec. 22a-354x. Duties of the Commissioner. Technical, coordinating and research services. Supervision. Annual report.

- (a) The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health and water companies, shall provide, within available appropriations, technical, coordinating and research services to promote the effective administration of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84 at the federal, state and local levels.

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13.1 | State Statutes 22a-354a to 354bb (continued)

- (b) The Commissioner shall have the overall responsibility for general supervision of the implementation of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n, and subsection (a) of section 25-84 and shall monitor and evaluate the activities of federal and state agencies and the activities of municipalities to assure continuing, effective, coordinated and consistent administration of the requirements and purposes of said sections.
- (c) The Commissioner shall prepare and submit to the General Assembly and the Governor, on or before December first of each year, a written report summarizing the activities of the department concerning the development and implementation of sections 19a-37, 22-6c, 22a-354c, 22a-354e, 22a-354g to 22a-354bb, inclusive, 25-32d, 25-33h and 25-33n and subsection (a) of section 25-84 during the previous year. Such report shall include, but not be limited to: (1) The department's accomplishments and actions in achieving the goals and policies of said sections including, but not limited to, coordination with other state, regional, federal and municipal programs established to achieve the purposes of said sections; (2) recommendations for any statutory or regulatory amendments necessary to achieve such purposes; (3) a summary of municipal and federal programs and actions which affect Aquifer Protection Areas; (4) recommendations for any programs or plans to achieve such purposes; (5) any aspects of the program or said sections which are proving difficult to accomplish, suggested reasons for such difficulties and proposed solutions to such difficulties; (6) a summary of the expenditure of federal and state funds under said sections; and (7) a request for an appropriation of funds necessary to match federal funds and provide continuing financial support for the program. Such report shall comply with the provisions of section 46a-78. On and after October 1, 1996, the report shall be submitted to the Governor, to the joint standing committees of the General Assembly having cognizance of matters relating to appropriations and budgets of state agencies and relating to the environment and, upon request, to any member of the General Assembly. A summary of the report shall be submitted to each member of the General Assembly if the summary is two pages or less, and a notification of the report shall be submitted to each member if the summary is more than two pages. Submission shall be made by mailing the report, summary or notification to the legislative address of each member of the committee or the General Assembly, as applicable. (P.A. 89-305, S. 18, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58; P.A. 96-251, S. 11.)

History: P.A. 93-381 replaced Commissioner of Health Services with Commissioner of Public Health and Addiction Services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 96-251 amended Subsec. (c) by requiring that on and after October 1, 1996, the report also be submitted to Governor and appropriations and environment committees, and to legislators upon request, and by adding provisions re: submission of report summaries to legislators.

Sec. 22a-354y. Preparation of municipal assistance program by water companies.

Each water company serving ten thousand or more customers with wells in stratified drift aquifers shall prepare a municipal assistance program, which includes recommendations for site plan reviews, evaluation of risks and advice on procedures for dealing with hazardous waste spills in aquifers. Such program shall be made available to any municipality in which wells owned by the water company are located. (P.A. 89-305, S. 19, 32.)

Sec. 22a-354z. Mapping by water companies of areas of contribution and recharge areas for existing and potential stratified drift wells.

- (a) Not later than three years after the adoption by the Commissioner of Energy and Environmental Protection of a model municipal aquifer protection ordinance under section 22a-354l, each public or private water company serving at least one thousand persons but not more than ten thousand persons shall map areas of contribution and recharge areas at Level A for each existing stratified drift well located within its water supply area.
- (b) Each public or private water supply company serving at least one thousand but not more than ten thousand persons shall map areas of contribution and recharge areas for all of the potential wells located in stratified drift aquifers identified as future sources of water supply in accordance with the plan submitted pursuant to section 25-33h at Level B, not more than two years after approval of the plan, and at Level A, not more than five years after approval.
- (c) For the purpose of this section, any community water system which is part of an existing water company but which is not physically connected to such existing water company shall be considered a separate water company for purposes of determining the number of persons served by the existing water company's system and any of its separate systems. (P.A. 89-305, S. 23, 32; P.A. 91-386, S. 2; May Sp. Sess. P.A. 92-11, S. 64, 70; P.A. 93-337, S. 2.)

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13.1 | State Statutes 22a-354a to 354bb (continued)

History: P.A. 91-386 added a new Subsec. (c) to specify how water companies shall be classified for purposes of determining their responsibilities under this section; May Sp. Sess. P.A. 92-11 amended Subsec. (a) by changing date for aquifer mapping from July 1, 1995, to January 1, 1996; P.A. 93-337 amended Subsec. (a) to change deadline for mapping from January 1, 1996, to three years after adoption by Commissioner of model ordinance under Sec. 22a-354l.

Sec. 22a-354aa. Strategic groundwater monitoring program in Aquifer Protection Areas.

The Commissioner of Energy and Environmental Protection, in consultation with the Commissioner of Public Health, water companies, and business and industry shall develop a strategic groundwater monitoring plan to be implemented in Aquifer Protection Areas not more than one year after completion of Level A mapping pursuant to sections 22a-354b to 22a-354d, inclusive. (P.A. 89-305, S. 25, 32; P.A. 93-381, S. 9, 39; P.A. 95-257, S. 12, 21, 58.)

History: P.A. 93-381 replaced Commissioner of Health Services with Commissioner of Public Health and Addiction Services, effective July 1, 1993; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995.

Sec. 22a-354bb. Inventory of agricultural land uses overlaying mapped well fields.

Not more than two months after approval by the Commissioner of Energy and Environmental Protection of mapping at Level B pursuant to section 22a-354d, the Commissioner, in consultation with the Commissioner of Agriculture, the Cooperative Extension Service at the University of Connecticut, and any other person or Agency the Commissioner of Energy and Environmental Protection deems necessary, shall inventory agricultural land uses overlaying the mapped area. Such inventory shall include, but not be limited to, the type and size of any agricultural operation and existing farm resource management practices. Any such inventory shall be completed not more than four months after commencement and shall be made available to technical teams established pursuant to subsection (b) of section 22a-354k. (P.A. 89-305, S. 30, 32.)

* Note: Section 14 of public act 89-305 is special in nature and therefore has not been codified but remains in full force and effect according to its terms.

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13.2 | Summary of State Land Use Regulations

Aquifer Protection Area Land Use Controls Summary

(APA Regulations Section 22a-354i-1 through 10)

The Aquifer Protection Area Land Use Regulations apply only to regulated activities located within the final Level A mapping boundary of a protected aquifer. Aquifer Protection Areas are designated around well fields in stratified drifts used by water systems serving over 1,000 people. The protected area encompasses the area of contribution and recharge area of the well field.

This regulation: (1) establishes a procedure for municipal adoption of Aquifer Protection Area boundaries; (2) identifies regulated activities, which are prohibited in Aquifer Protection Areas unless they are registered or permitted; (3) establishes an exemption process for regulated activities using hazardous materials which, if released, do not pose a threat to the drinking water supply; (4) establishes a registration process for existing regulated activities that allow for transfer of a registration; (5) establishes a permit process that allows a registered regulated activity to add a new regulated activity if certain requirements are met; and (6) establishes best management practices for registered and permitted regulated activities.

Regulated activities are defined in section 22a-354i-1 of the regulation. In general, regulated activities include businesses that use hazardous materials such as RCRA hazardous wastes, hazardous substances regulated under CERCLA, pesticides, and petroleum products. Examples of regulated activities include some manufacturing industries, chemical wholesale storage industries, gasoline stations, auto and engine service stations, dry cleaners, and furniture strippers. Installation of new underground storage tanks for storage or transmission of oil or petroleum or hazardous materials is prohibited, with allowances for replacement of existing tanks.

Please Note: (i) The Commissioner of Energy and Environmental Protection is required to prepare a Model Municipal Ordinance to be used by municipal Aquifer Protection Agencies in adopting regulations. The Model Ordinance will contain the regulation as well as administrative procedures. (ii) Under section 22a-354p of the CT General Statutes, the Commissioner will be the regulating authority for registration and permits for regulated activities conducted by other state agencies, any person to whom the Commissioner has issued an individual NPDES permit, SPDES permit, RCRA TSDf permit, or any public service company or Large Quantity Generator, and the Municipal Aquifer Protection Agency will be the regulating authority for all regulated activities. (iii) Municipal Aquifer Protection Agencies are authorized by section 22a-354(e) of the General Statutes to require filing fees to be deposited with the Agency. The amount of the fee shall be sufficient to cover the reasonable cost of reviewing and acting on applications and petitions, including, but not limited to, the costs of certified mailings, publications of notices and decisions, and monitoring compliance with permit conditions and regulations.

Special Note: The land use regulation is just one part of the whole Aquifer Protection Act in the General Statutes. Sections 22a-354a through 22a-354bb of the General Statutes include, among other things, procedures for municipal administration including creation of an Agency, adoption of local regulations, appeals, and penalties. Also included are well field mapping requirements, strategic monitoring requirements for Aquifer Protection Areas, and a requirement to inventory agricultural activities in Aquifer Protection Areas and to regulate those agricultural activities.

Outline of the Aquifer Protection Land Use Regulation

(Section 22a-354i-1 through 10) (Revised February 2004)

Section 22a-354i-1. Definitions

This section contains the legal definitions used in the regulation. These definitions should be studied carefully since they are a precise statement of the meaning of words and phrases in the regulation. Some particularly important definitions include: Aquifer Protection Area, facility, hazardous material, Level A mapping boundary, registered regulated activity, and regulated activity.

Section 22a-354i-2. Delineation of Aquifer Protection Area Boundaries

Requires the municipality to delineate the boundaries of all Aquifer Protection Areas on their municipal zoning maps, or inland wetland maps in the instance when a zoning map is not available, within 120 days of being notified by the Commissioner that a Level A mapping boundary is located in their town.

Section 22a-354i-3. Adoption of Municipal Regulations; Commissioner's Approval

Requires a municipality to adopt an aquifer protection regulation within 6 months of notification from the Commissioner that a Level A mapping boundary is located in the town. The municipal regulation must be approved by the Commissioner. If the Commissioner disapproves the regulation, the municipality is given 90 days to adopt and submit a revision. If a municipality wishes to amend a regulation, they must get approval from the Commissioner.

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13.2 | Summary of State Land Use Regulations (continued)

Section 22a-354i-4. Extension of Aquifer Protection Area Boundaries for Administrative Purposes; Approval

Provides an opportunity for a Municipal Aquifer Protection Agency to request an extension of Aquifer Protection Area boundaries to coincide with the nearest property line or topographic feature to simplify administration of the program. These extensions cannot be made without the written approval of the Commissioner. Municipalities then have 60 days after receiving notice from the Commissioner to delineate such an extension on their mapping.

Section 22a-354i-5. Prohibited and Regulated Activities

This section establishes that regulated activities are prohibited in Aquifer Protection Areas unless registered or permitted, and identifies threshold volumes and some minor activities that are excluded from regulation, such as activities conducted at a residence without compensation, and certain activities using only lubricating oils.

Section 22a-354i-6. Application for an Exemption from Prohibition or Regulation

Provides criteria for applicants to apply for an exemption from prohibition or regulation. Applicants for the exemption must demonstrate to the Commissioner that any hazardous material released into the ground from the facility or business would not render the groundwater unsuitable for drinking without treatment. A period of 60 days is provided for the Municipal Agency, any affected water company, or the Department of Public Health to submit written comments on the application for an exemption. The Commissioner will consider the comments and provide a written reason for rejecting any of the comments submitted.

Section 22a-354i-7. Registration of Existing Regulated Activities

Requires existing regulated activities to submit a registration to the Municipal Aquifer Protection Agency and the Commissioner within 180 days after the adoption of a municipal aquifer protection ordinance. The registration will be processed by the Commissioner or Municipal Agency, as appropriate: Registrations for regulated activities conducted by other state agencies, any person to whom the Commissioner has issued an individual NPDES permit, SPDES permit, RCRA TSD permit, or any public service company or Large Quantity Generator shall be processed by the Commissioner. Registrations for all other regulated activities will be processed by the Municipal Aquifer Protection Agency. The registration form will request basic information regarding the name and location of the facility, the regulated activities conducted at the facility, and a certification that the regulated activities are conducted in accordance with specified best management practices. The Commissioner or the municipal Aquifer Protection Agency may reject incomplete registrations. If the registration is rejected, the registrant will be notified of what additional information is needed and the date of resubmission. The registration for an existing regulated activity may be transferred to a new owner who intends to continue the existing regulated activity. Registrations must be renewed every five years.

Section 22a-354i-8. Permit Requirements

A permit is required to add a regulated activity to a facility where a registered regulated activity occurs. The information requirements, permit process, criteria for issuing a permit, and provisions of the permit are detailed in section 8. Permits are issued for a ten-year period, after which time they must be renewed. Provisions are included for modifying and transferring a permit.

Section 22a-354i-9. Best Management Practices for Regulated Activities

Basic best management practices for registered and permitted regulated activities are detailed in section 9. These include the following: specifications for storage of hazardous materials (which are consistent with environmental regulations already in place for the storage of hazardous materials); a prohibition on installation of new underground storage tanks for hazardous materials (although an allowance is made for replacing existing underground storage tanks with a larger tank under certain conditions); a conditional prohibition on wastewater infiltration devices; and a requirement to develop, implement and maintain a Materials Management Plan. A stormwater management plan may be required for registered regulated activities at the discretion of the regulating authority (section 7(d)), and must be developed as part of any permit application (Section 8(c)).

Section 22a-354i-10. Other State, Federal and Local Laws

Section 10 states that these land use regulations do not relieve any person of any other obligations under federal, state, or local law.

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13.3 | State Land Use Regulations

Aquifer Protection Areas – Land Use Controls

SECTION 1. The Regulations of Connecticut State Agencies are amended by adding sections 22a-354i-1 to 22a-354i-10, inclusive, as follows:

(NEW) Sections 22a-354i-1 to 22a-354i-10.

Regulations for Delineation of Aquifer Protection Areas on Municipal Maps, Best Management Practices, and Prohibition of Regulated Activities within Such Areas

Section 22a-354i-1. Definitions

For the purpose of sections 22a-354i-1 to 22a-354i-10, inclusive, of the Regulations of Connecticut State Agencies, the following definitions apply:

- (1) "Affected water company" means "affected water company" as defined in section 22a-354h of the Connecticut General Statutes;
- (2) "Applicant" means, as appropriate in context, a person who applies for an exemption under section 22a-354i-6 of the Regulations of Connecticut State Agencies, or a permit under section 22a-354i-8 of the Regulations of Connecticut State Agencies;
- (3) "Application" means, as appropriate in context, an application for an exemption under section 22a-354i-6 of the Regulations of Connecticut State Agencies, or an application for a permit under section 22a-354i-8 of the Regulations of Connecticut State Agencies;
- (4) "Aquifer Protection Area" means "Aquifer Protection Area" as defined in section 22a-354h of the Connecticut General Statutes and any extension of such area approved by the Commissioner pursuant to section 22a-354i-4 of the Regulations of Connecticut State Agencies;
- (5) "Area of contribution" means "area of contribution" as defined in section 22a-354h of the Connecticut General Statutes and as mapped in accordance with section 22a-354b-1 of the Regulations of Connecticut State Agencies;
- (6) "Bulk storage facility" means property where oil or petroleum liquids are received by tank vessel, pipeline, railroad car or tank vehicle for the purpose of storage for wholesale distribution;
- (7) "Certified Hazardous Materials Manager" means a hazardous materials manager certified by the Institute of Hazardous Materials Managers and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable law and identify appropriate pollution prevention practices for such activities;
- (8) "Commissioner" means the Commissioner of Environmental Protection, or his or her agent;
- (9) "Domestic sewage" means "domestic sewage" as defined in section 22a-430-3(a) of the Regulations of Connecticut State Agencies;
- (10) "Facility" means property where a regulated activity is conducted by any person including, without limitation, any buildings located on the property that are owned or leased by that person; and including contiguous land owned, leased, or for which there is an option to purchase by that person;
- (11) "Floor drain" means any opening in a floor or surface, which opening or surface receives materials spilled or deposited thereon;
- (12) "Hazardous material" means (A) any hazardous substance as defined in 40 CFR 302.4 and listed therein at Table 302.4, excluding mixtures with a total concentration of less than 1% hazardous substances based on volume, (B) any hazardous waste as defined in section 22a-449(c)-101 of the Regulations of Connecticut State Agencies, (C) any pesticide as defined in section 22a-47 of the Connecticut General Statutes, or (D) any oil or petroleum as defined in section 22a-448 of the Connecticut General Statutes;
- (13) "Hazardous waste" means "hazardous waste" as defined in section 22a-449(c)-101 of the Regulations of Connecticut State Agencies;

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13.3 | State Land Use Regulations (continued)

- (14) "Industrial laundry" means a facility for washing clothes, cloth or other fabric used in industrial operations;
- (15) "Infiltration device" means any discharge device installed below or above the ground surface, which device is designed to discharge liquid to the ground;
- (16) "Inland wetland map" means a map pursuant to section 22a-42a of the Connecticut General Statutes;
- (17) "ISO 14001 environmental management system certification" means a current ISO 14001 environmental management system certification issued by an ISO 14001 environmental management system registrar that is accredited by the American National Standards Institute and Registrar Accreditation Board;
- (18) "Level A mapping boundary" means the lines as shown on Level A maps approved or prepared by the Commissioner pursuant to sections 22a-354c, 22a-354d or 22a-354z of the Connecticut General Statutes encompassing the area of contribution and recharge areas;
- (19) "Lubricating oil" means oil that contains less than 1% chlorinated solvents and is used for the sole purpose of lubricating, cutting, grinding, machining, stamping or quenching metals;
- (20) "Municipal Aquifer Protection Agency" means the board or commission authorized by the municipality under section 22a-354o of the Connecticut General Statutes;
- (21) "Municipality" means "municipality" as defined in section 22a-354h of the Connecticut General Statutes;
- (22) "Owner" means the owner or lessee of the facility in question;
- (23) "Deicing chemical" means sodium chloride, calcium chloride, or calcium magnesium acetate;
- (24) "Person" means any individual, firm, partnership, association, syndicate, company, trust, corporation, limited liability company, municipality, Agency, political or administrative subdivision of the state, federal agencies as permitted by law, or other legal entity of any kind;
- (25) "Pollution" means "pollution" as defined in section 22a-423 of the Connecticut General Statutes;
- (26) "Pollution prevention" means the use of processes and materials so as to reduce or minimize the amount of hazardous materials used or the quantity and concentration of pollutants in waste generated;
- (27) "Professional engineer" means a professional engineer licensed in accordance with chapter 391 of the Connecticut General Statutes, and who is qualified by reason of relevant specialized training and relevant specialized experience to conduct audits of regulated activities to ensure compliance with applicable law and identify appropriate pollution prevention practices for such activities;
- (28) "Publicly owned treatment works" means "publicly owned treatment works" as defined in section 22a-430-3 of the Regulations of Connecticut State Agencies;
- (29) "Public service company" means "public service company" as defined in section 16-1 of the Connecticut General Statutes;
- (30) "Public supply well" means "public supply well" as defined in section 19-13-B51b of the Regulations of Connecticut State Agencies;
- (31) "Recharge area" means "recharge area" as defined in section 22a-354h of the Connecticut General Statutes and as mapped in accordance with section 22a-354b-1 of the Regulations of Connecticut State Agencies;
- (32) "Registered regulated activity" means a regulated activity that has been registered in accordance with section 22a-354i-7 of the Regulations of Connecticut State Agencies, and is conducted at the facility identified in such registration;
- (33) "Registrant" means a person who or which has submitted a registration for a regulated activity in accordance with section 22a-354i-7 of the Regulations of Connecticut State Agencies;
- (34) "Regulated activity" means any of the following activities, which are located or conducted, wholly or partially, in an Aquifer Protection Area, except as provided for in sections 22a-354i-5(c) and 22a-354i-6 of the Regulations of Connecticut State Agencies:

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13.3 | State Land Use Regulations (continued)

- (A) underground storage or transmission of oil or petroleum, to the extent such activity is not pre-empted by federal law, or hazardous material, except for (i) an underground storage tank that contains number two (2) fuel oil and is located more than five hundred (500) feet from a public supply well subject to regulation under section 22a-354c or section 22a-354z of the Connecticut General Statutes, or (ii) underground electrical facilities such as transformers, breakers, or cables containing oil for cooling or insulation purposes which are owned and operated by a public service company,
- (B) oil or petroleum dispensing for the purpose of retail, wholesale or fleet use,
- (C) on-site storage of hazardous materials for the purpose of wholesale sale,
- (D) repair or maintenance of vehicles or internal combustion engines of vehicles, involving the use, storage or disposal of hazardous materials, including solvents, lubricants, paints, brake fluids, transmission fluids or the generation of hazardous wastes,
- (E) salvage operations of metal or vehicle parts,
- (F) wastewater discharges to groundwater other than domestic sewage and stormwater, except for discharges from the following that have received a permit issued by the Commissioner pursuant to section 22a-430 of the Connecticut General Statutes: (i) a pump and treat system for groundwater remediation, (ii) a potable water treatment system, (iii) heat pump system, (iv) non-contact cooling water system, or (v) swimming pools,
- (G) car or truck washing, unless all wastewater from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (H) production or refining of chemicals including, without limitation, hazardous materials or asphalt,
- (I) clothes or cloth cleaning service which involves the use, storage or disposal of hazardous materials including, without limitation, dry-cleaning solvents,
- (J) industrial laundry service which involves the cleaning of clothes or cloth contaminated by hazardous material, unless all wastewaters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (K) generation of electrical power by means of fossil fuels, except for (i) generation of electrical power by an emergency engine as defined by section 22a-174-22(a)(3) of the Regulations of Connecticut State Agencies, or (ii) generation of electrical power by means of natural gas or propane,
- (L) production of electronic boards, electrical components, or other electrical equipment involving the use, storage or disposal of any hazardous material or involving metal plating, degreasing of parts or equipment, or etching operations,
- (M) embalming or crematory services which involve the use, storage or disposal of hazardous material, unless all wastewaters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (N) furniture stripping operations which involve the use, storage or disposal of hazardous materials,
- (O) furniture finishing operations which involve the use, storage or disposal of hazardous materials, unless all wastewaters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (P) storage, treatment or disposal of hazardous waste subject to a permit under sections 22a-449(c)-100 to 22a-449(c)-110, inclusive, of the Regulations of Connecticut State Agencies,
- (Q) biological or chemical testing, analysis or research which involves the use, storage or disposal of hazardous material, unless all wastewaters from such activity are lawfully disposed of through a connection to a publicly owned treatment works, and provided that on-site testing of a public supply well by a public water utility is not a regulated activity,
- (R) pest control services which involve storage, mixing or loading of pesticides or other hazardous materials,
- (S) photographic finishing which involves the use, storage or disposal of hazardous materials, unless all wastewaters from such activity are lawfully disposed of through a connection to a publicly owned treatment works,
- (T) production or fabrication of metal products which involves the use, storage or disposal of hazardous materials including (i) metal cleaning or degreasing with industrial solvents, (ii) metal plating, or (iii) metal etching,

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13.3 | State Land Use Regulations (continued)

- (U) printing, plate making, lithography, photoengraving, or gravure, which involves the use, storage or disposal of hazardous materials,
- (V) accumulation or storage of waste oil, antifreeze or spent lead-acid batteries, which are subject to a general permit issued under sections 22a-208(i) and 22a-454(e)(1) of the Connecticut General Statutes,
- (W) production of rubber, resin cements, elastomers or plastic, which involves the use, storage or disposal of hazardous materials,
- (X) storage of deicing chemicals, unless such storage takes place within a weathertight, waterproof structure for the purpose of retail sale or for the purpose of deicing parking areas or access roads to parking areas,
- (Y) accumulation, storage, handling, recycling, disposal, reduction, processing, burning, transfer or composting of solid waste, which is subject to a permit issued by the Commissioner pursuant to sections 22a-207b, 22a-208a, and 22a-208c of the Connecticut General Statutes, except for a potable water treatment sludge disposal area,
- (Z) dyeing, coating or printing of textiles, or tanning or finishing of leather, which activity involves the use, storage or disposal of hazardous materials,
- (AA) production of wood veneer, plywood, reconstituted wood or pressure-treated wood, which involves the use, storage or disposal of hazardous material, and
- (BB) pulp production processes that involve bleaching;
- (35) "Release" means "release" as defined in section 22a-133k-1 of the Regulations of Connecticut State Agencies;
- (36) "State aquifer protection regulations" means sections 22a-354i-1 to 22a-354i-10, inclusive, of the Regulations of Connecticut State Agencies;
- (37) "Storage" means the holding or possession of any hazardous material;
- (38) "Storage tank" means a stationary device which is designed to store hazardous materials, and is constructed of non-earthen materials including, without limitation, concrete, steel, fiberglass or plastic;
- (39) "Topographic feature" means an object, whether natural or man-made, located on the earth's surface and of sufficient size that it appears on a 1:24,000 scale topographic quadrangle map drawn by the United States Geological Survey;
- (40) "Underground" when referring to a storage tank or storage tank component means that ten percent or more of the volumetric capacity of such tank or component is below the surface of the ground and that portion which is below the surface of the ground is not fully visible for inspection;
- (41) "Vehicle" or "vehicles" means a "vessel" as defined by section 15-170 of the Connecticut General Statutes, and any vehicle propelled or drawn by any non-muscular power including, without limitation, an automobile, aircraft, all-terrain vehicle or snowmobile;
- (42) "Waters" means "waters" as defined in section 22a-423 of the Connecticut General Statutes;
- (43) "Well field" means "well field" as defined in section 22a-354h of the Connecticut General Statutes; and
- (44) "Zoning district map" means any map showing zoning districts prepared in accordance with maps adopted pursuant to section 8-3 of the Connecticut General Statutes.

Section 22a-354i-2. Delineation of Aquifer Protection Area Boundaries

- (a) The municipal zoning, planning, or planning and zoning commission shall complete the following not later than one hundred twenty (120) days after being notified by the Commissioner that one or more Level A mapping boundaries are located entirely or partially within such municipality:
 - (1) Delineate such boundaries on the municipal zoning map adopted pursuant to section 8-3 of the Connecticut General Statutes, or on the municipal inland wetlands and watercourses map adopted pursuant to section 22a-42a of the Connecticut General Statutes if such zoning map does not exist;

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13.3 | State Land Use Regulations (continued)

- (2) designate such delineated areas as Aquifer Protection Areas; and
- (3) publish notice of such delineation in a newspaper having substantial circulation in the area of such delineation.
- (b) The notice required by subsection (a)(3) of this section shall include at least the following:
 - (1) A map or a detailed description of the subject Aquifer Protection Area; and
 - (2) the name, address, and telephone number of a representative of the municipal Aquifer Protection Agency who may be contacted for further information.
- (c) No later than one hundred twenty (120) days after receiving notification from the Commissioner that an Aquifer Protection Area boundary has been amended in accordance with section 22a-354b-1(i) or 22a-354b-1(j) of the Regulations of Connecticut State Agencies, each municipality affected by the amended boundary shall amend such municipal zoning district map or inland wetland map to reflect such amended boundary.

Section 22a-354i-3. Adoption of Municipal Regulations; Commissioner's Approval

- (a) Not later than six (6) months after a municipality receives notice from the Commissioner that a Level A mapping boundary is located in such municipality, the municipal Aquifer Protection Agency thereof shall adopt regulations pursuant to section 22a-354p of the Connecticut General Statutes.
- (b) The Commissioner shall submit written notification of approval or disapproval of such regulations to the municipal Aquifer Protection Agency pursuant to section 22a-354p(f) of the Connecticut General Statutes. If the Commissioner disapproves a municipal regulation, the municipal Aquifer Protection Agency shall, not later than ninety (90) days after such disapproval, adopt and submit a revision that corrects and addresses the deficiencies identified by the Commissioner. The Commissioner shall consider such revised regulation in the same manner he considers a regulation submitted under this section.
- (c) Once a regulation becomes effective pursuant to section 22a-354p(f) of the Connecticut General Statutes, any amendments thereto shall only become effective when the Commissioner determines, in writing, that the amended regulation is reasonably related to groundwater protection and is not inconsistent with the state aquifer protection regulations.

Section 22a-354i-4. Extension of Aquifer Protection Area Boundaries for Administrative Purposes; Approval

- (a) A municipal Aquifer Protection Agency may submit a written request to the Commissioner to extend an Aquifer Protection Area boundary adopted under section 22a-354i-2 of the Regulations of Connecticut State Agencies to coincide with the nearest property line, municipal boundary or topographic feature. Such proposed extension shall, at a minimum, fully encompass the Aquifer Protection Areas bounded by the approved Level A mapping but shall not exceed the distance necessary to clarify the location of the Aquifer Protection Area or to facilitate the administration of regulations pertaining thereto. An Aquifer Protection Area boundary may not be extended without prior written approval of the Commissioner.
- (b) Any request by a municipal Aquifer Protection Agency to the Commissioner for extension of an Aquifer Protection Area boundary under subsection (a) of this section shall include at least the following:
 - (1) A map to scale delineating (A) the Level A mapping boundary proposed to be extended within such municipality, and (B) the proposed extension of the Aquifer Protection Area boundary;
 - (2) a certification by the chairperson of the requesting municipal Aquifer Protection Agency that such Agency has provided notice of such request to all owners of property within the proposed extended Aquifer Protection Area and all affected water companies in accordance with the following:
 - (A) Such notice shall include at least the following:
 - (i) A map showing the Aquifer Protection Area boundaries and the proposed extension of such boundaries,
 - (ii) the name, address, and telephone number of a representative of the municipal Aquifer Protection Agency who may be contacted for further information, and
 - (iii) a statement that any person may, not later than thirty (30) days after said notification, submit to the municipal Aquifer Protection Agency written comments on such proposed boundary extension;

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13.3 | State Land Use Regulations (continued)

- (B) Such notice shall be effectuated by the following:
 - (i) Delivery of notice by certified mail to those individuals and entities identified in subdivision (2) of this subsection, or
 - (ii) the publication of a notice in a newspaper having substantial circulation in the affected area; and posting of notice near the proposed boundaries of the subject Aquifer Protection Area of at least four signs, each of which must be at least four square feet in size; and
 - (iii) a summary of all comments received by such Agency regarding the proposed extension and its response to each comment.
- (C) Not later than sixty (60) days after receiving the Commissioner's written approval of a request to extend an Aquifer Protection Area boundary, the requesting municipal Aquifer Protection Agency shall delineate such extended boundary on the municipal zoning district or inland wetland map identified in section 22a-354i-2 of the Regulations of Connecticut State Agencies and shall designate such delineated area as an Aquifer Protection Area.

Section 22a-354i-5. Prohibited And Regulated Activities

- (a) All regulated activities are prohibited in Aquifer Protection Areas, except as specified in subsection (b) of this section.
- (b) The following regulated activities are not prohibited in Aquifer Protection Areas:
 - (1) A registered regulated activity which is conducted in compliance with section 22a-354i-9 of the Regulations of Connecticut State Agencies; and
 - (2) a regulated activity which has received a permit issued pursuant to section 22a-354i-8 of the Regulations of Connecticut State Agencies.
- (c) The following are not regulated activities:
 - (1) Any activity conducted at a residence without compensation;
 - (2) any activity involving the use or storage of no more than two and one-half (2.5) gallons of each type of hazardous material on-site at any one time, provided the total of all hazardous materials on-site does not exceed fifty-five (55) gallons at any one time;
 - (3) any agricultural activity regulated pursuant to section 22a-354m(d) of the Connecticut General Statutes;
 - (4) any activity, provided all the following conditions are satisfied:
 - (A) such activity takes place solely within an enclosed building in an area with an impermeable floor,
 - (B) such activity involves no more than 10% of the floor area in the building where the activity takes place,
 - (C) any hazardous material used in connection with activity is stored in such building at all times,
 - (D) all wastewaters generated by such activity are lawfully disposed through a connection to a publicly owned treatment works, and
 - (E) such activity does not involve (i) repair or maintenance of internal combustion engines including, without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above-ground storage of more than one hundred and ten (110) gallons of hazardous materials;
 - (5) any activity solely involving the use of lubricating oil, provided all the following conditions are satisfied:
 - (A) such activity does not involve cleaning of metals with chlorinated solvents at the facility,
 - (B) such activity takes place solely within an enclosed building in an area with an impermeable floor,
 - (C) any hazardous material used in connection with such activity is stored in such building at all times, and
 - (D) such activity does not involve (i) repair or maintenance of internal combustion engines, including without limitation, vehicles, or equipment associated with such vehicles, (ii) underground storage of any hazardous material, or (iii) above-ground storage of more than 110 gallons of such lubricating oil and associated hazardous waste; and

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13.3 | State Land Use Regulations (continued)

- (6) any activity involving the dispensing of oil or petroleum from an above-ground storage tank or tanks with an aggregate volume of 2,000 gallons or less, provided all the following conditions are satisfied:
 - (A) such dispensing activity takes place solely on a paved surface which is covered by a roof,
 - (B) the above-ground storage tank (or tanks) is a double-walled tank with overfill alarms, and
 - (C) all associated piping is either above ground, or has secondary containment.

Section 22a-354i-6. Application for an Exemption from Prohibition or Regulation

- (a) The Commissioner may, after the receipt of an application in accordance with the provisions of this section, exempt a regulated activity from the state aquifer protection regulations if he determines that such activity does not and will not pose a threat to any public supply well subject to regulation under section 22a-354c or 22a-354z of the Connecticut General Statutes. An exemption shall not be granted unless the owner of such activity clearly and convincingly demonstrates, and the Commissioner finds that, if any hazardous material is released into the ground from the subject regulated activity, treatment would not be required to render the groundwater suitable for drinking. Any exemption granted by the Commissioner shall be in writing, shall explicitly state the findings upon which the exemption was granted, and shall provide for the terms of such exemption.
- (b) An applicant for an exemption under subsection (a) of this section shall submit an application therefor to the Commissioner on a form prescribed by him, and shall concurrently submit a copy of such application to the municipal Aquifer Protection Agency, any affected water company and the Commissioner of Public Health. The application shall include at least the following:
 - (1) A map showing the location of the subject regulated activity plotted on a 1:24,000 scale United States Geological Survey topographic quadrangle base;
 - (2) a description of the purpose and nature of the subject regulated activity, and any associated processes;
 - (3) a description of the chemical composition of the hazardous material and means of disposal of any waste, including wastewater, generated or to be generated in connection with the subject regulated activity;
 - (4) a map showing the location of all points of any wastewater discharged or to be discharged to waters of the state, plotted on a 1:24,000 scale United States Geological Survey topographic quadrangle base, and if the discharge points are of a density such that they may not be clearly shown at the scale of 1:24,000, an enlargement of that area showing the discharge points shall be provided;
 - (5) a written demonstration that any hazardous material released into the ground from the subject regulated activity would not render the groundwater unsuitable for drinking without treatment;
 - (6) any other information that the Commissioner reasonably deems necessary to determine whether the subject regulated activity poses or may pose a threat to the groundwater; and
 - (7) the following certification by the applicant and a certified hazardous materials manager or a professional engineer signed after satisfying the statements set forth in the following certification:

“I have personally examined and am familiar with the information submitted in this exemption application and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law.”
- (c) A municipal Aquifer Protection Agency, any affected water company or the Commissioner of Public Health may, not later than sixty (60) days after receiving a copy of an application for exemption under this section, submit to the Commissioner written comments on such application. The Commissioner shall give due consideration to any such comments.
- (d) The Commissioner shall send a notice by certified mail to the applicant of his approval or denial of an exemption application and a copy of the notice to the Commissioner of the Department of Public Health, the affected water company and the municipal Aquifer Protection Agency.

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13.3 | State Land Use Regulations (continued)

- (e) If the Commissioner denies an application for an exemption for a regulated activity, such regulated activity is prohibited unless such activity can be registered pursuant to section 22a-354i-7 of the Regulations of Connecticut State Agencies. Any such registration shall be made not later than thirty (30) days after receipt of the Commissioner's written disapproval of the exemption. The Commissioner shall send notice of said disapproval by certified mail.

Section 22a-354i-7. Registration of Regulated Activities

- (a) The Commissioner shall process registrations for those regulated activities specified in section 22a-54p(g) of the Connecticut General Statutes. The municipal Aquifer Protection Agency shall process registrations for all other regulated activities.
- (b) Any person engaged in a regulated activity which substantially commenced, or was in active operation within the past five (5) years, or with respect to which a municipal building permit was issued, either (A) before the effective date of the state aquifer protection regulations, or (B) before the date an applicable Aquifer Protection Area is designated on a municipal zoning district map or inland wetland map, whichever occurs later, shall register the activity on a form prescribed by the Commissioner in accordance with this section unless such person has pending an application for an exemption pursuant to section 22a-354i-6 of the Regulations of Connecticut State Agencies.
 - (1) If the regulated activity is specified in section 22a-354p(g) of the Connecticut General Statutes, the person engaged in such activity shall submit a registration to the Commissioner not later than one hundred eighty (180) days, unless otherwise authorized in writing by the Commissioner, after adoption of regulations pursuant to section 22a-354p of the Connecticut General Statutes; or the designation of the Aquifer Protection Area pursuant to section 22a-354i-2 of the Regulations of Connecticut State Agencies, whichever occurs later. Said person shall simultaneously file a copy of the registration with the municipal Aquifer Protection Agency, Commissioner of Public Health and the affected water company.
 - (2) If the regulated activity is not specified in section 22a-354p(g) of the Connecticut General Statutes, the person engaged in such activity shall submit a registration to the municipal Aquifer Protection Agency not later than one hundred eighty (180) days, unless otherwise authorized in writing by the Commissioner, after adoption of regulations pursuant to section 22a-354p of the Connecticut General Statutes; or the designation of the Aquifer Protection Area pursuant to section 22a-354i-2 of the Regulations of Connecticut State Agencies; whichever occurs later. Said person shall simultaneously file a copy of the registration with the Commissioner, Commissioner of Public Health and the affected water company.
- (c) A registration shall include the following:
 - (1) The name, business telephone number, street address and mailing address of the:
 - (A) Registrant; if the registrant is a corporation or limited partnership, the full name of the facility and such corporation or limited partnership as registered with the Connecticut Secretary of State, and any officer or governing or managing body of any partnership, association, firm or corporation,
 - (B) owner of such facility if different than the registrant, and
 - (C) manager or operator overseeing the operations of such facility;
 - (2) the location of such facility, using street address or other appropriate method of location, and a map showing the property boundaries of the facility on a 1:24,000 scale United States Geological Survey topographic quadrangle base;
 - (3) an identification of the regulated activity or activities conducted at the facility, as described in section 22a-354i-1(34) of the Regulations of Connecticut State Agencies, which regulated activity or activities shall consist of any regulated activity which substantially commenced, was in active operation, or with respect to which a municipal building permit was issued within the past five years; and
 - (4) a certification by the registrant that the subject regulated activity is in compliance with the best management practices set forth in section 22a-354i-9(a) of the Regulations of Connecticut State Agencies, as follows, signed after satisfying the statements set forth in the following certification:

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13.3 | State Land Use Regulations (continued)

"I have personally examined and am familiar with the information submitted in this registration and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in this document or certification may be punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law."

- (d) When deemed necessary to protect a public supply well subject to regulation under section 22a-354c or section 22a-354z of the Connecticut General Statutes, the Commissioner or the municipal Aquifer Protection Agency, as appropriate, may:
 - (1) require, by written notice, any registrant to submit for review and written approval a Stormwater Management Plan in accordance with section 22a-354i-9(b) of the Regulations of Connecticut State Agencies; if so required, the Stormwater Management Plan shall be implemented immediately upon its approval; or
 - (2) require, by written notice, any registrant to submit for review and written approval the Materials Management Plan prepared in accordance with 22a-354i-9(a)(5) of the Regulations of Connecticut State Agencies; if so required, the Materials Management Plan shall be implemented immediately upon its approval.
- (e) General provisions in the issuance of all registrations are as follows:
 - (1) The Commissioner or municipal Aquifer Protection Agency, as appropriate, has relied in whole or in part on information provided by the registrant and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the registration may be modified, suspended or revoked;
 - (2) all registrations issued by the Commissioner or municipal Aquifer Protection Agency, as appropriate, are subject to and do not derogate any present or future rights or powers of the Commissioner, municipal Aquifer Protection Agency, or municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity;
 - (3) a complete registration shall expire five (5) years from the date of receipt of such registration by the Commissioner or municipal Aquifer Protection Agency, as appropriate; and
 - (4) the registrant shall apply to the Commissioner or municipal Aquifer Protection Agency, as appropriate, to renew the registration on a form prescribed by the Commissioner for a facility prior to expiration of such registration. If a registered regulated activity is out of business or inactive when registration renewal is required, a five (5) year allowance shall be in effect from the date the registration expires. If the registrant has not applied to renew the registration within five (5) years of the date the registration expires, the facility is no longer eligible for registration.
- (f) If a regulated activity which is eligible for registration in accordance with subsection (b) of this section fails to be registered or if the registrant of an active registered activity fails to apply for renewal prior to expiration, the Commissioner or municipal Aquifer Protection Agency, as appropriate, may accept a late registration at their discretion, subject to the limitations in subsection (e)(4) of this section.
- (g) The registrant may apply to transfer the registration for a facility. Such application for transfer shall be made to the Commissioner or municipal Aquifer Protection Agency, as appropriate.
 - (1) A registration for regulated activities specified in section 22a-354p(g) of the Connecticut General Statutes may be transferred by the Commissioner. Such transfer shall be executed in conformance with sections 22a-6o and 22a-6m of the Connecticut General Statutes using a form prescribed by the Commissioner.
 - (2) A registration for regulated activities not specified in section 22a-354p(g) of the Connecticut General Statutes may be transferred by the municipal Aquifer Protection Agency. Such transfer shall be executed using a form prescribed by the Commissioner and submitted to the municipal Aquifer Protection Agency.
- (h) If the Commissioner, or the municipal Aquifer Protection Agency, as appropriate, determines that a registration submitted in accordance with subsection (b), (e) or (f) of this section is incomplete, the Commissioner or the municipal Aquifer Protection Agency shall reject the registration and notify the registrant of what additional information is needed and the date by which it must be submitted. If the registration submitted in accordance with subsection (b), (e) or (f) of this section is determined

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13.3 | State Land Use Regulations (continued)

to be complete and the regulated activity is eligible for registration, the Commissioner or municipal Aquifer Protection Agency, as appropriate, shall send written notification of such registration to the registrant. Such registration shall be determined to be complete and eligible if the registrant has not otherwise received a notice of rejection or notice that the regulated activity is not eligible for registration from the Commissioner, or the municipal Aquifer Protection Agency, as appropriate, not later than one hundred eighty (180) days after the date the registration is received by the Commissioner or municipal Aquifer Protection Agency, as appropriate.

Section 22a-354i-8. Permit Requirements

- (a) Any person may apply for a permit to add a regulated activity to a facility where a registered regulated activity occurs.
- (b) The Commissioner shall process permit applications for those regulated activities specified in section 22a-354p(g) of the Connecticut General Statutes. The municipal Aquifer Protection Agency shall process permit applications for all other regulated activities.
- (c) An application for a permit shall be made on a form prescribed by the Commissioner. Simultaneously with filing an application, the applicant shall send a copy of the application to the Commissioner or municipal Aquifer Protection Agency, as appropriate, the Commissioner of Public Health and the affected water company. An application shall include the following information:
 - (1) The information as required for a registration under section 22a-354i-7(c) of the Regulations of Connecticut State Agencies shall be provided for the proposed regulated activity;
 - (2) a confirmation and commitment that all regulated activities at the facility shall:
 - (A) be and remain in compliance with section 22a-354i-9(a) of the Regulations of Connecticut State Agencies,
 - (B) not increase the number of underground storage tanks used for storage of hazardous materials, and
 - (C) be in and remain in compliance with all local, state, and federal environmental laws;
 - (3) a Materials Management Plan prepared in accordance with section 22a-354i-9(a)(5) of the Regulations of Connecticut State Agencies;
 - (4) a Stormwater Management Plan in accordance with section 22a-354i-9(b) of the Regulations of Connecticut State Agencies;
 - (5) the following environmental compliance information with respect to environmental violations which occurred at the facility where the regulated activities are conducted, within the five years immediately preceding the date of the application:
 - (A) any criminal conviction involving a violation of any environmental protection law,
 - (B) any civil penalty imposed in any state or federal judicial proceeding, or any penalty exceeding five thousand dollars imposed in any administrative proceeding, and
 - (C) any judicial or administrative orders issued regarding any such violation together with the dates, case or docket numbers, or other information which identifies the proceeding. For any such proceeding initiated by the state or federal government, the Commissioner, or municipal Aquifer Protection Agency as appropriate, may require submission of a copy of any official document associated with the proceeding, the final judgment or order;
 - (6) for regulated activities specified in section 22a-354p(g) of the Connecticut General Statutes, the compliance information required by subdivision (5) of this subsection is in addition to any information that the Commissioner may require pursuant to section 22a-6m of the Connecticut General Statutes;
 - (7) any additional information deemed necessary by the Commissioner or municipal aquifer protection Agency as appropriate, regarding potential threats to the groundwater and proposed safeguards; and
 - (8) the following certification signed by the applicant and the individual responsible for preparing the application, after satisfying the statements set forth in the certification:

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13.3 | State Land Use Regulations (continued)

"I have personally examined and am familiar with the information submitted in this document and all attachments, and I certify, based on reasonable investigation, including my inquiry of those individuals responsible for obtaining the information, the submitted information is true, accurate and complete to the best of my knowledge and belief. I understand that any false statement made in the submitted information is punishable as a criminal offense under section 53a-157b of the Connecticut General Statutes and any other applicable law."

- (d) A municipal Aquifer Protection Agency, the Commissioner, any affected water company or the Commissioner of Public Health may, not later than sixty (60) days after receiving a copy of an application for a permit under this section, submit to the Commissioner or municipal Aquifer Protection Agency, as appropriate, written comments on such application. The Commissioner or municipal Aquifer Protection Agency, as appropriate, shall give due consideration to any such comments, and shall provide a copy of the decision to the Commissioner or municipal Aquifer Protection Agency, as appropriate, the affected water company and the Commissioner of Public Health.
- (e) The Commissioner or municipal Aquifer Protection Agency, as appropriate, shall not issue a permit unless a complete application has been received and the applicant demonstrates, to the Commissioner's or municipal Aquifer Protection Agency's satisfaction, as appropriate, that all applicable requirements of this section have been satisfied and all of the following standards and criteria have been met:
 - (1) The proposed regulated activity shall take place at a facility where a registered regulated activity occurs;
 - (2) the proposed regulated activity shall not increase the number or storage capacity of underground storage tanks used for hazardous materials except for the replacement of an existing underground storage tank in accordance with section 22a-354i-9(a)(3) of the Regulations of Connecticut State Agencies;
 - (3) the Materials Management Plan and Stormwater Management Plan have been satisfactorily prepared in accordance with sections 22a-354i-9(a)(5) and 22a-354i-9(b), respectively, of the Regulations of Connecticut State Agencies;
 - (4) the applicant has submitted a confirmation and commitment that all regulated activities shall be and remain in compliance with all local, state and federal environmental laws in accordance with subsection (c)(2)(C) of this section;
 - (5) the applicant's compliance record shall not indicate (A) that any noncompliance resulted from indifference to or disregard for the legal requirements, (B) an unwillingness or inability to devote the resources necessary to comply and remain in compliance, or (C) that instances of noncompliance have led to serious environmental harm, harm to human health or safety, or a substantial risk of such harm;
 - (6) the proposed regulated activity shall be conducted in accordance with section 22a-354i-9 of the Regulations of Connecticut State Agencies;
 - (7) the registered regulated activity is being conducted in accordance with section 22a-354i-9 of the Regulations of Connecticut State Agencies; and
 - (8) the certification required under subsection (c)(8) of this section has been signed by the applicant and the individual responsible for preparing the application.
- (f) The Commissioner or municipal Aquifer Protection Agency, as appropriate, may impose reasonable conditions or limitations on any permit issued under this section to assure protection of the groundwater including, but not limited to, the following:
 - (1) Best management practices in addition to those set forth in section 22a-354i-9 of the Regulations of Connecticut State Agencies; and
 - (2) groundwater monitoring.
- (g) General provisions in the issuance of all permits are as follows:
 - (1) The Commissioner or municipal Aquifer Protection Agency, as appropriate, has relied in whole or in part on information provided by the applicant, and if such information subsequently proves to be false, deceptive, incomplete or inaccurate, the permit may be modified, suspended or revoked;
 - (2) all permits issued by the Commissioner or municipal Aquifer Protection Agency, as appropriate, are subject to and do not derogate any present or future rights or powers of the Commissioner, municipal Aquifer Protection Agency, or

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13.3 | State Land Use Regulations (continued)

municipality, and convey no rights in real estate or material nor any exclusive privileges, and are further subject to any and all public and private rights and to any federal, state, and municipal laws or regulations pertinent to the subject land or activity; and

- (3) the permit shall expire ten (10) years from the date of issuance of such permit by the Commissioner or municipal Aquifer Protection Agency, as appropriate.
- (4) A person shall apply to the Commissioner or municipal Aquifer Protection Agency, as appropriate, to renew the permit on a form prescribed by the Commissioner prior to expiration of such permit. Such renewal shall be granted upon request by the Commissioner or municipal Aquifer Protection Agency, as appropriate, unless a substantial change in the permitted activity has been made, or enforcement action with regard to the regulated activity has been taken, in which case, a new permit application shall be submitted and reviewed in accordance with the provisions of this section of the Regulations of Connecticut State Agencies.
- (h) A person may request a modification of a permit from the Commissioner or municipal Aquifer Protection Agency, as appropriate. Such request shall be on a form prescribed by the Commissioner, and shall include the facts and reasons supporting the request. The Commissioner or municipal Aquifer Protection Agency, as appropriate, may require the applicant to submit a new application for a permit or renewal in lieu of a modification request.
- (i) A person may apply to transfer the permit for a facility. Such application for transfer shall be made to the Commissioner or municipal Aquifer Protection Agency, as appropriate.
 - (1) A permit for regulated activities specified in section 22a-35p(g) of the Connecticut General Statutes may be transferred by the Commissioner. Such transfer shall be executed in conformance with sections 22a-6o and 22a-6m of the Connecticut General Statutes using a form prescribed by the Commissioner.
 - (2) A permit for regulated activities not specified in section 22a-35p(g) of the Connecticut General Statutes may be transferred by the municipal Aquifer Protection Agency. Such transfer shall be executed using a form prescribed by the Commissioner and submitted to the municipal Aquifer Protection Agency.

Section 22a-354i-9. Best Management Practices for Regulated Activities

- (a) Every regulated activity shall be conducted in accordance with the following:
 - (1) Hazardous materials may be stored above ground within an Aquifer Protection Area only in accordance with the following conditions:
 - (A) hazardous material shall be stored in a building or under a roof that minimizes stormwater entry to the hazardous material storage area, except that a roof is not required for a bulk storage facility as defined in section 22a-354i-1(6) of the Regulations of Connecticut State Agencies,
 - (B) floors within a building or under a roof where hazardous material may be stored shall be constructed or treated to protect the surface of the floor from deterioration due to spillage of any such material,
 - (C) a structure which may be used for storage or transfer of hazardous material shall be protected from stormwater run-on and groundwater intrusion,
 - (D) hazardous material shall be stored within an impermeable containment area which is capable of containing at least the volume of the largest container of such hazardous material present in such area, or 10% of the total volume of all such containers in such area, whichever is larger, without overflow of released hazardous material from the containment area,
 - (E) hazardous material shall not be stored with other hazardous materials that are incompatible and may create a hazard of fire, explosion or generation of toxic substances,
 - (F) hazardous material shall be stored only in a container that has been certified by a state or federal Agency or the American Society of Testing Materials as suitable for the transport or storage of such material,
 - (G) hazardous material shall be stored only in an area that is secured against unauthorized entry by the public, and

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13.3 | State Land Use Regulations (continued)

- (H) the requirements of this subdivision are intended to supplement, and not to supersede, any other applicable requirements of federal, state, or local law, including applicable requirements of the Resource Conservation and Recovery Act of 1976, as amended;
- (2) no person shall increase the number of underground storage tanks used to store hazardous materials;
 - (3) an underground storage tank used to store hazardous materials shall not be replaced with a larger tank unless (A) there is no more than a 25% increase in volume of the larger replacement tank, and (B) the larger replacement tank is a double-walled tank with coaxial piping, both meeting new installation component standards pursuant to 22a-449(d)-1(e) and 22a-449(d)-102 of the Regulations of Connecticut State Agencies, and with interstitial monitoring;
 - (4) no person shall use, maintain or install floor drains, dry wells or other infiltration devices or appurtenances which allow the release of wastewaters to the ground, unless such release is permitted by the Commissioner in accordance with sections 22a-430 or 22a-430b of the Connecticut General Statutes; and
 - (5) a Materials Management Plan shall be developed and implemented in accordance with the following:
 - (A) a Materials Management Plan shall contain, at a minimum, the following information with respect to the subject regulated activity:
 - (i) a pollution prevention assessment consisting of a detailed evaluation of alternatives to the use of hazardous materials, or processes and practices that would reduce or eliminate the use of hazardous materials, and implementation of such alternatives where possible and feasible,
 - (ii) a description of any operations or practices which may pose a threat of pollution to the aquifer, which shall include the following:
 - (a) a process flow diagram identifying where hazardous materials are stored, disposed and used, and where hazardous wastes are generated and subsequently stored and disposed,
 - (b) an inventory of all hazardous materials which are likely to be or will be manufactured, produced, stored, utilized or otherwise handled, and
 - (c) a description of waste, including wastewater generated, and a description of how such wastes are handled, stored and disposed,
 - (iii) the name, street address, mailing address, title and telephone number of the individual(s) responsible for implementing the Materials Management Plan and the individual(s) who should be contacted in an emergency,
 - (iv) a recordkeeping system to account for the types, quantities, and disposition of hazardous materials which are manufactured, produced, utilized, stored or otherwise handled, or which are discharged or emitted; such recordkeeping system shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal Aquifer Protection Agency, and
 - (v) an emergency response plan for responding to a release of hazardous materials. Such plan shall describe how each such release could result in pollution to the underlying aquifer and shall set forth the methods used or to be used to prevent and abate any such a release;
 - (B) when a Materials Management Plan is required under either section 22a-354i-7(d) or 22a-354i-8(c), such Materials Management Plan shall be completed and certified by a professional engineer or a certified hazardous materials manager, or, if the facility where the regulated activity is conducted has received and maintained an ISO 14001 environmental management system certification, then the registrant may complete and certify the Materials Management Plan; and
 - (C) the Materials Management Plan shall be maintained at the subject facility and shall be made available thereat for inspection during normal business hours by the Commissioner and the municipal Aquifer Protection Agency.

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13.3 | State Land Use Regulations (continued)

- (b) the development and implementation of a Stormwater Management Plan shall be required for regulated activities in accordance with sections 22a-354i-7(d) and 22a-354i-8(c) of the Regulations of Connecticut State Agencies, as follows:
 - (1) a Stormwater Management Plan shall assure that stormwater runoff generated by the subject regulated activity is
 - (i) managed in a manner so as to prevent pollution of groundwater, and
 - (ii) shall comply with all of the requirements for the General Permit of the Discharge of Stormwater associated with a Commercial Activity issued pursuant to section 22a-430b of the Connecticut General Statutes; and
 - (2) upon approval by the Commissioner or the municipal Aquifer Protection Agency, as appropriate, the Stormwater Management Plan shall be enforceable by the Commissioner or such Agency, as appropriate.

Section 22a-354i-10. Other State, Federal and Local Laws

Nothing in any exemption issued under section 22a-354i-6 of the Regulations of Connecticut State Agencies, any registration submitted under section 22a-354i-7 of the Regulations of Connecticut State Agencies, or any regulated activity permitted under section 22a-354i-8 of the Regulations of Connecticut State Agencies shall relieve any person of any other obligations under any local, state, or federal law.

Statement of Purpose

To establish Aquifer Protection Areas and prohibitions of regulated activities proposed to be located entirely or in part within Aquifer Protection Areas, to establish best management practices for regulated activities, provide a permit process for adding regulated activities to a facility where a registered regulated activity occurs, and provide for an application process for exempting certain regulated activities from regulation in an Aquifer Protection Area in cases where the Commissioner determines that such regulated activity does not pose a threat to the groundwater.

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13.4 | State Land Use Regulations Flow Chart

Aquifer Protection Area Land Use Regulations

Section 22a-354i-1 through 10 of the RCSA

