A Guide To
MARINE AQUACULTURE PERMITTING
In Connecticut

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I. ACRONYMS AND ABBREVIATIONS

BMP	Best Management Practices
CGS	Connecticut General Statutes
COA	Certificate for Aquaculture Operations
COP	Certificate of Permission
CT DEP	Connecticut Department of Environmental Protection
CTSG	Connecticut Sea Grant College Program
CZMA	Coastal Zone Management Act
CCMP	Connecticut Coastal Management Program
DA/BA	Connecticut Department of Agriculture, Bureau of Aquaculture
EFH	Essential Fish Habitat
ESA	Endangered Species Act
GIS	Geographic Information System
GPS	Global Positioning System
HACCP	Hazard Analysis and Critical Control Points Program
IP	Individual Permit
ISSC	Interstate Shellfish Sanitation Conference
LIS	Long Island Sound
MHW	Mean High Water
MHHW	Mean Higher High Water
MLW	Mean Low Water
MLLW	Mean Lower Low Water
MPA	Marker Permit Application
MPRSA	Marine Protection Research and Sanctuaries Act
MSFCMA	Magnuson Stevens Fishery Conservation and Management Act
MSL	Mean Sea Level
NEPA	National Environmental Policy Act
NHPA	National Historic Preservation Act
NMFS	National Marine Fisheries Service
NOAA	National Oceanic and Atmospheric Administration
NPDES	National Pollutant Discharge Elimination System
NSSP-MO	National Shellfish Sanitation Program-Model Ordinance
OLISP	Office of Long Island Sound Programs
PA	Public Act
PGP	Programmatic General Permit (refers to the Joint PGP for Aquaculture)
POTW	Publicly Owned Treatment Works
RCSA	Regulations of Connecticut State Agencies
SDF & TW	Structures, Dredging & Fill and Tidal Wetlands Permit
SGEP	Sea Grant Extension Program
USACE	United States Army Corps of Engineers
US EPA	United States Environmental Protection Agency
US FDA	United States Food and Drug Administration
US FWS	United States Fish and Wildlife Service

II. GLOSSARY

Adverse effect is defined as an impediment to water-related activities or negative impact to the local ecology of an area. This includes, but is not limited to, floating or submerged obstructions, habitat disturbance, natural flora and fauna displacement, current flow alteration, and degraded water quality.

Approved area is a location in which shellfish may be harvested for direct consumption or marketing.

Aquaculture is the controlled rearing, cultivation and harvest of aquatic plants and animals as defined in CGS §22a-11c.

Aquaculture structure refers to any gear used to contain and/or cultivate shellfish as defined in CGS §22a-11c, including, but not limited to racks, cages, or bags as well as buoys marking such structures.

Baseline study is an inventory of a natural community or environment to provide a measure of its condition at a point of time - often conducted to describe species diversity and abundance against which future change can be gauged.

Best Management Practices are those policies, practices or procedures implemented to mitigate the adverse environmental effects of an activity**.** These are usually voluntary practices developed by industry, but in some cases may be mandated by law (e.g. Florida).

Certificate of Permission is a certificate issued by DEP/OLISP for certain minor activities involving dredging, erection of structures, or fill in any tidal, coastal or navigable waters of the state in accordance with CGS §22a-361 through §22a-363c.

Chart datum is the horizontal reference point or "datum" to which soundings on a chart are referred (e.g. Mean Sea Level or Mean Lower Low Water). Since 1989, horizontal chart datum has been implemented to MLLW for all marine waters in the United States, and its territories and is based on the North American Vertical Datum 1988 and North American Datum 1983.

Closed area is a location where the harvesting of shellfish is not permitted either temporarily or permanently.

Coastal waters refer to those waters of Long Island Sound and its harbors, embayments, tidal rivers, streams and creeks, which contain a salinity concentration of at least five hundred parts per million under the low flow stream conditions as established by the Commissioner of Connecticut Department of Environmental Protection.

Conditionally-approved area is a location classified for the growing or harvesting of shellfish that meets the approved criteria under predictable conditions.

Cultch is a natural substrate for oysters, consisting of gravel or crushed shells to which the oyster larvae may adhere.

Datum refers to any level surface, line, or point used as a reference or origin from which other locations are measured.

Depuration is the process by which the level of bacteria and viruses in shellfish are reduced under controlled conditions.

Designated shellfish areas are those locations that are recognized as shellfishing grounds including State shellfish leases, local shellfish leases, and shellfish grants. Designated shellfish areas do not include natural shellfish beds.

Eelgrass (*Zostera marina*) is a submerged, rooted, grass-like flowering plant that grows in shallow marine waters along the Atlantic coast from Nova Scotia to North Carolina.

Existing or potential uses refers to all water–related activities including, but not limited to, commercial and recreational fisheries, marine transportation, and recreational boating.

Fecal coliforms are an indicator group of bacteria that, when found at certain levels, suggest bacterial or viral contamination of the waters.

Federal Navigation Project consists of waterway channels, anchorages, turning basins, locks and dams, harbor areas, protective jetties and breakwaters authorized by Congressional legislation.

Footprint is the area of the waters' surface or the area of the bottom covered by or directly or indirectly affected by aquaculture equipment such as floating, submerged or bottom structures.

Gear perimeter is the outermost limit or boundary of an area that encompasses the aquaculture structures and any mooring tackle.

Geospatial Information Systems are computer applications used to store, view, and analyze geographical information.

Global Positioning System is a system of satellites, computers, and receivers that is able to determine the latitude and longitude of a receiver on Earth by calculating the time difference for signals from different satellites to reach the receiver.

Grants are town and State shellfish grounds, which are privately owned and held in franchise. This system was abolished in 1915 and replaced with a leasing program.

High tide line is defined, per CGS §22a-359c, in as a line or mark left upon intertidal flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Individual permit is an option used by the U.S. Army Corps of Engineers when an aquaculture project may result in greater than minimal impacts (as determined by the USACE), either individually or cumulatively, to aquatic resources and/or navigable waters.

Leases are shellfish grounds held in Public Trust by the citizens of the State of Connecticut. These areas can be rented by the State to a shellfish producer for a defined period of time.

Mean High Water is a tidal datum measured by the average of all of the high tide heights observed over the National Tidal Datum Epoch.

Mean Higher High Water is a tidal datum derived from the average of the higher of the high tide heights of each tidal day observed over the National Tidal Datum Epoch.

Mean Low Water is a tidal datum measured by the average of all of the low tide heights observed over the National Tidal Datum Epoch.

Mean Lower Low Water is a tidal datum derived from the average of the lower of the low tide heights of each tidal day observed over the National Tidal Datum Epoch.

Mean Sea Level is a tidal datum based on the average of hourly heights observed over the National Tidal Datum Epoch.

Mudflats (also intertidal flats) are unvegetated coastal wetlands which form when silts, clays, sand and animal detritus is deposited by the tides of rivers, seas and oceans. They are often found in sheltered areas such as bays, lagoons, and estuaries. Mudflats may be viewed geologically as exposed layers of bay mud subject to periodic flooding and minor wave action.

National Geodetic Vertical Datum (NGVD) of 1929 or Mean Low Water (MLW)-NGVD of 1929 is the preferred datum for all land based elevations and MLW is the preferred datum for bathymetry (water depths).

National Shellfish Sanitation Program is a cooperative program of the U.S. Food and Drug Administration, shellfish-producing states and the shellfish industry, designed to control the harvest and distribution of molluscan shellfish for human consumption.

National Tidal Datum Epoch is the specific 19-year period adopted by the National Ocean Service as the official time segment over which tide observations are taken and reduced to obtain the average values to tidal datums (e.g. Mean High Water). The present NTDE is 1960 through 1978, and it is reviewed annually for revision and/or reconsideration.

Navigable Waters of the United States are those waters of the United States that are subject to the ebb and flow of the tide shoreward to the mean high water mark and/or are presently used, or have been used in the past, or may be susceptible to use in the future to transport interstate or foreign commerce.

North American Datum (NAD 1983) is the official U.S. horizontal coordinate system based on the 1983 National Tidal Datum Epoch, which is based on the center of the earth and is compatible with the output from global positioning system (GPS) receivers. It replaces North American Datum (NAD 1927), which is being phased out due to its incompatibility with GPS.

North American Vertical Datum (NAD 1988) is a vertical fixed datum reference to the 1988 Epoch that replaces National Geodetic Vertical Datum 1929 (NGVD 1929) and is used predominantly on land.

Programmatic General Permit is the joint aquaculture permit developed by the U.S. Army Corps of Engineers, Connecticut Department of Agriculture, Bureau of Aquaculture and Connecticut

Department of Environmental Protection for placement and use of aquaculture structures in tidal, coastal or navigable waters of Connecticut.

Prohibited area is a location that has been classified as closed to the taking of shellfish for any purpose, with exception seed oysters greater than 2.75 inches long and needing six months growing time or more.

Relaying is the transfer of shellfish from Restricted, Conditionally Restricted or Prohibited waters to Approved or Conditionally Approved waters for natural cleansing.

Restricted area is a location from which shellfish may be relayed to Approved or Conditionally Approved areas or taken for depuration prior to marketing.

Riparian right is the privilege of an individual owning land containing or bordering on a watercourse or other body of water, access and use of its banks, bed or waters.

State Jurisdiction Line is the boundary line that separates jurisdictional control between State and town shellfish grounds in Connecticut.

State Plane Coordinate System is a spatial coordinate system based on Cartesian Coordinate Plane Surveying Techniques where the projections are either Transverse Mercator or Lambert Conformal Conic. Connecticut State Plane Coordinate System is based on a Lambert Conformal Conic Projection. Modern State Plane Coordinate Systems are based on a new Earth Centered datum named North American Datum of 1983 (NAD83). The unit of measurement for NAD83 is the meter; however, Connecticut and some other states use the U.S. survey foot as the State's official unit of measurement. The system is developed for a designated zone (usually a specific state boundary or several zones within a state boundary (e.g. counties) which provides a much higher level of accuracy than a regional or national coordinate system and with minimal distortion. The original unit of measurement for the State Plane Coordinate System (NAD27) is feet.

Structures, Dredging & Fill and Tidal Wetlands Permit is a permit issued by DEP/OLISP for new work conducted waterward of the high tide line in tidal, coastal or navigable waters of the State, including dredging and the placement of structures or fill material pursuant to CGS §22a-359 through §22a-363f.

Submerged Aquatic Vegetation generally refers to any of a diverse assemblage of underwater flowering plants located in fresh, saline or brackish waters. For the purposes of Long Island Sound, species of SAV are limited to eelgrass (*Zostera marina*) and widgeon grass (*Ruppia maritima*).

Tidal Datum is the base elevation from which to reckon heights and depths in terms of the phase of tide in a specific locality (e.g. Mean Sea Level or Mean Lower Low Water) and is referenced to fixed points on land known as tidal benchmarks.

Tidal Wetlands, as defined by CGS §22a-29, refers to those areas which border on or lie beneath tidal waters, such as, but not limited to banks, bogs, salt marsh, swamps, meadows, flats, or other low lands subject to tidal action, including those areas now or formerly connected to tidal waters, and whose surface is at or below an elevation of one foot above local extreme high water; and upon which may grow or be capable of growing various tidal marsh plant species.

Work refers to any activity, construction, or site preparation, erection of structures or placement of fill, including, but not limited to grading, excavating, dredging or disposing of dredged material, depositing of soil, stones, sand, gravel, mud, aggregate or construction materials, filling, removing vegetation or other material, or other modification of a site within the tidal, coastal or navigable waters of the State waterward of the high tide line.

"Connecticut's aquaculture is an integral part of the environmental resources of the state and provides an irreplaceable economic and recreational asset to the state's citizens."

— Connecticut Aquaculture Commission, 1986

1 INTRODUCTION

1.1 History of Shellfisheries and Marine Aquaculture in Connecticut

Records from archaeological surveys show that Native Americans harvested Eastern oysters (*Crassostrea virginica)* in southern New England as early as 4,000 years ago (Bellantoni & Harty 2001). In fact, in 1638 the first settlers in New Haven witnessed Native Americans eating large quantities of oysters (Galpin 1989). As colonist populations expanded along the coast, oyster populations close to shore quickly became depleted, leading to interest in aquaculture. Only a small fishery existed in the mid-1700s; however, by the 1800s cultivators were spreading "cultch" or dried shell in shallow water to catch spawn (Trapp & Brockett 1999).

Municipal management of shellfisheries first came into play in 1750 when each town was given the right to restrict harvest in terms of season, location and/or catch size. A century later, the "Two-acre Law" allowed towns to grant the right to cultivate oysters in a defined area (Kotchiss 1974). These grants resulted in a perpetual franchise or private ownership of underwater shellfish beds. During this period, the oyster trade was the leading business in the New Haven area, with more than 300 boats engaged in harvest (Barber 1836). The perpetual franchise system was abolished in 1915 and replaced with the leasing program that exists today.

In 1881, the Legislature established the State Shellfish Commission with "exclusive jurisdiction and control over all shellfisheries". A State Jurisdiction Line was established representing the boundary between State and town jurisdictional control over shellfish grounds. The Commission was charged with surveying and mapping all town designated oyster beds, outlining all natural oyster and clam beds, developing a plan for appraising and taxing new grounds, and making annual reports to the Legislature on the condition of the industry, among other duties (Ingersoll 1881).[1]

Oyster harvests peaked between 1885 and 1910, and for various reasons, production decreased dramatically throughout the early and mid-1900s. Although the industry did not recover for three-quarters of a century, state-of-the-art shellfisheries research was thriving in Connecticut. In 1942, the National Oceanic and Atmospheric Administration's National Marine Fisheries Service (NOAA NMFS) constructed an aquaculture laboratory in Milford, where scientists developed classic techniques for shellfish and algae cultivation. These scientists and their research became world-renowned, and the laboratory continues to be an asset to the development of the State and region's industry.

[1] Electronic copies of these reports can be obtained from the Connecticut Department of Agriculture, Bureau of Aquaculture. Reports document and map the location of private grants and natural shellfish beds dating back to the 1890s.

In 1972 a full-time State agency, the Department of Agriculture's Bureau of Aquaculture (DA/BA), was created. Several other legislative actions followed to promote the development of the industry. In 1981, the State redefined the term "agriculture" to include "aquaculture", being one of the first states to do so (McCarthy 2001). As a result, aquaculturists were granted rights to the same benefits (e.g. tax evaluation based on use, low-interest loans, federal disaster assistance, etc.) as land-based farmers. Public Act-83-36, established a statewide commission to promote aquaculture development. The Aquaculture Commission provided several recommendations on how the State could enhance aquaculture production. A major accomplishment based on Commission recommendations included the establishment of a $3 million cultch fund to restore the public seed beds. This effort led to tremendous growth in oyster production and resulted in the State becoming the top oyster producer in the nation. This period of growth lasted only a decade, as an outbreak of MSX disease (*Haplosporidium nelsoni*) in 1997 reduced oyster populations by nearly 80% (John Volk, personal communication, April 17, 2001).

Today, expansion of naturally disease-resistant oyster populations, and the use of hatchery-raised seed bred for disease resistance has resulted in modest to moderate increases in oyster production along the coast. Northern quahog or hard clam (*Mercenaria mercenaria*) production became increasingly popular with the introduction of bull-rakes in the 1920s, and later hydraulic dredges in the 1950s, which made harvesting more efficient. Clam production has increased exponentially in the last three decades and the hard clam remains today the top produced shellfish species.

1.2 Overview of Shellfisheries and Marine Aquaculture in Connecticut

Marine aquaculture, in the form of shellfish production, currently represents the largest segment of the aquatic farming industry in Connecticut. In fact, the state's largest farms are underwater, with over 77,000 acres of leased and franchised shellfish grounds. The size and type of these operations vary greatly, but collectively they represent a $25 million industry (Connecticut Department of Agriculture, Bureau of Aquaculture). While traditional bottom cultivation of shellfish is still the predominant form of aquaculture in Long Island Sound, the use of submerged aquaculture structures (e.g. cages, rack and bags, long lines and predator netting), floating structures (e.g. bags, floats, nets and upwellers) and hatchery equipment has become increasingly popular. However, the installation of gear and use of these structures along our highly urbanized coastline has raised a number of concerns including boater safety, navigational hazards, liability, aesthetics, and potential effects on the environment. Consequently, the permitting process has become more complex and challenging to both the producers of aquatic organisms and their respective regulatory agencies (Getchis 2005).

1.3 Purpose

The purpose of this guide is to help existing, new and prospective producers better understand the laws, policies and permitting procedures applicable to marine aquaculture in Connecticut, ideally resulting in a reduction of the time it takes to acquire permits. The regulatory agencies share a role in enabling aquaculture activities while protecting critical habitats and species and balancing the various recreational and commercial uses and aesthetic values of Long Island Sound. This guide shall serve as an introduction to the permitting process, but should not replace regular communication with the regulatory agencies.

1.4 How to Use This Guide

This document serves as a guide to the processing of marine aquaculture applications. The user will become familiar with the agencies involved in the permitting process, their roles and responsibilities,

and the expectations that these agencies have for the applicant interested in leasing shellfish grounds and/or utilizing aquaculture structures or hatcheries for commercial, research or educational purposes. For new producers, contact information is provided on how to get started in aquaculture. A chart listing common acronyms and abbreviations for common terms is provided.

2 RESPONSIBILITIES OF REGULATORY AUTHORITIES

2.1 Department of Agriculture, Bureau of Aquaculture

The Connecticut Department of Agriculture, Bureau of Aquaculture is the lead state agency for aquaculture development in Connecticut. The responsibilities of the DA/BA include leasing submerged State lands to shellfish producers, classifying shellfishing waters, monitoring water quality, identifying sources of pollution and seeking corrective actions, and the licensing of all commercial shellfish operations and research or educational activities. With respect to aquaculture, the DA/BA Director acts as a liaison among local, State and federal permitting officials, and is the official State Aquaculture Coordinator.

The Bureau has exclusive State authority for granting or denying aquaculture permits pursuant to Connecticut General Statutes (CGS) §22-11h, except for matters concerning discharges from marine aquaculture operations, water diversions, and placement of floating or submerged aquaculture structures in the coastal zone that require permitting through the federal Coastal Zone Management Act (CZMA) and Connecticut's Coastal Management Program (CCMP). These activities are regulated cooperatively at the State and federal level with the Connecticut Department of Environmental Protection (CT DEP) and the U.S. Army Corps of Engineers (USACE) New England District.

Shellfisheries and aquaculture in Connecticut's coastal zone are governed by the Connecticut General Statutes. State shellfisheries are covered in CGS Chapter 491 (§26-187 to §26-237c), local shellfisheries in CGS Chapter 492 (§26-238 to §26-294), and aquaculture and pertinent coastal regulatory statutes are listed in Chapter 422 (§22-11c to 22-11h); Chapter 440 (§22a-28 to §22a-35); Chapter 444 (§22a-90 to §22a-112); Chapter 446i (§22a-359 to §22a-363f); Chapter 441k (§22a-416 to §22a-430); Chapter 490 (§26-55; §26-57; §26-157a); Chapter 802b (§45a-322 to §45a-323); §22a-30-1 to §22a-30-17 of the Regulations of Connecticut State Agencies (RCSA) and Section 401 of the Federal Clean Water Act (33 U.S.C., Sec. 1314). All statutes specific to shellfisheries and aquaculture are listed in Appendices D-F.

2.2 Why So Many Agencies?

In 1999, Public Act 99-93 (later codified as CGS §22-11h) was passed which transferred regulatory authority of most shellfish aquaculture activities from the Department of Environmental Protection to the Department of Agriculture. However, the CT DEP Office of Long Island Sound Programs (DEP/OLISP) remains responsible for the review of aquaculture applications to determine whether or not a project meets the exemptions for aquaculture-related activities as identified in CGS §22-11h(c). Specifically, DEP/OLISP has retained its regulatory authority of marine aquaculture discharges, water diversions and placement of structures in the coastal zone. These activities require consistency review with the State's Coastal Management Program, which is administered by the DEP/OLISP.

Following codification of PA 99-93, there lacked a process to coordinate review of proposed aquaculture activities among local, state and federal regulatory agencies. In response, the USACE New England District modified the existing Connecticut Programmatic General Permit for Aquaculture to incorporate DEP/OLISP CCMP requirements not otherwise considered by the Public Act's transfer of regulatory authority for aquaculture on leased beds to the DA/BA. A joint permit application was

developed for aquaculture activities that ensures the incorporation of CCMP consistency evaluation among all responsible regulatory agencies with the DA/BA as the first point of contact for receipt.

The Application for the Joint Programmatic General Permit (PGP) for Aquaculture results in the issuance of one or more of the following types of permits depending on the nature and location of the work proposed:

1) Programmatic General Permit
2) Individual Permit (IP)
3) Structures, Dredging & Fill and Tidal Wetlands Permit (SDF & TW)[2]
4) Certificate of Permission (COP)
5) Permit for Regulatory Markers

Once the appropriate permit(s) is granted, the DA/BA issues a Certificate for Aquaculture Operations (CAO) to the applicant. The review process for the Joint Programmatic General Permit for Aquaculture is explained in detail in Section 4.5. Contact information for the regulatory agencies can be found in Appendix A of this document.

2.3 DEP Office of Long Island Sound Programs

The State of Connecticut has been regulating all in-water structures, obstructions and encroachments since 1939. The Connecticut Department of Environmental Protection, Bureau of Water Protection & Land Reuse, Office of Long Island Sound Programs is responsible for the implementation, oversight and enforcement of the state's Coastal Management Program. The Program is administered by the DEP and is approved by NOAA under the federal CZMA. Under the statutory umbrella of the Connecticut Coastal Management Act (CCMA), enacted in 1980, the Program ensures balanced growth along the coast, restores coastal habitat, improves public access, protects water-dependent uses, public trust waters and submerged lands, promotes harbor management, and facilitates research. The Coastal Management Program also regulates work in tidal, coastal and navigable waters and tidal wetlands under the CCMA (Section 22a-90 through 22a-112 of the Connecticut General Statutes), the Structures Dredging and Fill statutes (Section 22a-359 through 22a-363f) and the Tidal Wetlands Act (Section 22a-28 through 22a-35).

With respect to aquaculture, DEP/OLISP currently reviews aquaculture applications to determine whether or not the proposal meets the specific exemptions for aquaculture-related activities as identified in CGS §22-11h(c).

2.4 DEP Navigation Safety/Boating Access Unit

DEP/Boating is responsible for planning; developing and implementing the Navigation Safety program, which includes appropriate marking of aquaculture structures. DEP/Boating reviews all aquaculture proposals for navigation, safety and boating access. The applicant should be aware that if a boat is able to transit the area where aquaculture structures are proposed to be placed, they will likely be required to obtain a Marker Permit Application (MPA) from the Navigation Safety/Boating Access Unit. It is recommended that prior to the submittal of an aquaculture application, the applicant contact this Unit for information about the permit and the permitting process associated with it.

[2] To download the SDF & TW application, select application for "Programs Administered by OLISP"

2.5 DEP Marine Fisheries Division

The CT DEP Marine Fisheries Division is responsible for regulating recreational and commercial fisheries for finfish, squid and arthropods in Connecticut's marine waters, with the goal of maintaining sustainable fisheries and fish populations. To this end, the Division regulates various aspects of those fisheries, including fishing gear, placement of gear, minimum and maximum sizes, possession limits, seasons, landings at Connecticut's ports, and certain aspects of handling product in the marketplace.

The Marine Fisheries Division reviews applications for aquaculture activity for effects on fish and fish habitat, as well as effects on the commercial and recreational fisheries under the Division's jurisdiction. Comments on applications, including recommendations to avoid or minimize adverse effects on resources and fisheries, are sent to the DEP/OLISP, DA/BA and the USACE for inclusion in the joint review process. To contact the Marine Fisheries Division, call (860) 434-6043.

2.6 DEP Bureau of Waste Management and Compliance Assurance Permitting Division

The DEP regulates discharges to waters of the State, including all surface waters, ground waters and Publicly Owned Treatment Works (POTW) (i.e. sewage treatment plants). DEP issues discharge permits in three major categories. This includes discharges from aquaculture facilities (i.e. hatcheries).

The Surface Water Discharge Permit Program, also known as the National Pollutant Discharge Elimination System (NPDES) under federal law, regulates discharges into surface waters (either directly or through municipal storm sewer drainage systems, or through other drainage systems such as wetlands or swales).

The Ground Water Discharge Permit Program regulates discharges to ground water from any source, including but not limited to large septic systems, agricultural waste management systems, and all waste landfills.

The Pre-treatment Permit Program regulates discharges to a POTW, through municipal sanitary sewer drainage systems, or through combined storm and sanitary sewer systems. All wastewaters (excluding domestic sewage) that are hauled directly to a POTW will require either a pre-treatment permit or will be regulated under the POTW's permit. Domestic sewage hauled directly to a POTW is regulated by the Connecticut Department of Public Health.

Please be aware that any individual or municipality that discharges water, substances, or materials into the waters of the State is required to obtain a permit prior to commencing the discharge. Waters of the State include all surface and ground waters, sanitary and storm sewers. Subsurface discharges of domestic sewage which are not community sewer systems and which have a volume of less than 5,000 gallons per day are regulated solely by local health departments in accordance with the Connecticut Department of Public Health. For additional information contact DEP Bureau of Waste Management and Compliance Assurance Permitting Division at (860) 424-3018.

2.7 U.S. Army Corps of Engineers

The USACE regulates aquaculture activities in coastal waters and adjacent wetlands under the Rivers and Harbors Act of 1890, and in some cases, the Clean Water Act of 1977. Federal regulation prohibits the unauthorized obstruction or alteration of any "navigable waters" of the U.S. and requires USACE approval for any work that may affect the course, condition, location or capacity of navigable waters. Laws and policies such as the Clean Water Act, Section 103 of the Marine Protection Research and Sanctuaries Act (MPRSA), and the National Environmental Policy Act (NEPA) have broadened the

federal regulatory responsibility of the USACE to provide full public interest review of placement and construction of structures, and excavation or deposition of materials in, over, or under navigable waters for both the protection and balanced use of water resources. In addition, the federal CZMA requires the USACE to ensure that permitted activities directly affecting a state's coastal zone are in compliance with the state's approved CCMP, administered in Connecticut by DEP/OLISP.

2.8 Local Agencies

Connecticut's municipal Shellfish Commissions are responsible for managing shellfish resources, shellfisheries and aquaculture in waters lying north of the State Jurisdiction Line, or "town waters". Each commission is required to develop a comprehensive management plan that includes a process for leasing commercial shellfish grounds and providing local review of applications for placement of aquaculture structures in town waters.

Although these local decision-makers do not have legal authority to permit aquaculture structures, the Commissions play a role in the review process for potential social and use conflicts, as well as potential effects on protected habitats and/or species caused by aquaculture activity. If projects are located in municipal waters, the local shellfish commission is consulted. Comments received from the local shellfish commission with regard to aquaculture applications are submitted to the DA/BA, and are then forwarded to DEP/OLISP and USACE.

2.9 Other Agencies That May Play a Role in Aquaculture Regulation

Other agencies at the local, state and federal level may play a role in reviewing aquaculture applications. These may include, but are not limited to the following agencies:

- U.S. Environmental Protection Agency
- U.S. Food and Drug Administration
- U.S. Fish and Wildlife Service
- U.S. Coast Guard
- NOAA National Marine Fisheries Service
- Minerals Management Service
- Northeast Fishery Management Council
- Atlantic States Marine Fisheries Commission
- Connecticut Historical Commission ([3])
- Local Harbor Management Commissions

3 GETTING STARTED IN AQUACULTURE

3.1 Developing an Aquaculture Business Plan

There are several key factors that should be considered before starting a new aquaculture operation. Before selecting a species, it is critical to explore the potential marketability and distribution of the crop. A good business plan always begins with a marketing strategy, and research on potential markets and customers is critical. Once a species is selected, site selection is the next step as location is key to any business. For all aquaculture operations, an abundant source of high quality water is essential. Proximity to shoreline resources such as fuel, ice and transportation should be considered, as well as determining acceptable routes of access to/from the site. Prospective aquaculturists should be careful

[3] All applications are sent to the Connecticut Historical Commission for review and comment pursuant to the National Historic Preservation Act of 1966. In rare cases, the applicant may be required to contract for an archeological reconnaissance survey in order to document the presence or absence of significant archeological sites. If the proposed operation would damage a significant historical or archeological resource, the USACE may require modification of the proposal, or deny authorization for the proposed activity.

when selecting lease sites, as Restricted or Conditional areas may require relay of shellfish to Approved waters. Choosing a site with minimum environmental, social or use conflicts or impacts is also imperative and is discussed in the next section. Permitting aquaculture activity, especially the use of floating, submerged or bottom structures, takes considerable time. Interested applicants should have a clear understanding of what state, federal and local requirements would pertain to the aquaculture operation, and allow adequate time for application review.

For additional and in-depth information on factors to consider when developing an aquaculture business plan, download Decision-making Factors for Investment in Aquaculture (Pomeroy 2003).

3.2 Factors to Consider When Starting an Aquaculture Operation

There are many factors of to consider when designing an aquaculture project. Both State and federal legislation requires an evaluation of the potential social, environmental and economic effects of any proposed aquaculture activity. Careful consideration should be given to other existing uses and natural resources at the site to avoid use conflicts and prevent or minimize adverse effects to the environment. These factors should always be considered prior to obtaining lease rights and/or investing in aquaculture gear or equipment.

The potential effects of an aquaculture project are generally related to the geographical location and size of the facility and the type of gear used. These effects can be beneficial or detrimental, where the benefits accrued by the project may be social, economic and environmental in nature. Shellfish production may result in lower harvest pressure on wild species, a source of juveniles for the enhancement of natural populations and/or improved local water quality where existing conditions are limited. Aquaculture structures provide three-dimensional habitat which has been shown to increase diversity and abundance of ecologically important organisms.

Aquaculture operations can potentially cause adverse effects to the natural environment in which they are placed, or threaten historic uses of the site. Some examples include the modification of natural coastal processes such as long-shore movement of sediment, the accumulation of particulate matter below aquaculture gear or structures, reduction in abundance or diversity, or damage to estuarine flora and fauna, the loss (or perceived loss) of natural character and amenity value, or competition with wild fisheries. When developing a business plan, the prospective aquaculturists should consider the following:

Environmental Considerations

- Will the activity alter water quality?
- Will the activity alter species abundance and/or diversity?
- Will the activity disturb or displace essential fish habitat?
- Will the activity disturb or displace submerged aquatic vegetation?
- Will the gear withstand forces of nature (e.g. wind, waves, tides)?
- Is there a contingency plan for gear failure and appropriate marking of both the equipment and the lease area in accordance with State of Connecticut requirements?

Social Considerations

- Will the operation function during early morning or late evening hours?
- Will the facility, vessels, gear or maintenance cause visual or audio disturbance?
- Will the facility, gear, vessels prevent or limit:

- Navigation (e.g. shipping, ferry routes, designated or common fairways)
- Commercial uses (e.g. fishing)
- Recreational uses (e.g. fishing, pleasure boating, moorings or anchorages)
- Safe ingress and egress for riparian owners
- Safe traverse for boaters
- Public access to the site

The best way to facilitate rapid review of your aquaculture application is to conduct a pre-application meeting with DA/BA, USACE and DEP/OLISP prior to the submittal of an application. During this meeting, the applicant will discuss the project scope and size, as well as the proposed location for such aquaculture activity. By participating in this pre-application meeting, the applicant will be able to submit an application that avoids or minimizes user conflicts; minimizes environmental impacts, and is cited in a proper location.

Applicants should be aware that being the first or the largest operation of its kind will most likely subject the application to greater scrutiny, requiring greater justification for the project need, more baseline information on the environmental parameters of the site, and a detailed assessment of the potential direct, indirect, individual and cumulative effects of the project.

3.3 Submerged Aquatic Vegetation and Aquaculture Activity

If there is documentation that the proposed aquaculture site may have historically, or recently, supported submerged aquatic vegetation (SAV), the applicant may be required to complete a qualitative or quantitative survey of the proposed gear installation area. Currently, Connecticut does not have formal guidelines established for the survey of SAV, although the National Marine Fisheries Service, in coordination with individual states, has initiated a regional attempt at the development of such guidelines. Guidelines have been established by NMFS for the State of New Jersey, and are being used as a resource in Connecticut. Copies of this guidance document entitled "*Seagrass Survey Guidelines for New Jersey*" (NMFS 1991) is available from the USACE (see Appendix A for contact information).

If the applicant is required to provide a qualitative assessment, the following recommendations may be of assistance:

- Develop a proposed sampling plan to the agency which is requesting the survey and obtain their approval before commencing the work
- Conduct a qualitative survey of the proposed aquaculture site to determine the presence or absence of SAV and macrobenthic vegetated habitats (e.g. rockweed, kelp and other seaweed)
- Conduct SAV surveys during the growing season (June through September), and preferably during the period of peak biomass, which usually occurs in the states of Connecticut during July and August.
- Record the date and time of investigation, method of investigation, approximate height of tide and water visibility at the time of the survey. A benchmark reference for hydrographic survey is helpful.
- Identify the greatest depth that SAV appears within, or immediately adjacent to, the project area. This can be performed by snorkeling or diving the entire area along a transect (straight line), perpendicular to the shoreline, commencing from mean low water (MLW) to the depth waterward where SAV no longer appears.

- If the proposed activity is for filling, dredging or the placement of aquaculture gear (e.g. cages, bags, longlines), the SAV survey should be conducted utilizing an exploratory survey such as the one identified above and should encompass the entire gear area (footprint) plus an additional buffer zone of 50 feet beyond the predicted area of disturbance.
- If the proposed activity is a structure (e.g. float or pier), the survey should be conducted utilizing an exploratory survey such as the one identified above. Preferably, one or more transects should be situated to mirror the alignment of the proposed structure and should document the landward and waterward-most extent of vegetation, if present. At a minimum, SAV should be delineated during the height of the growing season July and August, to the extent practicable, within a 50-foot radius defined by a fixed point located at the terminus of the fixed pier or float.
- If possible, document dive surveys using a video camera.
- Delineate SAV on project plans as clearly, and as accurately, as possible

It is important to note that the above items are just suggested guidelines and are not requirements of the State of Connecticut or any specific federal agency. However, adhering as closely as possible to these suggestions or other recommendations provided by the requesting agency will greatly assist both federal and State agency biologists and regulatory agencies in review of an application for a permit.

In many instances, the presence of SAV within the bounds of the subject lease does not disallow the project. If the project is found to be acceptable, , the inclusion of a special permit condition prohibiting the installation of aquaculture gear and mooring tackle within 25 feet of the vegetation boundary may be included in any authorization/permit issued to the applicant.

3.4 Where Can I Go For Help?

The prospective aquaculturist should contact the local Sea Grant Extension office to gather information on financing the aquaculture operation, marketing, species, system and site selection, and water quality. The Sea Grant Extension office provides one-on-one consultation, group workshops, and/or topical literature. The Sea Grant Program also hosts AquaGuide, an online resource guide for aquaculture in Connecticut. The web site contains various print and multi-media resources for the beginner and advanced aquaculturist.

All permitting questions should be directed to the State Aquaculture Coordinator, located at the DA/BA. Contact information is provided in Appendix A.

4 PERMITS FOR COMMERCIAL MARINE AQUACULTURE OPERATIONS

4.1 How to Become a Licensed Commercial Aquaculturist

Shellfish aquaculture is broadly divided into three categories: 1) traditional bottom culture (no gear); 2) gear cultivation (use of floating, submerged or bottom structures; and 3) hatchery culture.

Individuals seeking to cultivate shellfish using *traditional bottom culture* practices in which gear (including predator netting) is not necessary require a lease from the DA/BA. If the proposed activity is to take place in town waters, contact the local Shellfish Commission. In addition, several other licenses and/or permits may be required depending on the type of activity to be conducted (e.g. transplant, relay). See Appendix C for a list of licenses and permits and links to applications.

Individuals seeking to use *cultivation gear* (e.g. bags, cages, long lines, etc.) or utilize a *hatchery* must complete the Application for a Joint Programmatic General Permit for Aquaculture. It is not necessary

for the aquaculture activity to be located on a lease, however, additional licenses or permits may be required if the proposed activity will not be located within a lease.

4.2 Leasing Shellfish Grounds in State Waters

All underwater lands in Connecticut are considered to be held in the public trust and cannot be purchased for sale. Therefore, applicants must apply for a lease with the State of Connecticut through the DA/BA (Figure 1). Applications may be obtained at the DA/BA office in Milford, or may be requested by phone (203) 874-0696. Applicants should consult with DA/BA staff in order to review lot coordinates prior to submitting a lease application. Grounds must be used for shellfish planting and cultivation and cannot interfere with any established right of fishing. Grounds cannot be leased to non-residents unless their state offers reciprocity. To determine which grounds, if any, are currently open to the bid process, visit the DA/BA Web site online at: http://www.ct.gov/doag/site/default.asp, select "aquaculture" & "New Shellfish Bed Lease Opportunities".

Lease applications must be accompanied by a fee in the amount of $100.00, which includes an advertising fee of $90.00, and a recording fee of $10.00. In some instances, the actual cost for advertising is greater or less than $90.00. In this case, the difference is returned to, or collected from, the applicant. The applicant also submits a bid for the lease along with the lease application. The policy of the DA/BA requires a minimum bid of $4.00 per acre and a lease is granted for a period of three (3) years. The lease may be renewed provided the lessee has paid the yearly rental fee.

The Commissioner of Agriculture will lease to the highest responsible bidder. All bids, upon receipt, are kept in the vault to be opened by the Commissioner (or his authorized representative) at the location, time and date as indicated in the Legal Notice for Bidders. Accompanying each bid is a check, payable to the Commissioner of Agriculture, for one (1) year's rental fee. If the applicant is not the successful bidder, the $100.00 Lease Application Fee, and bid for one (1) year's rental fee, is returned.

The successful bidder ("lessee") is responsible for an engineering fee of $35.00 per corner, which is required to cover the cost of surveying per CGS §26-200. The successful bidder is responsible for buoying the proposed lot, or the lessee may choose to pay the DA/BA the cost of buoying the proposed lot for the purpose of identifying the area during bidder resource surveys. The successful bidder is also responsible for providing all poles, buoys, buoy stones, floats and rope used in connection with the surveying of the lease or the lessee may choose to have DA/BA furnish these items. In this case, the lessee is billed at the rate of:

- Six dollars and twenty-five cents ($6.25) for each buoy pole used.
- Five dollars and fifty cents ($5.50) for each buoy stone used.
- Six dollars and fifty cents ($6.50) for each float used.
- Ten cents (10¢) per foot of rope used.
- Seventy-five cents (75¢) for each flag used.
- The DA/BA Boat Captain will report on materials actually used.

All lease areas are surveyed and recorded by Global Positioning System (GPS) and coordinates and lease information stored in a Geographic Information System (GIS) database managed by the DA/BA. Printed maps of leased areas can be obtained from the DA/BA for a fee of $2.00 per map.

APPLICANT

- ✓ Consults with DA/BA to review lot coordinates
- ✓ Completes lease application
- ✓ Submits $100 lease application fee
- ✓ Submits lease bid per acre
- ✓ Submits check for one year's rental fee

DA/BA

- ✓ Reviews application for completeness
- ✓ Confirms receipt with applicant
- ✓ Places bid in vault, places legal notice of lease bid
- ✓ Returns lease application fee to unsuccessful bidder
- ✓ Awards lease to successful bidder for three years
- ✓ Collects or returns difference of advertising portion of lease application fee

SUCCESSFUL BIDDER

- ✓ Pays engineering fee
- ✓ Places buoys on proposed lot, or pays cost for DA/BA to do so
- ✓ Provides all poles, buoys, buoy stones, floats and ropes, or pays cost for DA/BA to furnish items

DA/BA

- ✓ Surveys and records lot in GPS
- ✓ Collects annual rental fees

Figure 1. Leasing Process for State Shellfish Grounds

4.3 Leasing Shellfish Grounds in Town Waters

Requirements vary by town. Contact your local shellfish commission for additional details. Contact information for shellfish commissions appears in The Guide to Shellfishing Along the Coast of Connecticut (Getchis 2008).

4.4 Transport / Importation of Shellfish

A license is required any time shellfish broodstock, larvae or seed are transported within, or imported into, the State of Connecticut. The applicant must submit an Application for a Scientific/Resource Assessment license. There is no application fee or charge for the license. Call the DA/BA at (203) 874-0696 for additional information.

In addition, the importation of larvae, seed, broodstock or adult shellfish from a hatchery/supplier outside of Connecticut requires approval by the state shellfish pathologist. Health certificates provided by other pathology laboratories may be acceptable, but not without approval of Connecticut's State Shellfish Pathologist. Please contact Dr. Inke Sunila at DA/BA (203) 874-0696, isunila@snet.net prior to importation activity to prevent shellfish diseases from entering into the State. Pathology testing may be done free of charge.

4.5 Permitting Process for the Joint Programmatic General Permit for Aquaculture

Applicants seeking to cultivate and/or depurate shellfish or other marine organisms using any method other than traditional on-bottom culture *without the use of any structures* must complete the Application for a Joint Programmatic General Permit for Aquaculture. Before completing the application, a pre-screening meeting with the State Aquaculture Coordinator, located at DA/BA office in Milford, is recommended. If the proposed project area is within town waters, the proposed project plan must be reviewed by the local shellfish commission prior to completing the Application for a Joint Programmatic General Permit for Aquaculture.

The Application for a Joint Programmatic Permit for Aquaculture may be obtained at the DA/BA office Milford or by calling (203) 874-0696. Individuals should submit their application directly to the DA/BA. There is no fee in association with the Application for a Joint Programmatic General Permit for Aquaculture; however, other required permits may have an associated fee.

When DA/BA receives the Application for a Joint Programmatic General Permit for Aquaculture, copies are forwarded to the following agencies: DEP/OLISP, DEP/Marine Fisheries, DEP/Boating, USACE and to the local Shellfish Commission, if applicable. All applications for proposed aquaculture activities are screened initially under the Joint Programmatic General Permit for Aquaculture. Upon receipt of the application from DA/BA, DEP/OLISP determines whether the proposal meets the specific aquaculture exemption criteria.

If the aquaculture gear has the potential to interfere with navigation, and/or will not be located within a lease, franchise or designated shellfish areas, the activity will likely require a Structures, Dredging & Fill and Tidal Wetlands Permit or Certificate of Permission from DEP/OLISP.

The Structures, Dredging & Fill and Tidal Wetlands permit (select application for "Programs Administered by OLISP") is issued by DEP/OLISP for new work conducted waterward of the high tide line in tidal, coastal or navigable waters of the state, including dredging and the placement of structures or fill material pursuant to CGS §22a-359 through §22a-363f. An example of a permit-eligible aquaculture activity would be the installation of an intake pipe into Long Island Sound to divert seawater into a hatchery located on the upland.

The Certificate of Permission is issued by DEP/OLISP for certain minor activities involving dredging, erection of structures, or fill in any tidal, coastal or navigable waters of the state in accordance with CGS §22a-361 through §22a-363c. An example of COP eligible aquaculture activity would be the installation and attachment of a floating upweller or other aquaculture equipment to an existing, permitted structure such as a dock.

Upon review of application, DEP/OLISP sends a letter to the applicant stating that whether the project is exempt or not from DEP/OLISP permits. If project is not exempt, the appropriate permit application form and instructions are forwarded to applicant. DEP/OLISP also indicates in the letter that the applicant may be required to obtain a permit for regulatory markers and states that the applicant must contact the DEP Navigation Safety/Boating Access Unit to determine such. DEP/OLISP does not make this determination.

The CT DEP Navigation Safety/Boating Access Unit (DEP Boating) may require that informational buoys mark the location of aquaculture structures. If a boat is able to transit the area where structure(s)

is proposed to be placed, the applicant will likely be required to obtain a Marker Permit Application from DEP Boating.

The USACE conducts a coordinated review with other State and federal regulatory and resource agencies, as appropriate (Figure 2). After the initial review process, applicants will be notified in writing of further requirements or information (if any) within 45 days. For those activities in which the federal or state regulatory agencies or environmental resource agencies identify concerns for greater than minimal impacts, either individually or cumulatively to aquatic resources or navigable waters, an Individual Permit review, rather than a PGP, will be required. If a determination is made that an IP is required, USACE provides all of the instructions and forms in a transmittal letter. If the proposed project will result in unavoidable and unacceptable adverse effects to navigable waters or aquatic resources, permit authorization will be denied.

If the USACE grants authorization for aquaculture gear or intake/discharge pipes in waters of the United States, the applicant will receive a letter of approval of the PGP directly from the USACE. The USACE will add special conditions to the Army permit when such conditions are necessary to satisfy legal requirements or to otherwise satisfy the public interest requirement. Permit conditions will be directly related to the impacts of the proposal, appropriate to the scope and degree of those impacts, and reasonably enforceable. The USACE is also authorized to add special conditions, when necessary, to more specifically clarify the authorization of the permitted activity. In addition, if the USACE has reason to consider that the permittee might be prevented from completing the work, such as removal of abandoned gear or other clean up operations, or executing the project consistent with special conditions of the permit which are necessary to protect the public interest, the agency may require the permittee to post a bond of sufficient amount to indemnify the government against any loss as a result of corrective action it might take. A copy of the USACE approval letter, when issued, will be forwarded to the DA/BA and the DEP/OLISP. If the project is permitted within town waters, the local shellfish commission will also receive a copy of the approval letter.

Once the appropriate permit(s) or exemption letters from DEP and/or USACE are granted, the DA/BA issues a Certificate for Aquaculture Operations (CAO) to the applicant. Written authorization from all three agencies is required before aquaculture activities can commence or gear can be placed in the water.

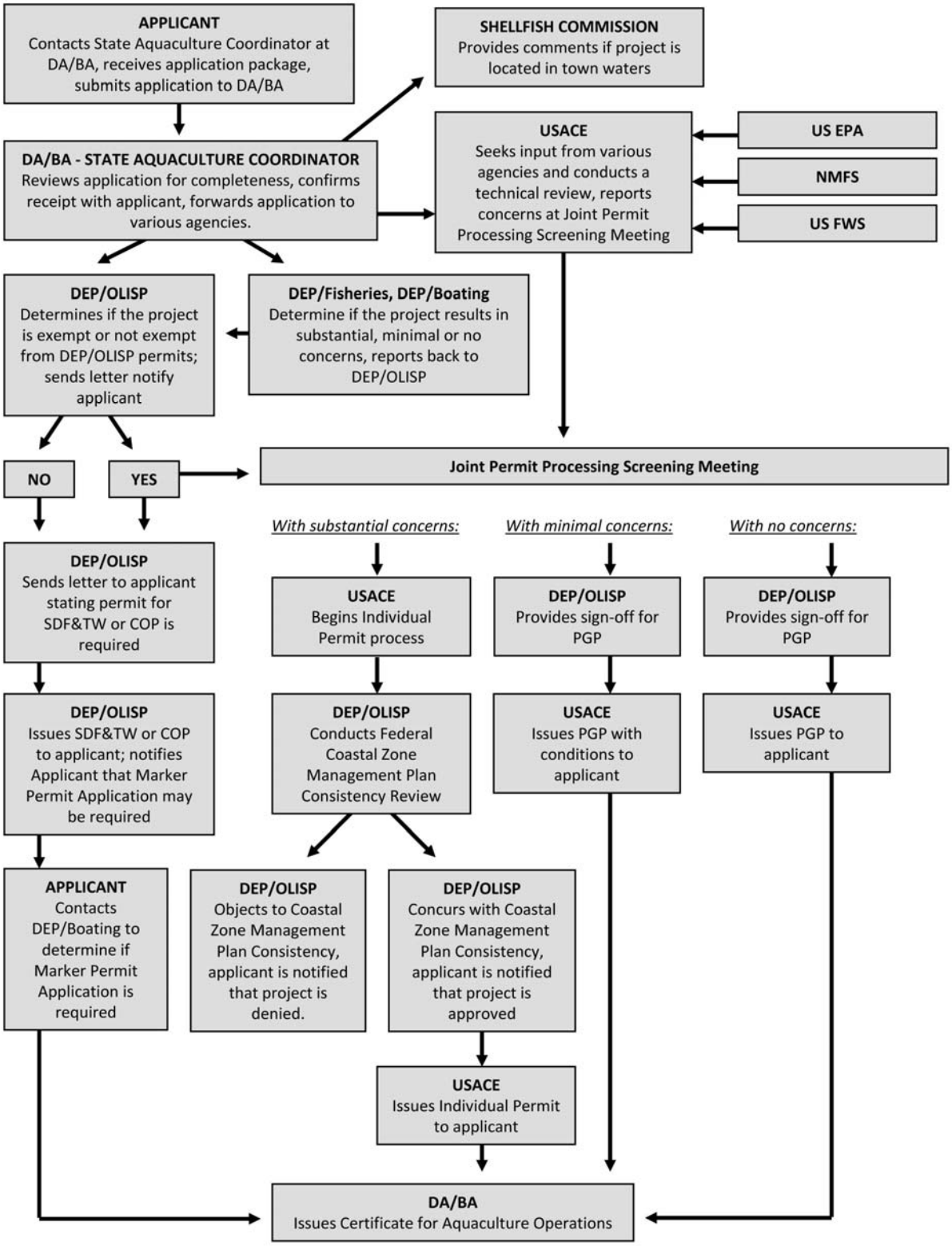

Figure 2. Roadmap to the Review Process for the Joint Programmatic General Permit for Aquaculture

4.6 How to Complete the Application for a Joint Programmatic General Permit for Aquaculture

This guidance is provided along with a copy of the Application for the Programmatic General Permit for Aquaculture, located in Appendix B. The application can be completed online, printed and submitted to the DA/BA, or may be obtained by calling the DA/BA at (203) 874-0696.

Application Section 1. Applicant Information

This section is self-explanatory and all fields should be completed. Mark any sections that do not apply with a "N/A". It is important to note whether this is a first time application, an amendment to an existing application, or a replacement for an existing application. The applicant must provide his/her signature on this page attesting to the truthfulness of the document.

Application Section 2. Project Description

A legal description of the site is required, thus an official lease/lot number must be provided, and the project should be given a unique name that the DA/BA can refer to.

A description of all aspects of the proposed aquaculture project should be provided. The narrative should describe the design and operation of the facility or site; identify type of cultivation and/or harvesting structures, maintenance procedures including duration that structures remain on site, and estimated yearly production.

Application Section 3. Source of Aquatic Organisms

This section addresses the importation of shellfish larvae, seed, and/or broodstock. All imported shellfish must be certified as disease-free, and an application for a Long-term Transplant (Relay) License, Short-term Transplant (Relay) License or Scientific/Resource Assessment License must be completed. Any individual who plans to import such organisms must have them tested by the State shellfish pathologist or request authorization for importation from DA/BA. Testing must be completed and a license granted prior to submitting the Application for a Joint Programmatic General Permit for Aquaculture. For additional information, contact the DA/BA at (203) 874-0696.

If testing has been completed and a license granted, the applicant must note the official license number, date of the license, name of shellfish supplier, and the physical address of shellfish the supplier.

Application Section 4. Project Permissions

This section identifies where the proposed project will take place and whether the applicant leases the area or has permission from the leaseholder or marina owner to use the area. If the project is located within a marina, the applicant must furnish documentation that the marina structure is permitted. Supporting documentation could include permitted marine facility project plans, permit identification number, authorizations, permits, etc. If the aquaculture structures are already in place, the applicant must contact the USACE at (978) 318-8338 and DEP/OLISP at (860) 424-3917 to determine how to proceed.

If the work is to be conducted in a land-based hatchery, and includes diversion of water to and/or discharge from the hatchery, the applicant should contact the DEP Bureau of Waste Management and Compliance Assurance Permitting Division at (860) 424-3018 to determine if water diversion and/or discharge permits are required.

Application Section 5. Hatchery Description

This section must be completed if the applicant is proposing the diversion, intake or discharge of water for operation of a hatchery. Include the source and approximate volume of the diverted or intake water, as well as the diameter and length of intake pipe. The physical location of the intake pipe (latitude, longitude) and datum used should be noted. If anything else will be added to the water besides the aquaculture organisms, it should be listed. Include the location to receive the discharge and approximate volume, as will as the diameter and length of discharge pipe. The physical location of the discharge pipe (latitude, longitude) and datum used should be noted. The frequency of discharge and the nature and type of materials should be described. If the wastewater (effluent) will be treated prior to its discharge, the treatment protocol must be described in detail.

Also, if this component of the project will include either temporary or permanent discharge of fill material (e.g. dredged spoil, riprap, concrete support structures, backfill etc.) below the high tide line, the applicant should identify the type of material (e.g. rock, sand, clay, concrete, etc.), the surface area of waters to be filled (square feet or acres), the means by which the discharge will take place (e.g. backhoe etc.) and explain the specific purpose of the placement of the material (erosion control, backfill, structural stability etc.).

Application Section 6. Site and Gear Specifics

The applicant must complete this section if the proposed project involves the use of aquaculture structures (cultivation gear) and/or predator netting, to be placed in tidal, coastal, and/or navigable waters. This section must be replicated for each separate location (i.e. one for each different town and/or lease site).

The applicant should describe as clearly as possible any recreational and commercial uses of the proposed aquaculture area, volume, duration of activity (e.g. seasonal, year-round), and direction of traffic of activity in the immediate project area. Identify surrounding area uses such as presence of public boat ramp or recreational access sites, abutting riparian properties if located within 1000 feet of the proposed gear area and designated Federal navigation channels, turning basins, or anchorages within 200 feet of the lease boundary([4]).

The applicant must identify special habitat or species of concern that may be present at the site such as intertidal vegetation (e.g. marsh grass, wetlands), submerged aquatic vegetation (e.g. eelgrass), and/or State/federal listed species (e.g. piping plover, bald eagle, etc.).

Application Section 7. Project Figures

The completed application must include the following figures:

- Site Location Map
- Project Overview
- Gear Description

[4] In the case where the proposed aquaculture gear is a fixed or floating structure and it is proposed within two hundred feet (200') of a Federal Navigation Project (FNP) the applicant will be required to determine and show the state plane coordinates for the extreme lateral limits of his project, and the point of closest approach of any structure to the FNP. Structures which may cause an intrusion into FNP's will typically not be permitted. Examples of intrusions are permanently moored vessels, fish harvesting devices, etc.

If the proposed project involves multiple locations (i.e. different towns and/or lease sites), the applicant must photocopy this section and complete for each location. See application package for sample application figures.

Once the application is completed it must be signed and submitted to the DA/BA. Incomplete applications will be returned to the applicant.

4.7 Shellfish Sanitation

DA/BA must conform to the U.S. Food and Drug Administration/Interstate Shellfish Sanitation Conference (FDA/ISSC) mandates of the National Shellfish Sanitation Program Model Ordinance (NSSP-MO) in order to assure safe shellfishing areas for commercial and recreational harvesting, protection of public health, and to maintain its interstate standing and comply with Connecticut General Statutes Section 26-192. The NSSP-MO describes the minimum requirements for classification of shellfishing areas, proper harvesting, handling, labeling, storing, transporting of shellfish, and associated record keeping. Historically, the NSSP was developed cooperatively in 1925 by the states, the U.S. Public Health Services (now the FDA) and the shellfish industry in response to major shellfish related food-borne outbreaks. In 1983, the ISSC was formed to update the NSSP and address shellfish sanitation issues.

The ISSC is composed of coastal and inland state regulators, with representation by FDA and the shellfish industry. The ISSC developed the current NSSP Model Ordinance. The FDA, through a Memorandum of Understanding with the ISSC, must evaluate each state's shellfish program for compliance with the NSSP-MO. The FDA also standardizes state inspectors to examine the sanitary handling, shipping and record keeping of commercial market shellfish operations. Those operations found to be in conformance with the NSSP-MO are licensed in good standing by DA/BA and a listing of those operations is forwarded to the FDA for inclusion in the Interstate Certified Shellfish Shippers List (select Program Area entitled "seafood"). Those states not in compliance are subject to having their commercial shellfish dealers removed from the FDA "List." Removal from the "List" results in a halt to all sales and shipment of shellfish from those licensees. Such action could be economically devastating to a state's shellfish industry.

The DA/BA performs coastal sanitary surveys along Connecticut's 250-mile shoreline and monitors shellfish growing areas in Long Island Sound for the protection of public health. Seawater samples are collected at numerous routine monitoring locations along the coastline and tested for fecal coliform bacteria. Fecal coliforms are an indicator group of bacteria that, when found at certain levels, suggest bacterial or viral contamination of the waters. Shoreline surveys are conducted to assess and correct sources of pollution. The DA/BA examines plankton tows and shellfish meats as necessary to evaluate the potential for marine biotoxins that can be formed by certain types of phytoplankton. The Bureau also posts signs in areas closed to shellfishing, performs hydrographic dye dilution studies, performs environmental investigations, prepares memorandums of understanding for conditional shellfishing areas, and reviews applications for shellfish harvest operations and initiates emergency closures.

4.8 Hazard Analysis and Critical Control Points (HACCP) Training

As part of this Shellfish Sanitation program, the DA/BA is responsible for the inspection and licensing of shellfish dealers involved in harvesting, shucking, depuration, repacking and reshipping of fresh and frozen oysters, clams, mussels and scallops, if whole or roe-on.

All shellfish dealers, including commercial harvesters, must take Hazard Analysis and Critical Control Point (HACCP) training and develop a HACCP plan conforming to the FDA's Seafood Regulations. All shellfish processing and handling operations are inspected at least twice per year as required by FDA. Harvesting boats, vehicles, facilities, equipment, product handling procedures and record keeping are checked for compliance. Operational licenses are reviewed and appropriate corrective actions are taken. The DA/BA assists other state, municipal and federal health officials in investigating food borne illnesses, product recalls and embargos. To learn more about the HACCP program, or to enroll in a course, contact the Connecticut Sea Grant Extension Program at (860) 405-9127.

5 PERMITS FOR RESEARCH, EDUCATION AND RESTORATION

Various permits are required for research and education projects, depending on the nature and location of the project, source of aquatic organisms, and type of gear, if any, to be used. Detailed instructions on the permits required for research and education activity is available in Guidelines for Utilizing Aquatic Organisms for Scientific/Educational Use (Carey et. al 2008). The following is a summary of the major activities and the required permits associated with research, education and restoration.

5.1 Transport/Importation of Shellfish

A license is required any time shellfish, broodstock, larvae or seed are transported within, or imported into, the State of Connecticut. The applicant must submit an Application for a Scientific/Resource Assessment license. There is no application fee or charge for the license. Call the DA/BA at (203) 874-0696 for additional information.

In addition, the importation of larvae, seed, broodstock or adult shellfish from a hatchery/supplier outside of Connecticut requires approval by the state shellfish pathologist. Health certificates provided by other pathology laboratories may be acceptable, but not without approval of Connecticut's state shellfish pathologist. Please contact Dr. Inke Sunila at DA/BA (203) 874-0696, isunila@snet.net prior to importation activity to prevent shellfish diseases from entering into the State. Pathology testing may be done free of charge.

5.2 Collection of Shellfish for Scientific Investigation

For the periodic collection of specimens from waters within the State of Connecticut, more than one type of license may be required. The type of license issued will be determined based on the proposed project. Please contact the DA/BA to obtain the correct license application at (203) 874-0696.

5.3 Handling Shellfish After Laboratory Use

Shellfish that are transported/imported or collected for laboratory studies must be destroyed once the experiment is completed. The State does not allow release to the natural environment. The maintenance and possible quarantine of imported species and treatment of tank water and disposal of animals once the experiment is completed must be explained in detail in the Application for a Scientific/Resource Assessment license. Questions regarding handling options for shellfish should be directed to the DA/BA at (203) 874-0696.

5.4 Collection of Fish, Crustaceans and Other Aquatic Organisms

To collect fish, crustaceans, and/or other aquatic organisms (other than molluscan shellfish), the applicant must complete an Application for a Scientific Collector Permit from the Connecticut Department of Environmental Protection. For additional information contact Bill Gerrish, DEP Inland Fisheries, at (860) 424-3474.

5.5 Use of Aquaculture Structures

There is currently no experimental or research permit for aquaculture structures. All aquaculture structures, whether for research or educational purposes, must be permitted through the Application for a Joint Programmatic General Permit for Aquaculture. See a detailed description of the permitting process and instructions for completing the application in Sections 4.5 -4.6.

5.6 Permitting Research and Education Facilities

Any facility designed to contain or utilize aquatic organisms for research or education purposes, or divert and/or discharge effluent from tanks containing aquatic organisms must be permitted by the State of Connecticut. Contact the State Aquaculture Coordinator at the DA/BA office at (203) 874-0696 for specific instructions.

5.7 Enhancement and Restoration Projects

Individuals or municipalities seeking to conduct shellfish habitat restoration or shellfish stock enhancement projects should consult with the DA/BA before initiating work or developing proposals for grant funds. Permits may be required depending on the location of the project and the type of gear, if any, to be used.

For information on developing shellfish restoration projects, refer to the following link for The Nature Conservancy's Practitioner's Guide to the Design and Monitoring of Shellfish Restoration Projects.

6 REFERENCES

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National Marine Fisheries Service, Habitat Conservation Division. 1991. Seagrass Survey Guidelines for New Jersey. Prepared for the New Jersey Interagency Seagrass Policy Committee.

Pomeroy, R.S. 2003. Decision-making factors for investment in aquaculture. Connecticut Sea Grant. Fisheries and Aquaculture Fact Sheet Series. CTSG-03-13. 4pp.

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7 ACKNOWLEDGEMENTS

The publication was a collaborative effort between the Connecticut Sea Grant Extension Program and local, state and federal resource management agencies including Connecticut's municipal Shellfish Commissions, Connecticut Department of Agriculture, Bureau of Aquaculture, Connecticut Department of Environmental Protection, U.S. Army Corps of Engineers and the NOAA National Marine Fisheries Service, Milford Laboratory. We are especially grateful to Mark Errico, Nancy Follini, James Salce, Lawrence Williams, and the late John Volk for providing historical information on the aquaculture industry. Special thanks to Margaret Van Patten who provided careful editorial review of this document.

APPENDIX A. Contact Information for Permitting and Outreach Agencies

Contact Information for Permitting and Outreach Agencies

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Getting Started in Aquaculture?

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APPENDIX B. Application for a Joint Programmatic General Permit for Aquaculture

Pre-Application Screening Form

AGENCY USE ONLY
Date of Receipt: _____
DA/BA File: _____
DEEP File: _____
USACE App No. NAE-_____

Pre-screening proposed aquaculture activities allows the agencies to quickly to determine if the location and activity place the project within the guidelines for the general aquaculture permitting process and State of Connecticut exemption or if the project will require a more extensive application and review process. This screening tool will result in acknowledgement and written response to the producer, usually within 10 days, that identifies the necessary application(s) to complete and an expected timeframe from application submittal to final project approval. The pre-application screening process is meant to provide the prospective applicant with better information and the flexibility to adapt project plans without first completing an extensive application.

This form must be submitted to initiate the application process for aquaculture and related activities in the State of Connecticut. **Submit completed form by email: dept.agric@ct.gov OR fax (203) 783-9976 OR mail to: Connecticut Department of Agriculture, Bureau of Aquaculture, P.O. Box 97, Milford, CT 06460.**

PART I: APPLICANT INFORMATION

Business or Organization Name: _____

Contact Person: Title:

Mailing Address: _____

City: _____ State: Zip Code: _____

Business Phone: _____ Ext. _____ Fax: _____

Email*:

*By providing this e-mail address you are agreeing to receive official correspondence from the department, at this electronic address, concerning the subject application. Please remember to check your security settings to be sure you can receive e-mails from agency addresses. Also, please notify the agency if your e-mail address changes.

PART II: SITE INFORMATION

Street address (if applicable): _____

Name of water body (if applicable): _____

City: _____ State: _____ Zip Code: _____

Will the project be located within a designated shellfish lease or franchise? Yes _____ No _____

If yes, specify the type of lease: State Town

Lease or Lot Number: _____

Are you the leaseholder or owner? Yes _____ No _____

If not, you must have a letter of permission from leaseholder or owner to proceed with the permitting process.

Will the project be located in a marina or attached to a private docking facility? Yes _____ No _____

Are you the owner of the facility? Yes _____ No _____

If not, you must have a letter of permission from the owner of the facility to proceed with the permitting process..

Is there submerged aquatic vegetation (i.e. eelgrass) within the proposed site? Yes _____ No _____Unsure_____ If yes, please be aware that in most instances gear cannot be placed within submerged vegetation. Please site your gear accordingly, and on your Project Map (see section V below) show the location of the vegetation relative to the gear
Is there other commercial or recreational activity within the proposed site? Yes _____ No _____Unsure_____ If yes, please describe the activities and how the project will not interfere with these uses: _____
If land-based facility is used, will water be diverted to or discharged from the site? Yes _____ No _____ Diversion volume (gallons per day) _____ Discharge volume (gallons per day) _____

PART III: PROJECT INFORMATION

Proposed Start Date: _____ Proposed End date (if applicable): _____
Commercial: _____ Research: _____ Educational: _____ Habitat Restoration: _____ Stock Enhancement: _____
Species: (list) _____
Source of aquatic organisms: (list business, contact person and phone number): _____

PART IV: PROJECT DESCRIPTION

Please provide a brief overview of your project here: _____
Gear type: _____ Total gear units: _____ Gear configuration: _____

PART V: PROJECT MAP

This form is not complete unless a project map is included. The map can be hand drawn or you may use a free online mapping tool at: http://clear2.uconn.edu/shellfish/. The map is required to have a NOAA navigational chart with depth soundings on it as the base map. The following items (if applicable) should be included on the map:

- Draw lease perimeter
- Indicate lease area latitude/longitude coordinates (decimal degrees)

- Indicate lease area size (acres)
- Identify datum (If you obtain your latitude/longitude information from your GPS, the default is usually WGS84, unless you have changed this manually within the setup function. If you obtain your coordinates from a mapping website or other user, please ask for the datum the data was collected in).
- Draw proposed gear perimeter
- Indicate gear area latitude/longitude coordinates (decimal degrees)
- Indicate gear area size (acres)
- Mark closest location and distance to federal channel(s), if within 1000 feet of the gear perimeter
- Mark location and distance to closest landmark, if within 1000 feet of the proposed gear perimeter
- Mark location and distance to any submerged aquatic vegetation
- Directional arrow for true North
- Provide an approximate scale on your map (e.g. 1 inch = 0.25 miles)

PART VI: AGENCY COMMENTS (TO BE COMPLETED BY THE REGULATORY AGENCIES)

DA/BA
Name of Agency Reviewer: _____ Date: _____
Comments: _____

DEEP OLISP
Name of Agency Reviewer: _____ Date: _____
Comments: _____

DEEP Fisheries
Name of Agency Reviewer: _____ Date: _____
Comments: _____

DEEP Boating
Name of i Agency Reviewer: _____ Date: _____
Comments: _____

USACE
Name of Agency Reviewer: _____ Date: _____
Comments: _____

PART VII: FINAL RECOMMENDATIONS:

DA/BA will complete this section and return this form along with applications (if applicable) to the applicant with copies to the Connecticut Department of Energy & Environmental Protection OLISP, Fisheries and Boating & Safety and the U.S. Army Corps of Engineers.

_____ Pre-screening form is incomplete.

Comments: _____

OR

_____ Pre-screening is complete. The following applications are attached and required to be completed in order for the regulatory agencies to continue the permitting process:

_____ Importation License

_____ Programmatic General Permit for Aquaculture (PGP)

_____ Structures, Dredging, Fill & Tidal Wetlands Permit (SDF&TW)

_____ Certificate of Permission (COP)

_____ Individual Permit (IP)

_____ Regulatory Marker Permit

_____ Water Diversion Permit

_____ Water Discharge Permit

_____ List Other: (e.g. HACCP, Shipper, Inspection, Transplant etc.)

Additional comments: _____

_____ The following authorizations/exemptions were issued in response to this coordination.

_____ Section 10 Authorization under the New England General Permit by the U.S. Army Corps of Engineers

_____ CT Aquaculture Exemption per Sec. 22-11h(c) by CT DEEP Office of Long Island Sound Programs

_____ Waiver from Regulatory Marker Permit from CT DEEP Boating Division

Section 7. PROJECT FIGURES WITH CHECKLISTS

If the proposed project involves multiple locations (i.e. different towns and/or lease sites), the applicant must photocopy (or print multiple copies of) this section and complete for each location. The application must include the following figures:

1. Site Location Map
2. Project Overview (Birds-eye View)
3. Gear Description (Cross-sectional View)

Each figure must include the following legend:

Business Name / Organization
Town / State
Waterbody
State/Town Lease ID
Today's Date
Page Number

Examples are provided at the end of this application for your reference. Please note that these examples do not represent actual aquaculture projects and are not to scale, nor do they represent suggested physical locations, gear types or configurations to be used in any application.

SITE LOCATION MAP

- ☐ Please use 8 ½" x 11" paper and allow for a ¾" margin at the top
- ☐ Label page "FIGURE 1" and include the following information, as discussed below, on a NOAA navigational chart:
- ☐ Draw lease perimeter (if applicable) with latitude/longitude coordinates and lease area size (acres)
- ☐ Identify datum
- ☐ Proposed gear perimeter with latitude/longitude coordinates and gear area size (acres)
- ☐ Mark location and distance to federal channel(s), if within 1000 feet of the proposed gear perimeter
- ☐ Mark location and distance to closest landmark, if within 1000 feet of the proposed gear perimeter
- ☐ Directional arrow for true North
- ☐ Provide a scale on map

PROJECT OVERVIEW (BIRDS-EYE VIEW)

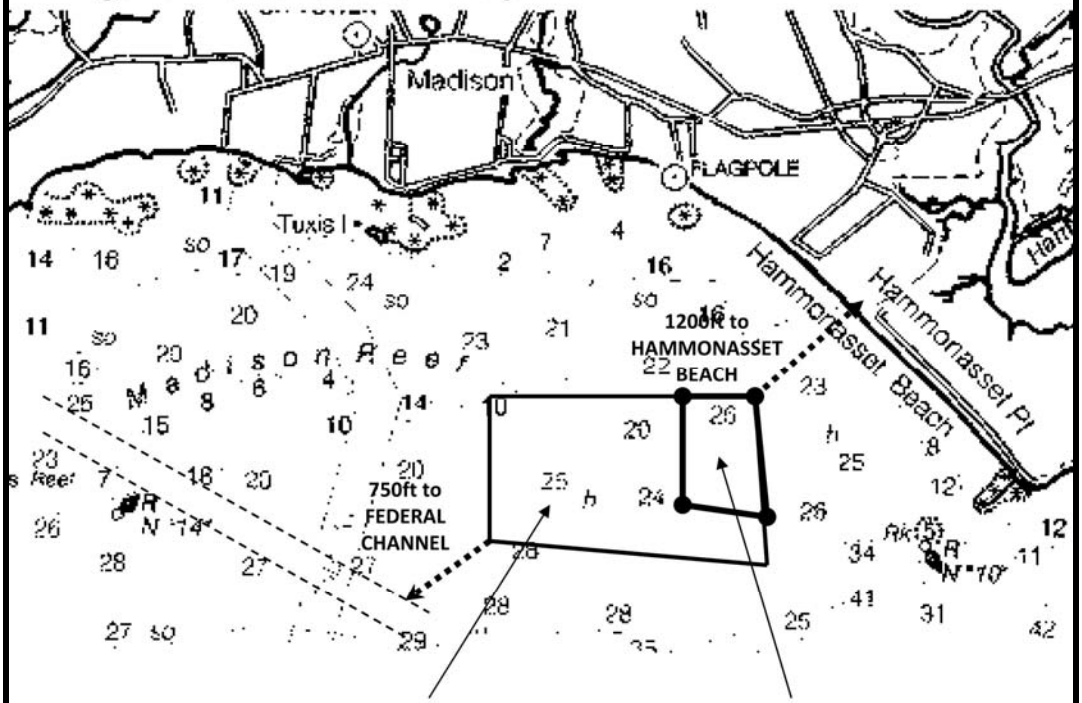
- ☐ Please use 8 ½" x 11" paper and allow for a ¾" margin at the top
- ☐ Label page "FIGURE 2" and include the following information, as discussed below, on a blank piece of paper:
- ☐ Draw and label the perimeter of the gear area
- ☐ Draw and label the individual gear types within the perimeter of the gear area
- ☐ Mark distance between gear types, as well as individual trawl lines, long lines or other system for attachment
- ☐ Mark location and distance from gear perimeter to the following (if applicable):
  - ☐ Mooring field
  - ☐ Submerged aquatic vegetation (e.g. eelgrass, widgeon grass)
  - ☐ Tidal wetlands
  - ☐ In-water structures (e.g. boat ramp, marina, fixed pier)
  - ☐ Intertidal flat
  - ☐ Sandbar/shoal

GEAR DESCRIPTION (CROSS-SECTIONAL VIEW)

- ☐ Please use 8 ½" x 11" paper and allow for a ¾" margin at the top
- ☐ Label this page "FIGURE 3" and include the following information, as discussed below, on a blank piece of paper:
- ☐ Draw and label the dimensions of the individual gear unit
- ☐ Indicate distance between individual gear units, and if applicable, types
- ☐ Label placement of the gear in the water column in relation to Mean High Water and Mean Lower Low Water
- ☐ If hanging gear, indicate the distance from the bottom of the gear to the sea floor
- ☐ Draw and label the dimensions of the anchoring configuration
- ☐ Draw and label the dimensions of the marker buoy configuration
- ☐ If the proposed project includes use of multiple gear types, a figure should be created for each gear type. Use the numbering convention, "FIGURE 3(a), 3(b), 3(c)…"

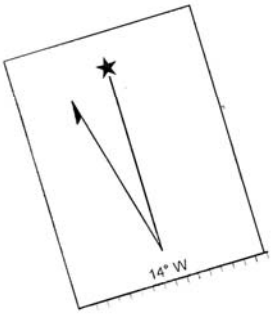
- EXAMPLE -

Figure 1. Site Location Map

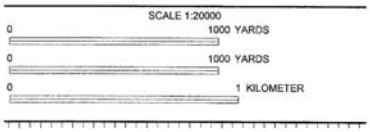


Lease #444
Area: 75 acres
NW 41 15.204 - 72 34.524
SW 41 14.592 - 72 35.484
NE 41 15.198 - 72 34.086
SE 41 14.514 - 72 33.984

Gear Area
Area: 12 acres
NW 41 15.204 - 72 34.524
SW 41 14.844 - 72 34.536
NE 41 15.198 - 72 34.086
SE 41 14.514 - 72 33.984



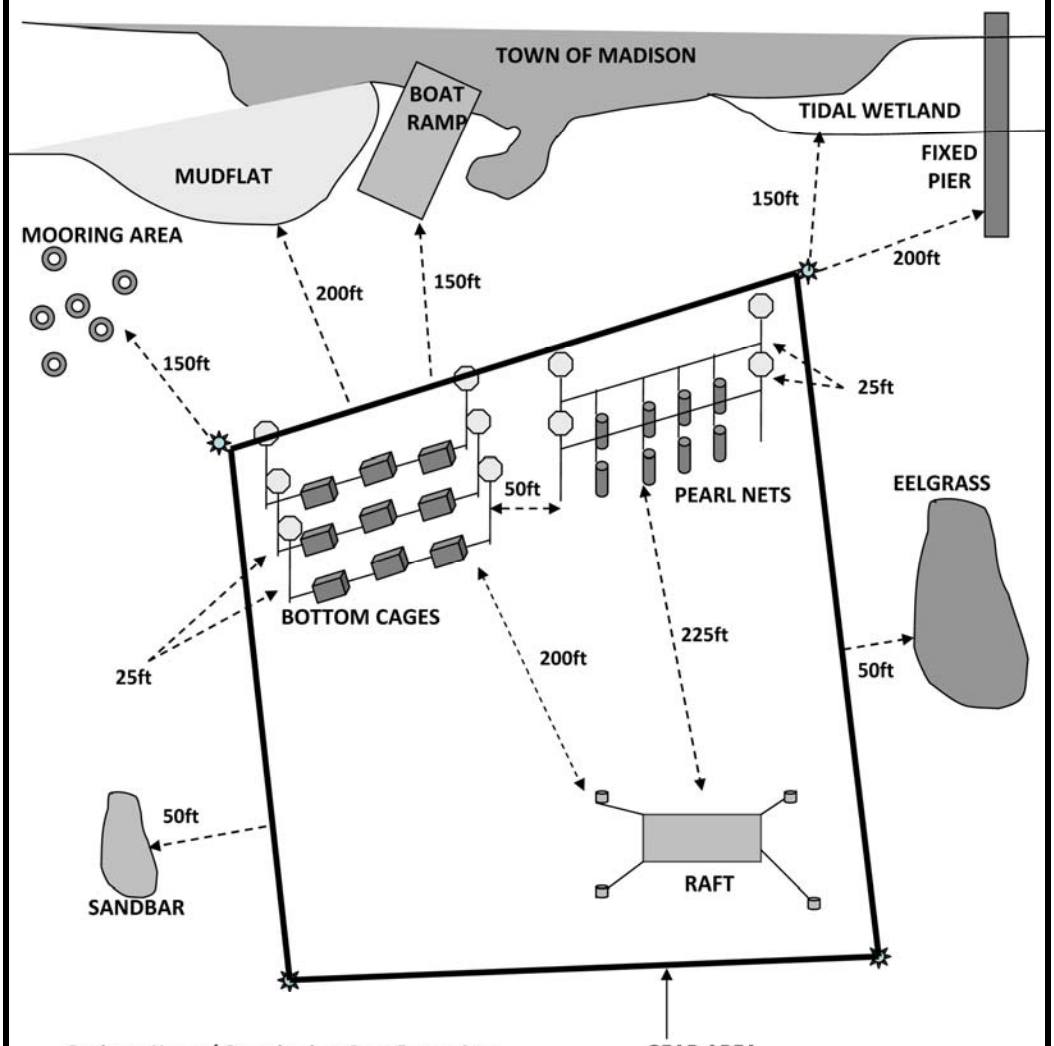
Datum: WGS 84



Business Name / Organization: Rose Enterprises
Town / State: Madison, CT
Waterbody: Long Island Sound
State / Town Lease ID: Lease 444
Today's Date: June 21, 2007
Page Number: Page 1 of 5

- EXAMPLE -

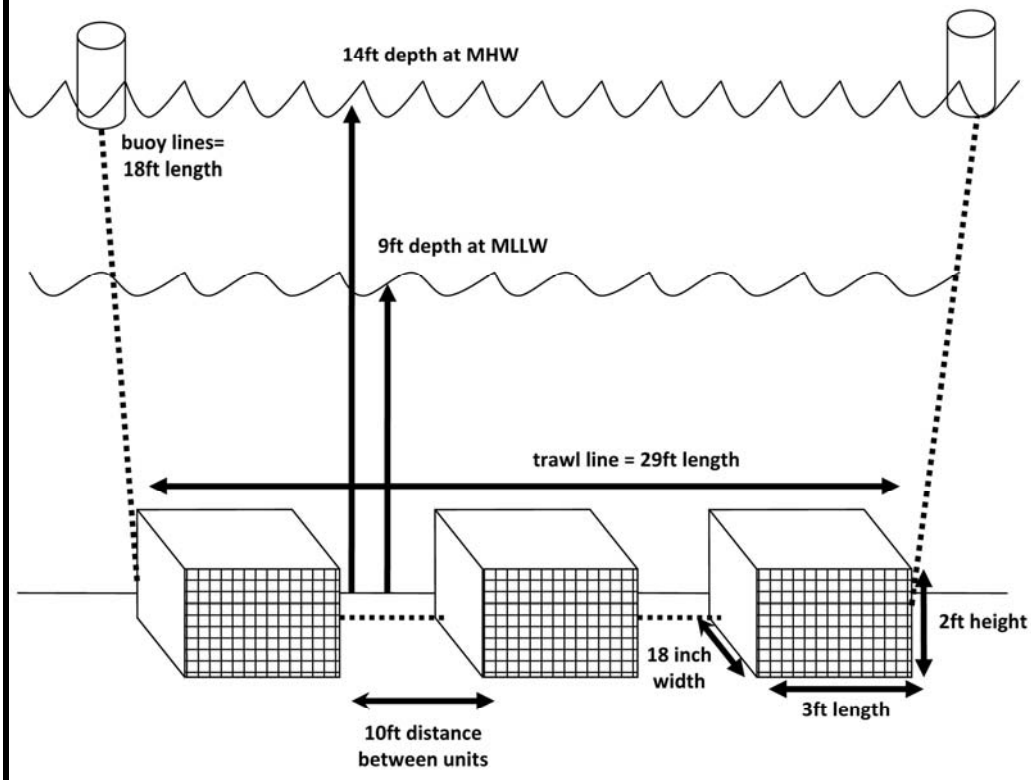
Figure 2. Project Overview



Business Name / Organization: Rose Enterprises
Town / State: Madison, CT
Waterbody: Long Island Sound
State / Town Lease ID: Lease 444
Today's Date: June 21, 2007
Page Number: Page 2 of 5

- EXAMPLE -

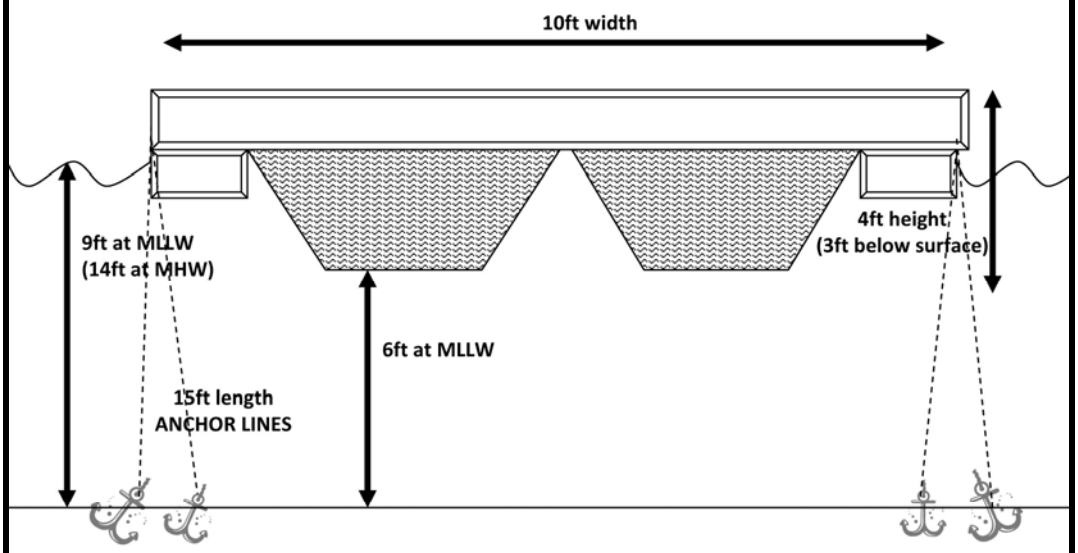
Figure 3(a). Gear Description for Bottom Cages



Business Name / Organization: Rose Enterprises
Town / State: Madison, CT
Waterbody: Long Island Sound
State / Town Lease ID: Lease 444
Today's Date: June 21, 2007
Page Number: Page 3 of 5

- EXAMPLE -

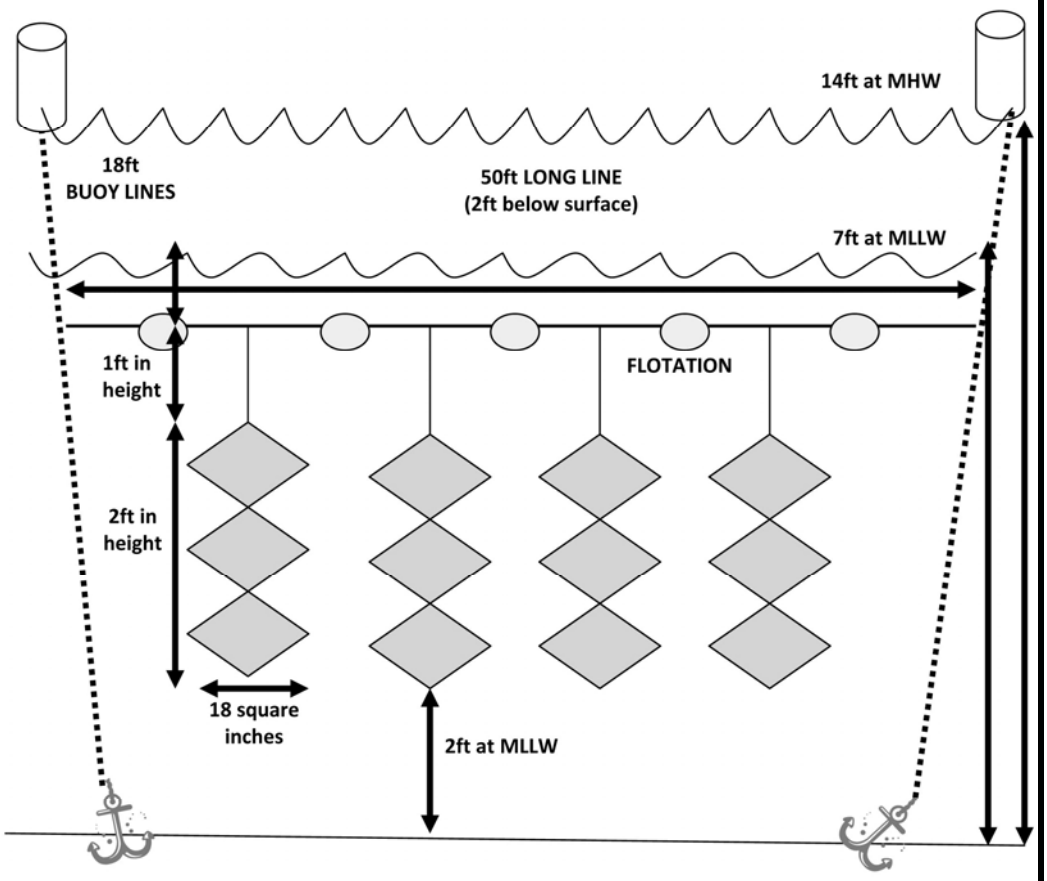
Figure 3(b). Gear Description for Raft



Business Name / Organization: Rose Enterprises
Town / State: Madison, CT
Waterbody: Long Island Sound
State / Town Lease ID: Lease 444
Today's Date: June 21, 2007
Page Number: Page 4 of 5

- EXAMPLE -

Figure 3(c). Gear Description for Pearl Nets on Longline



Business Name / Organization: Rose Enterprises
Town / State: Madison, CT
Waterbody: Long Island Sound
State / Town Lease ID: Lease 444
Today's Date: June 21, 2007
Page Number: Page 5 of 5

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APPENDIX C. Various Licenses and Permits Associated with Aquaculture

Various Licenses and Permits Associated with Aquaculture

Agency	Application	Fee
DA/BA	Shellstock Shipper I License (*Shellfishing - Private Lot/Leases*)	none
DA/BA	Shellstock Shipper II License (*Shellfishing - Public Areas*)	none
DA/BA	Shellstock Shipper III License (*Reshipper, Repacker, ShuckerPacker*)	none
DA/BA	Short Term Shellfish Transplant (Relay) License 1-A	none
DA/BA	Long Term Seed Oyster Transplant (Relay) License 1-B for Prohibited and Conditionally Restricted-Relay (Closed) Areas	none
DA/BA	Long Term Seed Clam Transplant (Relay) License II-B for Prohibited and Conditionally Restricted-Relay (Closed) Areas [5]	none
DA/BA	Town Recreational Relay (Transplant) License	none
DA/BA	Reopen Town Relay Area(s) for Recreational Shellfishing	none
DA/BA	Scientific/Resource Assessment License	none
DA/BA	Shellfish Depuration License	none
DA/BA	Provisional Shellfish Depuration License	none
DEP	Application for Authorization to Place Regulatory Markers	none
DEP	Structures, Dredging and Fill & Tidal Wetlands Permit Application [6]	$525 (min.)
DEP	Request for Authorization under the General Permit for Diversion of Water for Consumptive Use	varies
DEP	Coastal Management Consistency Review Form for Federal Activities	none
DEP	Import / Export Non-native species	none
DEP	Certificate of Permission (COP) Application	$400
Joint	Application for Joint Programmatic General Permit for Aquaculture	none

[5] To obtain this application, contact the DA/BA at (203) 874-0696
[6] To download the SDF & TW application, select application for "Programs Administered by OLISP"

APPENDIX D. State Shellfisheries Statutes

State Shellfisheries Statutes

-Table of Contents-

Secs. 26-187 to 26-191.	**Commissioners; appointment; report. Compensation of shellfish commissioners. Office; clerk; expenses. Engineer; employment. Use of shellfisheries boat.**
Sec. 26-192.	**Exclusive jurisdiction of state.**
Sec. 26-192a.	**Lead agency.**
Sec. 26-192b.	**Standards for shellfish testing.**
Sec. 26-192c.	**Inspection and regulations concerning shellfish. License. (Formerly Sec. 19a-96)**
Sec. 26-192d.	**Appeals from orders, suspension or revocation of a license. (Formerly Sec. 19a-97)**
Sec. 26-192e.	**Classification of coastal waters, shores and tidal flats for the taking of shellfish. (Formerly Sec. 19a-98)**
Sec. 26-192f.	**Penalties. (Formerly Sec. 19a-99)**
Sec. 26-192g.	**Enforcement. (Formerly Sec. 19a-100)**
Sec. 26-192h.	**License for the taking of shellfish from closed areas for certain purposes. (Formerly Sec. 19a-101)**
Sec. 26-192i.	**Shellfish; definition. (Formerly Sec. 19a-95)**
Sec. 26-192j.	**Pollution which affects shellfish grounds. Liability to municipal shellfish commission.**
Sec. 26-192k. (Rev. 2008)	**Shellfish relay from restricted relay grounds. Tag identification information confidential. Code re harvest location.**
Sec. 26-193.	**Natural oyster beds: Map on file.**
Sec. 26-194.	**Leasing of shellfish grounds. Fee. Utility lines and public use structures. Shellfish removal or relocation costs. Annual host payments for Long Island Sound crossings. Deposits into expand and grow Connecticut agriculture account and Environmental Quality Fund.**
Sec. 26-194a.	**Lease of a state shellfish bed to a municipality for recreational shellfishing. Fees.**
Sec. 26-195.	**State ground; determination of disputed boundaries.**
Sec. 26-196.	**Determination of disputed boundaries in other cases.**
Sec. 26-197.	**Commissioners' fees on hearings.**
Sec. 26-198.	**Fees for recording or copying.**
Sec. 26-199.	**Recording of transfers.**
Sec. 26-200.	**Survey and staking; maps; fee.**
Sec. 26-201.	**Release to the state.**
Sec. 26-202.	**Leasing beacon ground.**
Sec. 26-203.	**Buoying of certain natural beds.**
Sec. 26-204.	**Grant of right to plant or cultivate shellfish which interferes with established fishing right void.**
Sec. 26-205.	**Wardens; appointment, duties and powers.**
Sec. 26-206.	**Shellfish police.**
Sec. 26-207.	**Taxation of shellfish grounds.**
Sec. 26-208.	**Laying of tax.**
Sec. 26-209.	**Appeal.**
Sec. 26-210.	**Collection of tax.**
Sec. 26-211.	**Taxes unpaid five years; reversion.**

Sec. 26-212.	**Licensing and numbering of shellfish vessels. Fee.**
Sec. 26-213.	**License to work on natural beds.**
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Sec. 26-215.	**Power dredges. Local shellfish commissions. Use of power dredges to restore shellfish beds.**
Sec. 26-216.	**Penalty.**
Sec. 26-217.	**Use of chain bags on natural oyster beds.**
Sec. 26-218.	**License forfeited on conviction.**
Sec. 26-219.	**License to take conchs.**
Sec. 26-220.	**Shellfish spawning beds.**
Secs. 26-221 to 26-223.	**Mud dumping. Notice of intended dumping on private oyster beds. Dumping inspectors.**
Sec. 26-224.	**Deposit of injurious substances in tidal waters or on oyster ground. Penalty.**
Sec. 26-224a.	**Depositing of shellfish in tidal waters. Regulations.**
Sec. 26-225.	**Stealing oysters.**
Sec. 26-226. (Rev. 2008)	**Injury to enclosure.**
Sec. 26-227.	**Taking from designated but unmarked ground.**
Sec. 26-228.	**Taking shellfish between sunset and sunrise.**
Sec. 26-229.	**Injury to monuments.**
Sec. 26-230.	**Speculation in ground prohibited. Illegally staking ground.**
Sec. 26-231.	**Towing dredge prohibited.**
Sec. 26-232.	**Taking oysters from natural beds or the Housatonic or Saugatuck Rivers.**
Sec. 26-233.	**Taking oysters from Housatonic River.**
Secs. 26-233a and 26-234.	**Taking of oysters in Housatonic River other than by tongs. Greenwich Cove oysters.**
Sec. 26-234a.	**Daily limit on oysters.**
Sec. 26-234b.	**Taking of eastern oysters. Regulations.**
Sec. 26-235.	**Taking of clams. Recreational harvest limit. Penalties. Defacing or removal of sign.**
Sec. 26-236.	**Uncertified natural grounds.**
Sec. 26-237.	**Penalty.**
Sec. 26-237a.	**Deposit of cultch material on state shellfish beds.**
Sec. 26-237b.	**Shellfish Fund.**
Sec. 26-237c.	**License for the harvesting of oysters from state shellfish grounds.**
Sec. 26-237d. (Rev. 2008)	**Municipal collection of sea water samples for shellfish harvest water classification.**
Sec. 26-237e. (Rev. 2008)	**Sec. 26-237e. Resource assessment permits.**

Statutes

Secs. 26-187 to 26-191. **Commissioners; appointment; report. Compensation of shellfish commissioners. Office; clerk; expenses. Engineer; employment. Use of shellfisheries boat.** Sections 26-187 to 26-191, inclusive, are repealed.

Sec. 26-192. **Exclusive jurisdiction of state.** The state shall exercise jurisdiction and control over all shellfisheries which are located in that area of the state described in section 3294 of the general

statutes, revision of 1918; and the Commissioner of Agriculture shall prepare a map of such area and shall keep the same on file for public inspection in his office. All shellfisheries not within said area, except as provided in section 26-257, shall be within the jurisdiction and control of the towns in which they are located. If a difference arises between any town and the commissioner as to the boundary line between such town and said area, such town, by its selectmen, may bring its petition to the superior court for the judicial district within which such town is situated, to determine such boundary line, and said court, upon a reasonable notice to the parties, shall hear such petition and appoint a committee to ascertain the facts in such case and report the same to said court, and said court shall thereupon make such order as may be proper in the premises; the landmarks referred to herein and the locations thereof being as the same existed and were known on April 26, 1882.

Sec. 26-192a. **Lead agency.** The Department of Agriculture shall be the lead agency on shellfish in Connecticut. The department: (1) Shall coordinate the activities of other state agencies with regard to shellfish; (2) shall act as a liaison on shellfish matters between the state and municipalities, including local shellfish commissions; (3) shall take steps necessary to ensure compliance with federal standards for the shellfish sanitation program and compliance with the National Shellfish Sanitation Program Model Ordinance, as amended from time to time; (4) may, in conjunction with the Department of Public Health, enter into agreements with municipalities to utilize available municipal resources for monitoring and testing; and (5) shall encourage depuration.

Sec. 26-192b. **Standards for shellfish testing.** Notwithstanding the provisions of subsection (a) of section 19a-29a, the Department of Agriculture shall promulgate health standards for shellfish testing and shall approve private laboratories to perform shellfish testing. Such health standards for shellfish testing shall incorporate by reference the provisions of the National Shellfish Sanitation Program Model Ordinance, as amended from time to time.

Sec. 26-192c. **(Formerly Sec. 19a-96). Inspection and regulations concerning shellfish. License.**
(a) The Department of Agriculture may inspect shellfish beds and areas in this state where shellfish are grown or harvested, all boats, tools and appliances used in the production and preparation of shellfish and all wharves or buildings where shellfish are stored, transferred, opened, packed or prepared for sale or shipment. The Department of Agriculture may adopt regulations, in accordance with the provisions of chapter 54, after consultation with the Department of Public Health, for the sanitary growth, production, purification and preparation of shellfish. Such regulations shall incorporate by reference the provisions of the National Shellfish Sanitation Program Model Ordinance, as amended from time to time. Each commercial harvester, producer or shipper of shellfish shall obtain from said department a license on which shall be stated information regarding the identification of the license holder and any conditions pertaining to the character of such licensee's shellfish operations. Said department may establish a fee for each type of shellfish license it issues. The department may require that shellfish shipments be tagged or containers marked to identify the shipper by name and location and the source of the shipment and furnish such other pertinent information as may apply. Any license granted under the authority of this section may be revoked by said department for cause, after notification and hearing. No person, firm or corporation shall make any shipments or deliveries of shellfish after the license of such person, firm or corporation has been suspended or revoked. Any license may be suspended pending revocation proceedings, or amended, if shellfishing operations or harvesting areas are a public health hazard or if the licensee has violated any provision of this section, section 26-192e, 26-192f or 26-192h or any applicable department regulation or any section of the Public Health Code concerning shellfishing. The department may refuse to issue a license if the applicant has violated any

provision of this section, section 26-192e, 26-192f or 26-192h or any applicable department regulation or any section of the public health code concerning shellfish.

(b) The Department of Agriculture may delegate its licensing authority pursuant to this section and sections 26-192f and 26-192h to other state agencies and to local agencies.

Sec. 26-192d. **(Formerly Sec. 19a-97). Appeals from orders, suspension or revocation of a license.** Any person, firm or corporation aggrieved by any order, suspension or revocation of a license made under the provisions of sections 26-192c to 26-192i, inclusive, may appeal therefrom in accordance with section 4-183, except venue for such appeal shall be in the judicial district in which the business or residence of such person, firm or corporation is located.

Sec. 26-192e. **(Formerly Sec. 19a-98). Classification of coastal waters, shores and tidal flats for the taking of shellfish.**
(a) The Department of Agriculture may prohibit the taking or harvesting of shellfish from designated areas in tidal flats, shores and coastal waters whenever it finds by examinations or surveys that such flats, shores or coastal waters are contaminated or polluted to the extent that the waters do not meet standards of purity established by said department, in conjunction with the Department of Public Health, or that shellfish obtained therefrom may be unfit for food or dangerous to the public health. The Department of Agriculture shall classify the coastal waters, shores and tidal flats for the taking of shellfish. The classifications shall be: Approved, conditional, restricted, conditionally restricted, and prohibited. The conditional classification shall include conditional-open and conditional-closed. Any person aggrieved by a classification decision pursuant to this section may appeal such decision in accordance with the provisions of chapter 54. An area may be classified as prohibited for the taking or harvesting of shellfish unless it conforms to the standards established by the department for classifications other than prohibited. The department may specify the activities which may occur within each classified area. Such activities shall be listed on a shellfish license issued by the department. Waters and areas classified as approved or conditional-open shall conform to standards of purity, shall be free from discharge of sewage or other deleterious substances, and the shellfish obtained therefrom shall not be so polluted or contaminated as to be dangerous to the public health. The Department of Agriculture may delegate its authority for the classification of tidal flats, shores and coastal waters for the taking of shellfish pursuant to this section to other state agencies and local agencies.

(b) The department shall, by written order, promulgate definite bounds of the area or areas closed to shellfishing when classified as conditional-closed, conditionally restricted, restricted or prohibited. Such order shall become effective when (1) the closure classification is published in a newspaper having circulation in towns, cities and boroughs in which or adjacent to which any such area is situated; (2) the classification is filed in the offices of the clerk and the director of health in each such town, city or borough, and (3) signs are posted at points on or near every such classified area.

(c) Notwithstanding the provisions of subsection (b) of this section, when the Commissioner of Agriculture, after consultation with the Commissioner of Public Health, finds that tidal flats, shores or coastal waters which may contain shellfish are so contaminated or polluted that a health emergency exists, he may close such area for the duration of such emergency by giving notice of such emergency closure (1) in writing to the municipal or district health authority, and (2) to the general public by publication in a newspaper having general circulation in the town, city or borough within which such area lies. Such notice shall state when the closing shall take effect.

(d) No person shall take or harvest shellfish from areas classified as conditional-closed, restricted, conditionally restricted or prohibited pursuant to subsections (a) and (b) of this section or closed because of a health emergency pursuant to subsection (c) of this section or from areas or parts of areas where shellfish have been transplanted or relayed except in accordance with the terms and conditions of a license issued pursuant to section 26-192c or section 26-192h. The Department of Agriculture may delegate its authority for the classification of coastal waters, shores, and tidal flats for the taking of shellfish pursuant to this section to other state agencies and local agencies.

Sec. 26-192f. **(Formerly Sec. 19a-99). Penalties.** Any person, firm or corporation (1) harvesting or taking shellfish from an area closed and posted by the Department of Agriculture against the removal of shellfish, except as provided in section 26-192h, or an area closed by commercial shellfish transplant license issuance or by order of the local director of health with the approval of the department, (2) misusing any shipping tag or license in violation of section 26-192c, (3) mislabeling shellfish shipments or deliveries with any false information, (4) failing to identify shellfish shipments or deliveries in accordance with the National Shellfish Sanitation Program Model Ordinance, as amended from time to time, (5) harvesting shellfish from undesignated grounds, or (6) harvesting shellfish from designated grounds not listed on a license issued by the Department of Agriculture to such person, firm or corporation shall be fined (A) one thousand dollars, or (B) three times the market value of any shellfish taken, based on the quantity and type involved in the violation if such amount is greater than one thousand dollars, or imprisoned not more than twelve months. The Commissioner of Agriculture may revoke any license issued by said commissioner for up to sixty days for the second violation of this section within six months and up to ninety days for a third violation of this section within nine months. Any person who defaces or removes a sign posted by the Department of Agriculture in accordance with the provisions of section 26-192e shall be fined not more than five hundred dollars or imprisoned not more than six months. The provisions of this section are in addition to and in no way derogate any other enforcement provisions or penalties contained in any other section of the general statutes.

Sec. 26-192g. **(Formerly Sec. 19a-100). Enforcement.** The provisions of sections 26-192e and 26-192f relating to the unauthorized taking of shellfish in contaminated and posted areas shall be enforced by local directors of health. Local police departments and the state shellfish police shall assist to effectively prevent the harvesting of shellfish in classified areas which are closed to shellfishing when requested by a local director of health.

Sec. 26-192h. **(Formerly Sec. 19a-101). License for the taking of shellfish from closed areas for certain purposes.** Shellfish may be taken by commercial harvesters from areas classified as conditional-closed, restricted, or conditionally restricted when they are removed for transplanting, relay, including seed oyster harvesting, depuration or depletion from prohibited areas under licenses issued by the Department of Agriculture and under supervision of the department and local health agencies having jurisdiction, provided said licensee shall notify the designated local enforcement agency of the intended commencement, probable duration and termination of harvesting within that jurisdiction and shall be limited to quantities as may be established by a shellfish management plan reviewed by the Department of Agriculture and adopted by the local shellfish commission or other local agency having jurisdiction over the shellfish. The issuance of licenses by the Department of Agriculture shall not prohibit any town, city or borough from control of harvesting operations in approved areas or conditionally or temporarily closed areas on the basis of residence, quantity or size of shellfish harvested from specific areas, or time of harvesting, or nullify any state law controlling such operations on the basis of residence, quantity or size of shellfish harvested, or time of harvesting.

Sec. 26-192i. **(Formerly Sec. 19a-95). Shellfish; definition.** When used in sections 26-192c to 26-192h, inclusive, the term "shellfish" means mussels, oysters, all varieties of clams and whole and roe-on scallops, but does not include scallops if the final product is the shucked adductor muscle only.

Sec. 26-192j. **Pollution which affects shellfish grounds. Liability to municipal shellfish commission.** (a) The Commissioner of Agriculture may investigate any suspected or actual spill, as defined in section 22a-452c, which may threaten any shellfish grounds. The commissioner may monitor any such suspected or actual spill and may provide for any testing to determine the extent of any impact of such a spill on shellfish in the area. The person responsible for such spill shall be liable, in accordance with the provisions of section 22a-6a, for the reasonable costs and expenses of the commissioner incurred pursuant to this section.

(b) Upon written complaint by the Commissioner of Agriculture that there exists an impairment or threat to the marketability of shellfish due to any such spill, the Commissioner of Environmental Protection shall investigate or order the person who caused or reasonably may be expected to cause such spill to investigate all points of existing or potential spills which may directly or indirectly result in contamination of shellfish and may order such person to abate such spill in accordance with the provisions of section 22a-432.

(c) If any such spill results in the closure of a recreational shellfish bed or harvesting area, the person responsible for such spill, as determined by the Commissioner of Environmental Protection, shall be liable to any municipal shellfish commission which has jurisdiction over such bed or area for any loss of revenue attributable to fees which would have been paid to such commission by recreational users of such bed or area. The Attorney General, upon complaint of the commission, may institute a civil action to recover such revenue. Any amount recovered shall be returned to the commission.

Sec. 26-192k. **Shellfish relay from restricted relay grounds. Tag identification information confidential. Code re harvest location.** (a) The Department of Agriculture shall allow the relay of shellfish from shellfish grounds classified as restricted relay to other grounds in accordance with the National Shellfish Sanitation Program Model Ordinance, as amended from time to time, regarding restricted shellfish relay. The department shall allow the harvest of shellfish from shellfish grounds classified as approved for market on the same day using the same vessel, provided the harvester first harvests the approved market product and lands the product to shore. A harvester shall not begin the relay of shellfish from shellfish grounds classified as restricted relay until all shellfish harvested first from approved market grounds, in market quantities, have been removed from the vessel. Such harvester shall not begin such relay until after the harvester has notified the Department of Environmental Protection of such relay. The harvester shall provide all information required by the Department of Agriculture regarding shellfish relays to the Department of Environmental Protection at the time of such notification. For the remainder of the day, the harvester shall not harvest approved market shellfish after beginning such relay.

(b) All tag identification information regarding shellfish harvest locations shall be confidential, provided the harvester of the shellfish marks the tag with a unique code corresponding to the shellfish harvest location. The Department of Agriculture shall provide such harvester and the Department of Environmental Protection with a written code key detailing the harvest location and corresponding code to be used by the harvester.

Sec. 26-193. **Natural oyster beds: Map on file.** The locations and descriptions of the natural oyster beds respectively under state jurisdiction shall remain as established and as set forth in section 3295 of the general statutes, revision of 1918 with the addition of those portions of former franchise lots one and nineteen consisting of eighty-four acres, more or less, and more particularly described as follows: Beginning at the intersection of the Milford-Stratford town line and the state jurisdiction line, thence thirty-eight degrees east north east to the outer breakwater, thence along the outer breakwater, three hundred and ten degrees north north west to the southern boundary line of the existing natural bed, as described in section 3295 of the general statutes, revision of 1918, thence two hundred and ten degrees westerly along said boundary line to the Milford-Stratford town line, thence south to the point of origin. The Commissioner of Agriculture shall keep a map of such oyster beds on file for public inspection in his office.

Sec. 26-194. **Leasing of shellfish grounds. Fee. Utility lines and public use structures. Shellfish removal or relocation costs. Annual host payments for Long Island Sound crossings. Deposits into expand and grow Connecticut agriculture account and Environmental Quality Fund.**
(a) The Commissioner of Agriculture may lease in the name of the state, under such regulations as he may prescribe and for a period not longer than ten years, all shellfish areas that have been conveyed to the state or placed under state jurisdiction by the town of West Haven and any undesignated grounds, within the exclusive jurisdiction of the state, for the purpose of planting and cultivating shellfish. The authority herein conferred shall include the Cormell Reef, Portchester, Great Captain's Island, Field Point and Greenwich Point natural beds as located and described in section 3295 of the general statutes, revision of 1918. Any person desiring to lease grounds for such purpose shall make application in writing to the commissioner and all grounds leased by authority of the provisions of this section shall be leased to the highest responsible bidder, for a minimum fee of four dollars per acre. Such lease or lease renewal shall require the lessee to make a good faith effort to cultivate and harvest shellfish from the leased area. Such lease or lease renewal shall prohibit the lessee from entering a contract whereby the lessee agrees not to cultivate and harvest shellfish for any period of time. No lessee may enter an agreement with a third party that will prevent the lessee from carrying out the lessee's obligations under the lease unless the Department of Agriculture and the Attorney General have approved such agreement. The form of such application and lease shall be approved by the Attorney General, and all such leases shall be recorded in the records of the commissioner. No lease shall be granted to a resident of a state which does not lease shellfish grounds to residents of this state, except that any nonresident who was granted a lease on or before October 1, 1985, may, upon the expiration of such lease, apply for a renewal or further lease as provided in this section. The commissioner shall grant any such lease to nonresidents upon the same terms and conditions as to residents of this state. Any lessee or holder of shellfish grounds, on the expiration of any lease thereof which has been or which may be granted, having fulfilled all of such lessee's or holder's obligations under the lease shall, upon application to the commissioner, have preference in the reletting of such ground for a like term to that granted in the original lease, excluding the rental fee, which shall not be less than the minimum fee per acre as provided in this subsection. A lease renewal shall not be granted if the applicant is in arrears for rent on the original lease of such grounds. Such application for such renewal or further lease shall be granted without notice or advertisement of the pendency thereof; provided no renewal or further lease of such ground shall be granted when the commissioner, for cause, ceases to lease such ground for shellfish culture. All assignments or transfers of leases shall be subject to the approval of the commissioner and shall be recorded in his records. Any person who interferes with, annoys or molests another in the enjoyment of any lease authorized by the provisions of this section shall be subject to the penalties

provided in section 26-237. The provisions of sections 26-212, 26-215 and 26-232 shall not apply to any shellfish grounds leased pursuant to the provisions of this section.

(b) Upon request of a lessee, the commissioner may divide or consolidate shellfish grounds leased by such lessee, if the commissioner determines such division or consolidation to be in the best interests of the state. The minimum fee per acre shall apply to shellfish grounds divided or consolidated pursuant to this subsection.

(c) The Commissioner of Agriculture shall assess the owner of any facility that requires a certificate issued pursuant to section 16-50k or that requires approval by the Federal Energy Regulatory Commission and that crosses any grounds of Long Island Sound within the jurisdiction of the state, including, but not limited to, any shellfish area or leased, designated or granted grounds, an annual host payment fee of forty cents per linear foot for the length of such facility within the jurisdiction of the state. The Commissioner of Agriculture shall deposit seventy-five per cent of the proceeds of such fee into the expand and grow Connecticut agriculture account established pursuant to section 22-38c and shall transfer the remaining twenty-five per cent to the Commissioner of Environmental Protection for deposit into the Environmental Quality Fund established pursuant to section 22a-27g.

(d) Notwithstanding the provisions of subsection (a) of this section, any owner of a utility line or public use structure that impacts a leased area shall pay to the lessee the costs of removing or relocating any shellfish. Nothing in this subsection shall be construed to prohibit the state or any lessee from recovering damages incurred by the state or the lessee caused by the installation, construction or presence of such utility line or public use structure.

(e) The Commissioner of Agriculture may designate an agent within the department to exercise the authority of said commissioner under this section.

Sec. 26-194a. **Lease of a state shellfish bed to a municipality for recreational shellfishing. Fees.** The Commissioner of Agriculture may lease any state recreational shellfish bed to a municipality which is adjacent to such bed for ten dollars per acre per year pursuant to a plan approved by said commissioner for the management of such bed by such municipality. The use of local shellfish programs shall be available to any resident of the state, without regard to residence in the municipality. The use of shellfish beds shall be restricted to recreational shellfishing. The fee charged for licenses or permits for use of local shellfish programs shall be the same for residents and nonresidents of the municipality. Any fees received by any such municipality from the issuance of licenses or permits issued to residents of the municipality for use of local shellfish programs shall be retained by the municipality. Such fees shall be used by the municipality to manage local shellfish programs. Any fees received by any such municipality from nonresidents for the use of local shellfish programs shall be deposited by the commissioner in a revolving fund to carry out the state shellfish management and enforcement plan. Municipalities that lease shellfish beds shall make such beds available by access from the shore, including providing space for parking, and access by marine approach.

Sec. 26-195. **State ground; determination of disputed boundaries.** All questions and disputes touching the ownership, title, buoys, boundaries, ranges, extent or location of any shellfish grounds within the exclusive jurisdiction of the state may be referred to and settled by the Commissioner of Agriculture, who is empowered, on petition of any person interested therein, to summon all the parties in interest, so far as such parties may be made known to him, to appear before him at a time and place in the summons named, such summons to be signed by the commissioner or his authorized agent and

served by him or such other person as said commissioner may direct; whereupon, at the time and place named, or at any other time and place to which the hearing may be from time to time adjourned, the petitioner shall file a sworn statement of the facts as claimed by him, to which any interested party may respond by filing a sworn counterstatement of the facts as claimed by him; and, after hearing all the parties interested, with their witnesses and counsel said commissioner shall make his decision in writing as soon as convenient thereafter, which decision shall be recorded in the books of record in his office, and the same shall be binding on all the parties in interest so summoned or appearing, unless on an appeal taken from such decision, in accordance with the provisions of section 4-183, except venue for such appeal shall be in the judicial district where the town is situated between whose meridian lines any portion of said grounds may be, such decision is reversed by said court.

Sec. 26-196. **Determination of disputed boundaries in other cases.** When any designation of shellfish grounds which are wholly or partially within the exclusive jurisdiction of the state contains a map thereof or refers to such map lodged on file in the town clerk's office, and the owner or owners of the adjoining grounds, so far as they lie within the exclusive jurisdiction of the state, do not agree as to the location of the line fixed by such map or, if the boundary between such owners is a town boundary and they disagree as to the same, one or more of such owners may apply to the Commissioner of Agriculture, who shall thereupon notify all parties in interest to file sworn statements of facts and copies of maps as claimed by them respectively, and said commissioner shall thereupon appoint a surveyor who shall take such maps and statements and lay out and survey the grounds in the various ways claimed and, if any town boundary comes into question, he shall ascertain and report upon such boundary as it appears from the maps and records in the custody of the respective town clerks of such towns. Thereupon he shall report his doings, accompanied with the maps or copies of maps touching the dispute, to said commissioner, who shall thereupon summon all parties in interest before him at a time and place to be named in the summons, and, after a full hearing of the parties, with their witnesses and counsel, said commissioner shall establish the line in dispute and cause the same to be located and marked by ranges and buoys; and the line so established shall be the true dividing line between such grounds unless on appeal taken to the Superior Court, as provided for in section 26-195, such decision is reversed. The costs and expenses of such proceedings as fixed by said commissioner shall be equally divided between the adjoining owners, who shall pay the same to said commissioner upon the filing of his decision, and the same shall be accounted for and paid to the State Treasurer; and the cases provided for by this section shall not be included under section 26-195.

Sec. 26-197. **Commissioners' fees on hearings.** Section 26-197 is repealed.

Sec. 26-198. **Fees for recording or copying.** The same fees shall be paid for recording or copying papers and maps under this chapter in the office of the Commissioner of Agriculture as are charged by town clerks for like services; and all fees so paid shall be accounted for and paid to the State Treasurer.

Sec. 26-199. **Recording of transfers.** All transfers of title to oyster grounds within state jurisdiction shall be recorded in the record books of said Commissioner of Agriculture. The person making such transfer shall cause such record to be made forthwith or, in lieu thereof, shall forthwith give written notice of such transfer to said commissioner, stating the date thereof, the name of the transferee and the description of the grounds affected thereby. Upon the failure to make such record or to give such notice, the person making such transfer shall be deemed, for all purposes of taxation, to be the owner thereof notwithstanding such transfer and shall pay all such taxes as may be laid on such land by said commissioner at any time before such record has been made or such notice given; and such tax shall be a lien on such grounds.

Sec. 26-200. **Survey and staking; maps; fee.** Said Commissioner of Agriculture shall, previous to the delivery of any instrument conveying the right to plant or cultivate shellfish upon any of said grounds, make or cause to be made a survey of the same upon the official map or maps in his office, and shall locate and delineate the same or cause it to be located and delineated upon said map or maps. The fee for such survey, location and delineation shall be thirty-five dollars per corner and shall be paid by the applicant. Upon receipt of such instrument of conveyance, such grantee shall have the right to use and occupy such grounds for said purposes, which rights shall be and remain in such grantee and his legal representatives.

Sec. 26-201. **Release to the state.** Any owner of grounds designated for the cultivation of oysters in the waters of Long Island Sound within the jurisdiction of said Commissioner of Agriculture may surrender the same by delivery to the state of a deed of release of the same, executed and acknowledged by such owner; provided such release and the recording thereof shall be made without charge or expense to the state and shall be approved by said commissioner.

Sec. 26-202. **Leasing beacon ground.** The Commissioner of Agriculture may hire and take upon leases not exceeding a term of ten years, in the name and behalf of the state, any such plot or plots of ground within the state as he deems necessary for constructing, erecting, setting, maintaining and protecting signals, beacons, boundstones, posts or buoys to be used in designating, locating, surveying or mapping any shellfish grounds within state jurisdiction.

Sec. 26-203. **Buoying of certain natural beds.** The Commissioner of Agriculture shall cause those natural or public oyster beds in the exclusive jurisdiction of this state, known and described in section 3295 of the general statutes, revision of 1918, as the Stratford bed, Fish Island and Roton Point beds, the Bridgeport bed and the Fairfield Bar and Fairfield beds, to be marked by buoys which shall be known as state buoys, and by range monuments on the shore by which the lines can be relocated should any buoys be removed, and shall cause double buoys or a distinctive mark to be placed at any point on the boundary where the line changes in direction, and such buoys shall be maintained by the state. No buoys shall be set in lines so run as to include within the natural or public beds any private or designated grounds.

Sec. 26-204. **Grant of right to plant or cultivate shellfish which interferes with established fishing right void.** Except as provided in section 26-194, said Commissioner of Agriculture shall in no case grant to any person a right to plant or cultivate shellfish which interferes with any established right of fishing and, if any such grant is made, the same shall be void.

Sec. 26-205. **Wardens; appointment, duties and powers.** Section 26-205 is repealed, effective October 1, 2002.

Sec. 26-206. **Shellfish police.** The Commissioner of Agriculture may, upon the application of the Oystermen's Protective Association of Connecticut or the owner of any oyster franchise or grounds or any natural growers' association, during such time as the commissioner may determine, appoint and commission such number of policemen as he deems necessary to be designated by such association or owner, who, having been sworn to the faithful performance of their duties, may act as policemen upon the tidal waters and flats of this state and upon any boats, wharves or docks owned, leased or controlled by said association or a member thereof or an owner of oyster grounds. Said commissioner shall cause a record to be made of the issuance or revocation of any such commission. Any person so

appointed shall have the powers to make arrests and, when on duty, shall wear in plain view a badge bearing conspicuously the words "Shellfish Policeman".

Sec. 26-207. **Taxation of shellfish grounds.** Any owner of shellfish grounds, franchise or franchises lying within the exclusive jurisdiction of the state, on or before the first day of July, annually, shall deliver to the Commissioner of Agriculture a statement under oath of such franchise or franchises or grounds belonging to such owner on the first day of June next preceding. Such statement shall specify the lot or lots owned by such owner by numbers as appear upon the last official map published by said commissioner, or, if granted since the publication of such map, according to such number as may be furnished by said commissioner, and the location and number of acres of each lot. Blanks for such statement shall be prepared by said commissioner and furnished to each owner, but failure to receive such blanks shall not relieve any person from the obligation to furnish the statement herein provided for. The commissioner may issue subpoenas to compel the attendance of any person before him, with books of account, documents and maps, and may administer oaths to and examine any person for the purpose of ascertaining the amount and value of such property. Any person who fails to respond to any such subpoena or who, having responded, refuses to testify or who fails to produce any such book or books of account, documents or maps, upon application of said commissioner to the superior court for any judicial district bordering on the waters of Long Island Sound, may be punished for contempt. Said commissioner may exercise the authority of assessors of towns and add ten per cent of the value of the property as a penalty for failure to give in a list. Any person who discloses any information obtained from any such witness or from the books or records of any such owner provided for under the provisions of this section, otherwise than in carrying out the provisions hereof, shall be fined not more than five hundred dollars.

Sec. 26-208. **Laying of tax.** All statements so delivered or made shall be alphabetically arranged, and the Commissioner of Agriculture shall determine the value of all property so returned and described in such statements, which property shall be liable to taxation at the valuation so determined, including the ten per cent for default as aforesaid. Said commissioner shall annually declare and lay a tax thereon at the rate of two per cent of such valuation, payable at the office of said commissioner on and after the first Monday of the January following, and such tax shall be a lien upon the franchises and grounds so taxed from the time it is so laid until paid and shall be in lieu of all other taxes on such property.

Sec. 26-209. **Appeal.** Any person aggrieved by the action of the Commissioner of Agriculture under section 26-208 shall have the same right of appeal to the Superior Court as is provided by law for appeals to said court from boards of assessment appeals of towns, except as otherwise provided. Each such appeal shall be taken to the judicial district where the franchise or ground in question is situated or to the judicial district where the owner appealing resides, and said court shall have such powers therein as in appeals from boards of assessment appeals of towns.

Sec. 26-210. **Collection of tax.** If any tax so laid is not paid on or before the first Monday in March, the Commissioner of Agriculture shall make and issue his warrant for the collection thereof, with interest thereon, at the rate of one per cent per month from the day such tax becomes payable until paid, with the expenses of such collection, which warrant shall authorize any reputable person named therein to seize such grounds and any oysters or other shellfish thereon, or any other property of the owner or owners thereof not exempt from execution, and to sell the same, or so much thereof as he may find necessary, at such time and place, in such manner and by such person as said commissioner may direct, whereupon such sale shall be so made, and such warrant shall be immediately returned to said commissioner by such person with all his doings endorsed thereon, and he shall pay to said

commissioner the money received upon such sale, and the commissioner shall apply the same to the payment of such tax and all the expenses thereon, including the expenses of such sale, returning any balance that remains to such owner or owners; and all moneys received by said commissioner in payment of taxes and interest thereon shall be accounted for and paid to the State Treasurer.

Sec. 26-211. **Taxes unpaid five years; reversion.** When the taxes on any oyster grounds within the exclusive jurisdiction of the state and under the control of the Commissioner of Agriculture are in arrears for five consecutive years, said commissioner shall notify the owner or owners of such grounds, or their legal representatives, of the fact of such arrears, and if, within three months after the date of such notification, all arrears of taxes on such grounds are not paid, such grounds shall revert to the state; and the commissioner, upon the reversion of such grounds to the state, shall make a certificate of the fact of such reversion for record upon his books, and such grounds shall thereupon be open for application like all other undesignated oyster grounds within the exclusive jurisdiction of the state.

Sec. 26-212. **Licensing and numbering of shellfish vessels. Fee.** No person shall take or gather for commercial purposes oysters, clams, mussels or other molluscan shellfish from any natural shellfish bed in the state in any boat or vessel unless it is licensed and numbered in the manner provided in this section. Any person desiring to use any boat or vessel for such purpose may make written application to the Commissioner of Agriculture, stating the name, owner, rig, general description and tonnage of such boat or vessel and the place where it is owned, and the commissioner shall issue to the owner of such boat or vessel a license to take and gather for commercial purposes oysters, clams, mussels or other molluscan shellfish from the natural shellfish beds in the state for the term expiring on the next succeeding twentieth day of July, unless sooner revoked, upon the payment of fifteen dollars; provided, before such license is granted, the owner or master shall prove to the satisfaction of the commissioner that such boat or vessel may legally be used on work on the public beds of the state and that the dredges and other contrivances do not weigh more than thirty pounds. Each boat or vessel so licensed shall, while at work upon any of the natural shellfish beds of the state, display the number of such license in black figures not less than one foot in length. No such license may be transferred. The sale of any boat so licensed shall operate as a forfeiture and revocation of the license, and the license certificate shall be surrendered to the commissioner.

Sec. 26-213. **License to work on natural beds.** No person shall take or gather for commercial purposes oysters, clams, mussels or other molluscan shellfish from any natural shellfish bed in the state and no person shall be permitted upon any boat, licensed pursuant to the provisions of section 26-212, while the boat is being used for such taking or gathering until the person has been licensed in the manner provided in this section. The person shall apply in writing, to the Commissioner of Agriculture upon blanks to be furnished by the commissioner, stating his name, residence, post-office address and such other information as may be required by said commissioner, and said commissioner, upon payment of a fee of ten dollars, shall issue to the person a license for such purpose. All licenses so issued shall be revocable at any time by the commissioner and shall expire on the twentieth day of July in each year. The commissioner shall account to the Treasurer for all money received for licenses under the provisions of this section. Any person who violates any of the provisions of this section relating to licensing shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both.

Sec. 26-214. **Nonresident oystermen. Foreign vessels prohibited.** Section 26-214 is repealed, effective June 23, 1999.

Sec. 26-215. **Power dredges. Local shellfish commissions. Use of power dredges to restore shellfish beds.** (a) There shall not be used on any licensed boat any device operated otherwise than by hand power, for hoisting or operating dredges or other implements for gathering oysters, clams, mussels or other shellfish or oyster shells. Except as provided in subsection (b) of this section, no person shall use any dredge or other contrivance weighing more than thirty pounds, exclusive of the net or bag, or with a capacity of more than one and one-half bushels in taking up or dredging for oysters, clams, mussels or other shellfish or oyster shells in any of the waters of the state, except upon private designated grounds. Nothing in this section shall be construed to prevent the use of power in taking up or dredging for oysters, clams, mussels or other shellfish or shells on private designated grounds by the owners thereof, or to prevent the use of excavators for deepening the water in places where there are no natural oyster or clam beds, or where such beds have not existed within ten years, by digging or removing the material, permission to use excavators being first given by the Commissioner of Agriculture, which permission shall not be given until after a public notice of at least two weeks of the time when and place where he will hear all parties desiring to be heard upon such application, which notice shall be posted in the office of the town clerk of the town where such grounds are located.

(b) A local shellfish commission established pursuant to section 26-257a may allow limited and supervised use of a power dredge or other contrivance with a capacity of not more than three bushels, for the purpose of cultivation, enhancement or restoration of natural shellfish beds located within the jurisdiction of said commission. The use of a power dredge or other contrivance pursuant to this subsection shall not be extended to the harvesting or removal of oysters. Such shellfish commission shall administer such dredging pursuant to section 26-257a.

Sec. 26-216. **Penalty.** Any person who violates any provision of section 26-215, or who uses any device or number not furnished by the Commissioner of Agriculture for a boat or vessel used in cultivating or dredging for shellfish, shall be fined not less than twenty-five dollars or more than fifty dollars for each day that such boat or vessel is so unlawfully used and, on conviction of a second offense, shall be fined not less than fifty dollars or more than two hundred dollars or imprisoned not more than thirty days, or both, for each day that such boat or vessel is so unlawfully used.

Sec. 26-217. **Use of chain bags on natural oyster beds.** No person shall use any dredge with a chain bag having rings of less than three-quarters of an inch in diameter, or any net bag with smaller mesh than two inches from knot to knot, on any natural oyster bed. Any person who violates any provision of this section shall be fined not more than fifty dollars or imprisoned not more than thirty days or both.

Sec. 26-218. **License forfeited on conviction.** The conviction of any person of dredging without a license, upon a natural oyster bed, shall render such person ineligible for a license for the remainder of the license year, and the conviction of any licensee for any violation of the laws relating to shellfisheries shall operate as a revocation of his license.

Sec. 26-219. **License to take conchs.** Any person may apply to the Commissioner of Agriculture for a license to take conchs in excess of one-half bushel daily. Such license shall not apply to any area lawfully designated as oyster, clam or mussel beds under town or state jurisdiction. Such application shall state the name, residence and post-office address of the applicant and such other information as said commissioner requires. Such license shall be valid for one year from the date of its issuance, and a fee of fifty dollars shall be charged therefore. Any person who takes any conchs in excess of one-half

bushel daily without having obtained such a license shall be fined not more than two hundred dollars or imprisoned not more than thirty days or both.

Sec. 26-220. **Shellfish spawning beds.** The Commissioner of Agriculture may designate in such manner as he may determine such spawning beds as he deems necessary south of the jurisdiction line but not more than ten acres in any one town, and cause the same to be marked by buoys to be maintained under such regulations as said commissioner may prescribe. Any person who goes upon or over any such spawning bed for the purpose of taking oysters or dredging, or who tows a dredge under water, over or upon such spawning bed, shall be fined not more than five hundred dollars or imprisoned not more than three months or both.

Secs. 26-221 to 26-223. **Mud dumping. Notice of intended dumping on private oyster beds. Dumping inspectors.** Sections 26-221 to 26-223, inclusive, are repealed, effective October 1, 2002.

Sec. 26-224. **Deposit of injurious substances in tidal waters or on oyster ground. Penalty.** Any person who willfully and knowingly deposits or assists in depositing any starfish or periwinkle, any shellfish imported from another state and infected with a communicable disease or parasite, or any oyster other than the species Ostrea (Crassostrea) virginica in any of the tidal waters of this state, or who dumps mud or other material, except that used in making oyster beds, on any ground located and designated as oyster ground, shall be fined not more than two hundred dollars or imprisoned not more than six months for each bushel, or fraction thereof, of such material so deposited or dumped.

Sec. 26-224a. **Depositing of shellfish in tidal waters. Regulations.**
(a) The Commissioner of Agriculture shall adopt regulations in accordance with the provisions of chapter 54 setting forth standards and procedures for the depositing of shellfish imported from outside the state in tidal waters of the state to prevent the introduction of harmful shellfish parasites, pests and diseases. No person may deposit any shellfish or shellfish seed imported from outside the state into the waters of the state unless such shellfish or shellfish seed has been produced from a hatchery which has been inspected or otherwise approved by the Department of Agriculture. Said department may charge such hatchery for any costs incurred in such inspection. Any moneys collected pursuant to this subsection shall be deposited in the fund established pursuant to section 26-237b and shall only be expended for the costs incurred in association with inspections made pursuant to this subsection. Any person who deposits shellfish in any of the tidal waters of the state shall first give notice thereof to the commissioner in accordance with regulations adopted pursuant to this section.

(b) The commissioner shall have reasonable access to vessels, commercial fishing gear and docks and wharfs used in shellfish operations to determine compliance with the regulations adopted pursuant to this section.

(c) On and after the effective date of regulations adopted pursuant to this section, no person shall deposit shellfish in the tidal waters of this state except in accordance with such regulations.

(d) Any person who violates any provision of this section shall be fined not more than two hundred dollars.

Sec. 26-225. **Stealing oysters.** Any person who, in the daytime, unlawfully takes and carries away any oysters lawfully planted or cultivated in any waters, or any oysters being on any place designated for the planting or cultivation of oysters, shall be fined not more than three hundred dollars or imprisoned

not more than one year; and, if such offense is committed in the night season, he shall be fined not more than five hundred dollars or imprisoned not more than one year.

Sec. 26-226. **Injury to enclosure.** Any person who willfully injures any oyster enclosure legally designated, marked out and enclosed or removes any buoys or stakes used to mark out any oyster ground, or who takes any shells from such enclosure, shall be fined not more than fifty dollars or imprisoned not more than thirty days; on a second conviction, the person shall be fined not less than fifty dollars or more than one hundred dollars and imprisoned not less than thirty days or more than ninety days, and, on each subsequent conviction, the person shall be fined one hundred fifty dollars and imprisoned not more than six months.

Sec. 26-227. **Taking from designated but unmarked ground.** No person shall dredge, plant or collect any shells, shellfish or other material or perform any work pertaining to the shellfish industry upon any shellfish grounds, unless each lot whereon any such work is performed has at each corner thereof a buoy visible above mean high water. There shall be on each such buoy the initials of the owner or lessee of such lot and the number of the same as shown on the latest map issued in the report of the Commissioner of Agriculture, and the initial or initials denoting the direction of each corner from the center of the lot printed upon a tag securely fastened to each such buoy. Intermediate line buoys shall be so placed that the distance between buoys shall not be greater than eight hundred feet to be determined by the commissioner, provided said commissioner may permit the use of stakes in lieu of buoys where such use may be found necessary or advisable. Any person who violates any provision of this section shall be fined not more than one hundred dollars.

Sec. 26-228. **Taking shellfish between sunset and sunrise.** Any person who, between sunset and sunrise, takes or collects any shells or shellfish from the shores or waters in this state shall be fined not more than five hundred dollars nor less than one hundred dollars or imprisoned not more than sixty days or be both fined and imprisoned.

Sec. 26-229. **Injury to monuments.** Any person who willfully injures, removes or displaces any range monument, signal, beacon, boundstone, post or buoy, or any part, appurtenance or enclosure thereof, erected, constructed or set by the Commissioner of Agriculture, or by his order, on the land or water of this state, for the purpose of designating, locating, surveying or mapping any shellfish grounds, shall be fined not more than one hundred fifty dollars or imprisoned not more than ninety days or both.

Sec. 26-230. **Speculation in ground prohibited. Illegally staking ground.** Any person who applies for and procures any designation of a place for planting oysters, clams or mussels to be made to him, for the purpose of assigning the rights which he may acquire, for profit or speculation, and any person, other than the owner, the lessee, the Commissioner of Agriculture, the authorized committee or the selectmen, who stakes out or encloses any grounds in navigable waters for the purpose of planting or cultivating oysters thereon, shall be fined not more than fifty dollars.

Sec. 26-231. **Towing dredge prohibited.** Any person who, without the written permission of the owner or lessee of any properly designated oyster ground, tows or assists in towing under water any dredge, trawl or contrivance for taking fish or shellfish, in a manner to cause it to come into contact with any such ground or any shellfish thereon, shall be fined not more than fifty dollars or imprisoned not more than thirty days or both and shall forfeit his right to fish in the marine district of Connecticut for one year, and for a second offense shall be fined not more than one hundred dollars or imprisoned not more than sixty days or both.

Sec. 26-232. **Taking oysters from natural beds or the Housatonic or Saugatuck Rivers.**
(a) Any person who (1) between the twentieth day of July and the twentieth day of September, gathers or takes any oysters or shells from any natural oyster bed specified in section 26-193 other than any such bed in the Housatonic River, (2) between the twentieth day of July and the twentieth day of September in any year, gathers or takes any oysters or shells in the Saugatuck River, or (3) between the twentieth day of July and the twentieth day of October in any year, gathers or takes any oysters or shells in the Housatonic River shall be fined not more than one hundred dollars or imprisoned not more than thirty days or both; provided nothing in this section shall be construed to prohibit the gathering or taking of shells or mussels by the use of tongs in said Housatonic River below a line drawn from a stake on the west bank of said river, at Quimber's Neck Point, so called, and running thence in a northeasterly direction to a stake on the east side of said river. Said stakes shall be located and maintained at said points by the selectmen of the town of Stratford, and a certificate of such location by said selectmen shall be recorded in the office of the town clerk of said town of Stratford. Nothing in this chapter or in chapter 492 shall be construed as prohibiting the excavation of material in deepening the channels of navigable waters by work authorized by the United States government.

(b) The Commissioner of Agriculture, upon application of the Stratford Shellfish Commission, may, at any time, close the season for the taking of any shellfish in the Housatonic River for purposes of conserving the resource.

Sec. 26-233. **Taking oysters from Housatonic River.** Section 26-233 is repealed.

Secs. 26-233a and 26-234. **Taking of oysters in Housatonic River other than by tongs. Greenwich Cove oysters.** Sections 26-233a and 26-234 are repealed, effective October 1, 2002.

Sec. 26-234a. **Daily limit on oysters.** Section 26-234a is repealed, effective October 1, 1999.

Sec. 26-234b. **Taking of eastern oysters. Regulations.** No person may take eastern oysters (Crassostrea virginica) from the waters of this state which are less than three inches long or which are otherwise not ready for harvest, as determined by the Commissioner of Agriculture, except that the taking of such oysters for sale, transplant and relay for aquaculture purposes within the waters of the state shall not be prohibited. The Commissioner of Agriculture may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

Sec. 26-235. **Taking of clams. Recreational harvest limit. Penalties. Defacing or removal of sign.**
(a) No person shall take any long clams less than one and one-half inches in length, provided the Waterford-East Lyme shellfish commission may make such residency requirements for digging or taking clams from the shores or waters of the Niantic River as it deems reasonable and in the best public interest of the Waterford-East Lyme area. Unless otherwise provided by statute, regulation or local ordinance, the recreational harvest limit of clams shall not exceed one-half bushel per person daily. The Commissioner of Agriculture may designate by regulations adopted in accordance with the provisions of chapter 54 shores and waters for the exclusive recreational harvesting of clams. For the purposes of this section, recreational harvest of clams means the collection of clams by an individual for personal consumption or consumption by such individual's family.

(b) The common council of any consolidated town and city and the selectmen of any other town may determine the quantity of clams to be taken therein by a person during one day and may prohibit, for a

period not exceeding one year, the taking of clams from any waters or beaches they may designate within the territorial limits of such town, if they deem such prohibition necessary for the protection of the natural clam areas, by posting notices on such designated territorial limits stating that the taking of clams within such areas is prohibited.

(c) Any person who violates any provision of subsection (a) or (b) of this section shall have committed an infraction.

(d) Any person who takes clams from an area closed and posted against the taking of clams by the Department of Agriculture or from an area closed by license issuance or by order of a local health department shall be fined not less than seventy-five dollars or more than one thousand dollars or three times the market value of any clams taken, based on the quantity and type involved in the violation, if such amount is greater than one thousand dollars, or imprisoned not more than twelve months.

(e) Any person who defaces or removes a sign posted by the Department of Agriculture, in accordance with the provisions of section 26-192e, shall be fined not more than five hundred dollars or imprisoned not more than six months.

Sec. 26-236. **Uncertified natural grounds.** No provisions of any public or special act concerning the quantity of shellfish to be taken from natural grounds shall apply to the harvesting of shellfish from the following-described uncertified natural grounds posted by the Department of Public Health, under permits issued by said department: In the town of Branford, beginning at the southerly point of Darrow's Island, at the mouth of Farm River, from which point, on the tenth day of June at 12:15 p.m., the New Haven lighthouse, on southwest ledge off New Haven Harbor, bears south 84° west; the spindle of Geodetic survey bears north, 11° west, "Magnetic Meridian"; thence along the westerly shore of said island to the northerly point thereof, where it intersects a designation to Patrick O'Brien and others; thence along the westerly line of O'Brien's designation of what is called the "Gut" to the steppingstones, so called, at the southerly line of a designation to the middle of Farm River; thence southerly along a line in the middle of said river to the line of the Commissioner of Agriculture, formerly of the shellfish commissioners, to the place of beginning, containing twenty-two and one-half acres; also, beginning at Swift Water Point, so called, on the east side of Farm River, and at the northeasterly corner of Willis Munson's designation; thence northerly along the easterly side of Farm River to the causeway and bridge; thence westerly along said causeway and bridge to the town line fixed by the towns of East Haven and Branford; thence southerly along said line in the middle of said river to said Munson's north line, to the place of beginning, containing six acres; also, beginning on the northerly side of the causeway and bridge over Farm River and running northerly along the easterly shore of said river to a designation to Harrison Bristol and Warren S. Bradley, at a place called Oak Point; thence westerly along said Bristol and Bradley south line to the middle of the river; thence southerly by a line in the middle of the said river to the bridge over Farm River; thence easterly by the bridge and causeway to the place of beginning, containing three acres; also, all that portion of Farm River lying within the limits of the town of Branford, and being northerly of the northerly line of a designation near Farm Creek to August Hall and William H. Thompson, extending up said river to a point where the waters of Saltonstall Lake form a junction with the waters of said river, containing five acres, more or less; also, all that portion of territory within the limits of the town of Branford, known as Calm Island Bar, commencing at a hole drilled in a rock at the west end of Calm Island Bar, from which point the lighthouse on southwest ledge off New Haven Harbor bears, June 15, 1885, south 88° 35" west, Branford Beacon bears south 6° 35" east thence north 57° 45" east, 751 feet, to a point of rock at the easterly end of said bar; thence running south 13° 12" west to low water mark; thence in a westerly

direction along the line of low water to a point which is south 53° 20" east, from the hole in the rock; thence to the starting point; containing five and one-half acres; also, that portion of Branford River bounded and described as follows: Beginning at a point on the easterly side of Branford River, in a line with the northerly line bears north 32° 10" west, ranging with the tall chimney of the Malleable Iron Works near the depot, in the town of Branford, and the chimney of the dwelling house on Kirkham Street owned by Daniel Averill; thence along the northerly line of said Cook's designation to the westerly shore of said river, thence easterly along the northerly line of said river to the Short Line railroad bridge; thence across said river by the line of said bridge; thence easterly and southerly along the line of said river to the place of beginning, containing thirty-eight and one-half acres.

Sec. 26-237. **Penalty.** Any person violating any provision of this chapter for which violation no specific penalty is imposed shall be fined not more than five hundred dollars or imprisoned not more than six months or both.

Sec. 26-237a. **Deposit of cultch material on state shellfish beds.** There is established within the Department of Agriculture a program to purchase shell or other cultch material for deposit on state shellfish beds. The program shall also include the purchase of management supplies, materials and spawn oyster stock.

Sec. 26-237b. **Shellfish Fund.**
(a) There is established and created a fund to be known as the "Shellfish Fund". The proceeds of any bonds authorized for the purpose of section 26-237a shall be deposited in the fund. Any balance remaining in said fund at the end of any fiscal year shall be carried forward in said fund for the fiscal year next succeeding.

(b) The fund shall be used by the Commissioner of Agriculture for the program established under section 26-237a.

Sec. 26-237c. **License for the harvesting of oysters from state shellfish grounds.** Section 26-237c is repealed, effective June 3, 2004, and applicable to calendar quarters commencing on and after July 1, 2004.

Sec. 26-237d. **Municipal collection of sea water samples for shellfish harvest water classification.**
(a) The Department of Agriculture may, upon written request of a municipality, enter into a memorandum of understanding with such municipality to authorize the health department or similar agency of the municipality to collect sea water samples for the purpose of shellfish harvest water classification. The memorandum of understanding shall not limit the geographic area from which the municipality may collect such samples and shall not be construed to prevent the municipality from collecting or processing samples for the purpose of improving shellfish harvest water classification. The Department of Agriculture shall provide the municipality with support, documentation and training regarding record keeping and sample collection and transport. The municipality shall provide training to any employees or agents it designates to take such samples.

(b) Samples collected by a municipality shall be collected and processed in accordance with the National Shellfish Sanitation Program Model Ordinance, as amended from time to time. Such samples shall be processed by a laboratory certified pursuant to said ordinance. The analysis of a sample processed in a laboratory other than a Department of Agriculture laboratory shall be transmitted directly to said department's Bureau of Aquaculture and to the municipality that submitted the sample.

(c) The municipality may, but shall not be required to, assist the Department of Agriculture in sample collection in post rainfall conditions, spill events or routine sampling requirements. The Department of Agriculture shall accept all sample data analysis from samples collected by municipalities pursuant to this section and said department shall include such data analysis in any data base, report, file, calculation or process used by said department to determine or report water quality classification or reclassification.

Sec. 26-237e. **Resource assessment permits.** A resource assessment permit issued by the Department of Agriculture for the purpose of assessing the viability of a shellfish area shall not authorize more than one hundred acres of assessment area per permit. Said department shall require the placement of buoys at each corner of the assessment area, as defined by the permit applicant, prior to the start of any assessment. Said department shall notify all abutting shellfish ground owners or lease holders of the issuance of such permit not later than five days prior to the effective date of the permit.

APPENDIX E. Local Shellfisheries Statutes

Local Shellfisheries Statutes

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Sec. 26-238. **Town oyster ground committee.** Section 26-238 is repealed.

Sec. 26-239. **Certain grants of oyster, clam and mussel grounds valid.** Any grant of oyster, clam or mussel ground, made by the duly constituted state or town authorities, which is not in territory that has been designated as natural oyster ground by the General Assembly or by the courts, and which has remained in the possession of the owner or owners for five years, shall be valid; and any proceeding to invalidate such grant shall be brought within five years after such grant was made, otherwise the title to such grant shall become complete in such owner or owners.

Sec. 26-240. **Town ground; designation; designation requirements and prohibitions; hearing.**
(a) Any person desiring to plant or cultivate oysters, clams or mussels, in any waters within town jurisdiction, may apply in writing, to the shellfish commission or to selectmen authorized to act, of the town where such grounds are situated, to designate a suitable place to be used by him for that purpose, and such commission or selectmen may make such designation and such applicant shall make and stake out such place and may enclose it with buoys or with stakes, set at suitable distances and distinctly visible above the surface at high water. Such designation shall require the applicant to make a good faith effort to cultivate and harvest shellfish from the designated area. Such designation shall prohibit the applicant from entering a contract with another person that requires the applicant to refrain from cultivating or harvesting shellfish for any period of time except upon approval by the shellfish commission or selectmen, as applicable. Such commission or selectmen shall make a written description of such designation and enclosure, by ranges or otherwise, as may be most convenient, which shall state the time of such designation. The money derived from such designation by selectmen shall be paid to the town in which the same is made. The money derived from a designation by a shellfish commission shall be paid to the commission. A designation may be made to several in common, as well as to individuals. No such designation by the commission or the selectmen shall become effective or be established until after a public hearing in relation thereto has been held by the commission or selectmen authorized to act for that purpose 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 a newspaper having a substantial circulation in such municipality at least twice at intervals of not less than two days, the first not more than fifteen days and the last not less than two days before such

hearing. A copy of the written application for the designation shall be filed in the office of the town clerk in such municipality for public inspection at least fifteen days before such hearing and shall be published in full in such newspaper.

(b) Notwithstanding the provisions of subsection (a) of this section, any owner of a utility line or public use structure that impacts a designated area shall pay to the designee the costs of removing or relocating any shellfish. Nothing in this subsection shall be construed to prohibit the state, the shellfish commission, the board of selectmen or a designee from recovering damages incurred by the state, the shellfish commission, the board of selectmen or the designee caused by the installation, construction or presence of such utility line or public use structure.

Sec. 26-241. **Name of owner to appear on stakes, buoys and markers. Buoy specifications.**
(a) All stakes, buoys or other markers placed by any person, except buoys placed by the state, so as to mark the divisional line, in whole or in part, between any private and any public or natural oyster, clam or mussel beds, in any waters of this state, shall have the name or initial of the owner plainly marked and visible at high water. Any corporation or person who fails to comply with the provisions of this section shall have committed an infraction.

(b) A buoy marking oyster, clam or mussel beds pursuant to subsection (a) of this section or section 26-240 shall be constructed with rigid polystyrene foam or similar buoyant material. Such buoy shall support a vertical pole extending not less than ten feet above the top of such buoy and shall be tethered by a rope or line to an anchoring device of sufficient weight to maintain the position of the buoy. The vertical pole shall not exceed three and one-half inches in diameter at any point and shall not be constructed of a metallic material. A durable waterproof flag not less than six inches in height and eight inches in length shall be affixed to the top of the pole.

Sec. 26-242. **Granting of designation; condition precedent.** No shellfish commission or selectmen shall grant any designation of ground for the planting or cultivation of oysters, until the applicant for such ground has shown them a certificate from the town clerk that the ground has not been previously designated and that such ground is within the limits allotted by law for designation by such commission or selectmen, together with a receipt from the town treasurer, acknowledging that the money for such designation has been deposited with him, pending the action of the commission or selectmen. Town clerks may grant such certificates upon satisfactory proof of such facts by maps and examination of the law and records. Town treasurers may receive such moneys and give such receipts and, if the designation is granted, may retain the money for the use of the town; but, if the application is denied, they shall, on demand of the applicant, refund such payment. Any member of any shellfish commission or of any board of selectmen who violates any of the provisions of this section shall have committed an infraction.

Sec. 26-243. **Evidence of designation to be recorded.** The selectmen of each town in which places have been designated in its navigable waters for planting or cultivating oysters, clams or mussels shall provide a book, to be kept by the town clerk, for recording all applications for such places, together with the written designation and descriptions of the places designated and set out thereon, and all assignments of such places. The town clerk shall record each application and note thereon the day when it was received for record and the book and page where it was recorded and make an alphabetical index of all such applications, designations and assignments, specifying the names of the applicants and of the assignors and assignees, separately; and an attested copy of any such application, designation or assignment, with a certificate that it has been recorded, shall be conclusive evidence of

the fact of such record and prima facie evidence of the validity of such application, designation or assignment.

Sec. 26-244. **Lost title; redesignation. Penalty.** Any owner of any such place who has lost the evidences of his title, after filing the same with the town clerk, may apply to the shellfish commission of the town in which such place is situated, and in East Haven and West Haven to the selectmen, and if he satisfies them that the same justly belongs to him, and that he had obtained and filed such evidences of title with the town clerk, and that such evidences have been lost or destroyed, such commission or selectmen may designate and set such place to him anew, notwithstanding he may have acquired title to other places, though the whole of the places held by him would exceed two acres in extent; but no new application and designation shall affect the rights of any other person to any place so designated and set out or to the oysters thereon. Any person who fraudulently procures any such place to be designated and set to himself, or to any other person, under the provisions of this section shall be fined not more than three hundred dollars or imprisoned not more than six months or both.

Sec. 26-245. **Fees of shellfish commissions.** A shellfish commission may establish a fee for a description of grounds designated for planting and cultivating oysters and a fee to be paid to each member for each day occupied in making such designation.

Sec. 26-246. **Designation of disputed lines in local jurisdiction.** When the boundaries of lands or grounds not within the exclusive jurisdiction of the state, lawfully designated for the planting or cultivation of oysters, clams or mussels, between adjoining proprietors, have been lost or become uncertain, or when the shellfish commission authorized to stake out such lands or grounds has, in the designations or descriptions thereof, described such boundaries so as not to agree with or correctly locate the boundaries actually fixed by them, and such adjoining proprietors cannot agree to establish the same, one or more of them may bring a petition to the superior court for the judicial district in which such lands or grounds, or a portion of them, are situated, and said court may order such lost and uncertain bounds to be erected and established; and may appoint a committee of not more than three disinterested property owners, who shall give notice to all parties interested, as the same appear, in such lands or grounds, to appear before them, and having been sworn, shall inquire into the facts and erect and establish such lost and uncertain bounds, and ascertain the true line between such adjoining proprietors, and reestablish and relocate the same where the shellfish commission marked and placed the same, and may employ a surveyor to assist them if necessary. Such commission shall report to the court the facts relating to such matters, and the original designations and descriptions of such lands and grounds, and of all their doings in the premises; and, if said court finds such parties were duly notified, it may confirm such doings and by its decree fix and locate such boundary lines between such adjoining proprietors, and certified copies of the report and decree shall be recorded in the oyster records of the town in which such lands are, or on which such original designations of such grounds are recorded, and the lines and bounds so erected and established shall be the bounds and lines between such adjoining proprietors. This section shall not apply to any designation of oyster ground which contains a map thereof, or which refers to such map lodged on file in the town clerk's office, or to oyster grounds within the exclusive jurisdiction of the state.

Sec. 26-247. **Removal of beds improperly staked.** When any natural oyster or clam bed, or any part thereof, within town jurisdiction, has been designated, enclosed or staked out, contrary to the provisions of this chapter, the superior court for the judicial district in which such bed is situated, upon the petition of any individual aggrieved, or of the town in which such bed is situated, against the person claiming the same, and the chairman of the shellfish commission appointed by such town, when such

petition is brought by an individual, shall appoint a committee, which, having been sworn and given notice to the parties, shall hear such petition and report the facts thereon to said court. If it appears that such bed has been improperly staked out, the court may order such commission to remove the stakes enclosing the same, and costs to be paid at the discretion of the court; but, when oysters have been planted or cultivated or improvements made, before such petition is brought, by any person, in good faith, to whom such designations have been made, or by any assignee of such person, the court shall give him a reasonable time to remove such oysters and improvements.

Sec. 26-248. **Procedure to dam creek or inlet.** When the owner of any land in which there is any saltwater creek or inlet desires to dam, gate or lock the same for any oyster pond, for the cultivation of oysters, he may make application therefore to the selectmen of the town or the shellfish commission where such creek or inlet may be, who shall visit and examine it. If, in the opinion of the selectmen or commission, to dam it will not injure navigation or deprive the public of any rights or privileges, said selectmen or commission shall mark off, or set bounds, where a dam may be built, and report such opinion to a meeting of the town or the commission; and, if such opinion is approved by the meeting or the commission, the owner of such creek or inlet may construct and maintain such dam, gate or lock, for such purpose, during the pleasure of the General Assembly.

Sec. 26-249. **Private ownership in cultivated shellfish.** Each person who plants or cultivates oysters, clams or mussels, in any place lawfully designated, shall own them and also all other oysters, clams or mussels on such place, and have the exclusive right of taking up and disposing of them and of using such place for the purpose of planting or cultivating oysters, clams or mussels therein, which place shall be transferable by written assignment; but nothing herein contained shall affect the rights of any owner of lands in which there may be saltwater creeks or inlets, or which may be opposite or contiguous to such navigable waters; nor authorize any shellfish commission or selectmen to designate, nor any person to mark, stake out or enclose, any natural oyster or clam bed, or infringe upon the free navigation of such waters, or interfere with the drawing of seines in any place established and customarily used for seine fishing.

Sec. 26-250. **Taxation of town ground.** All shellfish grounds lying within the waters of this state and not exclusively within state jurisdiction shall be taxed in the same manner in all respects as real estate in the several towns within the meridian lines of which such shellfish grounds are situated, and no other tax or rental shall be laid or collected on such grounds or the franchise of any person therein.

Sec. 26-251. **Natural clam beds not to be designated.** No shellfish commission or selectman of any town shall designate, and no person shall mark, stake out or enclose, for the cultivation of oysters, clams or mussels, any natural clam bed.

Sec. 26-252. **Taking of hard or round clams; size.** No rake, tongs, dredge or other device shall be used for taking hard or round clams in any of the waters of this state, with spaces or openings between the teeth or prongs of less than one inch, and no such clams less than one inch in thickness, or which will pass through a ring of one and one-half inches internal diameter, shall be bought, sold or offered for sale by any person but, if taken, shall, without unnecessary injury, be returned to the water whence taken. Any person who violates any provision of this section shall have committed an infraction.

Sec. 26-253. **Trespass on designated ground.** Any person who willfully commits any trespass or injury with eel spears or other implements on any designated oyster ground on which oysters are being cultivated shall have committed an infraction.

Secs. 26-254 and 26-255. **Catching of shellfish on bridge pier. Plowing for shellfish along Long Island Sound.** Sections 26-254 and 26-255 are repealed.

Sec. 26-256. **Injury to pond gates and dams.** Any person who injures the dams or gates of any oyster pond shall have committed an infraction.

Sec. 26-257. **Local shellfish grounds under state control.** When shellfish grounds or franchises located within the limits of the towns of West Haven, New Haven, Milford and Westport, and northerly of the state jurisdiction line, have been surveyed, and a map of the same made and accepted by the Commissioner of Agriculture according to law, said commissioner shall have and exercise all the powers and duties with reference to the grounds designated thereby which he has with reference to the grounds south of the state jurisdiction line; and any copies of such books, records and maps which were used in connection with such survey shall be kept on file in the office of the commissioner; provided the selectmen of the town of Westport shall have exclusive jurisdiction over, and power to designate, shellfish grounds in the waters, in said town, of all creeks and estuaries tributary to Compo Mill Pond in said town, and the selectmen of the town of Milford shall have exclusive jurisdiction over, and power to designate or lease, shellfish grounds in the waters, in said town, of the Indian River, Gulf Pond and that portion of the Milford Harbor located northerly of the breakwater. The map of such grounds in the town of Milford shall be published with the annual report of the Commissioner of Agriculture. Taxes and rentals on grounds in the towns of West Haven and Westport and in the city of New Haven and on franchises in the town of Milford designated on such maps shall be paid to the treasurer of the town or city.

Sec. 26-257a. **Local shellfish commissions.**
(a) Any town, city or borough, acting by its legislative body or its board of selectmen, if a town, or its mayor, if a city, or its warden, if a borough, may establish a shellfish commission or may join with one or more other towns, cities or boroughs, acting by their respective legislative bodies or boards of selectmen or mayors or wardens, as the case may be, in establishing such a commission. The number of members and their term of office shall be determined by the legislative body or board of selectmen or mayor or warden, as the case may be, or, in the case of such joint action, by agreement of the legislative bodies or boards of selectmen or mayors or wardens, as the case may be.

(b) Such commission shall have charge of all the shellfisheries and shellfish grounds lying in such municipality or municipalities not granted to others and not under the jurisdiction of the Commissioner of Agriculture, including all rivers, inland waters and flats adjacent to all beaches and waters within the limits and marine bounds of the municipality or municipalities. The commission may designate suitable places in the navigable waters within its jurisdiction for planting or cultivating oysters, clams or mussels. The commission may issue licenses for the taking of shellfish therefrom and fix the fees therefore, may designate the quantities of such shellfish to be taken, the sizes of such shellfish and the methods of taking. The commission may prohibit the taking of such shellfish from certain designated areas for periods not in excess of one year. All moneys collected by the commission under the provisions of this section shall be paid to the commission and used by it for the protection and propagation of the shellfish under its control. Any person who violates any regulation issued by the commission pursuant to this section shall be fined not more than fifty dollars or imprisoned not more than thirty days or both.

(c) The commission shall prepare and periodically update a shellfish management plan. The plan shall

be submitted to the Commissioner of Agriculture and any appropriate board of selectmen, mayor or warden for review and comment.

Sec. 26-258. **Location of local natural clam or oyster beds.** The superior court for the judicial district of New Haven, on the application of the selectmen of the town of West Haven, and the superior court for any judicial district, on the application of the oyster-ground committee of any town in such judicial district, shall appoint a committee of three disinterested persons, not residents of the town within the boundaries of which any natural oyster, clam or mussel beds exist, to ascertain, locate and describe, by suitable boundaries, all the natural oyster, clam or mussel beds within the boundaries of such town. The committee so appointed shall first give three weeks' notice, by advertising in a newspaper published in or nearest to such town, of the time and place of their first meeting for such purpose. Such committee shall hear parties who appear before it and may take evidence from such other sources as it deems advisable and shall make written designations by ranges, bounds and areas of all the natural oyster, clam and mussel beds within the boundaries of such town, and shall make a report of its doings to the superior court, which report, when accepted by said court, shall be recorded and shall be a final and conclusive determination of the extent, boundaries and location of such natural beds at the date of such report. The clerk of the court shall transmit to the town clerk of each of said towns a certified copy of such report, which shall be recorded by such town clerk in the book kept by him for the record of applications, designations and conveyances of designated grounds. Such public notice of such application to the superior court, and of the time and place of the return of the same, shall be given by such selectmen or oyster-ground committee as any judge of the superior court may order. The selectmen of the town of West Haven and the oyster committees of other towns, upon a written request, signed by twenty electors of their respective towns, shall make such application to the superior court within thirty days after receiving a copy of such written request, and such application shall be privileged and shall be heard and disposed of at the term of said court to which such application is returned. All expenses incurred by such selectmen and oyster-ground committees in such applications, and the doings thereunder, and the fees of such committees so appointed by the court, shall be taxed by the clerk of said court and paid upon his order by the state. The fees of such committees shall not exceed five dollars per day for each member thereof and shall be in full for all services, expenses and disbursements under such appointment, and the comptroller shall keep an account of such expense separate from that of the shellfish commission. Any designation of ground for the planting or cultivation of shellfish, made more than five years prior to the time of the making of such application for the appointment of such committee and within the areas so established by such report of such committee, shall be valid.

Sec. 26-259. **Maps to be lodged in town clerk's office.** The selectmen of the town of West Haven and the committees of other towns shall, at the expense of their respective towns, procure and cause to be lodged and kept in the office of the town clerk of each town, respectively, accurate maps showing the boundary lines of their respective towns in the navigable waters of the state and all designations of ground by local authorities for the cultivation of shellfish made within such boundaries, and shall number such designations on such maps and shall cause to be designated on such maps all natural oyster, clam and mussel beds lying within their several towns respectively, as the same are ascertained by the report of such committees so recorded in such towns, and the committee or selectmen who thereafter make any such designation shall mark the same upon such map.

Sec. 26-260. **Selectmen of Milford and West Haven may prohibit the taking of clams.** The selectmen of the towns of West Haven and Milford may, from time to time as they deem expedient, prohibit the taking of long or soft-shell clams from such portions of the natural clam grounds of their respective

towns as they shall from time to time designate, for a period not exceeding one year at a time. When said selectmen designate any place or places within their respective towns from which the taking of long or soft-shell clams is prohibited as aforesaid, the selectmen of the town of West Haven shall publish at least twice in some newspaper published in the city of New Haven, and the selectmen of the town of Milford shall publish at least twice in some newspaper published or having a circulation in the town of Milford, a notice describing the grounds upon which such prohibition is operative, and shall further describe the boundaries of such grounds by posting notices, signed by the selectmen of the town in which such grounds are situated, upon the shore adjacent to such grounds. No person shall take or have in his possession in either of said towns any long or soft-shell clams of less than one and one-half inches in length; and no person shall take any long or soft-shell clams from any grounds from which the taking of the same is prohibited as aforesaid, during the time of such prohibition. Any person who violates any provision of this section shall be fined not more than seven dollars or imprisoned not more than thirty days or both for each offense.

Sec. 26-261. **Taking of clams from Oyster River in West Haven and Milford.** Section 26-261 is repealed, effective October 1, 2002.

Sec. 26-262. **Taking of oysters from natural ground in Milford.** Section 26-262 is repealed.

Secs. 26-263 to 26-265. **Taking of clams from Gulf Pond in Milford. Dredging prohibited in New Haven harbor. Dredging in New Haven, Morris Creek and East Haven.** Sections 26-263 to 26-265, inclusive, are repealed, effective October 1, 2002.

Sec. 26-266. **Shellfisheries in Branford. Grants. Requirements and prohibitions of grants.**
(a) The selectmen of the town of Branford or shellfish commission established in accordance with section 26-257a shall have charge of all the shellfisheries and shell and shellfish grounds lying in said town not granted to others and not under the jurisdiction of the Commissioner of Agriculture, between the center line of the Farm or East Haven River and the Guilford town line and below mean high-water mark, with power to issue licenses for the taking of shellfish and shells therefrom and to designate the quantities of such shellfish and shells to be taken, the sizes of such shellfish and the methods of taking. They shall also have power to restrict the taking of such shellfish and shells from certain designated areas for periods not in excess of one year. The grants of all areas of shellfish grounds lying within the boundaries of the town of Branford upon which no tax has been paid for a period of three years preceding shall be deemed vacated and such areas shall revert to the town of Branford and become available for further grant by the selectmen or shellfish commission of said town. Before making a further grant, the selectmen or shellfish commission shall determine if such grounds are suitable for public use and any part thereof so determined shall not be available for such grant. Such grant shall require the applicant to make a good faith effort to cultivate and harvest shellfish from the designated area. Such grant shall prohibit the applicant from entering a contract with another person wherein the applicant agrees to not cultivate or harvest shellfish for any period of time, except upon approval by the shellfish commission or selectmen, as applicable.

(b) Notwithstanding the provisions of subsection (a) of this section, any owner of a utility line or public use structure that impacts a designated area shall pay to the designee or grantee the costs of removing or relocating any shellfish. Nothing in this subsection shall be construed to prohibit the state, the shellfish commission, the board of selectmen or any designee or grantee from recovering damages incurred by the state, the shellfish commission, the board of selectmen, the designee or grantee caused by the installation, construction or presence of such utility line or public use structure.

Secs. 26-267 to 26-270. **Branford and Farm Rivers. Branford or East Haven shores. Taking of clams from clam flats in and adjacent to the town of Branford. Taking of oysters and claims in Westbrook.** Sections 26-267 to 26-270, inclusive, are repealed, effective October 1, 2002.

Secs. 26-271 to 26-275. **Powers of Guilford and Madison selectmen. Shellfisheries in Guilford. Restriction of powers of Guilford. Limitation of taking shellfish in Guilford and Madison. Dredging in waters.** Sections 26-271 to 26-275, inclusive, are repealed.

Sec. 26-276. **Hammonasset River; limitation.** Except as otherwise provided, any person who, in any one day, takes, gathers or collects more than two bushels of oysters, clams, mussels or shells, from any portion of Hammonasset River not designated for planting shellfish, shall be fined not more than twenty dollars or imprisoned not more than sixty days or both.

Sec. 26-277. **Clinton and Madison; special constables.** The towns of Clinton and Madison may appoint, at annual or special town meetings, two or more special constables, who may inspect and measure shellfish and shells taken by any person in one day from the portion of the Hammonasset River over which such constables have supervision, authority and control as provided in section 26-278, and may arrest, without warrant, within such portion of said river or within the town to which the officer making the arrest belongs, any person found violating section 26-276, or who has in his possession shellfish or shells taken, gathered or collected by him within said limits in violation of said section. Said towns shall respectively provide for the payment of such special constables as are appointed.

Sec. 26-278. **Jurisdiction of special constables.** Such special constables and all informing officers of either of said towns shall inquire after and prosecute any violations of sections 26-276 and 26-277. For the purpose of enforcing the same, special constables, appointed as provided in section 26-277, shall have supervision, authority, control and jurisdiction over that part of Hammonasset River lying above a line running across said river at the mouth of Dudley's Creek, and perpendicular to the course of the river, and of offenses committed within said limits in the same way and to the same extent as though such portion of said river was within the town to which such officers belong, and the officers and authorities of the town of Clinton shall have supervision, authority, control and jurisdiction over the remaining portion of said Hammonasset River.

Sec. 26-279. **Madison; town rights.** Sections 26-276, 26-277 and 26-278 shall not in any way affect the rights of the town of Madison created by or claimed under the act establishing the line between the towns of Guilford and Killingworth, passed in December, 1790.

Sec. 26-280. **Taking of shellfish at Saugatuck Shores in Westport.** No person shall take, remove or carry away shellfish of any kind from the shores, beaches and flats at "Saugatuck Shores", so called, in the town of Westport, between June first and October first in each year, except under a written permit issued by the selectmen of said town or as authorized by the shellfish commission of the town of Westport, provided residents of the towns of Westport, Weston and Wilton may take, remove or carry away shellfish from the shores, beaches and flats between the westerly boundary of Sherwood Island Park and the mouth of the Saugatuck River without obtaining such a permit. Any other person desiring to take shellfish from said shores, beaches and flats shall make application to the police department of Westport on a form similar to that provided in connection with licenses or permits for fishing and such police department shall issue such number of permits and to such applicants as appear suitable and proper, and each permittee or licensee shall pay the sum of one dollar for such permit or license when

issued to him and such license or permit, unless revoked for cause, shall continue in effect for the balance of the calendar year in which the same is issued. Any person who takes shellfish from said shores, beaches and flats in violation of the provisions hereof shall be fined not more than twenty-five dollars or imprisoned not more than thirty days or both. The provisions of this section shall not be deemed to extend the jurisdiction of the selectmen or the shellfish commission of the town of Westport to any shores, beaches, or flats not within the jurisdiction of such selectmen or commission on or before October 1, 1983.

Secs. 26-281 to 26-283. **Protection of clams and oysters in Fairfield. Taking of clams from Fairfield Beach. Clamming restricted in Mill River in Fairfield.** Sections 26-281 to 26-283, inclusive, are repealed.

Sec. 26-284. **Thames River oysters; limitation.** Any person who takes or carries away from the Thames River any oyster shells or seed oysters for the purpose of planting the same upon any private oyster bed, or who takes or carries away from said river, except from his own private bed or beds, more than ten bushels of oysters in any one day, shall be fined not more than seven dollars or imprisoned not more than thirty days or both.

Sec. 26-285. **Taking of oysters and clams in Old Lyme regulated.** Any person who takes any clams less than two inches in length or more than one-half bushel of clams, or more than one-half bushel of oysters except from an area designated for planting oysters, in any day in the town of Old Lyme shall be fined not more than fifty dollars or imprisoned not more than thirty days or both.

Sec. 26-286. **Taking oysters from the inland waters of East Lyme and Waterford.** Any person who takes any oysters from the inland waters of the towns of East Lyme and Waterford above the demarcation line during the months of June, July and August shall be fined not less than seven dollars nor more than twenty dollars or imprisoned not more than thirty days or be both fined and imprisoned.

Sec. 26-287. **Waterford-East Lyme shellfish commission. Taking of shellfish from Niantic River.**
(a) The Waterford-East Lyme shellfish commission shall consist of four electors of each of said towns appointed by their respective boards of selectmen. Annually such board shall appoint an elector as a member of said commission who shall serve for a term of four years from June first in the year of his appointment. Neither of said towns shall be represented on said commission by more than two members of the same political party. Any vacancies that may from time to time occur shall be filled for the balance of the unexpired term by the board of selectmen of the town which, because of such vacancy, has one less member on said commission. Said commission may prohibit the taking of escallops, clams and oysters from such portions of the Niantic River as it designates, for a period not exceeding one year at a time, designate, from time to time, the manner in which said shellfish may be taken and license such taking and, in connection therewith, adopt reasonable regulations and fix license and permit fees. When said commission designates any place or places in said river from which the taking of escallops, oysters and clams is to be prohibited or designates a new manner in which escallops, clams and oysters may or may not be taken, or adopts, rescinds or amends any regulation or license or permit fee adopted hereunder, it shall cause to be published at least twice, in a newspaper having a circulation in each of said towns, a notice describing the place or places upon which such prohibition is to be operative or the manner in which escallops, oysters or clams may or may not be taken, or the regulation, license or permit fee adopted, rescinded or amended, and shall post copies of such notices upon the shores of the river. No person shall take any escallops, oysters or clams from any

grounds from which the taking of the same has been prohibited during the time of such prohibition nor in any manner in violation of any such designation or regulation.

(b) No person shall, at any time, take any escallops which may pass through a two-inch ring or more than three bushels of escallops in any one day, provided said commission may increase the daily limit at any time after it has been in force for thirty days.

(c) All constables and other informing officers of either of said towns shall inquire after and prosecute for any violation of this section. For the purpose of enforcing the same, all constables in either of said towns shall have supervision and jurisdiction over that part of the waters of the Niantic River from Golden Spur Bridge southerly to the highway bridge at the Rope Ferry Road, so called, and all offenses committed within said limits, in the same manner and to the same extent as though said portion of said river was within the town within which such officials have jurisdiction.

(d) Said commission may designate special officers for the enforcement of this section whose compensation shall be determined by the commission. All moneys collected by either the town of Waterford or the town of East Lyme under the provisions of this section shall be paid to the commission and used by it for the protection and propagation of escallops, oysters and clams and other shellfish in the waters of the Niantic River.

(e) Any person who violates any provision of this section or any regulation adopted pursuant to this section shall be fined not more than two hundred dollars or imprisoned not more than ten days or both, and upon conviction the court may order that such person shall not be entitled to a permit or license to take escallops, oysters and clams from the Niantic River until the beginning of the second season the river is opened by the commission following such conviction.

Sec. 26-288. **Escallops.** No person shall have in his possession any escallops other than adult escallops. For the purpose of this section, an adult escallop is defined as an escallop having a well-defined growth line. All seed escallops taken shall be immediately returned alive to waters having a depth of at least three feet at mean low tide, except that the selectmen of any town bordering on Long Island Sound may, on application, authorize such escallops to be removed and transplanted in waters along the sound. No person shall take any escallops from the first day of April to the first day of October or from sunset to sunrise, except that in the waters of Little Narragansett Bay no person shall take any escallops from the first day of April to the fifteenth day of September or from sunset to sunrise. No person shall use any rake, dredge, drag or other device which may be drawn along the surface of the bottom, except a device such as a scoop net which is attached to a pole and has an opening not more than sixteen inches wide and is used manually by the person engaged in taking escallops. No person shall open and return to the water the shell and entrails of any escallops after the eye or muscle has been removed, nor shall any starfish taken from the waters be returned thereto. Any person who violates any provision of this section shall be fined not more than fifty dollars or imprisoned not more than sixty days or both.

Sec. 26-289. **Dredging for escallops in Little Narragansett Bay or Stonington Harbor.** Section 26-289 is repealed.

Sec. 26-290. **Taking of escallops in Groton.** The town council of Groton may prohibit the taking of escallops from such portions of the waters of said town as they designate, for a period not exceeding one year at a time, and may designate the daily take of escallops from said waters not to exceed fifteen bushels per person or fifteen bushels per boat if more than one person is carried on said boat. When the

council designates any place or places in said waters from which such taking is prohibited, they shall cause to be published, at least twice in a newspaper having a circulation in said town and at least ten days before such prohibition takes effect, a notice describing the place or places upon which and the period for which such prohibition is to be operative, and shall post copies of such notices, signed by the council, upon the shores adjacent to such places. No person shall, at any time, take escallops from said waters without having first obtained a permit issued by the council or any persons designated by it. Permits shall be issued for the taking of any amount up to the daily limit upon application and the payment of fifteen cents per bushel and shall be dated as of the day of issue or such other day during the open season as the applicant may designate. Permits shall be valid only for the day designated thereon. A season permit shall be issued by the council upon application and the payment of ten dollars and shall allow the taking of the daily limit for each day of the open season. The council shall designate special officers for the enforcement of this section, who shall receive compensation on a per diem basis. All moneys collected under the provisions of this section shall be used by the council for the protection, conservation and propagation of escallops and other shellfish in the town waters. Any person who violates any provision of this section shall be fined not more than fifty dollars or imprisoned not more than sixty days or be both fined and imprisoned and the court may order that a permit shall not be issued to such person to take escallops in the waters of the town of Groton for the remainder of the open season.

Sec. 26-291. **Taking of oysters and clams in Stonington.** Section 26-291 is repealed.

Sec. 26-291a. **Taking of clams and oysters in Stonington.**
(a) The board of selectmen in the town of Stonington may prohibit the taking of clams and oysters from such portions of the town waters as it designates from time to time, for a period not exceeding one year at a time, and may designate the manner in which clams and oysters may be taken and the size and the amount and may provide for licenses for such taking and, in connection therewith, adopt reasonable regulations and fix license and permit fees. When said board designates any place or places in said town waters from which the taking of oysters and clams is to be prohibited or designates a changed manner in which clams and oysters may or may not be taken, or adopts, rescinds or amends any regulation or license or permit fee, it shall cause to be published, in a newspaper having a circulation in said town, a notice describing the place or places upon which such prohibition is to be operative or the manner in which oysters or clams may or may not be taken, or the regulation, license or permit fee adopted, rescinded or amended, and shall post copies of such notices upon the shores of the town waters. No person shall take any oysters or clams from any grounds from which the taking of the same has been prohibited during the time of such prohibition nor in any manner in violation of any such designation or regulation.

(b) Said board of selectmen may designate special officers for the enforcement of this section, whose compensation shall be determined by the board of selectmen. All moneys collected under the provisions of this section shall be paid to the board of selectmen and used by it for protection and propagation of escallops, oysters and clams and other shellfish in the waters of the town of Stonington.

(c) Any person who violates any provision of this section or any regulation adopted pursuant to this section shall be fined not more than twenty-five dollars or imprisoned not more than thirty days or both, and upon conviction the court may order that a permit shall not be issued to such person to take clams or oysters from the waters of the town of Stonington for one year.

Sec. 26-292. **Taking of escallops in the waters of Stonington.** The board of selectmen of the town of

Stonington may prohibit the taking of escallops from such portions of the waters of said town as they designate, for a period not exceeding one year at a time, and may designate the daily take of escallops from said waters not to exceed fifteen bushels per person or fifteen bushels per boat if more than one person is carried on such boat. When said selectmen designate any place or places in said waters from which such taking is prohibited, they shall cause to be published, at least twice in a newspaper having a circulation in said town and at least ten days before such prohibition takes effect, a notice describing the place or places upon which and the period for which such prohibition is to be operative and shall post copies of such notices, signed by said selectmen, upon the shores adjacent to such places. No person shall, at any time, take escallops from said waters without having first obtained a permit issued by the selectmen or any persons designated by them. Permits shall be issued for the taking of any amount up to the daily limit upon application and the payment of a fee per bushel established by the selectmen but not more than six dollars and shall be dated as of the day of issue or such other day during the open season as the applicant may designate. Permits shall be valid only for the day designated thereon. A season permit shall be issued by the selectmen upon application and the payment of a fee established by the selectmen but not more than sixty dollars and shall allow the taking of the daily limit for each day of the open season. The selectmen shall designate special officers for the enforcement of this section, who shall receive compensation on a per diem basis. All moneys collected under the provisions of this section shall be used by the selectmen for the protection, conservation and propagation of escallops and other shellfish in the town waters. Any person who violates any provision of this section shall be fined not more than fifty dollars or imprisoned not more than sixty days or be both fined and imprisoned and the court may order that a permit shall not be issued to such person to take escallops in the waters of the town of Stonington for the remainder of the open season.

Sec. 26-292a. **Cockenoe Flats shellfish grounds, Westport. Jurisdiction. Recreational clamming permits.** Jurisdiction of shellfish grounds known as Cockenoe Flats in the town of Westport shall be transferred from the state of Connecticut to the town of Westport and the Westport Shellfish Commission shall have jurisdiction over recreational clamming in said shellfish grounds and the ability to issue recreational clamming permits for the use of said grounds by all state residents.

Sec. 26-293. **Prosecutions.** Section 26-293 is repealed.

Sec. 26-294. **Penalty.** Any person who violates any provision of this chapter, for which no penalty is otherwise provided, shall be fined not more than twenty-five dollars.

APPENDIX F. Aquaculture and Coastal Regulation Statutes

Aquaculture and Coastal Regulation Statutes

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Sec. 22-11c. **Aquaculture development: Definitions.**
(a) As used in sections 22-11d to 22-11f, inclusive, "aquaculture" means the controlled rearing, cultivation and harvest of aquatic plants and animals in land-based and marine-based culture systems, tanks, containers, impoundments, floating or submerged nets or pens and ponds.

(b) For purposes of this chapter "agriculture", as defined in subsection (q) of section 1-1, shall include aquaculture.

Sec. 22-11d. **Aquaculture development: Lead agency.** The Department of Agriculture shall be the lead agency for aquaculture development in this state. The department shall: (1) Coordinate the activities of other state agencies with regard to aquaculture; (2) act as a liaison between local and federal officials on matters related to aquaculture; (3) serve as a liaison between government and the aquaculture industry.

Sec. 22-11e. **Interagency Aquaculture Coordinating Committee.**
(a) There shall be an Interagency Aquaculture Coordinating Committee comprised of the Departments of Agriculture, Environmental Protection, and Economic and Community Development to provide for the development and enhancement of aquaculture in this state. The Commissioner of Agriculture shall serve as chairperson of said committee and shall convene the committee as often as he deems necessary.
(b) On or before October 1, 1995, the Interagency Aquaculture Coordinating Committee shall develop a comprehensive strategy for the development of aquaculture in this state.

Sec. 22-11f. **Licensing of aquaculture operation. Regulations. Control of importation and cultivation of nonnative plants or animals.** The Department of Agriculture, after consultation with the Department of Environmental Protection, shall adopt regulations, in accordance with the provisions of chapter 54, concerning the licensing of aquaculture facilities and operations other than any such facilities or operations of the Department of Environmental Protection. Such regulations shall establish a program to control the importation, cultivation or raising of aquatic plants or animals which are not native to this state. Such regulations shall ensure that any such importation or cultivation shall not adversely contaminate or impact native aquatic plants or animals or their natural habitats and shall

further provide that aquaculture operations shall not adversely contaminate or impact wild stocks of aquatic plants and animals or their natural habitats and shall include measures to identify products of aquaculture operations. Aquatic plants and animals held at inland aquaculture facilities shall be exempt from laws and regulations pertaining to wild stocks, including, but not limited to, chapter 495.

Sec. 22-11g. **Releases from aquaculture systems.** No person may release water, plants, animals or other material from any land-based or marine-based aquaculture systems, including, but not limited to, tanks, containers, impoundments or ponds, unless such person first provides notice to the Commissioner of Agriculture, on a form prescribed by said commissioner, regarding the nature of the substances to be released. The commissioner may issue an order to discontinue or abate such release if the commissioner finds that such release poses a significant threat to the aquacultural resources of the state. This section shall not apply to any aquacultural systems operated by the Department of Environmental Protection.

Sec. 22-11h. **Permits for aquaculture operations. Exemptions from environmental protection programs. General permits.**
(a) The Department of Agriculture shall have exclusive authority for granting or denying aquaculture permits, except for matters specifically concerning water discharges from such aquaculture operations into the waters of the state, which shall require approval by the Department of Environmental Protection as provided in section 22a-430. The department shall not consider discharges from aquaculture operations to be industrial discharges and shall treat and administer applications and permits from aquaculture operations as separate and distinct from permits for industrial discharges for the purposes of section 22a-430. Within ninety days of receipt of a sufficient application for a discharge permit for an aquaculture operation under section 22a-430 the Commissioner of Environmental Protection, or a designee, shall meet with the applicant and the Commissioner of Agriculture, or a designee, to discuss such application.

(b) Aquaculture operations that withdraw less than two hundred fifty thousand gallons per day of water, where such water is not approved for human consumption, and where water so withdrawn is returned to the same source from which it was withdrawn, shall be deemed not to be a diversion as defined in section 22a-367 and shall be exempt from the water diversion permitting requirements of chapter 446i.

(c) Individual structures used for aquaculture as defined in section 22-11c, including, but not limited to, racks, cages or bags, as well as buoys marking such structures, which do not otherwise require a permit under federal Army Corps of Engineers regulations and do not interfere with navigation in designated or customary boating or shipping lanes and channels, shall be placed in leased or designated shellfish areas and shall be exempt from the requirements of sections 22a-359 to 22a-363f, inclusive.

(d) Transport of live aquaculture products from any licensed and approved aquaculture operation or hatchery within the state, and stocking of such products in the waters of the state, where such aquaculture products are species which are indigenous to the state and are approved for stocking by the Department of Agriculture, shall be exempt from the requirements of section 26-57, except that any person engaging in such transport and stocking shall obtain a renewable annual transport permit which shall govern all shipments for a calendar year designated under such permit. Such permit shall be developed and administered by the Department of Environmental Protection. Aquaculture hatcheries maintained by the Department of Environmental Protection shall be exempt from the provisions of this subsection.

(e) All shellfish aquaculture operations that utilize state-approved microalgal cultured feeds or which do not use any processed cultured feed, and all crustacean and molluscan bivalve growing, hatchery and holding facilities, including, but not limited to, lobster pounds, which are not exempt from requirements to obtain a discharge permit under section 22a-430 or corresponding federal regulations, may operate under a general permit developed by the Department of Environmental Protection and shall not be required to obtain individual discharge permits under section 22a-430. On or before September 15, 1999, said Department of Environmental Protection shall adopt and implement such general permit.

Sec. 22a-28. **(Formerly Sec. 22-7h). Preservation of tidal wetlands. Declaration of policy.** It is declared that much of the wetlands of this state has been lost or despoiled by unregulated dredging, dumping, filling and like activities and that the remaining wetlands of this state are all in jeopardy of being lost or despoiled by these and other activities, that such loss or despoliation will adversely affect, if not entirely eliminate, the value of such wetlands as sources of nutrients to finfish, crustacea and shellfish of significant economic value; that such loss or despoliation will destroy such wetlands as habitats for plants and animals of significant economic value and will eliminate or substantially reduce marine commerce, recreation and aesthetic enjoyment; and that such loss or despoliation will, in most cases, disturb the natural ability of tidal wetlands to reduce flood damage and adversely affect the public health and welfare; that such loss or despoliation will substantially reduce the capacity of such wetlands to absorb silt and will thus result in the increased silting of channels and harbor areas to the detriment of free navigation. Therefore, it is declared to be the public policy of this state to preserve the wetlands and to prevent the despoliation and destruction thereof.

Sec. 22a-29. **(Formerly Sec. 22-7i). Definitions.** The following words and phrases, as used in sections 22a-28 to 22a-35, inclusive, shall have the following meanings:

(1) "Commissioner" means the Commissioner of Environmental Protection;

(2) "Wetland" means those areas which border on or lie beneath tidal waters, such as, but not limited to banks, bogs, salt marsh, swamps, meadows, flats, or other low lands subject to tidal action, including those areas now or formerly connected to tidal waters, and whose surface is at or below an elevation of one foot above local extreme high water; and upon which may grow or be capable of growing some, but not necessarily all, of the following: Salt meadow grass (Spartina patens), spike grass (Distichlis spicata), black grass (Juncus gerardi), saltmarsh grass (Spartina alterniflora), saltworts (Salicornia Europaea, and Salicornia bigelovii), sea lavender (Limonium carolinianum), saltmarsh bulrushes (Scirpus robustus and Scirpus paludosus var. atlanticus), sand spurrey (Spergularia marina), switch grass (Panicum virgatum), tall cordgrass (Spartina pectinata), high-tide bush (Iva frutescens var. oraria), cattails (Typha angustifolia, and Typha latifolia), spike rush (Eleocharis rostellata), chairmaker's rush (Scirpus americana), bent grass (Agrostis palustris), and sweet grass (Hierochloe odorata), royal fern (Osmunda regalis), interrupted fern (Osmunda claytoniana), cinnamon fern (Osmunda cinnamomea), sensitive fern (Onoclea sensibilis), marsh fern (Dryopteris thelypteris), bur-reed family (Sparganium eurycarpum, Sparganium androcladum, Sparganium americanum, Sparganium chlorocarpum, Sparganium angustifolium, Sparganium fluctuans, Sparganium minimum), horned pondweed (Zannichellia palustris), water-plantain (Alisma triviale), arrowhead (Sagittaria subulata, Sagittaria graminea, Sagittaria eatoni, Sagittaria engelmanniania), wild rice (Zizania aquatica), tuckahoe (Peltandra virginica), water-arum (Calla palustris), skunk cabbage (Symplocarpus foetidus), sweet flag (Acorus calamus), pickerelweed (Pontederia cordata), water stargrass (Heteranthera dubia), soft rush (Juncus effusus), false hellebore (Veratrum viride), slender blue flag (Iris prismatica pursh), blue flag (Iris versicolor), yellow iris (Iris pseudacorus), lizard's tail (Saururus cernuus), speckled alder (Alnus rugosa),

common alder (Alnus serrulata), arrow-leaved tearthumb (Polygonum sagittatum), halberd-leaved tearthumb (Polygonum arifolium), spatter-dock (Nuphar variegatum nuphar advena), marsh marigold (Caltha palustris), swamp rose (Rosa palustris), poison ivy (Rhus radicans), poison sumac (Rhus vernix), red maple (Acer rubrum), jewelweed (Impatiens capensis), marshmallow (Hibiscus palustris), loosestrife (Lythrum alatum, lythrum salicaria), red osier (Cornus stolonifera), red willow (Cornus amomum), silky dogwood (Cornus obliqua), sweet pepper-bush (Clethra alnifolia), swamp honeysuckle (Rhododendron viscosum), high-bush blueberry (Vaccinium corymbosum), cranberry (Vaccinium macrocarpon), sea lavender (Limonium nashii), climbing hemp-weed (Mikania scandens), joe pye weed (Eupatorium purpureum), joe pye weed (Eupatorium maculatum), thoroughwort (Eupatorium perfoliatum);

(3) "Regulated activity" means any of the following: Draining, dredging, excavation, or removal of soil, mud, sand, gravel, aggregate of any kind or rubbish from any wetland or the dumping, filling or depositing thereon of any soil, stones, sand, gravel, mud, aggregate of any kind, rubbish or similar material, either directly or otherwise, and the erection of structures, driving of pilings, or placing of obstructions, whether or not changing the tidal ebb and flow. Notwithstanding the foregoing, "regulated activity" shall not include activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of mosquito control, conservation activities of the state Department of Environmental Protection, the construction or maintenance of aids to navigation which are authorized by governmental authority and the emergency decrees of any duly appointed health officer of a municipality acting to protect the public health;

(4) "Person" means any corporation, limited liability company, association or partnership, one or more individuals, and any unit of government or agency thereof.

Sec. 22a-30. **(Formerly Sec. 22-7j). Inventory and inspection of tidal wetlands. Regulations.**
(a) The commissioner or his authorized representative shall have the right to enter upon any public or private property at reasonable times to carry out the provisions of sections 22a-28 to 22a-35, inclusive. The commissioner may make an inventory of all tidal wetlands within the state. The boundaries of such wetlands shall be shown on suitable reproductions or aerial photographs to a scale of one inch equals two hundred feet with such accuracy that they will represent a class D survey. Such lines shall generally define the areas that are at or below an elevation of one foot above local extreme high water. Such maps shall be prepared to cover entire subdivisions of the state as determined by the commissioner. Upon completion of the tidal wetlands boundary maps for each subdivision, the commissioner shall hold a public hearing. The commissioner shall give notice of such hearing to each owner of record of all lands designated as such wetland as shown on such maps by certified mail, return receipt requested, not less than thirty days prior to the date set for such hearing. The commissioner shall also cause notice of such hearing to be published at least once not more than thirty days and not fewer than ten days before the date set for such hearing in a newspaper or newspapers having a general circulation in the town or towns where such wetlands are located. After considering the testimony given at such hearing and any other facts which may be deemed pertinent and after considering the rights of affected property owners and the purposes of sections 22a-28 to 22a-35, inclusive, the commissioner shall establish by order the bounds of each of such wetlands. A copy of the order, together with a copy of the map depicting such boundary lines, shall be filed in the town clerk's office of all towns affected. The commissioner shall give notice of such order to each owner of record of all lands designated as such wetlands by mailing a copy of such order to such owner by certified mail, return receipt requested. The commissioner shall also cause a copy of such order to be published in a newspaper or newspapers having a general circulation in the town or towns where such wetlands are located. Any person

aggrieved by such order may appeal therefrom in accordance with the provisions of section 4-183, except venue for such appeal shall be in the judicial district of New Britain.

(b) The commissioner may periodically inspect the wetlands of the state to determine the necessity for revision or correction of such tidal wetlands boundary maps. If the commissioner finds that wetland areas have been omitted from such maps or uplands have been included within designated wetland boundaries or finds that the natural processes of accretion, reliction, subsidence and erosion have rendered such maps inaccurate he may revise such wetland boundary maps in accordance with the provisions of subsection (a) of this section. Notwithstanding the provisions of subsection (a) and this subsection, any regulated activities conducted upon any wetlands, whether or not such wetlands have been mapped, shall be subject to the provisions of sections 22a-32 to 22a-35, inclusive.

(c) The commissioner shall adopt, in accordance with the provisions of chapter 54, such regulations as said commissioner deems necessary to carry out the provisions of sections 22a-28 to 22a-35, inclusive, and, as applicable, sections 22a-90 to 22a-96, inclusive. Such regulations shall be consistent with the provisions of the federal Coastal Zone Management Act (P.L. 92-583) and the federal regulations adopted thereunder that pertain to tidal wetlands. Such regulations shall be for the purpose of qualifying the state and its municipalities for available federal grants pursuant to said (P.L. 92-583) and for the purpose of permit coordination with other state and federal programs affecting the tidal wetlands of the state. Such regulations shall establish criteria for granting, denying, or limiting permits giving due regard to the impacts of regulated activities on the wetlands of the state, adjoining coastal and tidal resources, navigation, recreation, erosion, sedimentation, water quality and circulation, fisheries, shellfisheries, wildlife, flooding and other natural disasters and water-dependent use opportunities as defined in chapter 444. The commissioner may also adopt, in accordance with the provisions of chapter 54, regulations which set forth informational material describing general categories of regulated activities for the purpose of providing permit applicants with more explicit understanding, provided such informational materials shall be consistent with and shall not increase the discretion granted to the commissioner under the policies, standards and criteria contained in sections 22a-28 and 22a-33 and, as applicable, section 22a-92.

Sec. 22a-31. **(Formerly Sec. 22-7k). Hearing officers.** The commissioner shall appoint such hearing officers as may be necessary to carry out the purposes of sections 22a-28 to 22a-35, inclusive.

Sec. 22a-32. **(Formerly Sec. 22-7*l*). Regulated activity permit. Application. Hearing. Waiver of hearing.** No regulated activity shall be conducted upon any wetland without a permit. Any person proposing to conduct or cause to be conducted a regulated activity upon any wetland shall file an application for a permit with the commissioner, in such form and with such information as the commissioner may prescribe. Such application shall include a detailed description of the proposed work and a map showing the area of wetland directly affected, with the location of the proposed work thereon, together with the names of the owners of record of adjacent land and known claimants of water rights in or adjacent to the wetland of whom the applicant has notice. The commissioner shall cause a copy of such application to be mailed to the chief administrative officer in the town or towns where the proposed work, or any part thereof, is located, and the chairman of the conservation commission and shellfish commission of the town or towns where the proposed work, or any part thereof, is located. No sooner than thirty days and not later than sixty days after the receipt of such application, the commissioner or his duly designated hearing officer shall hold a public hearing on such application, provided, whenever the commissioner determines that the regulated activity for which a permit is sought is not likely to have a significant impact on the wetland, he may waive the requirement

for public hearing after publishing notice, in a newspaper having general circulation in each town wherever the proposed work or any part thereof is located, of his intent to waive said requirement and of his tentative decision regarding the application, except that the commissioner shall hold a hearing on such application upon receipt of a petition, signed by at least twenty-five persons, requesting such a hearing. The following shall be notified of the hearing by mail not less than fifteen days prior to the date set for the hearing: All of those persons and agencies who are entitled to receive a copy of such application in accordance with the terms hereof and all owners of record of adjacent land and known claimants to water rights in or adjacent to the wetland of whom the applicant has notice. The commissioner shall cause notice of his tentative decision regarding the application and such hearing to be published at least once not more than thirty days and not fewer than ten days before the date set for the hearing in the newspaper having a general circulation in each town where the proposed work, or any part thereof, is located. All applications and maps and documents relating thereto shall be open for public inspection at the office of the commissioner. At such hearing any person or persons may appear and be heard.

Sec. 22a-33. **(Formerly Sec. 22-7m). Issuance or denial of permit.** In granting, denying or limiting any permit the commissioner or his duly designated hearing officer shall consider the effect of the proposed work with reference to the public health and welfare, marine fisheries, shellfisheries, wildlife, the protection of life and property from flood, hurricane and other natural disasters, and the public policy set forth in sections 22a-28 to 22a-35, inclusive. The fact that the Department of Environmental Protection is in the process of acquisition of any tidal wetlands by negotiation or condemnation under the provisions of section 26-17a, shall be sufficient basis for denial of any permit. In granting a permit the commissioner may limit or impose conditions or limitations designed to carry out the public policy set forth in sections 22a-28 to 22a-35, inclusive. The commissioner may require a bond in an amount and with surety and conditions satisfactory to him securing to the state compliance with the conditions and limitations set forth in the permit. The commissioner may suspend or revoke a permit if the commissioner finds that the applicant has not complied with any of the conditions or limitations set forth in the permit or has exceeded the scope of the work as set forth in the application. The commissioner may suspend a permit if the applicant fails to comply with the terms and conditions set forth in the application.

Sec. 22a-34. **(Formerly Sec. 22-7n). Appeal.**
(a) An appeal may be taken by the applicant or any person or corporation, municipal corporation or interested community group other than the applicant who has been aggrieved by such order from the denial, suspension or revocation of a permit or the issuance of a permit or conditional permit within thirty days after publication of such issuance, denial, suspension or revocation of any such permit to the superior court for the judicial district of New Britain. If the court finds that the action appealed from is an unreasonable exercise of the police power, it may set aside the order. If the court so finds that the action appealed from constitutes the equivalent of a taking without compensation, and the land so regulated otherwise meets the interests and objectives of sections 22a-28 to 22a-35, inclusive, it may at the election of the commissioner (1) set aside the order or (2) proceed under the provisions of sections 48-12 to 48-14, inclusive, to award damages.

(b) Such appeal shall be brought in accordance with the provisions of section 4-183, except that venue for such appeal shall be in the judicial district of New Britain. Such appeal shall have precedence in the order of trial. The proceedings of the court in the appeal may be stayed by agreement of the parties when a mediation conducted pursuant to section 8-8a commences. Any such stay shall terminate upon conclusion of the mediation.

(c) When the persons who should otherwise be made parties to such appeal are so numerous that it would be impracticable or unreasonably expensive to make them all parties by personal service, the court to which such appeal is taken, or, if said court is not in session, any judge of said court, may order notice of such appeal to be given, by some method other than by personal service, to such of the parties as said court or such judge deems just and equitable, and notice so given shall operate to bind the interests of such parties on such appeal as fully as if personal service had been made upon such parties.

Sec. 22a-35. **(Formerly Sec. 22-70). Penalty.** Any person who knowingly violates any provision of sections 22a-28 to 22a-35, inclusive, shall be liable to the state for the cost of restoration of the affected wetland to its condition prior to such violation insofar as that is possible, and shall forfeit to the state a sum not to exceed one thousand dollars, to be fixed by the court, for each offense. Each violation 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 Attorney General, upon complaint of the commissioner, shall institute a civil action to recover such forfeiture. The Superior Court shall have jurisdiction in equity to restrain a continuing violation of said sections at the suit of any person or agency of state or municipal government.

Sec. 22a-90. **Short title: Coastal Management Act.** Sections 22a-90 to 22a-112, inclusive, shall be known and may be cited as the "Coastal Management Act".

Sec. 22a-91. **Legislative findings.** The General Assembly finds that:

(1) The waters of Long Island Sound and its coastal resources, including tidal rivers, streams and creeks, wetlands and marshes, intertidal mudflats, beaches and dunes, bluffs and headlands, islands, rocky shorefronts, and adjacent shorelands form an integrated natural estuarine ecosystem which is both unique and fragile;

(2) Development of Connecticut's coastal area has been extensive and has had a significant impact on Long Island Sound and its coastal resources;

(3) The coastal area represents an asset of great present and potential value to the economic well-being of the state, and there is a state interest in the effective management, beneficial use, protection and development of the coastal area;

(4) The waterfront of Connecticut's major urban ports is underutilized and many existing urban waterfront uses are not directly dependent on proximity to coastal waters;

(5) The coastal area is rich in a variety of natural, economic, recreational, cultural and aesthetic resources, but the full realization of their value can be achieved only by encouraging further development in suitable areas and by protecting those areas unsuited to development;

(6) The key to improved public management of Connecticut's coastal area is coordination at all levels of government and consideration by municipalities of the impact of development on both coastal resources and future water-dependent development opportunities when preparing plans and regulations and reviewing municipal and private development proposals; and

(7) Unplanned population growth and economic development in the coastal area have caused the

loss of living marine resources, wildlife and nutrient-rich areas, and have endangered other vital ecological systems and scarce resources.

Sec. 22a-92. **Legislative goals and policies.**
(a) The following general goals and policies are established by this chapter:
(1) To insure that the development, preservation or use of the land and water resources of the coastal area proceeds in a manner consistent with the capability of the land and water resources to support development, preservation or use without significantly disrupting either the natural environment or sound economic growth;

(2) To preserve and enhance coastal resources in accordance with the policies established by chapters 439, 440, 446i, 446k, 447, 474 and 477;

(3) To give high priority and preference to uses and facilities which are dependent upon proximity to the water or the shorelands immediately adjacent to marine and tidal waters;

(4) To resolve conflicts between competing uses on the shorelands adjacent to marine and tidal waters by giving preference to uses that minimize adverse impacts on natural coastal resources while providing long term and stable economic benefits;

(5) To consider in the planning process the potential impact of coastal flooding and erosion patterns on coastal development so as to minimize damage to and destruction of life and property and reduce the necessity of public expenditure to protect future development from such hazards;

(6) To encourage public access to the waters of Long Island Sound by expansion, development and effective utilization of state-owned recreational facilities within the coastal area that are consistent with sound resource conservation procedures and constitutionally protected rights of private property owners;

(7) To conduct, sponsor and assist research in coastal matters to improve the data base upon which coastal land and water use decisions are made;

(8) To coordinate the activities of public agencies to insure that state expenditures enhance development while affording maximum protection to natural coastal resources and processes in a manner consistent with the state plan for conservation and development adopted pursuant to part I of chapter 297;

(9) To coordinate planning and regulatory activities of public agencies at all levels of government to insure maximum protection of coastal resources while minimizing conflicts and disruption of economic development; and

(10) To insure that the state and the coastal municipalities provide adequate planning for facilities and resources which are in the national interest as defined in section 22a-93 and to insure that any restrictions or exclusions of such facilities or uses are reasonable. Reasonable grounds for the restriction or exclusion of a facility or use in the national interest shall include a finding that such a facility or use: (A) May reasonably be sited outside the coastal boundary; (B) fails to meet any applicable federal and state environmental, health or safety standard or (C) unreasonably restricts physical or visual access to coastal waters. This policy does not exempt any nonfederal facility in use from any applicable state or

local regulatory or permit program nor does it exempt any federal facility or use from the federal consistency requirements of Section 307 of the federal Coastal Zone Management Act.

(b) In addition to the policies stated in subsection (a), the following policies are established for federal, state and municipal agencies in carrying out their responsibilities under this chapter:

(1) Policies concerning development, facilities and uses within the coastal boundary are: (A) To manage uses in the coastal boundary through existing municipal planning, zoning and other local regulatory authorities and through existing state structures, dredging, wetlands, and other state siting and regulatory authorities, giving highest priority and preference to water-dependent uses and facilities in shorefront areas; (B) to locate and phase sewer and water lines so as to encourage concentrated development in areas which are suitable for development; and to disapprove extension of sewer and water services into developed and undeveloped beaches, barrier beaches and tidal wetlands except that, when necessary to abate existing sources of pollution, sewers that will accommodate existing uses with limited excess capacity may be used; (C) to promote, through existing state and local planning, development, promotional and regulatory authorities, the development, reuse or redevelopment of existing urban and commercial fishing ports giving highest priority and preference to water dependent uses, including but not limited to commercial and recreational fishing and boating uses; to disallow uses which unreasonably congest navigation channels, or unreasonably preclude boating support facilities elsewhere in a port or harbor; and to minimize the risk of oil and chemical spills at port facilities; (D) to require that structures in tidal wetlands and coastal waters be designed, constructed and maintained to minimize adverse impacts on coastal resources, circulation and sedimentation patterns, water quality, and flooding and erosion, to reduce to the maximum extent practicable the use of fill, and to reduce conflicts with the riparian rights of adjacent landowners; (E) to disallow the siting within the coastal boundary of new tank farms and other new fuel and chemical storage facilities which can reasonably be located inland and to require any new storage tanks which must be located within the coastal boundary to abut existing storage tanks or to be located in urban industrial areas and to be adequately protected against floods and spills; (F) to make use of rehabilitation, upgrading and improvement of existing transportation facilities as the primary means of meeting transportation needs in the coastal area; (G) to encourage increased recreational boating use of coastal waters, where feasible, by (i) providing additional berthing space in existing harbors, (ii) limiting non-water-dependent land uses that preclude boating support facilities, (iii) increasing state-owned launching facilities, and (iv) providing for new boating facilities in natural harbors, new protected water areas and in areas dredged from dry land; (H) to protect coastal resources by requiring, where feasible, that such boating uses and facilities (i) minimize disruption or degradation of natural coastal resources, (ii) utilize existing altered, developed or redevelopment areas, (iii) are located to assure optimal distribution of state-owned facilities to the state-wide boating public and (iv) utilize ramps and dry storage rather than slips in environmentally sensitive areas; (I) to protect and where feasible, upgrade facilities serving the commercial fishing and recreational boating industries; to maintain existing authorized commercial fishing and recreational boating harbor space unless the demand for these facilities no longer exists or adequate space has been provided; to design and locate, where feasible, proposed recreational boating facilities in a manner which does not interfere with the needs of the commercial fishing industry; and (J) to require reasonable mitigation measures where development would adversely impact historical, archaeological, or paleontological resources that have been designated by the state historic preservation officer.

(2) Policies concerning coastal land and water resources within the coastal boundary are: (A) To manage coastal bluffs and escarpments so as to preserve their slope and toe; to discourage uses which do not permit continued natural rates of erosion and to disapprove uses that accelerate slope erosion

and alter essential patterns and supply of sediments to the littoral transport system; (B) to manage rocky shorefronts so as to insure that development proceeds in a manner which does not irreparably reduce the capability of the system to support a healthy intertidal biological community; to provide feeding grounds and refuge for shorebirds and finfish, and to dissipate and absorb storm and wave energies; (C) to preserve the dynamic form and integrity of natural beach systems in order to provide critical wildlife habitats, a reservoir for sand supply, a buffer for coastal flooding and erosion, and valuable recreational opportunities; to insure that coastal uses are compatible with the capabilities of the system and do not unreasonably interfere with natural processes of erosion and sedimentation, and to encourage the restoration and enhancement of disturbed or modified beach systems; (D) to manage intertidal flats so as to preserve their value as a nutrient source and reservoir, a healthy shellfish habitat and a valuable feeding area for invertebrates, fish and shorebirds; to encourage the restoration and enhancement of degraded intertidal flats; to allow coastal uses that minimize change in the natural current flows, depth, slope, sedimentation, and nutrient storage functions and to disallow uses that substantially accelerate erosion or lead to significant despoliation of tidal flats; (E) to preserve tidal wetlands and to prevent the despoliation and destruction thereof in order to maintain their vital natural functions; to encourage the rehabilitation and restoration of degraded tidal wetlands and where feasible and environmentally acceptable, to encourage the creation of wetlands for the purposes of shellfish and finfish management, habitat creation and dredge spoil disposal; (F) to manage coastal hazard areas so as to insure that development proceeds in such a manner that hazards to life and property are minimized and to promote nonstructural solutions to flood and erosion problems except in those instances where structural alternatives prove unavoidable and necessary to protect existing inhabited structures, infrastructural facilities or water dependent uses; (G) to promote, through existing state and local planning, development, promotional and regulatory programs, the use of existing developed shorefront areas for marine-related uses, including but not limited to, commercial and recreational fishing, boating and other water-dependent commercial, industrial and recreational uses; (H) to manage undeveloped islands in order to promote their use as critical habitats for those bird, plant and animal species which are indigenous to such islands or which are increasingly rare on the mainland; to maintain the value of undeveloped islands as a major source of recreational open space; and to disallow uses which will have significant adverse impacts on islands or their resource components; (I) to regulate shoreland use and development in a manner which minimizes adverse impacts upon adjacent coastal systems and resources; and (J) to maintain the natural relationship between eroding and depositional coastal landforms and to minimize the adverse impacts of erosion and sedimentation on coastal land uses through the promotion of nonstructural mitigation measures. Structural solutions are permissible when necessary and unavoidable for the protection of infrastructural facilities, water-dependent uses, or existing inhabited structures, and where there is no feasible, less environmentally damaging alternative and where all reasonable mitigation measures and techniques have been provided to minimize adverse environmental impacts.

(c) In addition to the policies stated in subsections (a) and (b), the following policies are established for federal and state agencies in carrying out their responsibilities under this chapter:

(1) Policies concerning development, facilities and uses within the coastal boundary are: (A) To minimize the risk of spillage of petroleum products and hazardous substances, to provide effective containment and cleanup facilities for accidental spills and to disallow offshore oil receiving systems that have the potential to cause catastrophic oil spills in the Long Island Sound estuary; (B) to disallow any filling of tidal wetlands and nearshore, offshore and intertidal waters for the purpose of creating new land from existing wetlands and coastal waters which would otherwise be undevelopable, unless it is found that the adverse impacts on coastal resources are minimal; (C) to initiate in cooperation with

the federal government and the continuing legislative committee on state planning and development a long-range planning program for the continued maintenance and enhancement of federally-maintained navigation facilities in order to effectively and efficiently plan and provide for environmentally sound dredging and disposal of dredged materials; to encourage, through the state permitting program for dredging activities, the maintenance and enhancement of existing federally-maintained navigation channels, basins and anchorages and to discourage the dredging of new federally-maintained navigation channels, basins and anchorages; (D) to reduce the need for future dredging by requiring that new or expanded navigation channels, basins and anchorages take advantage of existing or authorized water depths, circulation and siltation patterns and the best available technologies for reducing controllable sedimentation; (E) to disallow new dredging in tidal wetlands except where no feasible alternative exists and where adverse impacts to coastal resources are minimal; (F) to require that new or improved shoreline rail corridors be designed and constructed so as (i) to prevent tidal and circulation restrictions and, when practicable, to eliminate any such existing restrictions, (ii) to improve or have a negligible adverse effect on coastal access and recreation and (iii) to enhance or not unreasonably impair the visual quality of the shoreline; (G) to require that coastal highways and highway improvements, including bridges, be designed and constructed so as to minimize adverse impacts on coastal resources; to require that coastal highway and highway improvements give full consideration to mass transportation alternatives and to require that coastal highways and highway improvements where possible enhance, but in no case decrease coastal access and recreational opportunities; (H) to disallow the construction of major new airports and to discourage the substantial expansion of existing airports within the coastal boundary; to require that any expansion or improvement of existing airports minimize adverse impacts on coastal resources, recreation or access; (I) to manage the state's fisheries in order to promote the economic benefits of commercial and recreational fishing, enhance recreational fishing opportunities, optimize the yield of all species, prevent the depletion or extinction of indigenous species, maintain and enhance the productivity of natural estuarine resources and preserve healthy fisheries resources for future generations; (J) to make effective use of state-owned coastal recreational facilities in order to expand coastal recreational opportunities including the development or redevelopment of existing state-owned facilities where feasible; (K) to require as a condition in permitting new coastal structures, including but not limited to, groins, jetties or breakwaters, that access to, or along, the public beach below mean high water must not be unreasonably impaired by such structures and to encourage the removal of illegal structures below mean high water which unreasonably obstruct passage along the public beach; and (L) to promote the revitalization of inner city urban harbors and waterfronts by encouraging appropriate reuse of historically developed shorefronts, which may include minimized alteration of an existing shorefront in order to achieve a significant net public benefit, provided (i) such shorefront site is permanently devoted to a water dependent use or a water dependent public use such as public access or recreation for the general public and the ownership of any filled lands remain with the state or an instrumentality thereof in order to secure public use and benefit in perpetuity, (ii) landward development of the site is constrained by highways, railroads or other significant infrastructure facilities, (iii) no other feasible, less environmentally damaging alternatives exist, (iv) the adverse impacts to coastal resources of any shorefront alteration are minimized and compensation in the form of resource restoration is provided to mitigate any remaining adverse impacts, and (v) such reuse is consistent with the appropriate municipal coastal program or municipal plan of development.

(2) Policies concerning coastal land and other resources within the coastal boundary are: (A) To manage estuarine embayments so as to insure that coastal uses proceed in a manner that assures sustained biological productivity, the maintenance of healthy marine populations and the maintenance of essential patterns of circulation, drainage and basin configuration; to protect, enhance and allow

natural restoration of eelgrass flats except in special limited cases, notably shellfish management, where the benefits accrued through alteration of the flat may outweigh the long-term benefits to marine biota, waterfowl, and commercial and recreational finfisheries and (B) to maintain, enhance, or, where feasible, restore natural patterns of water circulation and fresh and saltwater exchange in the placement or replacement of culverts, tide gates or other drainage or flood control structures.

(d) In addition to the policies in this section, the policies of the state plan of conservation and development adopted pursuant to part I of chapter 297 shall be applied to the area within the coastal boundary in accordance with the requirements of section 16a-31.

Sec. 22a-93. **Definitions.** For the purposes of this chapter:

(1) "Commissioner" means the Commissioner of Environmental Protection;

(2) "Municipality" means any town listed in subsection (a) of section 22a-94, the city of Groton, the borough of Stonington, the borough of Groton Long Point, the borough of Fenwick and the borough of Woodmont, but shall not include any special district;

(3) "Coastal area" means those lands described in subsection (a) of section 22a-94;

(4) "Coastal boundary" means the boundary described in subsection (b) of section 22a-94;

(5) "Coastal waters" means those waters of Long Island Sound and its harbors, embayments, tidal rivers, streams and creeks, which contain a salinity concentration of at least five hundred parts per million under the low flow stream conditions as established by the commissioner;

(6) "Public beach" means that portion of the shoreline held in public fee ownership by the state or that portion of the shoreline below the mean high tide elevation that is held in public trust by the state;

(7) "Coastal resources" means the coastal waters of the state, their natural resources, related marine and wildlife habitat and adjacent shorelands, both developed and undeveloped, that together form an integrated terrestrial and estuarine ecosystem; coastal resources include the following: (A) "Coastal bluffs and escarpments" means naturally eroding shorelands marked by dynamic escarpments or sea cliffs which have slope angles that constitute an intricate adjustment between erosion, substrate, drainage and degree of plant cover; (B) "rocky shorefronts" means shorefront composed of bedrock, boulders and cobbles that are highly erosion-resistant and are an insignificant source of sediments for other coastal landforms; (C) "beaches and dunes" means beach systems including barrier beach spits and tombolos, barrier beaches, pocket beaches, land contact beaches and related dunes and sandflats; (D) "intertidal flats" means very gently sloping or flat areas located between high and low tides composed of muddy, silty and fine sandy sediments and generally devoid of vegetation; (E) "tidal wetlands" means "wetland" as defined by section 22a-29; (F) "freshwater wetlands and watercourses" means "wetlands" and "watercourses" as defined by section 22a-38; (G) "estuarine embayments" means a protected coastal body of water with an open connection to the sea in which saline sea water is measurably diluted by fresh water including tidal rivers, bays, lagoons and coves; (H) "coastal hazard areas" means those land areas inundated during coastal storm events or subject to erosion induced by such events, including flood hazard areas as defined and determined by the National Flood Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234) and all erosion hazard areas as determined by the commissioner; (I) "developed shorefront" means those harbor areas which have been highly engineered and developed resulting in the functional impairment or substantial alteration of their natural

physiographic features or systems; (J) "island" means land surrounded on all sides by water; (K) "nearshore waters" means the area comprised of those waters and their substrates lying between mean high water and a depth approximated by the ten meter contour; (L) "offshore waters" means the area comprised of those waters and their substrates lying seaward of a depth approximated by the ten meter contour; (M) "shorelands" means those land areas within the coastal boundary exclusive of coastal hazard areas, which are not subject to dynamic coastal processes and which are comprised of typical upland features such as bedrock hills, till hills and drumlins; (N) "shellfish concentration areas" means actual, potential or historic areas in coastal waters, in which one or more species of shellfish aggregate;

(8) "Zoning commission" means the municipal zoning commission established under section 8-1 or by any special act or the combined planning and zoning commission established under section 8-4a;

(9) "Planning commission" means the municipal planning commission established under section 8-19 or by any special act or the combined planning and zoning commission established under section 8-4a;

(10) "Municipal coastal plans" means the plans listed in subsections (b) and (d) of section 22a-101;

(11) "Municipal coastal regulations" means the regulations and ordinances listed in subsection (b) of section 22a-101;

(12) "Federal Coastal Zone Management Act" and "federal act" means the U.S. Coastal Zone Management Act of 1972, as amended;

(13) "Coastal site plans" means the site plans, applications and project referrals listed in section 22a-105;

(14) "Facilities and resources which are in the national interest" means: (A) Adequate protection of tidal wetlands and related estuarine resources; (B) restoration and enhancement of Connecticut's shellfish industry; (C) restoration, preservation and enhancement of the state's recreational and commercial fisheries, including anadromous species; (D) water pollution control measures and facilities consistent with the requirements of the federal Clean Water Act, as amended; (E) air pollution control measures and facilities consistent with the requirements of the federal Clean Air Act, as amended; (F) continued operations of existing federally-funded dredged and maintained navigation channels and basins; (G) energy facilities serving state-wide and interstate markets, including electric generating facilities and facilities for storage, receiving or processing petroleum products and other fuels; (H) improvements to the existing interstate rail, highway and water-borne transportation system; (I) provision of adequate state or federally-owned marine-related recreational facilities, including natural areas and wildlife sanctuaries; and (J) essential maintenance and improvement of existing water-dependent military, navigational, resource management and research facilities;

(15) "Adverse impacts on coastal resources" include but are not limited to: (A) Degrading water quality through the significant introduction into either coastal waters or groundwater supplies of suspended solids, nutrients, toxics, heavy metals or pathogens, or through the significant alteration of temperature, pH, dissolved oxygen or salinity; (B) degrading existing circulation patterns of coastal waters through the significant alteration of patterns of tidal exchange or flushing rates, freshwater input, or existing basin characteristics and channel contours; (C) degrading natural erosion patterns through the significant alteration of littoral transport of sediments in terms of deposition or source

reduction; (D) degrading natural or existing drainage patterns through the significant alteration of groundwater flow and recharge and volume of runoff; (E) increasing the hazard of coastal flooding through significant alteration of shoreline configurations or bathymetry, particularly within high velocity flood zones; (F) degrading visual quality through significant alteration of the natural features of vistas and view points; (G) degrading or destroying essential wildlife, finfish or shellfish habitat through significant alteration of the composition, migration patterns, distribution, breeding or other population characteristics of the natural species or significant alteration of the natural components of the habitat; and (H) degrading tidal wetlands, beaches and dunes, rocky shorefronts, and bluffs and escarpments through significant alteration of their natural characteristics or function;

(16) "Water-dependent uses" means those uses and facilities which require direct access to, or location in, marine or tidal waters and which therefore cannot be located inland, including but not limited to: Marinas, recreational and commercial fishing and boating facilities, finfish and shellfish processing plants, waterfront dock and port facilities, shipyards and boat building facilities, water-based recreational uses, navigation aides, basins and channels, industrial uses dependent upon water-borne transportation or requiring large volumes of cooling or process water which cannot reasonably be located or operated at an inland site and uses which provide general public access to marine or tidal waters;

(17) "Adverse impacts on future water-dependent development opportunities" and "adverse impacts on future water-dependent development activities" include but are not limited to (A) locating a non-water-dependent use at a site that (i) is physically suited for a water-dependent use for which there is a reasonable demand or (ii) has been identified for a water-dependent use in the plan of development of the municipality or the zoning regulations; (B) replacement of a water-dependent use with a non-water-dependent use, and (C) siting of a non-water-dependent use which would substantially reduce or inhibit existing public access to marine or tidal waters; and

(18) "Zoning board of appeals" means the municipal zoning board of appeals established pursuant to section 8-5 or any special act.

Sec. 22a-94. **Coastal area; coastal boundary. Commissioner to prepare maps.**
(a) The Connecticut coastal area shall include the land and water within the area delineated by the following: The westerly, southerly and easterly limits of the state's jurisdiction in Long Island Sound; the towns of Greenwich, Stamford, Darien, Norwalk, Westport, Fairfield, Bridgeport, Stratford, Shelton, Milford, Orange, West Haven, New Haven, Hamden, North Haven, East Haven, Branford, Guilford, Madison, Clinton, Westbrook, Deep River, Chester, Essex, Old Saybrook, Lyme, Old Lyme, East Lyme, Waterford, New London, Montville, Norwich, Preston, Ledyard, Groton and Stonington.

(b) Within the coastal area, there shall be a coastal boundary which shall be a continuous line delineated on the landward side by the interior contour elevation of the one hundred year frequency coastal flood zone, as defined and determined by the National Flood Insurance Act, as amended (USC 42 Section 4101, P.L. 93-234), or a one thousand foot linear setback measured from the mean high water mark in coastal waters, or a one thousand foot linear setback measured from the inland boundary of tidal wetlands mapped under section 22a-20, whichever is farthest inland; and shall be delineated on the seaward side by the seaward extent of the jurisdiction of the state.

(c) The coastal boundary as defined in subsection (b) of this section shall be shown on maps or photographs prepared by the commissioner which supplement flood hazard rate maps prepared by the

United States Department of Housing and Urban Development under the National Flood Insurance Act. Such maps shall be sufficiently precise to demonstrate whether the holdings of a property owner, or portions thereof, lie within the coastal boundary. Copies of such maps or photographs shall be filed with the commissioner and with the clerk of each coastal municipality.

(d) The maps described in subsection (c) of this section shall be promulgated not later than July 1, 1980. Prior to final adoption of any map, the commissioner shall hold a public hearing in accordance with the provisions of chapter 54 within the applicable coastal town. The commissioner may use interim maps prepared on United States Geological Survey Topographic base at a scale of one to twenty-four thousand or their metric equivalent. In preparing such interim maps, the commissioner may use any man-made structure, natural feature, property line, preliminary flood hazard boundary maps as prepared by the United States Department of Housing and Urban Development, or a combination thereof which most closely approximates the landward side of the boundary. Further, the commissioner may use city or town property tax maps or aerial photographs, state tidal wetlands photographs, or similar maps of property delineation as they are available.

(e) The commissioner may, from time to time, amend such maps described in subsection (c) of this section. Prior to the adoption of an amendment to any map, the commissioner shall hold a public hearing in the affected municipality in accordance with the provisions of chapter 54. The commissioner shall consider for amendment changes in the boundary petitioned by the coastal municipality, by any person owning real property within the boundary, or by twenty-five residents of such municipality. The commissioner shall approve, deny or modify such petition within sixty days of receipt and shall state, in writing, the reasons for his action. All amendments to the boundary shall be consistent with subsection (b) of this section.

(f) A municipal coastal boundary may be adopted by the municipal planning commission of each coastal municipality in accordance with the notice, hearing and other procedural requirements of section 8-24. Such boundary may be delineated by roads, property lines or other identifiable natural or man-made features, provided such boundary shall approximate and in no event diminish the area within the coastal boundary as defined in subsection (b) of this section and as mapped under subsection (d) of this section. Such boundary shall be sufficiently precise to demonstrate whether the holdings of a property owner, or portions thereof, lie within the boundary. Upon adoption, such boundary shall be submitted to the commissioner for mapping in accordance with subsection (c) of this section. The municipal planning commission may, at its own discretion or upon request of a property owner, amend the coastal boundary in accordance with the procedures and criteria of this subsection.

(g) All property lying within the coastal boundary shall be subject to the regulatory, development and planning requirements of this chapter.

Sec. 22a-95. **Duties of commissioner. Model municipal coastal program.**
(a) The commissioner shall, on a continuing basis, assist coastal municipalities in carrying out their responsibilities under this chapter.

(b) The commissioner shall provide each coastal municipality with resource factor maps and other information concerning the location and condition of its coastal resources and shall also provide general technical background information on the beneficial and adverse impacts of various types of development on coastal resources.

(c) The commissioner shall respond to questions regarding the requirements of this chapter, shall respond to requests by coastal municipalities for background technical information and shall meet reasonable requests by such municipalities for technical staff assistance in developing and implementing municipal coastal programs and coastal site plan reviews.

(d) The commissioner shall consult regularly with officials of coastal municipalities regarding implementation of this chapter and shall periodically hold workshops with municipal officials responsible for making decisions under this chapter.

(e) The commissioner shall prepare a model municipal coastal program which shall include, but not be limited to: (1) Model municipal coastal plans and regulations; (2) suggested planning methodologies useful in revising municipal coastal plans; (3) suggested regulatory methods useful in revising municipal coastal regulations to conform to and effectuate the purposes of municipal coastal plans; and (4) suggested criteria and procedures for undertaking municipal coastal site plan reviews.

(f) Written technical information provided by the commissioner to coastal municipalities shall be in clear and readily understandable language.

Sec. 22a-96. **Commissioner authorized to enter into agreements; designated as representative of state.**
(a) The commissioner is authorized to enter into written agreements with federal agencies concerning the matters set forth in subsection (b) of this section having an interest in or regulatory authority in the coastal area. Such agreements shall be consistent with the provisions of sections 22a-90 to 22a-96, inclusive, and chapters 439, 440, 446i, 447, 474 and 477, shall indicate the respective powers and duties of the commissioner and the federal agency or agencies thereunder and shall provide for cooperation and coordination in the implementation of state and federal programs with jurisdiction in the coastal area in a manner consistent with the provisions of sections 22a-90 to 22a-96, inclusive.

(b) Agreements concerning regulatory programs of the U.S. Army Corps of Engineers and the U.S. Coast Guard, Bridges Section, may include the following: (1) Procedures for conducting joint hearings on permit applications; (2) procedures for issuing common and joint application materials and instructions for permit applications; (3) procedures for timely exchange of technical materials related to permit applications and other matters; and (4) procedures for coordinating the timing and sequence of the issuance of decisions on permit applications.

(c) The commissioner is authorized to (1) represent the state in formal proceedings regarding "federal consistency" as defined in the federal act; (2) request, receive and administer funds under said act; and (3) develop and coordinate, in cooperation with other state agencies, plans to achieve the purposes of sections 22a-90 to 22a-96, inclusive.

(d) The commissioner is designated as the representative of the state in all matters concerning the consistency of federal activities, projects or proposals with the policies and provisions of sections 22a-90 to 22a-96, inclusive.

Sec. 22a-97. **Duties of the commissioner. Technical, coordinating and research services. Supervision. Annual report.**

(a) The commissioner shall provide, within available appropriations, technical, coordinating and research services to promote the effective administration of this chapter at the federal, state and local levels.

(b) The commissioner shall have the overall responsibility for general supervision of the implementation of this chapter 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 this chapter.

(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 this chapter 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 this chapter including, but not limited to, coordination with other state, regional, federal and municipal programs established to achieve the purposes of this chapter and research programs established pursuant to subsection (a) of section 22a-112; (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 the coast; (4) recommendations for any programs or plans to achieve such purposes; (5) any aspects of the program or the chapter 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 this chapter; 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 joint standing committee of the General Assembly having cognizance of matters 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 by mailing the report, summary or notification to the legislative address of each member of the committee or the General Assembly, as applicable.

Sec. 22a-98. **Commissioner to coordinate regulatory programs.** The commissioner shall coordinate the activities of all regulatory programs under his jurisdiction with permitting authority in the coastal area to assure that the administration of such programs is consistent with the goals and policies of this chapter. Such programs include, but are not limited to: (1) Regulation of wetlands and watercourses pursuant to chapter 440; (2) regulation of stream encroachment pursuant to sections 22a-342 to 22a-349, inclusive; (3) regulation of dredging and the erection of structures or the placement of fill in tidal, coastal or navigable waters pursuant to sections 22a-359 to 22a-363f, inclusive; and (4) certification of water quality pursuant to the federal Clean Water Act of 1972 (33 USC 1411, Section 401). The commissioner shall assure consistency with such goals and policies in granting, denying or modifying permits under such programs. Any person seeking a license, permit or other approval of an activity under the requirements of such regulatory programs shall demonstrate that such activity is consistent with all applicable goals and policies in section 22a-92 and that such activity incorporates all reasonable measures mitigating any adverse impacts of such actions on coastal resources and future water-dependent development activities. The coordination of such programs shall include, where feasible, the use of common or combined application forms, the holding of joint hearings on permit applications and the coordination of the timing or sequencing of permit decisions.

Sec. 22a-99. **Testimony by coastal municipality on permits and licenses. Appeal from decision of**

the commissioner. A coastal municipality may submit written testimony to the commissioner and may appear by right as a party to any hearing before said commissioner concerning any permit or license to be issued by said commissioner for an activity occurring within the coastal boundary of the municipality or occurring within the coastal boundary of any adjacent municipality and within five hundred feet of the boundary of such municipality and may appeal any decision of the commissioner concerning such permit or license.

Sec. 22a-100. **State plans and actions to be consistent with this chapter.**
(a) All major state plans, other than the state plan for conservation and development adopted pursuant to part I of chapter 297, which affect the coastal area shall be consistent with the goals and policies stated in section 22a-92 and existing state plans, other than the state plan for conservation and development adopted pursuant to part I of chapter 297, which affect the coastal area shall, on or before July 1, 1981, be revised, if necessary, to insure consistency with this chapter. Agencies responsible for revising state plans, other than the state plan for conservation and development adopted pursuant to part I of chapter 297, shall consult with the commissioner in making such revisions.

(b) Each state department, institution or agency responsible for the primary recommendation or initiation of actions within the coastal boundary which may significantly affect the environment, as defined in section 22a-1c, shall insure that such actions are consistent with the goals and policies of this chapter and incorporate all reasonable measures mitigating any adverse impacts of such actions on coastal resources and future water-dependent development activities. The Secretary of the Office of Policy and Management shall consider the consistency of such proposed actions with such goals and policies in determining whether or not an environmental impact evaluation prepared pursuant to section 22a-1b satisfies the requirements of sections 22a-1a to 22a-1h, inclusive, and regulations adopted pursuant thereto. The commissioner shall amend such regulations, if necessary, to insure consistency with the goals and policies of this chapter.

Sec. 22a-101. **Municipal coastal programs.**
(a) In order to carry out the policies and provisions of this chapter and to provide more specific guidance to coastal area property owners and developers, coastal municipalities may adopt a municipal coastal program for the area within the coastal boundary and landward of the mean high water mark.

(b) A municipal coastal program shall include, but is not limited to: (1) Revisions to the municipal plan of conservation and development under section 8-23 or special act, insofar as it affects the area within the coastal boundary, such revisions to include an identification and written description of the municipality's major coastal-related issues and problems, both immediate and long-term, such as erosion, flooding, recreational facilities, and utilization of port facilities and to include a description of the municipal boards, commissions and officials responsible for implementing and enforcing the coastal program, a description of enforcement procedures and a description of continuing methods of involving the public in the implementation of the municipal coastal program; (2) revisions to the municipal zoning regulations under section 8-2 or under special act and revisions to the following regulations and ordinances if the municipality has adopted such regulations or ordinances, and insofar as such regulations or ordinances affect the area within the coastal boundary: (A) Historic district ordinances under section 7-147b; (B) waterway encroachment line ordinances under section 7-147; (C) subdivision ordinances under section 8-25; (D) inland wetland regulations under subsection (e) of section 22a-42 and section 22a-42a; (E) sewerage ordinances under section 7-148; (F) ordinances or regulations governing filling of land and removal of soil, loam, sand or gravel under section 7-148; (G) ordinances concerning protection and improvement of the environment under section 7-148; and (H)

regulations for the supervision, management, control, operation or use of a sewerage system under section 7-247.

(c) If a municipality has not yet adopted a municipal plan of conservation and development under section 8-23, a municipal planning commission may prepare a municipal coastal plan of development solely for that portion of municipality within the coastal boundary in accordance with subsection (b) of this section and section 22a-102.

(d) A municipal coastal program may include revisions to the following municipal plans or programs which revisions shall be consistent with the municipal plan of conservation and development revised in accordance with subsection (b) of this section and section 22a-102: (1) The community development plan under sections 8-169c and 8-169d; (2) the harbor improvement plan under section 13b-56; (3) the redevelopment plan under sections 8-125 and 8-127; (4) the port development plan under section 7-329c; (5) the capital improvement plan under section 8-160; (6) the open space plan under section 12-107e; (7) any development project plan or plans under section 8-189; and (8) the municipal water pollution control plan under section 7-245.

(e) Revisions to the municipal plan of development in accordance with subsection (b) of this section and section 22a-102 may include a description of any development projects, acquisition plans, open space tax abatement programs, flood and erosion control projects and other nonregulatory measures which the municipality intends to undertake in order to promote wise management of coastal resources.

Sec. 22a-102. **Municipal plan of development. Proposed municipal land use regulations.**
(a) In revising the municipal plan of conservation and development in accordance with subsection (b) of section 22a-101, the municipal planning commission shall follow: (1) The policies and goals in section 22a-92; (2) criteria listed in section 8-23.

(b) In adopting any proposed municipal plan of conservation and development, zoning regulations or changes thereto or other municipal coastal regulations listed in subdivision (2) of subsection (b) of section 22a-101 or changes thereto, the following criteria shall also be considered: (1) The character and distribution of the coastal resources defined in section 22a-93 within its coastal boundary, the capacity of and limitations on such resources to support development, and the types and methods of development compatible with the wise use, protection and enhancement of such resources; (2) the nature and pattern of existing development; and (3) the need for public services.

(c) The municipal planning commission may revise its municipal plan of conservation and development by making such changes as: Modifications of land use categories, changes in the density and intensity of land use, alteration in plan policies; modifications in growth strategies, changes in acquisition priorities, and alterations in public infrastructure, highway and other capital improvement projects.

(d) The municipal planning commission shall submit its proposed revisions to the municipal plan of conservation and development prepared in accordance with subsections (a) and (b) of this section and section 22a-101 to the commissioner and the regional planning agency for review and comment prior to the final adoption of such revisions in accordance with section 8-23. Upon receipt of such proposed revisions the commissioner and the regional planning agency shall review them for consistency with requirements and criteria listed in subsections (a) and (b) of this section and said section 22a-101 and shall within ninety days notify the municipality in writing of any suggested modifications to the proposed revisions. Upon receipt of such comments or ninety days after receipt by the commissioner of

proposed revisions, the municipal planning commission may modify and adopt the proposed revisions in accordance with said section 8-23.

Sec. 22a-103. **Municipal zoning regulations. Criteria and process for revision.**
(a) In revising zoning regulations and other municipal coastal regulations and ordinances listed in subdivision (2) of subsection (b) of section 22a-101, the municipal agency with jurisdiction over such regulations or ordinances shall consider the criteria in section 8-2 and the other sections of the general statutes or special act authorizing such regulations. Such regulations shall conform to and effectuate the policies and land and water use strategies of the municipal coastal plans revised under sections 22a-101 and 22a-102 and the criteria listed in subsections (a) and (b) of section 22a-102.

(b) The municipal agency with jurisdiction over the zoning regulations and other municipal coastal regulations and ordinances listed in subdivision (2) of subsection (b) of section 22a-101 shall submit its proposed revisions of such regulations and ordinances to the commissioner for his review and comment prior to final adoption of such revisions in accordance with the appropriate statutory requirements regarding amendment of such regulations or ordinances. Upon receipt of the proposed revisions to the municipal coastal regulations, the commissioner shall review them for their consistency with the municipality's previously adopted municipal plan of conservation and development and the criteria listed in subsections (a) and (b) of section 22a-102, and shall within ninety days notify the municipality in writing of any suggested modifications. Upon receipt of the commissioner's comments or ninety days after his receipt of proposed revisions the municipal agency with jurisdiction over such regulations may modify and adopt the proposed revisions in accordance with the appropriate statutory requirements regarding amendment of such regulations and ordinances.

(c) In revising zoning regulations under chapter 124 for the area within the coastal boundary the municipal zoning commission may utilize any lawful zoning techniques, including but not limited to, modifications of use categories, alteration of density and intensity of use, special use zones, overlay zones, special permit regulations, sign controls, design controls, landscaping and gardening regulations, hazard or geological review requirements, conservation, cluster, open space and lot coverage requirements, minimum lot sizes, setback requirements, and bonus and incentive zoning regulations.

(d) In revising subdivision regulations under chapter 126 the municipal planning commission may utilize any lawful technique including, but not limited to, conservation, cluster, open space, park and recreation regulations.

Sec. 22a-104. **Implementation of municipal coastal program. Amendments.**
(a) If a municipality has adopted a municipal coastal program in accordance with sections 22a-101, 22a-102 and 22a-103, such program shall be implemented by those municipal bodies exercising legal authority for the regulatory decisions listed in subsection (b) of section 22a-105. The provisions of subsections (b) to (e), inclusive, of this section shall apply to such municipality.

(b) Amendments to the municipal plan of conservation and development affecting the area within the coastal boundary or municipal coastal regulations shall be made in accordance with subsection (e) of this section and sections 22a-101, 22a-102 and 22a-103.

(c) When amendments are made to the municipal plan of conservation and development affecting the area within the coastal boundary, the municipality shall also make such amendments to the zoning

regulations and other municipal coastal regulations listed in subdivision (2) of subsection (b) of section 22a-101 in accordance with applicable statutory requirements regarding amendment of such regulations and ordinances as are necessary to insure that such regulations conform to and effectuate the policies and land and water use strategies of the amended plans.

(d) When amendments are made to zoning regulations and other municipal coastal regulations listed in subdivision (2) of subsection (b) of section 22a-101 without prior amendments to corresponding provisions of municipal coastal plans, such regulations, as amended, shall conform to and effectuate the policies and land and water use strategies of the municipal coastal plans and the criteria listed in subsections (a) and (b) of section 22a-102.

(e) Any proposed municipal plan of conservation and development or zoning regulations or changes thereto affecting the area within the coastal boundary, regardless of whether the municipality affected has adopted a municipal coastal program in accordance with sections 22a-101, 22a-102 and 22a-103, shall be consistent with the policies of section 22a-92 and the criteria of subsection (b) of said section 22a-102. The commissioner shall be notified of any such proposed municipal plan of conservation and development or zoning regulations or changes thereto at least thirty-five days prior to the commencement of the hearing thereon. The commissioner may comment on and make recommendations on such proposals or changes. Such comment shall be read into the record of the public hearing and shall be considered by the appropriate board or commission before final action on the proposals or changes. Failure to comment by the commissioner shall not be construed to be approval or disapproval.

Sec. 22a-105. **Coastal site plan reviews.**
(a) Coastal municipalities shall undertake coastal site plan reviews in accordance with the requirements of this chapter.

(b) The following site plans, plans and applications for activities or projects to be located fully or partially within the coastal boundary and landward of the mean high water mark shall be defined as "coastal site plans" and shall be subject to the requirements of this chapter: (1) Site plans submitted to a zoning commission in accordance with section 22a-109; (2) plans submitted to a planning commission for subdivision or resubdivision in accordance with section 8-25 or with any special act; (3) applications for a special exception or special permit submitted to a planning commission, zoning commission or zoning board of appeals in accordance with section 8-2 or with any special act; (4) applications for a variance submitted to a zoning board of appeals in accordance with subdivision (3) of section 8-6 or with any special act, and (5) a referral of a proposed municipal project to a planning commission in accordance with section 8-24 or with any special act.

(c) In addition to the requirements specified by municipal regulation, a coastal site plan shall include a plan showing the location and spatial relationship of coastal resources on and contiguous to the site; a description of the entire project with appropriate plans, indicating project location, design, timing, and methods of construction; an assessment of the capability of the resources to accommodate the proposed use; an assessment of the suitability of the project for the proposed site; an evaluation of the potential beneficial and adverse impacts of the project and a description of proposed methods to mitigate adverse effects on coastal resources.

(d) Municipalities, acting through the agencies responsible for the review of the coastal site plans

defined in subsection (b) of this section, may require a filing fee to defray the reasonable cost of reviewing and acting upon an application.

(e) The board or commission reviewing the coastal site plan shall, in addition to the discretion granted in any other sections of the general statutes or in any special act, approve, modify, condition or deny the activity proposed in a coastal site plan on the basis of the criteria listed in section 22a-106 to ensure that the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities are acceptable. The provisions of this chapter shall not be construed to prevent the reconstruction of a building after a casualty loss.

(f) Notwithstanding the provisions of any other section of the general statutes to the contrary, the review of any coastal site plan pursuant to this chapter shall not be deemed complete and valid unless the board or commission having jurisdiction over such plan has rendered a final decision thereon. If such board or commission fails to render a decision within the time period provided by the general statutes or any special act for such a decision, the coastal site plan shall be deemed rejected.

Sec. 22a-106. **Criteria and process for action on coastal site plans.**
(a) In addition to determining that the activity proposed in a coastal site plan satisfies other lawful criteria and conditions, a municipal board or commission reviewing a coastal site plan shall determine whether or not the potential adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities are acceptable.

(b) In determining the acceptability of potential adverse impacts of the proposed activity described in the coastal site plan on both coastal resources and future water-dependent development opportunities a municipal board or commission shall: (1) Consider the characteristics of the site, including the location and condition of any of the coastal resources defined in section 22a-93; (2) consider the potential effects, both beneficial and adverse, of the proposed activity on coastal resources and future water-dependent development opportunities; and (3) follow all applicable goals and policies stated in section 22a-92 and identify conflicts between the proposed activity and any goal or policy.

(c) Any persons submitting a coastal site plan as defined in subsection (b) of section 22a-105 shall demonstrate that the adverse impacts of the proposed activity are acceptable and shall demonstrate that such activity is consistent with the goals and policies in section 22a-92.

(d) A municipal board or commission approving, modifying, conditioning or denying a coastal site plan on the basis of the criteria listed in subsection (b) of this section shall state in writing the findings and reasons for its action.

(e) In approving any activity proposed in a coastal site plan, the municipal board or commission shall make a written finding that the proposed activity with any conditions or modifications imposed by the board: (1) Is consistent with all applicable goals and policies in section 22a-92; (2) incorporates as conditions or modifications all reasonable measures which would mitigate the adverse impacts of the proposed activity on both coastal resources and future water-dependent development activities.

Sec. 22a-106a. **Civil penalty.** Any person who conducts an activity within the coastal boundary without having received a lawful approval from a municipal board or commission under all of the applicable procedures and criteria listed in sections 22a-105 and 22a-106 or who violates the terms and conditions of an approval under said sections shall be liable for a civil penalty of not more than one thousand

dollars for each offense. Each violation 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 Commissioner of Environmental Protection may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.

Sec. 22a-107. **Bond as a condition to coastal site plan approval.** As a condition to a coastal site plan approval a board or commission may require a bond, escrow account or other surety or financial security arrangement to secure compliance with any modifications, conditions and other terms stated in its approval of a coastal site plan.

Sec. 22a-108. **Violations.** Any activity within the coastal boundary not exempt from coastal site plan review pursuant to subsection (b) of section 22a-109, which occurs without having received a lawful approval from a municipal board or commission under all of the applicable procedures and criteria listed in sections 22a-105 and 22a-106, or which violates the terms or conditions of such approval, shall be deemed a public nuisance. Municipalities shall have the authority to exercise all enforcement remedies legally available to them for the abatement of such nuisances including, but not limited to, those under section 8-12. After notifying the municipality in which the activity is located, the commissioner may order that such a public nuisance be halted, abated, removed or modified and that the site of the violation be restored as nearly as reasonably possible to its condition prior to the violation, under the authority of sections 22a-6 and 22a-7. The commissioner may request the Attorney General to institute proceedings to enjoin or abate any such nuisance. Upon receipt of a petition signed by at least twenty-five residents of the municipality in which an activity is located the commissioner shall investigate to determine whether or not an activity described in the petition constitutes a public nuisance. Within ninety days of receipt of such petition, the commissioner shall make a written determination and provide the petitioning municipality with a copy of such determination.

Sec. 22a-109. **Coastal site plans. Review.**
(a) A coastal site plan shall be filed with the municipal zoning commission to aid in determining the conformity of a proposed building, use, structure or shoreline flood and erosion control structure, as defined in subsection (c) of this section, fully or partially within the coastal boundary, with the specific provisions of the zoning regulations of the municipality and the provisions of sections 22a-105 and 22a-106, and in the case of shoreline flood and erosion control structures, the provisions of sections 22a-359 to 22a-363, inclusive, and any regulations adopted thereunder. A coastal site plan required under this section may be modified or denied if it fails to comply with the requirements already set forth in the zoning regulations of the municipality and, in addition, the coastal site plan may be modified, conditioned or denied in accordance with the procedures and criteria listed in sections 22a-105 and 22a-106. A coastal site plan for a shoreline flood and erosion control structure may be modified, conditioned or denied if it fails to comply with the requirements, standards and criteria of sections 22a-359 to 22a-363, inclusive, and any regulations adopted thereunder. Review of a coastal site plan under the requirements of this section shall supersede any review required by the municipality under subsection (g) of section 8-3 and shall be in addition to any applicable zoning regulations of any special district exercising zoning authority under special act. The provisions of this section shall not be construed to limit the authority of the Commissioner of Environmental Protection under sections 22a-359 to 22a-363, inclusive.

(b) The zoning commission may by regulation exempt any or all of the following uses from the coastal site plan review requirements of this chapter: (1) Minor additions to or modifications of existing

buildings or detached accessory buildings, such as garages and utility sheds; (2) construction of new or modification of existing structures incidental to the enjoyment and maintenance of residential property including but not limited to walks, terraces, driveways, swimming pools, tennis courts, docks and detached accessory buildings; (3) construction of new or modification of existing on-premise structures including fences, walls, pedestrian walks and terraces, underground utility connections, essential electric, gas, telephone, water and sewer service lines, signs and such other minor structures as will not substantially alter the natural character of coastal resources or restrict access along the public beach; (4) construction of an individual single-family residential structure except when such structure is located on an island not connected to the mainland by an existing road bridge or causeway or except when such structure is in or within one hundred feet of the following coastal resource areas: Tidal wetlands, coastal bluffs and escarpments and beaches and dunes; (5) activities conducted for the specific purpose of conserving or preserving soil, vegetation, water, fish, shellfish, wildlife and other coastal land and water resources; (6) interior modifications to buildings, and (7) minor changes in use of a building, structure or property except those changes occurring on property adjacent to or abutting coastal waters. Gardening, grazing and the harvesting of crops shall be exempt from the requirements of this chapter. Notwithstanding the provisions of this subsection, shoreline flood and erosion control structures as defined in subsection (c) of this section shall not be exempt from the requirements of this chapter.

(c) For the purposes of this section, "shoreline flood and erosion control structure" means any structure the purpose or effect of which is to control flooding or erosion from tidal, coastal or navigable waters and includes breakwaters, bulkheads, groins, jetties, revetments, riprap, seawalls and the placement of concrete, rocks or other significant barriers to the flow of flood waters or the movement of sediments along the shoreline. The term shall not include any addition, reconstruction, change or adjustment to any walled and roofed building which is necessary for such building to comply with the requirements of the Code of Federal Regulations, Title 44, Part 50, and any municipal regulation adopted thereunder.

(d) A copy of each coastal site plan submitted for any shoreline flood and erosion control structure shall be referred to the Commissioner of Environmental Protection within fifteen days of its receipt by the zoning commission. The day of receipt shall be determined in accordance with subsection (c) of section 8-7d. The commissioner may comment on and make recommendations on such plans. Such comments and recommendations shall be submitted to the zoning commission within thirty-five days of the date of receipt of the coastal site plan by the commissioner and shall be considered by the zoning commission before final action on the plan. If the commissioner fails to comment on a plan within the thirty-five-day period or any extension granted by the zoning commission, the zoning commission may take final action on such plan. Failure to comment by the commissioner shall not be construed to be approval or disapproval.

(e) The zoning commission may, at its discretion, hold a hearing on a coastal site plan required by this section. The commission shall hold a hearing on a coastal site plan for a shoreline flood and erosion control structure upon the request of the Commissioner of Environmental Protection.

(f) The zoning commission shall set forth the reasons for any decision to deny, modify or condition a coastal site plan submitted under this section. A copy of any decision shall be sent by certified mail to the person who submitted such plan within fifteen days after such decision is rendered. A copy of any decision on a coastal site plan for a shoreline flood and erosion control structure shall be sent to the Commissioner of Environmental Protection within fifteen days after such decision is rendered. The

commission shall publish notice of the approval or denial of a coastal site plan, in a newspaper having a general circulation in the municipality, not more than fifteen days after such decision is rendered.

(g) The coastal site plan review required under this section shall be subject to the same statutory requirements as subsections (a) and (b) of section 8-7d for the purposes of determining the time limitations on the zoning commission in reaching a final decision.

(h) In addition to the requirements of subsection (f) of section 8-3, no building permit or certificate of occupancy shall be issued for a building, use or structure subject to the zoning regulations of a municipality and located fully or partially within the coastal boundary, or for any shoreline flood and erosion control structure as defined in subsection (c) of this section, and located fully or partially within the coastal boundary, without certification in writing by the official charged with enforcement of such regulations that such building, use, structure or shoreline flood and erosion control structure has been reviewed and approved in accordance with the requirements of this chapter or is a use exempt from such review under regulations adopted by the zoning commission in accordance with this section.

(i) A municipality by vote of its legislative body may delegate its responsibility for coastal site plan review under this section to a special district exercising zoning authority under special act for the area within both the coastal boundary and limits of the special district, subject to acceptance by the special district of such responsibility following the procedures listed in section 7-327. The municipality may revoke the delegation of such responsibilities and the special district may also revoke acceptance of such responsibility under this subsection at any time. Notwithstanding the provisions of this subsection, the town of Groton shall delegate authority for coastal site plan review to the Noank fire district.

(j) A municipal zoning commission reviewing, in accordance with this section, a coastal site plan for a building use, structure, or shoreline flood and erosion control structure occurring within the limits of a special district exercising zoning authority under special act shall provide a copy of the coastal site plan to the chief elected official of such district and shall provide an adequate opportunity for comment by such official prior to making a final decision on the coastal site plan. A special district delegated the responsibility for coastal site plan reviews in accordance with subsection (i) of this section shall provide a copy of any coastal site plan submitted for its review to the municipal zoning commission of the town in which the project is to occur and shall provide an adequate opportunity for comment by the zoning commission prior to making a final decision on the coastal site plan.

Sec. 22a-110. **Testimony by commissioner on municipal actions. Appeals.** The commissioner or his designee may submit written testimony to any municipal board or commission and may appear by right as a party to any hearing before such municipal board or commission concerning any proposed municipal plan of conservation and development or zoning regulations or changes thereto affecting the area within the coastal boundary or the review of a coastal site plan or a municipal approval, permit or license for a building, use or structure affecting the area within the coastal boundary and said commissioner may appeal, or appear as a party to any appeal of, a municipal decision concerning such matters whether or not he has appeared as a party before the municipal board or commission. If the decision of such board or commission is upheld by a court of competent jurisdiction, the state shall reimburse the municipality within three months for all costs incurred in defending the decision.

Sec. 22a-111. **Connecticut River Gateway Committee. Consistency.**
(a) The minimum standards established by the Connecticut River Gateway Committee under section 25-102d and revisions to such standards adopted by the Connecticut River Gateway Commission under

subsection (c) of section 25-102g before January 1, 1980, shall be deemed to be consistent with the goals, policies and purposes of this chapter.

(b) On or after January 1, 1980, the commission shall make no revisions to such standards which are inconsistent with the goals and policies stated in subsections (a) and (b) of section 22a-92.

(c) No provision of this chapter shall be deemed to derogate from the authority of the commission to approve or disapprove the adoption, amendment or repeal of local zoning, subdivision or planning regulations under subsection (b) of section 25-102g, provided any such approval or disapproval shall be consistent with the goals and policies stated in subsections (a) and (b) of section 22a-92.

Sec. 22a-112. **Financial assistance. Grants to municipalities. Contracts or grant agreements concerning coastal management.**
(a) In order to carry out the purposes of this chapter, the commissioner shall equitably allocate any funds received for the implementation of this chapter between coastal-related state programs, which may include coastal research projects, and municipal coastal programs.

(b) Upon receipt by the commissioner of a written application from a coastal municipality, said commissioner shall make a grant to such municipality of not less than twenty-five hundred dollars to be used to carry out the responsibilities of such municipality under this chapter, provided, on or after July 1, 1980, funds shall be allocated to coastal municipalities in accordance with subsections (c) and (d) of this section.

(c) The commissioner shall provide, within available appropriations, continuing financial assistance to coastal municipalities to carry out their responsibilities under this chapter. Municipalities may apply annually for financial assistance in carrying out their responsibilities for municipal coastal site plan reviews under sections 22a-105 to 22a-109, inclusive, and for the purpose of preparing and implementing municipal coastal programs under sections 22a-101 to 22a-104, inclusive. The commissioner shall, by regulations adopted in accordance with chapter 54, establish reasonable application requirements consistent with federal application requirements. In reviewing municipal applications for financial assistance the commissioner shall consider: (1) The area, length of shorefront, population and development pressures within the municipality's coastal boundary, (2) the nature of the municipality's coastal resources and coastal-related problems, (3) the demonstrated capacity and commitment of the municipality to carrying out the purposes of this chapter, (4) the number of coastal site plan reviews conducted by the municipality, (5) the availability of funds, and (6) the state plan for conservation and development adopted pursuant to part I of chapter 297.

(d) Not less than thirty per cent of any funds received annually by the state under Section 306 of the federal Coastal Zone Management Act shall be provided annually to coastal municipalities for municipal coastal site plan reviews under sections 22a-105 to 22a-109, inclusive. Up to an additional twenty per cent of any funds received annually by the state under Section 306 of the federal Coastal Zone Management Act shall as a first priority be provided annually to assist coastal municipalities which have chosen to prepare and implement a municipal coastal program under sections 22a-101 to 22a-104, inclusive, provided, if in any one year the total amount of all grants to municipalities which have agreed to adopt municipal coastal programs is less than twenty per cent of such federal funds received in that year, the difference shall be allocated for the purposes of this chapter in accordance with subsection (a) of this section.

(e) Any funds appropriated to the Department of Environmental Protection for the purposes of subsection (b) of this section and for the purpose of providing matching funds to implement a coastal management program pursuant to this chapter which are not used for such purposes shall be allocated to coastal municipalities in accordance with subsection (c) of this section.

(f) The legislative body of a municipality or, in the case of a municipality for which the legislative body is a town meeting or a representative town meeting, the board of selectmen may, by majority vote, authorize the chief executive officer to enter into contracts or grant agreements concerning coastal management with the commissioner. Such contracts or agreements include but are not limited to those for funding of coastal site plan review, municipal coastal program and any other demonstration or coastal research project funded in accordance with this section.

Sec. 22a-359. **(Formerly Sec. 25-7b). Regulation of dredging and erection of structures and placement of fill in tidal, coastal or navigable waters. Sunken or grounded vessels.**
(a) The Commissioner of Environmental Protection shall regulate dredging and the erection of structures and the placement of fill, and work incidental thereto, in the tidal, coastal or navigable waters of the state waterward of the high tide line. Any decisions made by the commissioner pursuant to this section shall be made with due regard for indigenous aquatic life, fish and wildlife, the prevention or alleviation of shore erosion and coastal flooding, the use and development of adjoining uplands, the improvement of coastal and inland navigation for all vessels, including small craft for recreational purposes, the use and development of adjacent lands and properties and the interests of the state, including pollution control, water quality, recreational use of public water and management of coastal resources, with proper regard for the rights and interests of all persons concerned.

(b) After consultation with the Commissioner of Transportation, the Commissioner of Environmental Protection may consider any sunken or grounded vessel, scow, lighter or similar structure lying within the tidal, coastal or navigable waters of the state to be an encroachment subject to the provisions of this section and sections 22a-360 to 22a-363, inclusive.

(c) As used in this section and sections 22a-360 to 22a-363, inclusive, "high tide line" means a line or mark left upon tide flats, beaches, or along shore objects that indicates the intersection of the land with the water's surface at the maximum height reached by a rising tide. The mark may be determined by (1) a line of oil or scum along shore objects, (2) a more or less continuous deposit of fine shell or debris on the foreshore or berm, (3) physical markings or characteristics, vegetation lines, tidal gauge, or (4) by any other suitable means delineating the general height reached by a rising tide. The term includes spring high tides and other high tides that occur with periodic frequency but does not include storm surges in which there is a departure from the normal or predicted reach of the tide due to the piling up of water against a coast by strong winds such as those accompanying a hurricane or other intense storm.

Sec. 22a-360. **(Formerly Sec. 25-7c). Establishment of boundaries.** In order to carry out the purposes of sections 22a-359 to 22a-363, inclusive, the commissioner is authorized to establish boundaries waterward of the high tide line along tidal, coastal and navigable waters for equitable regulation of use, dredging, obstruction and encroachment thereof, and to establish areas for development of small boat basins or other facilities, provided such establishments shall be made in accordance with a general plan prepared for the orderly development of the area or region.

Sec. 22a-361. (**Formerly Sec. 25-7d). Permit for dredging or erection of structures, placement of fill or mooring areas. Regulations. General permits. Removal of sand and gravel. Fee**.
(a) No person, firm or corporation, public, municipal or private, shall dredge, erect any structure, place any fill, obstruction or encroachment or carry out any work incidental thereto or retain or maintain any structure, dredging or fill, in the tidal, coastal or navigable waters of the state waterward of the high tide line until such person, firm or corporation has submitted an application and has secured from said commissioner a certificate or permit for such work and has agreed to carry out any conditions necessary to the implementation of such certificate or permit. Each application for a permit, except for an emergency authorization, for any structure, filling or dredging which uses or occupies less than five thousand five hundred square feet in water surface area based on the perimeters of the project shall be accompanied by a fee equal to eighty cents per square foot provided such fee shall not be less than five hundred twenty-five dollars. Each application for a permit for any structure, filling or dredging which uses or occupies five thousand five hundred square feet or more but less than five acres in water surface area based on the perimeters of the project shall be accompanied by a fee of three thousand three hundred dollars plus ten cents per square foot for each square foot in excess of five thousand five hundred square feet. Each application for a permit for any structure, filling or dredging which uses or occupies five or more acres in water surface area based on the perimeters of the project shall be accompanied by a fee of nineteen thousand two hundred twenty-three dollars plus five hundred twenty-five dollars per acre for each acre or part thereof in excess of five acres. Each application for a mooring area or multiple mooring facility, regardless of the area to be occupied by moorings, shall be accompanied by a fee of five hundred twenty-five dollars provided that such mooring areas or facilities shall not include fixed or floating docks, slips or berths. Application fees for aquaculture activities shall not be based on aerial extent. The commissioner may waive or reduce any fee payable to him for (1) a tidal wetlands or coastal resource restoration or enhancement activity, (2) experimental activities or demonstration projects, (3) nonprofit academic activities, or (4) public access activities in tidal, coastal or navigable waters, provided no fee shall be waived or reduced for activities required by statute, regulation, permit, order or enforcement action. As used in this section, "resource restoration or enhancement activity" means an action taken to return a wetland or coastal resource to a prior natural condition or to improve the natural functions or habitat value of such resource, but shall not include actions required pursuant to an enforcement action of the commissioner, and "public access activities" means activities whose principal purpose is to provide or increase access for the general public to tidal, coastal or navigable waters, including, but not limited to, boardwalks, boat ramps, observation areas and fishing piers.

(b) The commissioner, at least thirty days before approving or denying an application for a permit, shall provide or require the applicant to provide, by certified mail, return receipt requested, to the applicant, to the Commissioner of Transportation, the Attorney General and the Commissioner of Agriculture and to the chief executive officer, the chairmen of the planning, zoning, harbor management and shellfish commissions of each town in which such structure, fill, obstruction, encroachment or dredging is to be located or work to be performed, and to the owner of each franchised oyster ground and the lessee of each leased oyster ground within which such work is to be performed and shall publish once in a newspaper having a substantial circulation in the area affected, notice of (1) the name of the applicant; (2) the location and nature of the proposed activities; (3) the tentative decision regarding the application; and (4) any additional information the commissioner deems necessary. There shall be a comment period following the public notice during which interested persons may submit written comments. The commissioner may hold a public hearing prior to approving or denying an application if, in the commissioner's discretion, the public interest will best be served by holding such hearing. The commissioner shall hold a public hearing if the commissioner receives a petition requesting such

hearing that is signed by twenty-five or more persons and an application will: (A) Significantly impact any shellfish area, as determined by the director of the Bureau of Aquaculture at the Department of Agriculture, (B) have interstate ramifications, or (C) involve any project that requires a certificate issued pursuant to section 16-50k or approval by the Federal Energy Regulatory Commission. Following such notice and comment period and public hearing, if applicable, the commissioner may, in whole or in part, approve, modify and approve or deny the application. The commissioner shall provide to the applicant and the persons set forth above, by certified mail, return receipt requested, notice of his decision. If the commissioner requires the applicant to provide the notice specified in this subsection, the applicant shall certify to the commissioner, no later than twenty days after providing such notice, that such notice has been provided in accordance with this subsection.

(c) The Commissioner of Environmental Protection may adopt, in accordance with the provisions of chapter 54, regulations to carry out the provisions of sections 22a-359 to 22a-363, inclusive. Such regulations shall establish the procedures for reviewing and acting upon applications for permits, certificates of permission and emergency authorizations. The regulations shall be consistent with sections 22a-28 to 22a-35, inclusive, and regulations adopted thereunder, sections 22a-90 to 22a-100, inclusive, and sections 22a-113k to 22a-113t, inclusive. They shall establish criteria for granting, denying, limiting, conditioning or modifying permits giving due regard for the impact of regulated activities and their use on the tidal, coastal or navigable waters of the state, adjoining coastal and tidal resources, tidal wetlands, navigation, recreation, erosion, sedimentation, water quality and circulation, fisheries, shellfisheries, wildlife, flooding and other natural disasters and water-dependent use opportunities as defined in section 22a-93. The regulations may provide for consideration of local, state and federal programs affecting tidal, coastal and navigable waters of the state and the development of the uplands adjacent thereto and may set forth informational material describing general categories of regulated activities for the purpose of providing permit applicants with a more explicit understanding of the regulations. Such informational material shall be consistent with and shall not increase the discretion granted to the commissioner under the policies, standards and criteria contained in sections 22a-359, 22a-92 and 22a-93, and this section.

(d) (1) The Commissioner of Environmental Protection may issue a general permit for any minor activity regulated under sections 22a-28 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, if the commissioner determines that such activity would (A) cause minimal environmental effects when conducted separately, (B) cause only minimal cumulative environmental effects, (C) not be inconsistent with the considerations and the public policy set forth in sections 22a-28 to 22a-35, inclusive, and section 22a-359, as applicable, (D) be consistent with the policies of the Coastal Management Act, and (E) constitute an acceptable encroachment into public lands and waters. Such activities may include routine minor maintenance and routine minor repair of existing structures, fill, obstructions, encroachments or excavations; substantial maintenance consisting of rebuilding, reconstructing or reestablishing to a preexisting condition and dimension any structure, fill, obstruction, encroachment or excavation; maintenance dredging of areas which have been dredged and continuously maintained as serviceable; activities allowed pursuant to a perimeter permit; the removal of structures, derelict vessels, debris, rubbish or similar discarded material or unauthorized fill material; minor alterations or amendments to authorized activities consistent with the authorization for such activities; activities which have been required or allowed by an order of the commissioner; open water marsh management by or under the supervision of the Department of Public Health or Department of Environmental Protection; conservation activities of or under the supervision or direction of the Department of Environmental Protection; construction of individual residential docks which do not create littoral or riparian conflicts, navigational interference, or adverse impacts to coastal resources as defined by

section 22a-93, which are not located in tidal wetlands as defined by section 22a-29 and which extend no further than forty feet waterward of mean high water or to a depth of minus four feet mean low water, whichever point is more landward; installation of scientific measuring or monitoring devices; survey activities including excavation of test pits and core sampling and driving of test pilings; construction of utility lines; aquacultural activities; and installation and removal of small seasonal structures including floats and moorings. Any person conducting an activity for which a general permit has been issued shall not be required to obtain an individual permit or certificate under any other provision of sections 22a-28 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, for that activity except as provided in subdivision (3) of this subsection. A general permit shall clearly define the activity covered thereby and may include such conditions and requirements as the commissioner deems appropriate, including, but not limited to, construction timing, methodologies and durations, resource protection practices, management practices, and verification and reporting requirements. The general permit may require any person proposing to conduct any activity under the general permit to register such activity, including obtaining approval from the commissioner, before the general permit becomes effective as to such activity. Registrations
and applications for approval under the general permit shall be submitted on forms prescribed by the commissioner. Any approval by the commissioner under a general permit may include conditions specific to the proposed activity to ensure consistency with the requirements for issuance of the general permit. The commissioner shall prepare, and annually amend, a list of holders of general permits under this section, which list shall be made available to the public.

(2) Notwithstanding any other procedures specified in sections 22a-28 to 22a-35, inclusive, and sections 22a-359 to 22a-363f, inclusive, any regulations adopted thereunder, and chapter 54, the commissioner may issue a general permit in accordance with the following procedures: (A) The commissioner shall publish in a newspaper having a substantial circulation in the affected area or areas notice of intent to issue a general permit; (B) the commissioner shall allow a comment period of thirty days following publication of such notice during which interested persons may submit written comments concerning the permit to the commissioner and the commissioner shall hold a public hearing if, within said comment period, he receives a petition signed by at least twenty-five persons; (C) the commissioner may not issue the general permit until after the comment period; (D) the commissioner shall publish notice of any permit issued in a newspaper having substantial circulation in the affected area or areas; and (E) summary suspension may be ordered in accordance with subsection (c) of section 4-182. Any person may request that the commissioner issue, modify or revoke a general permit in accordance with this subsection.

(3) Subsequent to the issuance of a general permit, the commissioner may require any person whose activity is or may be covered by the general permit to apply for and obtain an individual permit or certificate under the provisions of sections 22a-28 to 22a-35, inclusive, or sections 22a-359 to 22a-363f, inclusive, for all or any portion of the activities covered by the general permit, if the commissioner determines that an individual permit is necessary to assure consistency with purposes and policies of such sections, and the Coastal Management Act. The commissioner may require an individual permit under this subdivision in cases including, but not limited to, the following: (A) The permittee is not in compliance with the conditions of the general permit; (B) an individual permit or certificate is appropriate because of circumstances specific to the site; (C) circumstances have changed since the time the general permit was issued so that the permitted activity is no longer acceptable under the general permit; or (D) a change has occurred in relevant law. The commissioner may require an individual permit or certificate under this section only if the affected person has been notified in writing

that an individual permit or certificate is required. The notice shall include a brief statement of the reasons for the decision.

(4) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to carry out the purposes of this section.

(5) Notwithstanding any provision of sections 22a-359 to 22a-363f, inclusive, pending issuance of a general permit for aquaculture activities by the commissioner in accordance with this section, no permit or certificate shall be required for the placement, maintenance or removal of (A) individual structures used for aquaculture, as defined in section 22-416, including, but not limited to, cages or bags, which are located on designated state or municipal shellfish beds which structures create no adverse impacts on coastal resources or navigation over their location or (B) any buoys used to mark such structures. Upon issuance of a general permit for aquaculture activities in accordance with this section, any aquaculture activities shall comply with the terms of such general permit or other applicable provisions of sections 22a-359 to 22a-363f, inclusive.

(e) No person, firm or corporation, public, municipal or private, who removes sand, gravel or other material lying waterward of the mean high water mark of the tidal, coastal or navigable waters of the state pursuant to a permit issued under this section on or after October 1, 1996, shall make any beneficial or commercial use of such sand, gravel or other material except upon payment to the state of a fee of four dollars per cubic yard of such sand, gravel and other materials. Such payment shall be made at times and under conditions specified by the commissioner in such permit. No fee shall be assessed for (1) the performance of such activities on land which is not owned by the state, (2) the use of sand, gravel or other materials for beach restoration projects, or (3) ultimate disposal of such sand, gravel or other materials which does not result in an economic benefit to any person. For the purposes of this section, "beneficial or commercial use" includes, but is not limited to, sale or use of sand, gravel or other materials for construction, aggregate, fill or landscaping.

(f) When any damage may arise to any person, firm or corporation from the taking of sand, gravel or other material as provided in subsection (e) of this section and the applicant authorized by the commissioner to take sand, gravel or other material cannot agree with such person, firm or corporation as to the amount of damage which may result from such taking, the commissioner shall require the applicant, as a condition precedent to the taking of sand, gravel or material pursuant to any permit hereunder, to post bond, with good and sufficient surety, or to deposit such sum with the State Treasurer, for the protection of any person, firm or corporation claiming damage which may result from such taking, as the commissioner determines sufficient to cover all damages, including interest from the date of the taking, which could reasonably result to any person, firm or corporation from such taking.

(g) The procedure for the subsequent determination of the amount of actual damage shall be as follows: The commissioner shall prefer a petition to the superior court for the judicial district of Hartford or to a judge thereof in vacation, praying that the amount of such damage may be determined. Such petition shall be accompanied by a summons signed by competent authority, to be served as process in civil action before said court, notifying the applicant and any person, firm or corporation claiming damage from the taking, to appear before said court or such judge, and thereupon said court or judge shall appoint a committee of three disinterested persons, one of whom may be a state referee, who shall be sworn before commencing their duties. Such committee, after giving reasonable notice to all parties of the time and place of hearing, shall hear and receive evidence from all parties concerning the

damage and shall make an award. Such committee shall make a report of its doings and the award to said court or such judge, who may accept such report or reject it for irregular or improper conduct by the committee in the performance of its duties. If the report is rejected, the court or judge shall appoint another committee, which shall proceed in the same manner as the first committee was required to proceed. If the report is accepted, such acceptance shall have the effect of a judgment and the applicant shall pay the amount of any such award to the clerk of the Superior Court for the account of the persons entitled thereto within sixty days after the judgment is entered or, in the case of an appeal, after the final judgment. Any party may, within sixty days, appeal such judgment in the manner provided by law.

Sec. 22a-361a. **Civil penalty.** Any person who violates, continues or maintains any violation of any provision of sections 22a-359 to 22a-363f, inclusive, or violates, continues or maintains a violation of any term or condition of any permit, certificate, authorization or order issued pursuant to said sections shall be liable for a civil penalty of not more than one thousand dollars for each offense. Each violation 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 Commissioner of Environmental Protection may request the Attorney General to bring a civil action in the superior court for the judicial district of Hartford to seek imposition and recovery of such civil penalty.

Sec. 22a-362. **(Formerly Sec. 25-7e). Violations as public nuisance.** Any violation of sections 22a-359 to 22a-361, inclusive, or any violation of the terms or conditions of a certificate, permit or authorization issued pursuant to said sections shall be considered a public nuisance. The Attorney General shall, at the request of the commissioner, institute proceedings to enjoin or abate any such nuisance.

Sec. 22a-363. **(Formerly Sec. 25-7f). Penalty for violation.** Any person violating any provision of sections 22a-359 to 22a-362, inclusive, shall be fined not less than fifteen dollars nor more than fifty dollars or imprisoned not less than ten days nor more than thirty days or be both fined and imprisoned.

Sec. 22a-363a. **Definitions.** For the purposes of this section and sections 22a-361, 22a-361a, 22a-362, and 22a-363a, 22a-363b and 22a-363d to 22a-363f, inclusive: "Substantial maintenance" means rebuilding, reconstructing, or reestablishing to a preexisting condition and dimension any structure, fill, obstruction or encroachment, including maintenance dredging; "routine maintenance" means replacement and repair of out-of-water structures including the surfaces of docks, piers, wharves and bridges, replacement or repair in any year of up to twenty-five per cent of all pilings approved in accordance with section 22a-361 and seasonal installation, reinstallation or repair of floating docks, provided that all locations, dimensions, elevations and materials shall remain the same as or equivalent to that approved in accordance with said section; "perimeter permit" means a permit issued in accordance with said section, establishing boundaries waterward of the high tide line within which recreational marinas layout of in-water slips, docks and moorings may be reconfigured; "work" means any activity, construction, or site preparation, erection of structures or placement of fill, including but not limited to grading, excavating, dredging or disposing of dredged material, depositing of soil, stones, sand, gravel, mud, aggregate or construction materials, filling, removing vegetation or other material, or other modification of a site within the tidal, coastal or navigable waters of the state waterward of the high tide line.

Sec. 22a-363b. **Activities eligible for certificate of permission. Exemptions. Issuance of certificate. Failure of commissioner to respond.**

(a) Routine maintenance of permitted structures, fill, obstructions or encroachments or routine maintenance of structures, fill, obstructions or encroachments in place prior to June 24, 1939, and continuously maintained and serviceable since that date shall be exempt from the requirements of obtaining certificates of permission or permits pursuant to section 22a-363a, this section or section 22a-361. The following activities may be eligible for a certificate of permission, in accordance with the provisions of subsections (c) and (d) of this section: (1) Substantial maintenance or repair of existing structures, fill, obstructions or encroachments authorized pursuant to section 22a-33 or section 22a-361; (2) substantial maintenance of any structures, fill, obstructions or encroachments in place prior to June 24, 1939, and continuously maintained and serviceable since such time; (3) maintenance dredging of areas which have been dredged and continuously maintained and serviceable as authorized pursuant to section 22a-33 or section 22a-361; (4) activities allowed pursuant to a perimeter permit and requiring authorization by the commissioner; (5) the removal of derelict structures or vessels; (6) minor alterations or amendments to permitted activities consistent with the original permit; (7) minor alterations or amendments to activities completed prior to June 24, 1939; (8) placement of temporary structures for water-dependent uses, as defined in section 22a-93; (9) open water marsh management and conservation activities undertaken by or under the supervision of the Department of Environmental Protection; and (10) the placement or reconfiguration of piers, floats, docks or moorings within existing waterward boundaries of recreational marinas or yacht clubs which have been authorized pursuant to section 22a-33 or 22a-361. Notwithstanding the provisions of sections 22a-29 to 22a-35, inclusive, the commissioner may issue a certificate of permission for activities enumerated in this subsection which are to be conducted in tidal wetlands. Upon issuance, such certificate shall be in lieu of the permit required pursuant to section 22a-32.

(b) The commissioner may issue a certificate of permission for activities which have been completed prior to January 1, 1980, for which permits, certificates or emergency authorizations are required pursuant to section 22a-32, this section, section 22a-361 or 22a-363d, which have been conducted without such permit, certificate or emergency authorization, provided the applicant demonstrates that such activity does not interfere with navigation or littoral or riparian rights and does not cause adverse impacts on coastal resources, as defined in section 22a-93. In determining the eligibility of activities conducted without prior authorization, the commissioner may consider whether the applicant acquired such real estate interest in the work site after the date of conduct of the unauthorized activity, is not otherwise liable for the unauthorized activity as a result of actions taken prior to the acquisition and did not know and had no reason to know of the unauthorized activity. The commissioner may authorize the maintenance of unauthorized activities consistent with this subsection. Unauthorized activities which are ineligible for certificates of permission may be subject to applicable enforcement actions by the commissioner.

(c) A request for a certificate of permission shall be made to the Commissioner of Environmental Protection. If a proposed activity is within a category listed in subsection (a) or (b) of this section the commissioner may, in whole or in part, approve, modify and approve or deny a certificate. The commissioner shall issue such a certificate if the eligible proposed activity is consistent with a permit issued pursuant to section 22a-33 or 22a-361 or was in place prior to June 24, 1939, and continuously maintained and serviceable since such time. If the eligible proposed activity does not have a permit or has not received any prior permits, the commissioner shall determine if the information provided is sufficient to determine if the proposed activity complies with the applicable standards and criteria and may (1) issue a certificate of permission if the commissioner finds that the information indicates compliance with all applicable standards and criteria, or (2) require the submittal of a complete application for a permit pursuant to section 22a-32 or 22a-361, if the commissioner finds that the

information is not sufficient to indicate compliance with the standards and criteria. If the commissioner finds that changes in conditions or circumstances associated with a permitted structure, fill, obstruction or encroachment are likely to result in significant impacts to the environment or coastal resources, the commissioner may require an application for a permit pursuant to section 22a-32 or 22a-361. If the commissioner finds that the structure, fill, obstruction or encroachment is not in substantial compliance with the permit or authorization under which a certificate of permission is requested, and is not consistent with applicable standards and criteria, the commissioner shall not issue a certificate of permission. For the purposes of this subsection, standards and criteria are those specified in sections 22a-33 and 22a-359 and regulations adopted pursuant to section 22a-30, in any regulations adopted pursuant to subsection (c) of said section 22a-361, in the water quality standards of the Department of Environmental Protection, and in sections 22a-92 and 22a-98 for activities within the coastal boundary, as defined in section 22a-93.

(d) The commissioner shall, within forty-five days of receipt of a request for a certificate of permission, issue such certificate or notify the person making such request that (1) additional information or an application for a permit pursuant to section 22a-32 or section 22a-361 is required or (2) the structure, fill, obstruction or encroachment is not eligible for a certificate of permission. If the commissioner requests additional information from an applicant, the commissioner shall make a determination on the application no later than ninety days from the date of receipt of the request for a certificate of permission. If the commissioner fails to respond within forty-five days of receipt of a request, the certificate of permission shall be deemed approved, except that no certificate of permission for dredging, activities located within tidal wetlands, as defined in section 22a-29, or activities conducted without prior authorization shall be deemed approved by virtue of the commissioner's failure to respond.

(e) Notwithstanding the provisions of the general statutes, the commissioner shall not issue a certificate of permission for a pound net, weir or similar fish harvesting structure that was not utilized prior to June 6, 2001. The commissioner may issue a permit for such fish harvesting structure, in accordance with section 22a-361, provided, if the commissioner receives a petition signed by twenty-five or more persons during the public comment period provided in subsection (b) of section 22a-361 for the application for any such permit, the commissioner shall hold a public hearing on such permit application.

Sec. 22a-363c. **Application fee.** Each application for a certificate of permission, pursuant to section 22a-363b shall be accompanied by a fee of three hundred dollars.

Sec. 22a-363d. **Emergency authorization. Expiration.** In situations which may result in immediate, unforeseen and unacceptable hazards to life, health or welfare or significant loss of property if corrective action otherwise requiring a permit or a certificate of permission is not undertaken, the commissioner shall expeditiously approve or deny, upon notification and request by the affected property owner, the authorized person or the appropriate federal, state or local authority, the issuance of an emergency authorization to take any corrective action the commissioner deems necessary. The commissioner shall establish the duration of the emergency authorization and such emergency authorization may be extended for a specified period of time if, after all reasonable efforts by the applicant, the emergency has not been abated or for other reasonable cause. Upon the expiration of an emergency authorization, a complete application, in accordance with section 22a-361 or a request for a certificate of permission, in accordance with section 22a-363b, for the retention or continuation of the work performed under the emergency authorization shall be submitted. Any work, structure, fill,

obstruction or encroachment authorized on an emergency basis for which an application or request is not received within thirty days after the expiration of the emergency authorization shall be considered unauthorized and subject to all enforcement authorities of the commissioner. This section shall include the repair or reconstruction of structures, fill, obstructions or encroachments damaged or destroyed by an act of nature or casualty loss necessary to avoid economic damage to ongoing commercial activities if the commissioner is notified by the property owner or authorized person of the damage and proposed corrective action within fifteen days of the causative event. Failure to continuously maintain, except for hidden physical or structural damage, a structure, fill, obstruction or encroachment shall not be grounds for emergency authorization.

Sec. 22a-363e. **Failure to comply with order. Littoral owner as responsible party.** When, notwithstanding any request for a hearing or a pending appeal, any person fails to comply, within a reasonable time as established by order of the commissioner, with any requirement to discontinue, remove or otherwise abate or alleviate any condition found by the commissioner to constitute an imminent and substantial hazard to public safety or navigation or likely to cause imminent and substantial damage to the environment, the commissioner shall have authority to remove, abate or alleviate any such condition. The commissioner may assess reasonable costs and expenses incurred in such removal, abatement or alleviation against the person responsible. The Attorney General shall, at the request of the commissioner, institute proceedings to collect any such assessment. For the purposes of this section, in the event that the person responsible for causing, retaining or maintaining such condition cannot be determined, the littoral owner shall be deemed to be the responsible person except in the case of vessels abandoned on the property of such owner. Nothing in this section shall be construed to preclude the commissioner from exercising any other enforcement authority.

Sec. 22a-363f. **Cease and desist orders. Hearing. Decision.** Whenever the commissioner finds after investigation that any person is conducting or is about to conduct an activity for which a certificate, permit or authorization is required without obtaining such certificate, permit or authorization he may, without prior hearing, issue a cease and desist order in writing to such person to discontinue, abate or alleviate such condition or activity. Upon receipt of such order and until such time as a new decision based upon a hearing is made such person shall immediately discontinue, abate or alleviate or shall refrain from causing, engaging in or maintaining such condition or activity. The commissioner shall, within ten days of such order, hold a hearing to provide the person with an opportunity to be heard and show that (1) no certificate, permit or authorization was required, or (2) required certificates, permits or authorizations have been obtained. A new decision based on the hearing shall be made within ten days of the close of the hearing or the filing of briefs.

Sec. 22a-416. **(Formerly Sec. 25-26). Pollution of waterways. Qualifications of operators. Delegation of authority.**
(a) The Commissioner of Environmental Protection shall examine all existing or proposed disposal systems, and shall compel their operation in a manner which shall conserve and protect the natural resources and environment of Connecticut and protect the public health, safety and welfare.

(b) No disposal system shall be built or operated until the plan or design of the same and the method of operation thereof have been filed with said commissioner and approved by him, and no such system or facility shall be extended or replaced, until the plan for the same has been approved by him. This subsection shall not apply to any disposal system treating a discharge for which a permit has been issued under section 22a-430 or 22a-430b.

(c) The commissioner may, by regulations adopted in accordance with the provisions of chapter 54, delegate to municipalities or regional sewer authorities the authority to review and approve plans and specifications for the design and construction of sanitary sewers. Such regulations may include, but not be limited to, provisions for (1) minimum design and construction requirements, (2) the retention of such authority by the commissioner for certain types of facilities or environmentally sensitive areas, and (3) the identity of municipalities and regional sewer authorities to which such authority is delegated.

(d) As used in this section the terms "class I", "class II", "class III" and "class IV" mean the classifications of wastewater treatment plants provided for in regulations adopted by the Department of Environmental Protection. The Commissioner of Environmental Protection may establish requirements for the presence of approved operators at pollution abatement facilities. Applicants for class I and class II certificates shall only be required to pass the relevant standardized national examination prepared by the Association of Boards of Certification for Wastewater Treatment Facility Operators. Applicants for class III and class IV certificates shall only be required to pass the relevant standardized national examination prepared by the Association of Boards of Certification for Wastewater Treatment Facility Operators supplemented with additional questions submitted by the commissioner to such board. Operators with certificates issued by the commissioner prior to May 16, 1995, shall not be required to be reexamined. The commissioner shall administer and proctor the examination of all applicants. The qualifications of the operators at such facilities shall be subject to the approval of the commissioner. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, requiring all operators at pollution abatement facilities to satisfactorily complete, on a regular basis, a state-certified training course, which may include training on the type of municipal pollution abatement facility at which the operator is employed and training concerning regulations promulgated during the preceding year. Any applicant for certification who passed either the examination prepared and administered on December 8, 1994, by the commissioner or the examination prepared by the Association of Boards of Certification for Wastewater Treatment Facility Operators and administered on December 8, 1994, by the commissioner shall be issued the appropriate certificate in accordance with the regulations adopted under this section.

Sec. 22a-417. **(Formerly Sec. 25-26a). Discharge of sewage into tributaries of water supply impoundments or Salmon River.** (a) No person or municipality shall discharge any sewage into any waters of the state which are tributary to an existing water supply impoundment or any proposed water supply impoundment identified in the long-range plan for management of water resources prepared and adopted pursuant to section 22a-352.

(b) No person or municipality shall discharge into the Salmon River or any of its tributaries any sewage or any other effluent which is less than tertiary treated.

Sec. 22a-418. **(Formerly Sec. 25-27). Complaints concerning pollution of waters; investigation; orders.** Section 22a-418 is repealed.

Secs. 22a-419 to 22a-421. **Reserved for future use.**

Sec. 22a-422. **(Formerly Sec. 25-54a). Declaration of policy.** It is found and declared that the pollution of the waters of the state is inimical to the public health, safety and welfare of the inhabitants of the state, is a public nuisance and is harmful to wildlife, fish and aquatic life and impairs domestic, agricultural, industrial, recreational and other legitimate beneficial uses of water, and that the use of public funds and the granting of tax exemptions for the purpose of controlling and eliminating such

pollution is a public use and purpose for which public moneys may be expended and tax exemptions granted, and the necessity and public interest for the enactment of this chapter and the elimination of pollution is hereby declared as a matter of legislative determination.

Sec. 22a-423. **(Formerly Sec. 25-54b). Definitions.** As used in this chapter: "Commissioner" means the Commissioner of Environmental Protection or his designated agent; "waters" means all tidal waters, harbors, estuaries, rivers, brooks, watercourses, waterways, wells, springs, lakes, ponds, marshes, drainage systems and all other surface or underground streams, bodies or accumulations of water, natural or artificial, public or private, which are contained within, flow through or border upon this state or any portion thereof; "wastes" means sewage or any substance, liquid, gaseous, solid or radioactive, which may pollute or tend to pollute any of the waters of the state; "sewage" means human and animal excretions and all domestic and such manufacturing wastes as may tend to be detrimental to the public health; "pollution" means harmful thermal effect or the contamination or rendering unclean or impure or prejudicial to public health of any waters of the state by reason of any wastes or other material discharged or deposited therein by any public or private sewer or otherwise so as directly or indirectly to come in contact with any waters; "rendering unclean or impure" means any alteration of the physical, chemical or biological properties of any of the waters of the state, including, but not limited to, change in odor, color, turbidity or taste; "harmful thermal effect" means any significant change in the temperature of any waters resulting from a discharge therein, the magnitude of which temperature change does or is likely to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, commercial, industrial, agricultural, recreational or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; "person" means any individual, partnership, association, firm, limited liability company, corporation or other entity, except a municipality, and includes the federal government, the state or any instrumentality of the state, and any officer or governing or managing body of any partnership, association, firm or corporation or any member or manager of a limited liability company; "community pollution problem" means the existence of pollution which, in the sole discretion of the commissioner, can best be abated by the action of a municipality; "municipality" means any metropolitan district, town, consolidated town and city, consolidated town and borough, city, borough, village, fire and sewer district, sewer district and each municipal organization having authority to levy and collect taxes or make charges for its authorized function; "discharge" means the emission of any water, substance or material into the waters of the state, whether or not such substance causes pollution; "pollution abatement facility" means any equipment, plant, treatment works, structure, machinery, apparatus or land, or any combination thereof, acquired, used, constructed or operated for the storage, collection, reduction, recycling, reclamation, disposal, separation or treatment of water or wastes, or for the final disposal of residues resulting from the treatment of water or wastes, including, but not limited to: Pumping and ventilating stations, facilities, plants and works; outfall sewers, interceptor sewers and collector sewers; and other real or personal property and appurtenances incident to their use or operation; "potable drinking water" means drinking water from an existing water supply for which treatment is provided or an alternative supply, which the Commissioner of Public Health determines does not create an unacceptable risk of injury to the health or safety of those persons using such water as a public or private source of water for drinking or other personal or domestic uses. In making such determination, the Commissioner of Public Health shall balance all relevant and substantive facts and inferences and shall not be limited to a consideration of available statistical analysis but shall consider all the evidence presented and any factor related to human health risks; "disposal system" means a system for disposing of or eliminating wastes, either by surface or underground methods, and includes sewage systems, pollution abatement facilities, disposal wells and other systems; "federal Water Pollution Control Act" means the federal Water Pollution Control Act, 33 USC Section 466 et seq., including amendments

thereto and regulations thereunder; "order to abate pollution" includes an order to abate existing pollution or to prevent reasonably anticipated sources of pollution; "federal Safe Drinking Water Act" means the federal Safe Drinking Water Act, 42 USC, Section 300f et seq., including amendments thereto and regulations thereunder; "monitoring system" means a system or method for measuring the quality or quantity of a discharge or its impact on the waters of the state. Such system or method shall provide for any means the commissioner reasonably deems necessary to assure the security of the system and the accuracy of monitoring results, including, but not limited to, automatic monitoring; "effluent limitation" means any restriction, established by the commissioner by regulations adopted in accordance with the provisions of chapter 54, on quantities, rates or concentrations of chemical, physical, biological and other constituents which are discharged into the waters of the state and established by permit, schedule of compliance or administrative order; "economic benefit" includes the amount of any savings resulting from avoided or delayed expenditures as a result of noncompliance with the effluent limitations of a permit to discharge into the waters of the state, and includes capital or one-time expenditures, operating costs, maintenance costs and any other benefits resulting from noncompliance; "persistent violator" means any person or municipality which holds a permit to discharge into the waters of the state and which has exceeded any effluent limitation by a factor of one and one-half or more for four out of six consecutive reporting periods.

Sec. 22a-424. **(Formerly Sec. 25-54c). Powers and duties of commissioner.** The commissioner shall have the following powers and duties:
(a) To exercise general supervision of the administration and enforcement of this chapter;

(b) To develop comprehensive programs for the prevention, control and abatement of new or existing pollution of the waters of the state;

(c) To advise, consult and cooperate with other agencies of the state, the federal government, other states and interstate agencies and with affected groups, political subdivisions and industries in furtherance of the purposes of this chapter. Such powers and duties shall include receiving information provided by the United States Environmental Protection Agency, which if subject to a claim of confidentiality pursuant to the federal Freedom of Information Act of 1976 (5 USC 552) and regulations adopted thereunder, shall be kept confidential by the commissioner notwithstanding any of the provisions of section 1-210 to the contrary;

(d) To submit plans for the prevention and control of water pollution and to render reports and accounts to the Administrator of the Environmental Protection Agency and to any other federal officer or agency on such forms containing such information as the said Administrator or any other federal officer or agency, may reasonably require, in order to qualify the state and its municipalities for grants from the United States government;

(e) To encourage, participate in or conduct studies, investigations, research and demonstrations, and collect and disseminate information, relating to water pollution and the causes, prevention, control and abatement thereof;

(f) To issue, modify or revoke orders prohibiting or abating pollution of the waters of the state, or requiring the construction, modification, extension or alteration of pollution abatement facilities or monitoring systems, or any parts thereof, or adopting such other remedial measures as are necessary to prevent, control or abate pollution;

(g) To hold such hearings as may be required under the provisions of this chapter and the federal Water Pollution Control Act or other applicable federal law, for which he shall have the power to issue notices by certified mail, administer oaths, take testimony and subpoena witnesses and evidence;

(h) To require the submission of plans, specifications and other necessary data for, and inspect the construction of, pollution abatement facilities and monitoring or disposal systems in connection with the issuance of such permits or approvals as may be required by this chapter and the federal Water Pollution Control Act;

(i) To issue, continue in effect, revoke, transfer, modify or deny permits, under such conditions as he may prescribe, for the discharge of any water, substance or material into the waters of the state, or orders for or approval of the installation, modification or operation of pollution abatement facilities or monitoring systems;

(j) To require proper maintenance and operation of monitoring and disposal systems;

(k) To exercise all incidental powers necessary to carry out the purposes of this chapter and the federal Water Pollution Control Act;

(l) To adopt regulations in accordance with the provisions of chapter 54 to implement this chapter and to comply with the federal Water Pollution Control Act and the federal Safe Drinking Water Act;

(m) Either on his own initiative or upon complaint, to investigate or order the person who caused or reasonably may be expected to cause the pollution to investigate all points of existing or potential waste discharge which may directly or indirectly result in pollution of the waters of the state provided upon written complaint by the Commissioner of Public Health, the chief executive officer of a municipality, the warden or any of the burgesses of a borough, a committeeman of a fire district or a local or district director of health, the commissioner shall investigate or order the person who caused or reasonably may be expected to cause the pollution to investigate all points of existing or potential waste discharges which may directly or indirectly result in pollution of the waters of the state.

Sec. 22a-425. **(Formerly Sec. 25-54d). Records.** The commissioner may require any person or municipality to maintain such records relating to pollution, possible pollution or the operation of pollution abatement facilities as he deems necessary to carry out the provisions of this chapter and the federal Water Pollution Act. The commissioner or his authorized representative shall have access to such records, and may examine and copy any such records or memoranda pertaining thereto, or shall be furnished copies of such records on request.

Sec. 22a-426. **(Formerly Sec. 25-54e). Standards of water quality.**
(a) The Commissioner of Environmental Protection shall adopt, and may thereafter amend, standards of water quality applicable to the various waters of the state or portions thereof as provided in this section. Such standards shall be consistent with the federal Water Pollution Control Act and shall be for the purpose of qualifying the state and its municipalities for available federal grants and for the purpose of providing clear and objective public policy statements of a general program to improve the water resources of the state; provided no standard of water quality adopted shall plan for, encourage or permit any wastes to be discharged into any of the waters of the state without having first received the treatment available and necessary for the elimination of pollution. Such standards of quality shall: (1)

Apply to interstate waters or portions thereof within the state; (2) apply to such other waters within the state as the commissioner may determine is necessary; (3) protect the public health and welfare and promote the economic development of the state; (4) preserve and enhance the quality of state waters for present and prospective future use for public water supplies, propagation of fish and aquatic life and wildlife, recreational purposes and agricultural, industrial and other legitimate uses; (5) be consistent with health standards as established by the Department of Public Health.

(b) Prior to adopting, amending or repealing standards of water quality, the commissioner shall conduct a public hearing. Notice of such hearing specifying the waters for which standards are sought to be adopted, amended or repealed and the time, date and place of such hearing shall be published as provided in said subdivision (1) of section 22a-6 and also at least twice during the thirty-day period preceding the date of the hearing in a newspaper having a general circulation in the area affected and shall be given by certified mail to the chief executive officer of each municipality in such area. Prior to the hearing the commissioner shall make available to any interested person any information he has as to the water which is the subject of the hearing and the standards under consideration, and shall afford to any interested person the opportunity to submit to him any written material. At the hearing, any person shall have the right to make a written or oral presentation. A full transcript or recording of each hearing shall be made and kept available in the files of the Department of Environmental Protection.

(c) The commissioner shall establish the effective date of the adoption, amendment or repeal of standards of water quality, subject to the provisions of subdivision (1) of section 22a-6. Notice of such adoption, amendment or repeal shall be published in the Connecticut Law Journal upon acceptance thereof by the federal government.

(d) The commissioner shall monitor the quality of the subject waters to demonstrate the results of his program to abate pollution.

Sec. 22a-427. **(Formerly Sec. 25-54f). Pollution or discharge of wastes prohibited.** No person or municipality shall cause pollution of any of the waters of the state or maintain a discharge of any treated or untreated wastes in violation of any provision of this chapter.

Sec. 22a-428. **(Formerly Sec. 25-54g). Orders to municipalities to abate pollution.** If the commissioner finds that any municipality is causing pollution of the waters of the state, or that a community pollution problem exists, or that pollution by a municipality or a community pollution problem can reasonably be anticipated in the future, he may issue to the municipality an order to abate pollution. If the commissioner, after giving due regard to regional factors, determines that such pollution can best be abated by the action of two or more adjacent municipalities, he may issue his order jointly or severally to such municipalities. If a community pollution problem exists in, or if pollution is caused by, a municipality geographically located all or partly within the territorial limits of another municipality, the commissioner may, after giving due regard to regional factors, determine which municipality shall be ordered to abate the pollution or may, after giving due regard to regional factors, issue an order to both of such municipalities jointly to provide the facilities necessary to abate the pollution. Any order issued pursuant to this section shall include a time schedule for action by the municipality or municipalities, as the case may be, which may require, but is not limited to, the following steps to be taken by such municipality or municipalities: (a) Submission of an engineering report outlining the problem and recommended solution therefor for approval by the commissioner; (b) submission of contract plans and specifications for approval by the commissioner; (c) arrangement of

financing; (d) acceptance of state and federal construction grants; (e) advertisement for construction bids; (f) start of construction; (g) placing in operation.

Sec. 22a-429. **(Formerly Sec. 25-54h). Order to person to abate pollution.** Section 22a-429 is repealed.

Sec. 22a-430. **(Formerly Sec. 25-54i). Permit for new discharge. Regulations. Renewal. Special category permits or approvals. Limited delegation. General permits.**
(a) No person or municipality shall initiate, create, originate or maintain any discharge of water, substance or material into the waters of the state without a permit for such discharge issued by the commissioner. Any person who initiated, created or originated a discharge prior to May 1, 1967, and any municipality which initiated, created or originated a discharge prior to April 10, 1973, for which a permit has not been issued pursuant to this section, shall submit an application for a permit for such discharge on or before July 1, 1987. Application for a permit shall be on a form prescribed by the commissioner, shall include such information as the commissioner may require and shall be accompanied by a fee of twenty-five per cent more than the amount established in regulations in effect on July 1, 1990. On and after July 1, 1991, such fees shall be as prescribed by regulations adopted by the commissioner in accordance with chapter 54. The commissioner shall not issue or renew a permit unless such issuance or renewal is consistent with the provisions of the federal Clean Water Act (33 USC 1251 et seq.).

(b) The commissioner, at least thirty days before approving or denying a permit application for a discharge, shall publish once in a newspaper having a substantial circulation in the affected area notice of (1) the name of the applicant; (2) the location, volume, frequency and nature of the discharge; (3) the tentative decision on the application, and (4) additional information the commissioner deems necessary to comply with the federal Clean Water Act (33 USC 1251 et seq.). There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the commissioner shall make a final determination either that (A) such discharge would not cause pollution of any of the waters of the state, in which case he shall issue a permit for such discharge, or (B) after giving due regard to any proposed system to treat the discharge, that such discharge would cause pollution of any of the waters of the state, in which case he shall deny the application and notify the applicant of such denial and the reasons therefor, or (C) the proposed system to treat such discharge will protect the waters of the state from pollution, in which case he shall, except as provided pursuant to subsection (j) of this section, require the applicant to submit plans and specifications and such other information as he may require and shall impose such additional conditions as may be required to protect such water, and if the commissioner finds that the proposed system to treat the discharge, as described by the plans and specifications or such other information as may be required by the commissioner pursuant to subsection (j) of this section, will protect the waters of the state from pollution, he shall notify the applicant of his approval and, when such applicant has installed such system, in full compliance with the approval thereof, the commissioner shall issue a permit for such discharge, or (D) the proposed system to treat such discharge, as described by the plans and specifications, will not protect the waters of the state, in which case he shall promptly notify the applicant that its application is denied and the reasons therefor. No permit shall be issued for an alternative on-site sewage treatment system, as defined in the Public Health Code, in a drinking water supply watershed unless the commissioner determines that (i) such system is the only feasible solution to an existing pollution problem and that the proposed system capacity does not exceed the capacity of the failed on-site system, or (ii) such system is for the expansion of an existing municipal or public school project or for new construction of a municipal or

public school project on an existing municipal or public school site, in a municipality in which a majority of the land is located within a drinking water supply watershed. The commissioner shall, by regulations adopted in accordance with the provisions of chapter 54, establish procedures, criteria and standards as appropriate for determining if (I) a discharge would cause pollution to the waters of the state, and (II) a treatment system is adequate to protect the waters of the state from pollution. Such procedures, criteria and standards may include schedules of activities, prohibitions of practices, operating and maintenance procedures, management practices and other measures to prevent or reduce pollution of the waters of the state, provided the commissioner in adopting such procedures, criteria and standards shall consider best management practices. The regulations shall specify the circumstances under which procedures, criteria and standards for activities other than treatment will be required. For the purposes of this section, "best management practices" means those practices which reduce the discharge of waste into the waters of the state and which have been determined by the commissioner to be acceptable based on, but not limited to, technical, economic and institutional feasibility. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application has not been given a public hearing shall have the right to a hearing and an appeal therefrom in the same manner as provided in sections 22a-436 and 22a-437. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application has been given a public hearing shall have the right to appeal as provided in section 22a-437. The commissioner may, by regulation, exempt certain categories, types or sizes of discharge from the requirement for notice prior to approving or denying the application if such category, type or size of discharge is not likely to cause substantial pollution. The commissioner may hold a public hearing prior to approving or denying any application if in his discretion the public interest will be best served thereby, and he shall hold a hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected.

(c) The permits issued pursuant to this section shall be for a period not to exceed five years, except that any such permit shall be subject to the provisions of section 22a-431. Such permits: (1) Shall specify the manner, nature and volume of discharge; (2) shall require proper operation and maintenance of any pollution abatement facility required by such permit; (3) may be renewable for periods not to exceed five years each in accordance with procedures and requirements established by the commissioner; and (4) shall be subject to such other requirements and restrictions as the commissioner deems necessary to comply fully with the purposes of this chapter, the federal Water Pollution Control Act and the federal Safe Drinking Water Act. An application for a renewal of a permit which expires after January 1, 1985, shall be filed with the commissioner at least one hundred eighty days before the expiration of such permit. The commissioner, at least thirty days before approving or denying an application for renewal of a permit, shall publish once in a newspaper having substantial circulation in the area affected, notice of (A) the name of the applicant; (B) the location, volume, frequency and nature of the discharge; (C) the tentative decision on the application; and (D) such additional information the commissioner deems necessary to comply with the federal Clean Water Act (33 USC 1251 et seq.). There shall be a comment period following the public notice during which period interested persons and municipalities may submit written comments. After the comment period, the commissioner shall make a final determination that (i) continuance of the existing discharge would not cause pollution of the waters of the state, in which case he shall renew the permit for such discharge, (ii) continuance of the existing system to treat the discharge would protect the waters of the state from pollution, in which case he shall renew a permit for such discharge, (iii) the continuance of the existing system to treat the discharge, even with modifications, would not protect the waters of the state from pollution, in which

case he shall promptly notify the applicant that its application is denied and the reasons therefor, or (iv) modification of the existing system or installation of a new system would protect the waters of the state from pollution, in which case he shall renew the permit for such discharge. Such renewed permit may include a schedule for the completion of the modification or installation to allow additional time for compliance with the final effluent limitations in the renewed permit provided (I) continuance of the activity producing the discharge is in the public interest; (II) the interim effluent limitations in the renewed permit are no less stringent than the effluent limitations in the previous permit; and (III) the schedule would not be inconsistent with the federal Water Pollution Control Act. No permit shall be renewed unless the commissioner determines that the treatment system adequately protects the waters of the state from pollution. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application for a renewal has not been given a public hearing shall have the right to a hearing and an appeal therefrom in the same manner as provided in sections 22a-436 and 22a-437. Any applicant, or in the case of a permit issued pursuant to the federal Water Pollution Control Act, any person or municipality, who is aggrieved by a decision of the commissioner where an application for a renewal has been given a public hearing shall have the right to appeal as provided in section 22a-437. Any category, type or size of discharge that is exempt from the requirement of notice pursuant to subsection (b) of this section for the approval or denial of a permit shall be exempt from notice for approval or denial of a renewal of such permit. The commissioner may hold a public hearing prior to approving or denying an application for a renewal if in his discretion the public interest will be best served thereby, and he shall hold a hearing upon receipt of a petition signed by at least twenty-five persons. Notice of such hearing shall be published at least thirty days before the hearing in a newspaper having a substantial circulation in the area affected.

(d) If the commissioner finds that any person or municipality has initiated, created or originated or is maintaining any discharge into the waters of the state without a permit as required in subsection (a) of this section, or in violation of such a permit, the commissioner may issue an order to abate pollution which shall include a time schedule for the accomplishment of the necessary steps leading to the abatement of such pollution, or notwithstanding any request for a hearing pursuant to section 22a-436 or the pendency of an appeal therefrom, the commissioner may request the Attorney General to bring an action in the superior court for the judicial district of Hartford (1) to enjoin such discharge by such person or municipality until the person or municipality has received a permit from the commissioner or has complied with a permit which the commissioner has issued pursuant to this section, or (2) for injunctive relief to remediate the effects of such discharge. Any such action brought by the Attorney General shall have precedence in the order of trial as provided in section 52-191.

(e) When the commissioner determines that any person or municipality has complied with an order issued pursuant to section 22a-428, 22a-431 or 22a-432, he may issue a permit which shall thereafter be deemed equivalent to a permit issued under subsection (b) of this section, provided a public hearing shall not be required prior to issuing such permit unless required by the federal Water Pollution Control Act and the federal Safe Drinking Water Act.

(f) The commissioner may, by regulation, establish and define categories of discharges, including but not limited to, residential swimming pools, small community sewerage systems, household and small commercial disposal systems and clean water discharges, for which he may delegate authority to any other state agency, water pollution control authority, municipal building official or municipal or district director of health to issue permits or approvals in accordance with this section or to issue orders pursuant to sections 22a-428, 22a-431, 22a-432 and 22a-436. In establishing such categories the

commissioner shall consider (1) whether each discharge in such category, because of size and character, is likely to cause significant pollution to the waters of the state; (2) whether knowledge and training concerning disposal systems for each discharge in such category is within the expertise of such agency, authority, official or director; (3) whether the source of each discharge in such category is likely to be within the jurisdiction of such agency, authority, official or director for other matters. The commissioner shall establish, by regulation, minimum requirements for disposal systems for discharges in such categories. Any permit denied or order issued by any such agency, authority, official or director shall be subject to hearing and appeal in the manner provided in sections 22a-436 and 22a-437, provided such agency, authority, official or director has been duly delegated authority by the commissioner pursuant to this subsection. Any permit granted by any such agency, authority, official or director to which the commissioner has delegated authority pursuant to this subsection shall thereafter be deemed equivalent to a permit issued under subsection (b) of this section.

(g) The commissioner shall, by regulation adopted prior to October 1, 1977, establish and define categories of discharges which constitute household and small commercial subsurface disposal systems for which he shall delegate to the Commissioner of Public Health the authority to issue permits or approvals and to hold public hearings in accordance with this section, on and after said date. The Commissioner of Public Health shall, pursuant to section 19a-36, establish minimum requirements for household and small commercial subsurface disposal systems and procedures for the issuance of such permits or approvals by the local director of health or a sanitarian registered pursuant to chapter 395. As used in this subsection, small commercial disposal systems shall include those subsurface disposal systems with a capacity of five thousand gallons per day or less. Any permit denied by the Commissioner of Public Health, or a director of health or registered sanitarian shall be subject to hearing and appeal in the manner provided in section 19a-229. Any permit granted by said Commissioner of Public Health, or a director of health or registered sanitarian on or after October 1, 1977, shall be deemed equivalent to a permit issued under subsection (b) of this section.

(h) Each person holding a permit to discharge into the waters of the state shall pay an annual fee of twenty-five per cent more than the fee established by regulations in effect on July 1, 1990. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to prescribe the amount of the fees required pursuant to this section. Upon the adoption of such regulations, the fees required by this section shall be as prescribed in such regulations.

(i) (1) Notwithstanding the provisions of subsection (c) of this section, the commissioner may issue a permit for a discharge to waters of the state from any solid waste disposal area, as defined in section 22a-207, or from any subsurface sewage disposal system for a period not to exceed thirty years, and for any other discharge for a period not to exceed ten years, provided such permit is not inconsistent with the federal Water Pollution Control Act. Any permit issued pursuant to this subsection shall be subject to the provisions of section 22a-431. For the purpose of this subsection, "subsurface sewage disposal system" means a system consisting of a house or collection sewer, a septic tank followed by a leaching system, any necessary pumps or siphons and any groundwater control system on which the operation of the leaching system is dependent.

(2) Permits for the categories of discharge for which ten-year and thirty-year permits may be issued pursuant to subdivision (1) of this subsection which are in effect on October 1, 1996, shall not expire until five years or twenty-five years, respectively, after the expiration date stated in the permit, provided such extension is not inconsistent with the federal Water Pollution Control Act and further provided no such permit may be valid for a period greater than thirty years and further provided, the

commissioner may, no earlier than two hundred seventy days before the expiration date stated in the permit, send notice to the permittee that an application for permit renewal must be submitted not later than one hundred eighty days prior to the expiration date stated in the permit. If a timely and sufficient application for renewal is submitted within such time, the permit shall be continued in accordance with subsection (b) of section 4-182. If a timely and sufficient application is not submitted within such time, the permit shall expire unless such permit is extended pursuant to section 22a-6j. Nothing in this section shall affect the commissioner's authority to take action under this chapter, including but not limited to, issuance of orders under section 22a-431.

(j) (1) The commissioner may exempt persons who or municipalities which apply for permits for the following discharges from the requirement to submit plans and specifications under subsection (b) of this section:

(A) A discharge from a new treatment or disposal system which system is substantially the same as a system that the applicant is operating in compliance with a permit for said system issued by the commissioner;

(B) The discharge is described in a general permit issued by the commissioner pursuant to section 22a-430b;

(C) The discharge is from a system, the purpose of which, as determined by the commissioner, is not to treat any toxic or hazardous substances; or

(D) The discharge is exempt from public notice under subsection (b) of section 22a-430 and regulations adopted thereunder.

(2) The commissioner may adopt regulations, in accordance with the provisions of chapter 54, to establish other categories of discharges which may be exempted from the requirement to submit plans and specifications under subsection (b) of this section. Such regulations may include, but not be limited to, the following: (A) Minimum standards for the design and operation of treatment systems for such discharges; and (B) requirements for submission of information concerning such discharges.

(k) The commissioner shall not deny a permit under this section if the basis for such denial is a determination by the commissioner that the proposed activity for which application has been made is inconsistent with the state plan of conservation and development adopted under section 16a-30.

Sec. 22a-430a. **Delegation of authority to issue certain permits to municipal water pollution control authorities.** Section 22a-430a is repealed, effective October 1, 1997.

Sec. 22a-430b. **General permits. Regulations.** (a) The Commissioner of Environmental Protection may issue a general permit for a category or categories of discharges regulated pursuant to section 22a-430, except for a discharge covered by an individual permit. The general permit may regulate, within a geographical area, (1) A category of discharges which: Involve the same or substantially similar types of operations, involve the same type of wastes, require the same effluent limitations, operating conditions or standards, and require the same or similar monitoring and which in the opinion of the commissioner are more appropriately controlled under a general permit; (2) stormwater discharges; or (3) a category of discharges not requiring a permit under the federal Water Pollution Control Act. Any person or municipality conducting an activity covered by a general permit shall not be required to apply for or

obtain an individual permit pursuant to section 22a-430, except as provided in subsection (c) of this section. The general permit may require that any person or municipality initiating, creating, originating or maintaining any discharge into the waters of the state under the general permit shall register such discharge with the commissioner before the general permit becomes effective as to such discharge. Registration shall be on a form prescribed by the commissioner.

(b) Notwithstanding the provisions of chapter 54, a general permit shall be issued, renewed, modified, revoked or suspended in accordance with the standards and procedures specified for an individual permit, in accordance with section 22a-430 and any regulations adopted thereunder, except that (1) summary suspension may be ordered in accordance with subsection (c) of section 4-182; (2) any proposed or final general permit and notice thereof may address persons or municipalities which are or may be covered by the general permit as a group, describe the facilities which are or may be covered by the general permit in general terms; and (3) upon issuance of a proposed or final general permit, the commissioner shall publish notice thereof in a newspaper of substantial circulation in the affected area. General permits shall be issued for a term specified by the permit and such terms shall be consistent with the federal Water Pollution Control Act and shall be subject to the provisions of section 22a-431. Such permits shall: (1) Describe the category of discharge regulated by the general permit; (2) specify the manner, nature and volume of discharge; (3) require proper operation and maintenance of any pollution abatement facility required by such permit; and (4) be subject to such other requirements and restriction as the commissioner deems necessary to fully comply with the purposes of this chapter, the federal Water Pollution Control Act and the federal Safe Drinking Water Act. Any construction or modification of a pollution abatement facility or disposal system which is undertaken pursuant to and in accordance with a general permit shall not require submission of plans and specifications to or approval by the commissioner, unless required pursuant to the terms of the general permit.

(c) Subsequent to the issuance of a general permit, the commissioner may require a person or municipality initiating, creating, originating or maintaining any discharge which is or may be authorized by a general permit to obtain an individual permit pursuant to section 22a-430 if the commissioner determines that an individual permit would better protect the waters of the state from pollution. The commissioner may require an individual permit under this subsection in cases including, but not limited to the following: (1) When the discharger is not in compliance with the conditions in the general permit; (2) when a change has occurred in the availability of a demonstrated technology or practice for the control or abatement of pollution applicable to the discharge; (3) when effluent limitations and conditions are promulgated by the United States Environmental Protection Agency or established by the commissioner under section 22a-430 for discharges covered by the general permit; (4) when a water quality management plan containing requirements applicable to such discharges is approved by the United States Environmental Protection Agency; (5) when circumstances have changed since the issuance of the general permit so that the discharger is no longer appropriately controlled under the general permit, or a temporary or permanent reduction or elimination of the authorized discharge is necessary; (6) when the discharge is a significant contributor of pollution, provided that in making this determination, the commissioner may consider the location of the discharge with respect to waters of the state, the size of the discharge, the quantity and nature of the pollution discharged to waters of the state, cumulative impacts of discharges covered by the general permit and other relevant factors; or (7) when the requirements of subsection (a) of this section are not met. The commissioner may require an individual permit under this subsection only if the affected person or municipality has been notified in writing that a permit application is required. The notice shall include a brief statement of the reasons for the commissioner's decision, an application form, a statement setting forth a time for the person or municipality to file the application, and a statement that on the effective date of the individual permit

the general permit as it applies to the individual permittee shall automatically terminate. The commissioner may grant additional time upon the request of the applicant. If the affected person or municipality does not submit a complete application for an individual permit within the time frame set forth in the commissioner's notice or as extended by the commissioner in writing, then the general permit as it applies to the affected person or municipality shall automatically terminate. Any interested person or municipality may petition the commissioner to take action under this subsection.

(d) The commissioner may adopt regulations in accordance with the provisions of chapter 54 to carry out the purposes of this section.

Sec. 22a-430c. **Annual inventory of persons and municipalities in significant noncompliance.** The Commissioner of Environmental Protection shall make available to the public an annual inventory of the persons or municipalities which have been issued a permit under section 22a-430 and which are in significant noncompliance, as defined pursuant to 40 CFR Ch. 1, 123.45. Such inventory shall be available to the public on or before April first of each year.

Sec. 22a-431. **(Formerly Sec. 25-54j). Periodic investigation of discharges. Order to abate or submit information.** The commissioner shall periodically investigate and review those sources of discharge which are operating pursuant to any order, permit, directive, registration or decision issued by the water resources commission or the commissioner before or after May 1, 1967, and, if he determines that there has been any substantial change in the manner, nature or volume of such discharge which will cause or threaten pollution to any of the waters of the state, or if he finds that the system treating such discharge, or the operation thereof, no longer insures or adequately protects against pollution of the waters of the state, the commissioner may issue an order to abate such pollution to such person or municipality. Such order shall include a time schedule for the accomplishment of the necessary steps leading to the abatement of the pollution. The commissioner may issue an order to the person or municipality responsible for such source of discharge requiring submission to him of information that he deems necessary describing the manner, nature and volume of such discharge.

Sec. 22a-432. **(Formerly Sec. 25-54k). Order to correct potential sources of pollution.** If the commissioner finds that any person has established a facility or created a condition before or after June 25, 1985, or is maintaining any facility or condition which reasonably can be expected to create a source of pollution to the waters of the state, he may issue an order to such person to take the necessary steps to correct such potential source of pollution. Any person who receives an order pursuant to this section shall have the right to a hearing and an appeal in the same manner as is provided in sections 22a-436 and 22a-437. If the commissioner finds that the recipient of any such order fails to comply therewith, he may request the Attorney General to bring an action in the superior court for the judicial district of Hartford to enjoin such person from maintaining such potential source of pollution to the waters of the state or to take the necessary steps to correct such potential source of pollution. All actions brought by the Attorney General pursuant to the provisions of this section shall have precedence in the order of trial as provided in section 52-191. An innocent landowner, as defined in section 22a-452d, shall not be held liable, except through imposition of a lien against the contaminated real estate under section 22a-452a, for any order issued under this section on or before August 1, 1990, which order is subject to appeal as of July 6, 1995, and, after July 1, 1996, for any order issued under this section after July 1, 1996.

Sec. 22a-433. **(Formerly Sec. 25-54*l*). Order to landowner.** Whenever the commissioner issues an order to abate pollution to any person pursuant to the provisions of section 22a-430 or 22a-431, an

order to correct potential sources of pollution pursuant to the provisions of section 22a-432 or an order to correct a violation of hazardous waste regulations pursuant to section 22a-449 and the commissioner finds that such person is not the owner of the land from which such source of pollution or potential source of pollution emanates, he may issue a like order to the owner of such land or shall send a certified copy of such order, by certified mail, return receipt requested, to the owner at his last-known post-office address, with a notice that such order will be filed on the land records in the town wherein the land is located. When the commissioner issues such an order to an owner, the owner and the person causing such pollution shall be jointly and severally responsible. Any owner to whom such an order is issued or who receives a certified copy of an order pursuant to this section shall be entitled to all notices of, and rights to participate in, any proceedings before or orders of the commissioner and to such hearing and rights of appeal as are provided for in sections 22a-436 and 22a-437. An innocent landowner, as defined in section 22a-452d, shall not be held liable except through imposition of a lien against the contaminated real estate under section 22a-452a, for any assessment, fine or other costs imposed by the state under this section in any enforcement or cost recovery action if such action has become final, and is no longer subject to appeal, prior to June 30, 1993.

Sec. 22a-434. **(Formerly Sec. 25-54m). Filing of order on land records.** When the commissioner issues a final order to any person to correct potential sources of pollution or to abate pollution, the commissioner shall cause a certified copy thereof to be filed on the land records in the town wherein the land is located, and such order shall constitute a notice to the owner's heirs, successors and assigns. When the order has been fully complied with, the commissioner shall issue a certificate showing such compliance, which certificate the commissioner shall cause to be recorded on the land records in the town wherein the order was previously recorded. A certified copy of the certificate shall be sent to the owner of the land at such owner's last-known post office address.

Sec. 22a-434a. **Notice of contaminated wells; abatement of contamination or abandonment of well to be on land records.** The Commissioner of Environmental Protection may cause to be filed on the land records in the town wherein the subject land is located a notice that water from a well on said land has been determined by the Commissioner of Public Health to create an unacceptable risk of injury to the health or safety of persons using the water for drinking or other personal or domestic uses. When the water from said well is determined by the Commissioner of Public Health no longer to present such a risk, or when the local or district director of health, in accordance with the provisions of the Connecticut Well Drilling Code adopted pursuant to section 25-128, has verified that the well has been properly abandoned, the Commissioner of Environmental Protection shall cause to be filed on the land records in the town wherein the notice was previously recorded a notice to that effect.

Sec. 22a-435. **(Formerly Sec. 25-54n). Injunction.** If any person or municipality fails to comply with any order to abate pollution, or any part thereof, issued pursuant to the provisions of section 22a-428, 22a-431 or 22a-433, and no request for a hearing on such order or appeal therefrom is pending and the time for making such request or taking such appeal has expired, the commissioner may request the Attorney General to bring an action in the superior court for the judicial district of Hartford to enjoin such person or municipality from maintaining such pollution and to comply fully with such order or any part thereof. All actions brought by the Attorney General pursuant to the provisions of this section shall have precedence in the order of trial as provided in section 52-191.

Sec. 22a-436. **(Formerly Sec. 25-54o). Hearing on order to abate.** Each order to abate pollution issued under section 22a-428 or 22a-431 or decision under subsection (b) or (c) of section 22a-430 shall be sent by certified mail, return receipt requested, to the subject of such order or decision and shall be deemed

issued upon deposit in the mail. Any person who or municipality which is aggrieved by any such order or decision to deny an application or, in the case of a permit issued pursuant to the federal Water Pollution Control Act, any decision without prior hearing under subsection (b) or (c) of section 22a-430 may, within thirty days from the date such order or decision is sent, request a hearing before the commissioner. The commissioner shall not grant any request for a hearing at any time thereafter. After such hearing, the commissioner shall consider the facts presented to him by the person or municipality, including, but not limited to, technological feasibility, shall consider the rebuttal or other evidence presented to or by him, and shall then revise and resubmit the order to the person or municipality, or inform the person or municipality that the previous order has been affirmed and remains in effect. The request for a hearing as provided for in this section or a decision under subsection (b) or (c) of section 22a-430 made after a public hearing shall be a condition precedent to the taking of an appeal by the person or municipality under the provisions of section 22a-437. The commissioner may, after the hearing provided for in this section, or at any time after the issuance of his order, modify such order by agreement or extend the time schedule therefore if he deems such modification or extension advisable or necessary, and any such modification or extension shall be deemed to be a revision of an existing order and shall not constitute a new order. There shall be no hearing subsequent to or any appeal from any such modification or extension.

Sec. 22a-437. **(Formerly Sec. 25-54p). Appeal.**
(a) Any person who or municipality which is aggrieved by a decision under subsection (b) or (c) of section 22a-430 or by any order of the commissioner other than an order under section 22a-6b, to abate pollution may, after a hearing by the commissioner as provided for in section 22a-436 or subsection (b) or (c) of section 22a-430, appeal from the final determination of the commissioner based on such hearing to the Superior Court as provided in chapter 54. Such appeal shall have precedence in the order of trial as provided in section 52-192.

(b) Notwithstanding the provisions of any other statute to the contrary, any appeal by a person or municipality aggrieved by an order of the commissioner to abate pollution, other than an order under section 22a-6b, or by a decision under subsection (b) of section 22a-430, shall be pursuant to this section.

Sec. 22a-438. **(Formerly Sec. 25-54q). Forfeiture for violations. Penalties.**
(a) Any person who or municipality which violates any provision of this chapter, or section 22a-6 or 22a-7 shall be assessed a civil penalty not to exceed twenty-five thousand dollars, to be fixed by the court, for each offense. Each violation shall be a separate and distinct offense and, in case of a continuing violation, each day's continuance thereof shall be deemed to be a separate and distinct offense. The Attorney General, upon complaint of the commissioner, shall institute a civil action in the superior court for the judicial district of Hartford to recover such penalty. In determining the amount of any penalty assessed under this subsection, the court may consider the nature, circumstances, extent and gravity of the violation, the person or municipality's prior history of violations, the economic benefit resulting to the person or municipality from the violation, and such other factors deemed appropriate by the court. The court shall consider the status of a person or municipality as a persistent violator. The provisions of this section concerning a continuing violation shall not apply to a person or municipality during the time when a hearing on the order pursuant to section 22a-436 or an appeal pursuant to section 22a-437 is pending.

(b) Any person who with criminal negligence violates any provision of this chapter, or section 22a-6 or 22a-7 shall be fined not more than twenty-five thousand dollars per day for each day of violation or be

imprisoned not more than one year or both. A subsequent conviction for any such violation shall carry a fine of not more than fifty thousand dollars per day for each day of violation or imprisonment for not more than two years or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(c) Any person who knowingly violates any provision of this chapter, or section 22a-6 or 22a-7 shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years or both. A subsequent conviction for any such violation shall carry a fine of not more than one hundred thousand dollars per day for each day of violation or imprisonment for not more than ten years or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(d) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, plan, or other document filed or required to be maintained under this chapter, or section 22a-6 or 22a-7 or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this chapter, or section 22a-6 or 22a-7 shall upon conviction be fined not more than twenty-five thousand dollars for each violation or imprisoned not more than two years for each violation or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal official.

(e) Any person who wilfully or with criminal negligence discharges gasoline in violation of any provision of this chapter, shall be fined not more than fifty thousand dollars per day for each day of violation or be imprisoned not more than three years or both. A subsequent conviction for any such violation shall carry a fine of not more than one hundred thousand dollars per day for each day of violation or imprisonment for not more than ten years or both. For the purposes of this subsection, person includes any responsible corporate officer or municipal officer.

Sec. 26-55. **Permit for importing, possessing or liberating fish, wild birds, wild mammals, reptiles, amphibians and invertebrates.** No person shall import or introduce into the state, or possess or liberate therein, any live fish, wild bird, wild mammal, reptile, amphibian or invertebrate unless such person has obtained a permit therefor from the commissioner, provided nothing in this section shall be construed to require such permit for any primate species that weighs not more than fifty pounds at maturity that was imported or possessed in the state prior to October 1, 2003. Such permit may be issued at the discretion of the commissioner under such regulations as the commissioner may prescribe. The commissioner may by regulation prescribe the numbers of live fish, wild birds, wild mammals, reptiles, amphibians or invertebrates of certain species which may be imported, possessed, introduced into the state or liberated therein. The commissioner may by regulation exempt certain species or groups of live fish from the permit requirements. The commissioner may by regulation determine which species of wild birds, wild mammals, reptiles, amphibians or invertebrates must meet permit requirements. The commissioner may totally prohibit the importation, possession, introduction into the state or liberation therein of certain species which the commissioner has determined may be a potential threat to humans, agricultural crops or established species of plants, fish, birds, mammals, reptiles, amphibians or invertebrates. The commissioner may by regulation exempt from permit requirements organizations or institutions such as zoos, research laboratories, colleges or universities, public nonprofit aquaria or nature centers where live fish, wild birds, wild mammals, reptiles, amphibians or invertebrates are held in strict confinement. Any such fish, bird, mammal, reptile, amphibian or invertebrate illegally imported into the state or illegally possessed therein shall be seized by any representative of the Department of Environmental Protection and shall be disposed of as

determined by the commissioner. Any person, except as provided in section 26-55a, who violates any provision of this section or any regulation issued by the commissioner as provided in this section shall be guilty of an infraction. Importation, liberation or possession of each fish, wild bird, wild mammal, reptile, amphibian or invertebrate in violation of this section or such regulation shall be a separate and distinct offense and, in the case of a continuing violation, each day of continuance thereof shall be deemed to be a separate and distinct offense.

Sec. 26-57. **Permits for transportation and exportation of fish, birds, mammals, reptiles, amphibians and invertebrates.** No person shall transport within the state or transport out of the state any fish, bird, mammal, reptile, amphibian or invertebrate for which a closed season is provided without a permit from the commissioner, except as provided in this section. The commissioner may issue a permit to any person to transport within the state or to transport out of the state any fish, bird, mammal, reptile, amphibian or invertebrate protected under the provisions of this chapter under such regulations as the commissioner may prescribe. No fish, bird, mammal, reptile, amphibian or invertebrate shall be transported out of the state unless each unit, package or container is conspicuously tagged or labeled, and such tag or label contains in legible writing the full name and address of the person legally authorized to transport out of the state such fish, bird, mammal, reptile, amphibian or invertebrate. Any such fish, bird, mammal, reptile, amphibian or invertebrate received by any person or by any common carrier within the state, addressed for shipment to any point without the state and not having such tag or label conspicuously attached shall be prima facie evidence of a violation of the provisions of this section. A permit shall not be required to transport within the state or to transport out of the state any fish, bird, mammal, reptile, amphibian or invertebrate which has been legally taken, bred, propagated or possessed by a person to whom a license, registration or permit has been issued under the provisions of this chapter authorizing the taking, breeding, propagating or possessing of fish, birds, mammals, reptiles, amphibians or invertebrates, and no permit shall be required to transport within the state or to transport out of the state any fish, bird, mammal, reptile, amphibian or invertebrate that has been legally taken or acquired by a person exempt from license requirements under the provisions of this chapter. Any person who violates any provision of this section shall be fined not less than ten dollars or more than two hundred dollars or imprisoned not more than sixty days, or be both fined and imprisoned.

Sec. 26-157a. **Lobster management program.**
(a) All live cars or other devices in which lobsters are kept in the water, after having been removed from the pots, traps or trawls in which they were caught shall have branded thereon, in letters or figures not less than three-quarters of an inch in height the number of the license issued by the commissioner to the owner of such live car or other device for the taking of lobsters. All live cars and other devices not marked as herein provided and all lobsters found in such live cars or other devices may be seized by any authorized representative of the department and disposed of as determined by the commissioner. Authorized representatives of the commissioner may enter upon the premises of lobster fishermen and lobster dealers at any time to inspect lobsters, lobster pots, traps, trawls, pounds, tanks and other devices used for taking and holding lobsters to determine that the provisions of this section are being complied with.

(b) All lobster pots, traps or similar devices for the catching of lobsters shall be suitably identified by having legibly branded on the top of the pot, or trap or similar device and painted or branded on the float in letters or figures not less than three-quarters of an inch in height the number of the license issued by the commissioner to the owner of such pot, trap or similar device for the taking of lobsters. All lobster pots, traps or similar devices not marked as provided in this subsection and all lobsters found in

such lobster pots, traps or similar devices may be seized by any authorized representative of the department and disposed of as determined by the commissioner. The commissioner may adopt regulations, in accordance with the provisions of chapter 54, governing a lobster management plan. Such regulations shall be consistent with the Atlantic State Marine Fisheries Commission's lobster management plan. Such regulations shall not include any fee related to the development or implementation of such plan. Following adoption of the regulations in this subsection, the commissioner may charge a fee for a tag to be attached or affixed to each pot, trap or similar device. Such fee shall be consistent with the cost of the tag which shall be provided by a person selected in accordance with section 4a-57. In addition to such fee, the commissioner may charge up to three cents per tag for the administrative costs of the development and implementation of such plan.

(c) No person shall bring ashore in this state or possess on the waters of this state, live lobsters unless licensed to take lobsters in Connecticut waters except such lobsters as were legally brought into such waters from ashore or were obtained from a person licensed to take such lobsters; provided, the commissioner may issue a landing license for the landing and selling in this state of live lobsters, to residents of states which do not issue nonresident commercial fishing licenses, provided such lobsters were taken in waters where such nonresidents were licensed to take such lobsters.

(d) No person shall bring ashore in this state or possess on the waters of this state any portion of a lobster including lobster meat, lobster claws, lobster tails or other parts, except as were legally brought into such waters from ashore or except for immediate personal consumption.

(e) No person shall set, tend or assist in setting or tending any lobster pot, trap or similar device for the catching of lobsters or set any mooring on any oyster bed without the permission of the owner or lessee of such bed.

(f) Any person who violates any provision of this section, section 2 of public act 85-434* or any regulation adopted in accordance with section 26-157c shall be fined not less than twenty-five dollars nor more than two hundred dollars or be imprisoned not more than thirty days or both, for each offense and each lobster taken or possessed, and each net, pot, trap, trawl, spear or similar device used in violation of any provision of this section, section 2 of public act 85-434* or any regulation adopted in accordance with section 26-157c shall constitute a separate offense, except that any person who violates any provision of section 2 of public act 85-434* or any regulation adopted in accordance with section 26-157c shall be fined twenty-five dollars for each lobster taken or possessed for the first violation, fifty dollars for each lobster taken or possessed for the second violation and for each subsequent violation shall be fined one hundred dollars for each lobster taken or possessed. No part of any fine imposed pursuant to this subsection shall be remitted.

Sec. 45a-322. **(Formerly Sec. 45-254). Death of owner of real property or oyster grounds to be recorded. Penalty.**
(a) The fiduciary of the estate of any deceased person who at the time of his death was the owner of any real property situated in this state or any interest in or mortgage or lien upon real property so situated shall, within two months after becoming qualified to act, lodge, with the town clerk of each town in which such real property is situated, his certificate in writing, stating the fact and date of the death of the decedent, the place where he last dwelt and whether the decedent left a will. Such certificate shall be recorded in the land records of such town.

(b) When the decedent was at the time of his death the owner of any oyster ground within the state jurisdiction, the fiduciary shall, within two months after becoming qualified to act, lodge such certificate, stating the area and location of such oyster ground, with the Commissioner of Agriculture. Such certificate shall be recorded on the records of the Commissioner of Agriculture.

(c) If any fiduciary fails to perform the duties imposed upon him by this section, he shall, if the decedent was the owner of real property or any interest therein or mortgage or lien thereon, forfeit and pay to the town in which such real property is situated the sum of twenty-five dollars, and shall, if the decedent was the owner of such oyster ground, forfeit and pay to the state the sum of twenty-five dollars, to be recovered in a civil action against the fiduciary, or by an action upon his probate bond, in the name of the town or state, as the case may be.

Sec. 45a-323. **(Formerly Sec. 45-255). Oyster grounds as personal property.**
In the settlement of the estates of deceased persons and insolvent debtors before any court in this state, the interest of any such estate in or to any oyster grounds or oysters planted and growing thereon shall be treated as personal property.