

Municipal  
Inland  
Wetland

commissioners  
training  
program

# Additional Material

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# Glossary

**Aerial Photographs:** Photographs of a part of the earth's surface, taken by a camera mounted in an aircraft, often used for natural resource mapping and site plan development.

**Agent:** A representative of a government or administrative department of a government; one that acts as a representative of another, for example a municipal wetlands agent represents a municipal wetlands agency.

**Alluvial Soil:** A soil developing from recently deposited alluvium and exhibiting essentially no horizon development or modification of the recently deposited materials.







# Glossary

**Alluvium:** Material such as sand, silt, or clay deposited on land by running water of streams and rivers.

**Applicant:** One who applies, as in applying to conduct a regulated activity.

**Bill:** A written draft of a new law that has not been voted on by the General Assembly.

**Bog:** An area distinguished by evergreen trees and shrubs underlain by peat deposits, poor drainage, and highly acidic conditions.





# Glossary

**Bylaw:** A rule or law adopted by an association or corporation to govern its actions.

**Charter:** A document issued by a legislative body or other authority creating a public or private corporation, such as a city, town, college, or bank, and delineating its privileges and purposes.

**Citation:** An official summons.

**Clear-cutting:** Means the harvest of timber in a fashion that removes all trees down to a two-inch diameter at breast height.







## Glossary

**Commissioner:** A member of a commission; one authorized to perform certain tasks or duties, to exercise regulatory powers.

**CT Environmental Protection Act:** This Act is part of the General Statutes of Connecticut (Sec. 22a-14 through Sec. 22a-20) and provides, among other things, for the intervention in municipal inland wetlands agency proceedings, upon the filing of a verified petition.

**Date of Receipt:** The date of receipt of a petition, application, request or appeal shall be the day of the next regularly scheduled meeting of such commission, board or agency, immediately following the day of submission to such commission, board or agency or its agent of such petition, application, request or appeal or thirty-five days after such submission, whichever is sooner.







## Glossary

**Detritus:** Particulate organic or inorganic material; loose material (stone fragments and silt, etc.) that is worn away from rocks; loose matter resulting from the wearing away or disintegration of a tissue or substance.

**Erosion:** The detachment and movement of soil or rock by water, wind, ice, or gravity.

**Ex Parte:** On behalf of only one party, without notice to any other party; proceeding brought by one person in the absence of another; as in, an ex parte communication where one party to a proceeding communicates to a judge or other decision-maker outside the presence of the other party.







## Glossary

**Executive Branch:** The branch of government charged with carrying out the laws enacted by the legislative branch. In Connecticut the executive branch officers are the Governor, Lieutenant Governor, Secretary of the State, Treasurer, Comptroller, and the Attorney General. They are all elected for terms of four years. The Governor appoints the heads of state agencies, such as the Department of Environmental Protection, which are part of the executive branch. At the municipal level, the Mayor or the First Selectman are part of the executive branch of municipal government, as are inland wetlands agencies.

**Expert:** Someone who, through education or experience, has gained knowledge of a particular subject so that he or she could form an opinion that one without that knowledge could not.







## Glossary

**Farming:** This term is defined by statute as follows: Except as otherwise specifically defined, the words “agriculture” and “farming” shall include cultivation of the soil, dairying, forestry, raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training and management of livestock, including horses, bees, poultry, fur-bearing animals and wildlife, and the raising or harvesting of oysters, clams, mussels, other molluscan shellfish or fish; the operation, management, conservation, improvement or maintenance of a farm and its buildings, tools and equipment, or salvaging timber or cleared land of brush or other debris left by a storm, as an incident to such farming operations; (cont. next page)







## Glossary

**Farming** (continued): the production or harvesting of maple syrup or maple sugar, or any agricultural commodity, including lumber, as an incident to ordinary farming operations or the harvesting of mushrooms, the hatching of poultry, or the construction, operation or maintenance of ditches, canals, reservoirs or waterways used exclusively for farming purposes; handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market, or to a carrier for transportation to market, or for direct sale any agricultural or horticultural commodity as an incident to ordinary farming operations,

(cont. next page)







## Glossary

**Farming** (continued): or, in the case of fruits and vegetables, as an incident to the preparation of such fruits or vegetables for market or for direct sale. The term "farm" includes farm buildings, and accessory buildings thereto, nurseries, orchards, ranges, greenhouses, hoopouses and other temporary structures or other structures used primarily for the raising and, as an incident to ordinary farming operations, the sale of agricultural or horticultural commodities. The term "aquaculture" means the farming of the waters of the state and tidal wetlands and the production of protein food, including fish, oysters, clams, mussels and other molluscan shellfish, on leased, franchised and public underwater farm lands.

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## Glossary

**Farming** (continued): Nothing herein shall restrict the power of a local zoning authority under chapter 124 (zoning statutes).

**Feasible:** Means able to be constructed or implemented consistent with sound engineering principles.

**Floodplain Soil:** A soil occurring in the nearly level plain that borders a stream and is subject to flooding unless protected artificially.







## Glossary

**Freedom of Information Act:** This Act is part of the General Statutes of Connecticut (Sec. 1-200 through Sec. 1-259) and creates The Freedom of Information Commission whose mission is to administer and enforce the provisions of the Act, and to thereby ensure citizen access to the records and meetings of public agencies in the State of Connecticut.

**Ground Water:** Subsurface water occupying the zone of saturation; water below the water table.

**Hydrophytic Vegetation:** A plant growing in and adapted to an aquatic or very wet environment.







## Glossary

**Indigenous:** Living or occurring naturally in a specific area or environment; native.

**Inland Wetlands Agency:** Means a municipal board or commission established pursuant to and acting under section 22a-42 of the Connecticut General Statutes.

**Intermittent:** See the definition of “watercourse”.







## Glossary

**Judicial Branch:** Branch of state and federal government whose function it is to interpret, construe, apply, and generally administer and enforce the laws. This branch, together with the executive and legislative branches, forms our tripartite form of federal and state government. In Connecticut, the Superior Court, in 13 judicial districts, is the trial level court and is also the court in which appeals of municipal wetlands agency decisions are first heard and decided. Appeals from decisions of the Superior Court may be made to the Appellate Court which decides cases based on the record made before the Superior Court.

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# Glossary

**Judicial Branch** (continued): Further appeal may be made to the Supreme Court, the highest court in Connecticut. Decisions of the Appellate Court and the Supreme Court on issues of law are binding on the Superior Court.

**Legislative Branch:** Branch of government that enacts laws. Connecticut's General Assembly, made up of the Senate and the House of Representatives, constitutes its legislative branch. At the municipal level, the legislative branch is the Board of Selectmen, the Town Council or the City Council.







## Glossary

**Marsh:** An area with soils that exhibit aquic moisture regimes and are distinguished by the absence of trees and shrubs and the dominance of soft-stemmed herbaceous plants. The water table in marshes is at or above the ground surface throughout the year and areas of open water six inches or more in depth are common, but seasonal water table fluctuations are encountered.







# Glossary

**Mitigation:** To make less severe; to reduce, abate.

**National Cooperative Soil Survey:** The National Cooperative Soil Survey (NCSS) is a nationwide partnership of federal, regional, state, and local agencies and institutions. This partnership works together to cooperatively investigate, inventory, document, classify, and interpret soils and to disseminate, publish, and promote the use of information about the soils of the United States and its trust territories. The activities of the NCSS are carried out on national, regional, and state levels.







# Glossary

**National Resources Conservation Service:** The Natural Resources Conservation Service (NRCS) is responsible for the leadership of soil survey activities of the U.S. Department of Agriculture, for the leadership and coordination of NCSS activities, and for the extension of soil survey technology to global applications.

**Notice:** Any form of notification of a legal proceeding.







# Glossary

**Order:** A mandate, command, or direction authoritatively given. For example, a “cease and correct order” mandates that an activity stop and the consequence of the activity be corrected.

**Ordinance:** A rule established by authority; a municipal law or regulation; may be a municipal statute of a city or town council, regulating such matters as zoning, building, safety, matters of municipality, etc.

**Permanent:** Long lasting.







## Glossary

**Petition:** A petition is a formal written request presented to a court or other official or governmental body.

**Poorly Drained Soil:** A soil in which water is removed so slowly that the soil is saturated periodically during the growing season or remains wet for long periods. Free water is commonly at or near the surface for long enough during the growing season that most mesophytic crops cannot be grown unless the soil is artificially drained. The soil is not continuously saturated in layers directly below plow depth. Poor drainage results from a high water table, a slowly pervious layer within the profile, seepage, nearly continuous rainfall, or a combination of these.







## Glossary

**Prudent:** Means economically and otherwise reasonable in light of the social benefits to be derived from the proposed regulated activity provided cost may be considered in deciding what is prudent and further provided a mere showing of expense will not necessarily mean an alternative is imprudent.

**Public Hearing:** A formal proceeding (generally less formal than a trial) open to the public for the purpose of deciding facts and issues of a case, sometimes with testifying witnesses. Hearings are used extensively by legislative and administrative agencies. In the context of a public hearing on an application for a wetlands permit being considered by a municipal wetlands agency,

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## Glossary

**Public Hearing**<sup>(continued)</sup>: detailed notice is required to be published and the public is permitted to make comments on the pending application. If the application is being considered at a public meeting, and a public hearing is not being held, the public is not permitted to make comments on the application.

**Record**: All the documents and evidence plus transcripts of oral proceedings in a case.

**Redoximorphic Features**: Features formed by the reduction, translocation, and oxidation of iron and manganese oxides; soil properties associated with wetness that result from the reduction and oxidation of iron and manganese compounds in the soil after saturation with water and desaturation, respectively.







## Glossary

**Regulated Activity:** Means any operation within or use of a wetland or watercourse involving removal or deposition of material, or any obstruction, construction, alteration or pollution, of such wetlands or watercourses, but shall not include the specified activities in section 22a-40.

**Regulation:** A rule, having the force of law, issued by governmental departments or agencies to carry out the intent of the law and to guide the activities of those regulated by the department or agency.







## Glossary

**Rules of Natural Justice:** Natural justice means to act fairly. In administrative proceedings before an inland wetlands agency, the proceedings must be conducted in accordance with fundamental fairness or the fundamentals of natural justice. The fundamentals of natural justice require that there be due notice of a hearing, and at the hearing no party may be deprived of the right to produce relevant evidence or to cross-examine witnesses produced by the opposing party. The parties involved must have an opportunity to know the facts on which the agency is acting and to offer rebuttal evidence.







# Glossary

**Runoff:** That portion of precipitation or irrigation on an area which does not infiltrate, but instead is discharged from the area.

**Silt Fence:** A temporary sediment barrier consisting of a geotextile fabric pulled taut and attached to supporting posts and entrenched.

**Site Walk:** An information-gathering tool used for orientation purposes only, conducted outdoors on the actual site of a proposed activity.





# Glossary

**Soil Horizon:** A layer of soil, approximately parallel to the surface, having distinct characteristics produced by soil-forming processes.

**Soil and Water Conservation Districts:** Established by the General Statutes of Connecticut section 22a-315, Connecticut's five Conservation Districts are local non-profit organizations that serve municipalities and residents by providing technical services and education, and promote conservation and sound use of local natural resources.







# Glossary

**Soil Scientist:** Means an individual duly qualified in accordance with standards set by the federal Office of Personnel Management.

**Stormwater Wetland:** A shallow, constructed pool that captures stormwater and assists in removal of pollutants from such stormwater and allows for the growth of characteristic wetland vegetation.

**Swale:** A natural or constructed gently sloping linear depression in the land surface designed to transport in a non-erosive fashion intermittent runoff from storm events.







## Glossary

**Swamp:** An area with soils that exhibit aquic moisture regimes and are distinguished by the dominance of wetland trees and shrubs.

**Transcript:** A written, word-for-word record of what was said. Usually refers to a record of a trial, hearing, or other proceeding that has been transcribed from a recording or from shorthand.

**Upland Review Area:** A non-wetland or non-watercourse area, as set forth in municipal regulations, in which certain types of activities are considered regulated activities which require the filing of an application for a permit. The upland review area is defined in regulations for the purpose of administrative convenience to require that applications be filed for activities close to regulated resources. (cont. next page)







# Glossary

**Upland Review Area**(continued): The inland wetlands agency must still determine whether or not the activity in the upland review area presents a likelihood of adverse impact to the wetlands or watercourses. Although this is sometimes called a buffer area or a setback area, such terms are misnomers, because activity in the upland review area is not prohibited-it is regulated.

**Vernal:** Of, relating to, or happening in the season of spring.

**Very Poorly Drained Soil:** A soil in which water is removed from the soil so slowly that free water remains at or on the surface during most of the growing season. Unless the soil is artificially drained, most mesophytic crops cannot be grown.

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## Glossary

**Very Poorly Drained Soil**(continued): Very poorly drained soils are commonly level or depressed and are frequently ponded. Yet, where rainfall is high and nearly continuous, they can have moderate or high slope gradients.

**Watercourses:** Means rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon this state or any portion thereof, not regulated pursuant to sections 22a-28 to 22a-35, inclusive. Intermittent watercourses shall be delineated by a defined permanent channel and bank and the occurrence of two or more of the following characteristics:

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## Glossary

**Watercourses**(continued): (A) Evidence of scour or deposits of recent alluvium or detritus, (B) the presence of standing or flowing water for a duration longer than a particular storm incident, and (C) the presence of hydrophytic vegetation.

**Wetlands:** Means land, including submerged land, not regulated pursuant to sections 22a-28 to 22a-35, inclusive, which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the National Cooperative Soils Survey, as may be amended from time to time, of the Natural Resources Conservation Service of the United States Department of Agriculture.







## Permitted Operations & Uses

**Sec. 22a-40. Permitted operations and uses.**

**(a) The following operations and uses shall be permitted in wetlands and watercourses, as of right:**







## Permitted Operations & Uses

(1) Grazing, farming, nurseries, gardening and harvesting of crops and farm ponds of three acres or less essential to the farming operation, and activities conducted by, or under the authority of, the Department of Environmental Protection for the purposes of wetland or watercourse restoration or enhancement or mosquito control. The provisions of this subdivision shall not be construed to include road construction or the erection of buildings not directly related to the farming operation, relocation of watercourses with continual flow, filling or reclamation of wetlands or watercourses with continual flow, clear cutting of timber except for the expansion of agricultural crop land, the mining of top soil, peat, sand, gravel or similar material from wetlands or watercourses for the purposes of sale;







## Permitted Operations & Uses

**(2) A residential home (i) for which a building permit has been issued or (ii) on a subdivision lot, provided the permit has been issued or the subdivision has been approved by a municipal planning, zoning or planning and zoning commission as of the effective date of promulgation of the municipal regulations pursuant to subsection (b) of section 22a-42a or as of July 1, 1974, whichever is earlier, and further provided no residential home shall be permitted as of right pursuant to this subdivision unless the permit was obtained on or before July 1, 1987;**

**(3) Boat anchorage or mooring;**







## Permitted Operations & Uses

**(4) Uses incidental to the enjoyment and maintenance of residential property, such property defined as equal to or smaller than the largest minimum residential lot site permitted anywhere in the municipality, provided in any town, where there are no zoning regulations establishing minimum residential lot sites, the largest minimum lot site shall be two acres. Such incidental uses shall include maintenance of existing structures and landscaping but shall not include removal or deposition of significant amounts of material from or onto a wetland or watercourse or diversion or alteration of a watercourse;**







## Permitted Operations & Uses

(5) Construction and operation, by water companies as defined in section 16-1 or by municipal water supply systems as provided for in chapter 102, of dams, reservoirs and other facilities necessary to the impounding, storage and withdrawal of water in connection with public water supplies except as provided in sections 22a-401 and 22a-403; and

(6) Maintenance relating to any drainage pipe which existed before the effective date of any municipal regulations adopted pursuant to section 22a-42a or July 1, 1974, whichever is earlier, provided such pipe is on property which is zoned as residential but which does not contain hydrophytic vegetation. For purposes of this subdivision, "maintenance" means the removal of accumulated leaves, soil, and other debris whether by hand or machine, while the pipe remains in place.







## Permitted Operations & Uses

**(b) The following operations and uses shall be permitted, as nonregulated uses in wetlands and watercourses, provided they do not disturb the natural and indigenous character of the wetland or watercourse by removal or deposition of material, alteration or obstruction of water flow or pollution of the wetland or watercourse:**

- (1) Conservation of soil, vegetation, water, fish, shellfish and wildlife; and**
- (2) Outdoor recreation including play and sporting areas, golf courses, field trials, nature study, hiking, horseback riding, swimming, skin diving, camping, boating, water skiing, trapping, hunting, fishing and shellfishing where otherwise legally permitted and regulated.**







## Permitted Operations & Uses

(c) Any dredging or any erection, placement, retention or maintenance of any structure, fill, obstruction or encroachment, or any work incidental to such activities, conducted by a state agency, which activity is regulated under sections 22a-28 to 22a-35, inclusive, or sections 22a-359b to 22a-363f, inclusive, shall not require any permit or approval under sections 22a-36 to 22a-45, inclusive.







## Factors for Consideration

**Sec. 22a-41. Factors for consideration of commissioner. Finding of no feasible and prudent alternative. Wetlands or watercourses. Habitats. Jurisdiction of municipal inland wetlands agencies. (a) In carrying out the purposes and policies of sections 22a-36 to 22a-45a, inclusive, including matters relating to regulating, licensing and enforcing of the provisions thereof, the commissioner shall take into consideration all relevant facts and circumstances, including but not limited to:**







## Factors for Consideration

- (1) The environmental impact of the proposed regulated activity on wetlands or watercourses;**
- (2) The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses;**
- (3) The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses;**







## Factors for Consideration

**(4) Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources, and any mitigation measures which may be considered as a condition of issuing a permit for such activity including, but not limited to, measures to (A) prevent or minimize pollution or other environmental damage, (B) maintain or enhance existing environmental quality, or (C) in the following order of priority: Restore, enhance and create productive wetland or watercourse resources;**







## Factors for Consideration

**(5) The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; and**

**(6) Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses.**







## Factors for Consideration

**(b) (1) In the case of an application which received a public hearing pursuant to (A) subsection (k) of section 22a-39, or (B) a finding by the inland wetlands agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the commissioner finds on the basis of the record that a feasible and prudent alternative does not exist. In making his finding the commissioner shall consider the facts and circumstances set forth in subsection (a). The finding and the reasons therefor shall be stated on the record in writing.**







## Factors for Consideration

**(2) In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the commissioner or the inland wetlands agency, as the case may be, shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subdivision shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity.**







## Factors for Consideration

**(c) For purposes of this section, (1) "wetlands or watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.**

**(d) A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses.**







## Timeline — Application for Regulated Activity

The Connecticut Inland Wetlands and Watercourses Act section 22a-36 through section 22a-45 establishes a specific timeline for the receipt and review of applications for regulated activities.

The timeline begins when an application for a regulated activity is submitted to the inland wetlands agency.

The timeline is as follows:







## Timeline — Application for Regulated Activity

1. Application for a regulated activity is submitted to the inland wetlands agency.
2. The date of receipt of the application is the day of the next regularly scheduled meeting of the inland wetlands agency immediately following the day of submission to such agency or its agent, or thirty-five days after such submission, whichever is sooner. (See glossary for exact definition of “date of receipt”)
3. Two options now exist — to hold a public hearing or not to hold a public hearing.







## Timeline — Application for Regulated Activity

### 4. If NO public hearing is held:

- a. the inland wetlands agency must wait 14 days before taking action on the application
- b. the inland wetlands agency must take action on the application within 65 days after the date of receipt.







## Timeline — Application for Regulated Activity

### 5. If a public hearing IS held:

- a. the inland wetlands agency must start the public hearing within 65 days after the date of receipt
- b. the inland wetlands agency must complete the hearing within 35 days after the hearing started
- c. the inland wetlands agency must take action on the application within 35 days after the hearing is finished.







## Timeline — Application for Regulated Activity

6. The applicant can consent to one or more extensions of any of the times noted above provided the cumulative extension does not exceed 65 days.

For complete timeline information refer to the CT Inland Wetlands and Watercourses Act.





## **Timeline — Regulation Amendments and Town Wetlands Map Amendments**

**The Connecticut Inland Wetlands and Watercourses Act section 22a-36 through section 22a-45 establishes a specific timeline for the amendment of inland wetland agency regulations, and for the amendment of a municipality's official wetlands map.**

**The timeline begins when an amendment is proposed.**

**The timeline is as follows:**







## Timeline — Regulation Amendments and Town Wetlands Map Amendments

1. Amendment is proposed:
  - a. If an amendment to the agency's regulations is proposed, the amendment and the notice of the public hearing must be submitted to the Commissioner of DEP at least 35 days before such hearing on the amendment is held. This does not apply to map amendments.
2. A public hearing on the amendment must be held within 65 days after the receipt of the amendment proposal.





## Timeline — Regulation Amendments and Town Wetlands Map Amendments

3. The public hearing must finish within 35 days after it started.
4. The inland wetlands agency must take action on the amendment proposal within 65 days after the hearing ends.
5. The inland wetlands agency must submit the final adopted amendment language to the Commissioner of DEP not later than 10 days after adoption.

For complete timeline information refer to the CT Inland Wetlands and Watercourses Act.







## Site Walks for Proposed Permit Applications

### *Purpose*

A site walk occurs when members of an Inland Wetlands Agency visit the site of a proposed project to gather facts and review information needed to understand an application that is before the agency. The purpose of a site walk is for agency members to acquaint themselves with the site by orienting themselves to the "lay of the land" as it pertains to the proposed project. Site walks can be very important because they enable agency members to get a better understanding of existing property conditions and any issues that are not apparent from looking at plans on paper.





## Site Walks for Proposed Permit Applications

Site walks are simply that, a walk of the site. Site walks are **NOT** an opportunity to ask questions of the applicant or any of the applicant's experts, or to participate in discussions that go to the merits of the application or that evaluate various alternatives. Discussion needs to be restricted to orientation and location of items referenced on the plans such as the location of landmarks, streams, wetland boundaries, footprints of proposed construction and so forth.







## Site Walks for Proposed Permit Applications

### *Administration*

Before conducting any type of site walk an Inland Wetlands Agency **MUST:**

1. Obtain permission from the property owner to enter onto the property;
2. Provide notice to all parties (the applicant, property owner, and any intervenors) so that they may have the opportunity to be present and to observe the site walk.

An agency's best approach to obtain such permission is via the inland wetlands application itself.





## Site Walks for Proposed Permit Applications

The application should contain at a minimum a statement indicating that a site walk may be necessary to obtain essential information in order for the agency to make a decision on the application, and a statement that the owner may sign granting permission to enter the property. Sample authorizing language is as follows:

I hereby authorize members and staff of the (TOWN) Inland Wetlands Agency to conduct a site walk(s) of the property for the purposes of understanding existing property conditions, which may be necessary in order to make a decision on this application. Such site walk(s) will be conducted at reasonable times. (SIGNATURE)







## Site Walks for Proposed Permit Applications

**The Inland Wetlands Agency should always follow the site walk with written minutes that are made part of the record and are provided to the applicant and any intervenors.**

**The Inland Wetlands Agency has an obligation to obtain all the information it needs to make an intelligent and informed decision on the application. If the agency determines that a site walk is necessary to properly evaluate an application that is before them, and the property owner refuses to allow access to the site, the agency will be required to process the application with the information that is available for consideration.**





## Site Walks for Proposed Permit Applications

### *Strategies*

There are various strategies for conducting a site walk. They are as follows:

1. **Each Individual Agency Member Conducts a Site Walk:** One approach to conducting a site walk is for the agency to agree that each member will visit the site individually when he or she has a chance, and after notice has been provided to all parties. In this situation a formal meeting of the agency is not being conducted and therefore notice requirements to the public under the Freedom of Information Act do not apply.







## Site Walks for Proposed Permit Applications

However, since numerous members visiting a site on many different occasions may see different things, it is imperative that each member report, at the next regularly scheduled meeting, his or her observations. This enables all parties involved (applicant, agency, and intervenors) to know and understand the information the individual agency members obtained, and allows for the record of the agency's consideration of the application to be as complete as possible. This can become cumbersome. Further, there may be a situation in which the property owner refuses to allow a particular agency member access to the property for a site walk. In this circumstance that particular agency member will have to rely on the observations of the other agency members.







## Site Walks for Proposed Permit Applications

**2. Two or Three Individuals of the Agency Conduct the Site Walk:** One or a number of individuals of the agency, so long as the group does NOT comprise a quorum, may conduct a site walk after providing notice to all parties. In this situation a formal meeting of the agency is not being conducted and therefore notice requirements to the public under the Freedom of Information Act do not apply. It is very important that ALL of the agency member(s) conducting the site walk report to the agency, at the next regularly scheduled meeting, what was observed during the site walk. This enables all parties involved (applicant, agency, and intervenors) to know and understand the information the agency is relying on to make its decision.







## Site Walks for Proposed Permit Applications

**3. Quorum of the Agency:** If a quorum of the agency attends the site walk, it is by definition a public meeting, and it must comply fully with the Freedom of Information Act in addition to the Inland Wetlands and Watercourses Act. The agency must provide notice to all parties as well as Freedom of Information Act notice to the public, take proper minutes, and allow unrestricted intervenor attendance as well as public attendance. This raises a potential conflict between public rights and the rights of the property owner. The property owner has the right to restrict access to the site and may not allow the entire agency, intervenors, and/or the public access to the property.







## Site Walks for Proposed Permit Applications

A legally sufficient public meeting cannot be conducted if a party to the proceedings or the public is not allowed to attend such meeting (prohibited from entering the property). Therefore, the agency will be seriously hampered in terms of its ability to comply with both the Inland Wetlands and Watercourses Act and the Freedom of Information Act. A quorum of the agency should avoid conducting a site walk, in other words a public meeting at the site, if the property owner restricts site access. Further, if a site walk is conducted by a quorum of the agency, it is possible that a large group of people will be in attendance. It is of the utmost importance to conduct the site walk in silence in order to avoid discussions other than those needed for orientation and location of items referenced on the plans.







## Site Walks for Proposed Permit Applications

**4. Agency Staff:** An alternative to agency members or the entire agency conducting a site walk is to have the agency's staff, a non-voting member of the agency, conduct such site walk. This may avoid various legal issues relating to property access to the public, inappropriate discussion, meeting notice concerns, etc. as this strategy does not entail an agency meeting. In this situation the staff person conducts the site walk gathering facts about site conditions, and reports all findings back to the full agency at the next regularly scheduled meeting. It is recommended that this report be presented as a written report and should be referenced for receipt by the agency as an agenda item, and should be provided to all parties.







## Site Walks for Proposed Permit Applications

Whatever strategy is employed by an Inland Wetlands Agency, it is important to remember that site walks are no more than an opportunity for site orientation. No discussion regarding the merits of the application should take place. Discussion needs to be limited to orientation and location of items referenced on the plans. Discussions pertaining to the merits of the application are to occur at the agency's regularly scheduled meeting, and at its regularly scheduled place of meeting, where all parties have the benefit to hear and respond to such discussion, and where the public is allowed to attend and observe.







## Web Sites

**Connecticut Association of Conservation and Inland Wetlands Commissions**

<http://www.caciwc.org>

**United States Natural Resources Conservation Service**

<http://www.nrcs.usda.gov>

**Connecticut Natural Resources Conservation Service**

<http://www.ct.nrcs.usda.gov>

**Soil and Water Conservation Districts of Connecticut**

<http://www.conservect.org>

**United States Geological Survey**

<http://www.usgs.gov>





## Web Sites

**Connecticut Nonpoint Education for Municipal Officials**

<http://nemo.uconn.edu>

**Center for Watershed Protection**

<http://www.cwp.org>

**United States Environmental Protection Agency - Wetlands**

<http://www.epa.gov/OWOW/wetlands/index.html>

**United States Environmental Protection Agency**

<http://www.epa.gov>

**State of Connecticut Department of  
Environmental Protection**

<http://www.ct.gov/dep>







## Web Sites

**State of Connecticut Freedom of Information Commission**

<http://www.state.ct.us/foi/>

**State Of Connecticut Department of Agriculture**

<http://www.ct.gov/doag/site/default.asp>

**State Of Connecticut**

<http://www.ct.gov/>

**List of Connecticut Municipal Web Sites**

<http://www.ct.gov/ctportal/cwp/view.asp?a=843&q=257266>

**United States Army Corps of Engineers**

<http://www.usace.army.mil>





## Web Sites

**United States Fish and Wildlife Service**

<http://www.fws.gov/>

**The Invasive Plant Atlas of New England (IPANE)**

<http://invasives.eeb.uconn.edu/ipane>

**Society of Soil Scientists of Southern New England**

<http://nesoil.com/ssssne>

**The Connecticut Inland Wetlands and Watercourses Act  
Section 22a-36 through 22a-45**

<http://www.cga.ct.gov/2005/pub/Chap440.htm#Sec22a-36.htm>







**CONNECTICUT  
DEPARTMENT OF  
ENVIRONMENTAL PROTECTION**

**79 Elm Street  
Hartford, CT 06106-5127  
Telephone (860) 424-3019**

**[www.ct.gov/dep](http://www.ct.gov/dep)**