



# INLAND WETLANDS BOARD

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## ADOPTED AMENDMENT TO THE INLAND WETLANDS & WATERCOURSES REGULATIONS New Sections 7.11.3, 10.8 and 10.9

**Reasons:** The amendment is required to ensure compliance with Public Act 05-124, requiring applicants to notify holders of Conservation and Preservation easements on properties where regulated activities are proposed.

The following three new sections are proposed (taken directly from language recommended as "model regulations" by the CT DEP).

A new section 7.11.3, is proposed as follows:

### **7.11.3 – Notice by Applicant to Holders of Conservation or Preservation**

**Restrictions.** For any permit application involving property subject to a conservation restriction or preservation restriction, the following shall apply:

- a. for purposes of this section, "conservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of the land described therein, including, but not limited to, the state or any political subdivision of the state, or order of taking such land whose purpose is to retain land or water areas predominantly in their scenic or open condition or in agricultural, farming forest or open space use.
- b. for the purposes of this section, "preservation restriction" means a limitation, whether or not stated in the form of a restriction, easement, covenant or condition, in any deed, will or other instrument executed by or on behalf of the owner of land, including, but not limited to, the state or any political subdivision of the state, or in any order of taking of such land whose purpose is to preserve historically significant structures or sites.
- c. no person shall file a permit application, other than for interior work in an existing building or for exterior work that does not expand or alter the footprint of an existing building, relating to property that is subject to a conservation restriction or a preservation restriction unless the applicant provides proof that the applicant has provided written notice of such application, by certified mail, return receipt requested, to the party holding such restriction not later than sixty days prior to the filing of the permit application.

- d. in lieu of such notice pursuant to subsection 7.11.3 c., the applicant may submit a letter from the holder of such restriction or from the holder's authorized agent, verifying that the application is in compliance with the terms of the restriction.

A new section, 10.8, is proposed as follows:

**10.8** – In the case of an application where the applicant has provided written notice pursuant to subsection 7.11.3 c. of these regulations, the holder of the restriction may provide proof to the Inland Wetlands Agency that granting of the permit application will violate the terms of the restriction. Upon a finding that the requested land use violates the terms of such restriction, the Inland Wetlands Agency shall not grant the permit approval.

A new section, 10.9, is proposed as follows:

**10.9** – In the case of an application where the applicant fails to comply with the provision of subsection 7.11.3 c. or d. of these regulations, the party holding the conservation or preservation restriction may, not later than fifteen days after receipt of the actual notice of permit approval, notify the Inland Wetland Agency of the applicant's failure to comply with subsection 7.11.3.c or d. of these regulations. The Inland Wetlands Agency shall, in accordance with Section 11.6 of the IWWR, reverse the permit approval upon a finding that the requested land use violates the terms of such restriction.

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