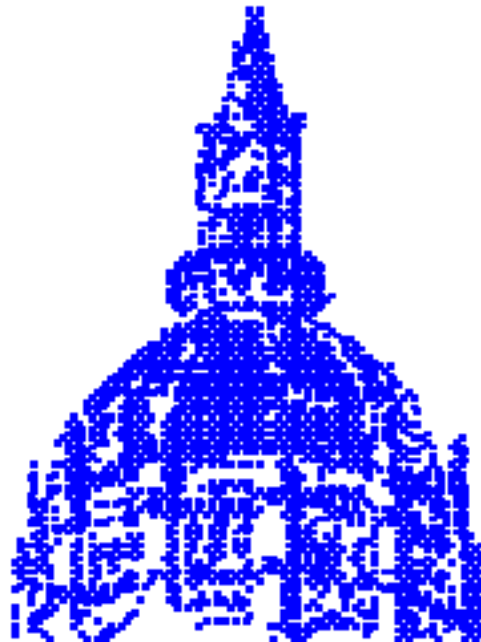


Office of Legislative Research
Connecticut General Assembly



OLR ACTS AFFECTING

ENVIRONMENT



2011-R-0283

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July 29, 2011

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NOTICE TO THE READER

This report provides highlights of new laws (Public Acts) and Special Acts affecting the environment enacted during the 2011 regular legislative session. At the end of each summary we indicate the Public Act (PA) number and the date the legislation takes effect. The effective dates for Public Acts that took effect upon passage are the dates the governor signed the Act.

Not all provisions of the acts are included. Complete summaries of all 2011 Public Acts will be available on OLR's webpage: www.cga.ct.gov/olr/OLRPASums.asp. Also, see OLR Report [2011-R-0250](#) for 2011 Public Acts affecting Agriculture.

Readers are encouraged to obtain the full text of acts that interest them from the Connecticut State Library, the House Clerk's Office, or the General Assembly's website (www.cga.ct.gov/).

Note: Public Act 11-80 creates the Department of Energy and Environmental Protection (DEEP) by merging the departments of Environmental Protection and Public Utility Control, starting July 1, 2011. This report refers to the Department of Environmental Protection (DEP) when the Public Act we are summarizing does so.

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AGENCY CONSOLIDATION

Department of Energy and Environmental Protection

Legislation adopted this session creates the Department of Energy and Environmental Protection (DEEP) by merging the departments of Environmental Protection and Public Utility Control and transferring their powers and duties, and those of the environmental protection commissioner, to DEEP and its commissioner. Under the new law, DEEP's environmental goals are: (1) conserving, improving, and protecting the natural resources and environment of the state, and (2) preserving the natural environment while fostering sustainable development. Among other things, the act:

1. requires DEEP to develop a comprehensive plan integrating current efficiency and renewable energy plans;
2. expands the (1) resources that can go into the Clean Energy Fund to include private capital and revenues reallocated to the fund by the legislature and (2) types of projects the Clean Energy Fund can support to include electric and natural gas vehicle infrastructure, electricity storage, and energy efficiency financing;

3. allows municipalities to establish a loan program to finance energy efficiency and renewable energy projects, whose costs are recovered by an assessment on the benefitted property;
4. requires energy efficiency and renewable energy plans developed under current law to provide equitable funding for low-income neighborhoods;
5. establishes energy efficiency standards for televisions, DVD players, and similar products and broadens circumstances when efficiency standards would be implemented for other consumer products;
6. establishes three-year pilot programs to develop combined heat and power and anaerobic digester projects; and
7. establishes a program requiring electric companies to enter into long-term contracts to buy renewable energy credits from zero-emission generators (e.g., solar, wind, and hydro) and a similar program for low-emission technologies.

(PA 11-80, numerous sections, effective dates vary but the department merger is effective July 1, 2011)

AIR QUALITY

Vehicle Emissions Requirements

A new law prohibits licensed new and used motor vehicle dealers and licensed repairers and limited repairers from selling a motor vehicle that does not meet state emissions standards and has not passed an emissions inspection. A violation is an infraction, with a \$50 fine for a first offense. By law, anyone who knowingly or negligently violates the emissions law is responsible to the state for the costs and expenses of detecting, investigating, controlling, and abating such a violation.

(PA 11-213, § 33, effective October 1, 2011)

BOATING AND FISHING

Boating

A new law makes many changes to the boating under the influence statutes, including (1) specifying that a conviction for reckless boating results in the suspension of a person's boating rights; (2) reducing the minimum time between chemical analysis tests (blood, urine, or breath) from 30 to 10 minutes; and (3) requiring prosecutors to specify reasons for a reduced, nulled, or dismissed reckless boating under the influence charge, among other things.

(PA 11-74, §§ 1-5, effective July 1, 2011)

Legislation passed this year repeals the law regarding the speed of vessels on specified rivers, including related penalties, thereby allowing vessel speed limits to be regulated under Department of Environmental Protection (DEP) boating safety regulations. It also establishes a “slow-no-wake zone” on two portions of the Mystic River and makes a violation of the zone an infraction. The new law requires the DEP commissioner to administer the provision and authorizes various people to enforce the slow-no-wake zone, including harbor masters, deputy harbor masters, conservation officers, police officers, town marine officers certified for marine police duty, and lake patrolmen.

(PA 11-90, effective upon passage, July 8, 2011)

Boating Account Elimination

Legislation adopted this session eliminates the boating account and requires that all watercraft registration and numbering fees received go to the General Fund.

(PA 11-6, §§ 133 and 155, amended by PA 11-61, § 4, effective July 1, 2011)

Fish Hatchery Privatization Plan

A new law requires the environmental protection commissioner to prepare a plan to privatize state fish hatcheries. He must submit the plan to the Environment and Appropriations committees by January 1, 2012.

(PA 11-6, § 49, effective upon passage, May 4, 2011)

Fishing Licenses

By law, people must obtain a fishing license in order to take, attempt to take, or assist in taking any fish or bait species. A new law exempts a first time violator from the \$87 fine and requires the case to be dismissed if the person provides proof he or she bought the required license after the violation but before the fine is imposed.

The new law also requires, instead of allows, the DEP commissioner to designate one day a year when no license is required for recreational fishing.

(PA 11-74, §§ 7-8, effective October 1, 2011)

Vessel Registration

A new law requires owners seeking a vessel registration number or decal to file with the Department of Motor Vehicle (DMV) commissioner proof of ownership that she may require, rather than an affidavit or document proving ownership.

By law, each vessel certificate of number or certificate of registration expires on April 30 of the year after it is issued. The new law allows, rather than requires, the DMV commissioner to notify vessel owners when their certificate of number or certificate of registration is going to expire. If she notifies them, she must do it at least 30 days before the expiration date, as under current law, but not if the U.S. Postal Service has determined it cannot deliver mail to the address in DMV's records.

(PA 11- 213, §§ 44-45, effective July 1, 2011)

BROWNFIELD REMEDIATION AND DEVELOPMENT

Investigation, Remediation, Liability

Legislation adopted this session makes many changes to the laws and programs governing investigating and remediating contaminated property (i.e., brownfields). Among other things, it:

1. updates the Office of Brownfield Remediation and Development's (OBRD) powers and duties;
2. makes permanent the municipal brownfield pilot program and extends the term of the brownfield working group;

3. exempts “certifying parties” under the Transfer Act from investigating and remediating contamination occurring after a property was remediated;
4. allows the DEP commissioner to reclassify surface and ground water beginning March 1, 2011;
5. makes more brownfields eligible for state funds and subject to regulatory requirements;
6. exempts government agencies and private organizations from paying DEP fees when cleaning up brownfields;
7. expands the benefits and eligible entities under the Abandoned Brownfield Cleanup Program;
8. exempts municipalities and the bankruptcy court from the Transfer Act when transferring titles to nonprofit organizations;
9. allows the DEP commissioner to waive some requirements for recording environmental use restrictions and releasing parties from their requirements;
10. establishes a program protecting parties investigating and remediating brownfields from liability to the state and third parties; and
11. exempts large municipalities from clean-up costs, fines, and

penalties when they acquire an easement over a property and allow the public to use it without charge for recreation.

(PA 11-141, effective dates vary)

Program Financing

A new law makes permanent a Connecticut Development Authority bond-funded program that can be used to finance brownfield redevelopment.

(PA 11-103, effective July 1, 2011)

Another new law expands the OBRD’s powers by allowing it to enter into agreements with qualified implementing agencies. It also allows OBRD to award (1) grants to these agencies for designing, implementing, and supervising brownfield assessment and remediation and (2) subgrants to the agencies as long as they comply with the original grant's terms and conditions.

(PA 11-140, § 10, effective upon passage, July 8, 2011)

GREEN AGENCY PRACTICES

Auto Fleet Study

A new law requires the transportation and administrative services commissioners to jointly study the costs of converting up to 25% of the state's auto fleet to alternative energy sources. They must do this by July 1, 2011

within available appropriations and submit their findings and recommendations to the governor and the Commerce, Transportation, Environment, and Energy and Technology committees by February 1, 2012. The study must (1) identify the costs and environmental benefits of converting the fleet to electric power, alternative fuels, or natural gas and (2) establish time frames for completing the conversion.

(PA 11-140, § 3, effective upon passage, July 8, 2011)

Energy Efficiency/Renewable Energy Project Funding

This year's bond act merges three programs for funding energy efficiency and renewable energy projects in state buildings and their accompanying bond authorizations.

(PA 11-57, §§ 68-70 and 116, effective July 1, 2011)

Model Agency Policy

A new law requires the environmental protection commissioner to develop a model agency policy to (1) promote green practices within state agencies by January 1, 2012 and (2) provide the policy and any recommendations concerning it to the governor and the Office of Policy and Management (OPM) secretary. These practices include strategies to reduce paper use, improve recycling, and better manage solid waste.

(PA 11-150, § 27, effective upon passage, July 8, 2011)

HAZARDOUS WASTE AND MATERIALS

Bisphenol-A

A new law prohibits the manufacture, sale, offering for sale, or distribution of thermal receipt or cash register receipt paper containing bisphenol-A (BPA) in Connecticut. The prohibition takes effect October 1, 2013 if the U.S.

Environmental Protection Agency identifies a safe, commercially available alternative for use in these papers by June 30, 2013. Otherwise, it takes effect July 1, 2015. The act defines these papers as any paper a commercial entity uses to issue a mechanically produced record of a consumer transaction. The consumer protection commissioner may enforce the law within available appropriations.

(PA 11-222, effective October 1, 2013)

A new law excludes water cooler system bottles from a ban on the manufacture, sale, offering for sale, or distribution in the state of reusable food or beverage containers containing BPA starting October 1, 2011.

(PA 11-59, § 15, effective October 1, 2011)

Containment Services Tax Exemption Elimination

Legislation adopted this session eliminates the sales tax exemption for the voluntary evaluation, prevention, treatment, containment, or removal of hazardous waste or other contaminants of air, water or soil.

(PA 11-6, § 88, effective July 1, 2011, and applicable to sales occurring on or after that date)

Mercury Batteries

As of July 1, 2011, the law prohibits offering for sale or distributing for promotional purposes button cell batteries containing mercury or any product containing them. A new law creates two exceptions to this prohibition. It allows (1) mercury batteries described as Hg-silver oxide batteries used exclusively in a medical device to automatically deliver insulin to a person to be sold or distributed for promotional purposes until January 1, 2015 and (2) silver oxide batteries and any product containing these batteries to be offered for sale or distributed for promotional purposes until July 1, 2012. The new law excludes these two battery types from a requirement that manufacturers producing or selling button cell batteries containing mercury or products containing them notify retailers about the ban and how to properly dispose of remaining inventory.

(PA 11-231, effective upon passage, July 13, 2011)

Paint Stewardship Program

A new law establishes a “paint stewardship program” for managing unused and unwanted architectural paint in the state. The act defines “architectural paint” as interior and exterior architectural coatings sold in containers of five gallons or less excluding industrial, original equipment, or specialty coatings. Under the new law, paint producers are responsible for managing the program through establishing and participating in a paint stewardship representative organization. The program is funded through an assessment on each container of architectural paint sold in the state. The organization must develop a plan to minimize public sector involvement in managing this paint by March 1, 2013. The plan must be submitted to DEP for approval.

(PA 11-24, effective upon passage, June 3, 2011)

LAND USE

Dam Repairs

The bond act authorizes \$4 million for FY 12 and FY 13 for dam repairs, including state-owned dams.

(PA 11-57, §§ 2(i) and 21(h), effective July 1, 2011 for FY 12 authorizations and July 1, 2012 for FY 13 authorizations)

Dry Hydrants

A new law allows water to be withdrawn for fire emergency purposes from a wetland or watercourse without obtaining an inland wetlands permit. It also allows a municipal fire department to install a dry hydrant in an inland wetland or watercourse if: (1) the dry hydrant will be used for firefighting purposes only; (2) there is no available alternative access to a public water supply; and (3) the installation will not disturb the natural or indigenous character of the wetland or watercourse.

(PA 11-184, effective October 1, 2011)

Land Conveyance

A new special act requires the DEP commissioner to enter into an agreement with Riverhouse Properties, LLC to exchange parcels of land in Haddam or consideration of approximately equal value. Under the act, DEP must convey a 17.4 acre parcel without any Connecticut River frontage to Riverhouse in exchange for land or other consideration, including an 87.7 acre parcel to become part of the Cockaponset State Forest. The act releases and relinquishes certain restrictions contained within the 17.4 acre parcel's warranty deed which will allow the parcel to be used for economic development purposes.

The exchange is subject to State Properties Review Board approval. The act also requires (1) the specific description of land or other consideration conveyed to be established by mutual agreement and (2) DEP and Riverhouse to make all reasonable efforts to reach the agreement by December 31, 2011. The agreement must identify the portion of the land conveyed to Riverhouse that will remain open to the public.

(SA 11-16, § 8, effective upon passage, July 8, 2011)

Permits

A new law gives developers more time to complete certain projects without seeking reapproval from a land use commission or an inland wetlands agency. It does so by extending the initial and extended deadlines that apply to subdivisions, wetlands permits, and small-scale site plans approved before July 1, 2011, on which approval has not expired by the act's effective date.

(PA 11-5, effective upon passage, May 9, 2011)

Legislation passed this session creates a new permit program for commercial projects involving quarrying on parcels of 100 acres or less and located in a municipality with a town meeting form of government and between 2,000 and 3,000 people. The permit must be obtained before beginning work on the project and applicants must provide the

DEP commissioner with any information he requests and statements (1) indicating why the parcel is the most suitable for the project and (2) explaining the project's environmental compatibility with the nature of the parcel and neighboring properties. The new law prohibits the commissioner from granting a permit if he finds the project may adversely affect the quality or quantity of surface water or groundwater.

(PA 11-190, effective upon passage, July 13, 2011)

Recreational Land Use Liability

A new law limits the liability of municipalities, other state political subdivisions, municipal corporations, special districts, and water or sewer districts that make certain types of land available to the public for recreational purposes without charge. This liability limitation does not apply to (1) swimming pools, playing fields or courts, playgrounds, buildings with electrical service, or machinery attached to the land, if these are in the municipality's or other entity's possession and control; and (2) paved, public, through roads open to the public for the operation of four-wheeled private passenger cars. Existing law, unchanged by the act, limits the liability of state political subdivisions in other circumstances. For all landowners, the act adds

bicycling to the list of recreational purposes for which the landowner may make the land available to the public and enjoy limited liability.

(PA 11-211, effective October 1, 2011)

Remediation Consent Agreements

By law, the DEP commissioner has the power to enter into contracts and orders and institute legal proceedings to enforce statutes, regulations, and DEP orders or permits, among other things. A new law explicitly prohibits DEP from modifying the remediation standards and requirements of a consent order entered into by DEP and a party that is wholly or partly about land remediation unless both parties agree to the modification.

(PA 11-162, effective October 1, 2011)

Timber Harvest Revolving Account

By law, the DEP commissioner may harvest timber from state-owned land and sell it for at least \$10 per cord. This act establishes a "timber harvest revolving account" to receive the proceeds from harvesting timber. Under the act, the DEP commissioner must use the account funds for (1) developing forest management plans and (2) reasonable expenses for administering and operating the plans. The act

authorizes him to accept, on DEP's behalf, any gifts, donations, loans, or bequests for the account. The account cannot exceed \$100,000. Any proceeds over that amount must be deposited in the General Fund.

(PA 11-192, effective upon passage, July 13, 2011)

SITING COUNCIL

Telecommunications Towers (VETOED)

Legislation adopted this session changes the standard of review for power plants and telecommunications towers seeking a certificate from the Siting Council. The act also limits the circumstances in which the council can approve a tower proposed for installation near a school or commercial day care center. Under the act, the council cannot approve a proposed tower located within 250 feet of these facilities unless (1) the location is acceptable to the municipality's chief elected official or (2) the council finds that the tower will not harm the aesthetics or scenic quality of the neighborhood where they are located.

The act expands the factors the council must consider to grant a certificate for a telecommunications tower by requiring it to examine the latest facility design options intended to minimize aesthetic and environmental impacts. It also requires the council to consider neighborhood concerns.

(PA 11-107, effective July 1, 2011 except for the pre-application consultation and municipal participation account provisions, which are effective upon passage)

Wind Turbines

A new law requires the Siting Council by July 1, 2012 and in consultation with the departments of Public Utility Control and Environmental Protection, to adopt regulations concerning wind turbine siting. The regulations must at least consider (1) setbacks, including tower height and distance from neighboring properties; (2) flicker; (3) a requirement for the developer to decommission the facility at the end of its useful life; (4) different requirements for different size projects; (5) ice throw; (6) blade shear; (7) noise; and (8) impact on natural resources. The regulations must also require a public hearing for wind turbine projects. The new law bars the council from acting on any application or petition for wind turbine siting until the regulations are adopted.

By law, the council can approve proposals for electric generating facilities by (1) granting a certificate of environmental compatibility and public need or (2) issuing a declaratory ruling, depending on the facility's characteristics.

(PA 11-245, effective July 1, 2011)

SOLID WASTE MANAGEMENT

Bottle Bill

A new law allows an authorized agent of a manufacturer who bottles and sells no more than 250,000, 20-ounce or smaller containers of noncarbonated beverages in a calendar year, to (1) apply for an exemption from the bottle redemption law for these beverage containers, and (2) sign the sworn affidavit accompanying the exemption application certifying that the manufacturer bottles and sells 250,000 or fewer of these beverage containers in a calendar year. Prior law required that a manufacturer apply for the exemption and sign the sworn affidavit.

(PA 11-161, effective upon passage, July 13, 2011)

Organic Material Recycling

A new law requires commercial food wholesalers or distributors, industrial food manufacturers or processors, supermarkets, resorts, and conference centers generating an average of at least 104 tons of source-separated organic materials a year to (1) separate the organic materials from non-organic materials and (2) recycle the organic materials at a source-separated organic material composting facility permitted to receive such materials located

within 20 miles of the generation site. The act specifies that this must occur within six months after at least two such facilities capable of accepting the generators' materials are established in the state. The act allows these large generators to comply with the new law by composting the materials on-site or treating it on-site with organic treatment equipment as permitted by law. It requires source-separated organic material composting facilities to report the fees they charge for receiving the materials to the DEP commissioner.

(PA 11-217, effective October 1, 2011)

STATE PARKS

Environmental Conservation Officers

A new law allows sworn environmental protection conservation officers to administer oaths for affidavits, statements, depositions, complaints, or reports made to or by the officers.

(PA 11-74, § 6, effective October 1, 2011)

Facility Improvements

The bond act authorizes \$45 million for FY 12 and \$15 million for FY 13 for alterations, renovations, and new construction at state parks and other recreational facilities, including Americans with Disabilities Act improvements.

(PA 11-57, §§ 2(i) and 21(h), effective July 1, 2011 for FY 12 authorizations and July 1, 2012 for FY 13 authorizations)

Free Lifetime Passes for Certain Veterans

Legislation adopted this year extends a free lifetime pass for state parks, forests, and recreational facilities to any resident who is a disabled wartime veteran, as defined under state or federal law.

(PA 11-68, § 2, effective upon passage, July 8, 2011)

WATER QUALITY

Legislation adopted this year makes many changes to state water quality laws. Among other provisions, it:

1. requires the public health commissioner to consult with the Water Planning Council and develop a water resources list designating water sources needing protection;

2. requires OPM to consider the water resources list and state water supply and resource policies when revising the State Plan of Conservation and Development;
3. requires the Department of Public Health (DPH) to inspect and approve only in-state sources of water bottled for sale or distribution;
4. requires all water bottled in the state to comply with federal quality standards;
5. mandates annual licensure of distributors selling beverages bottled, distributed, or manufactured out-of-state;
6. requires entities seeking to abandon a water source to notify the local health department or district in each town where the source is located;
7. requires DPH to certify certain small water systems, adopt regulations for issuing and renewing these certificates, and allows the DPH commissioner to set application fees for certifying small water systems, treatment plants, and distribution systems activities; and

8. requires laboratories or firms testing private residential wells to report results to DPH under certain circumstances and allows local health directors to require private residential well testing for pesticides and herbicides, among other things, when there are reasonable grounds to suspect their presence in the groundwater.

(PA 11-242, §§ 58-72, effective October 1, 2011 except the provisions concerning the water resources list and State Plan of Conservation and Development are effective upon passage, July 13, 2011)

Clean Water Fund and Pollution Grant Authorizations

The bond act authorizes Clean Water Fund grants totaling \$92.6 million for FY 12 and \$94 million for FY 13 and Clean Water Fund loans totaling \$233.42 million for FY 12 and \$238.36 million for FY 13. The Clean Water Fund provides financial aid to municipalities through grants and loans for the planning, design, and construction of wastewater treatment facilities.

The bond act also expands the permissible uses for a DEP \$16 million authorization to include grants to state and regional planning agencies and municipalities for water pollution control projects.

(PA 11-57, §§ 72-73 and 89, effective July 1, 2011 for FY 12 authorizations and July 1, 2012 for FY 13 authorizations)

Long Island Sound Account

By law, the DMV issues special Long Island Sound number plates to increase public awareness of efforts to restore and protect the Sound. A new law authorizes the DMV commissioner to request an additional \$15 voluntary donation when a motorist renews one of these plates. Ten dollars of every \$15 donation must be placed in a habitat restoration matching subaccount, which the act creates. The subaccount is to be administered by the environmental protection commissioner and must be used for matching federal and private habitat restoration and rehabilitation funds; providing grants to municipalities and nonprofits for restoration and rehabilitation of habitats in the Sound's watersheds; and promoting public habitat restoration, rehabilitation and acquisition outreach within the watershed, among other things. DMV may use the remaining \$5 for its administrative costs.

(PA 11-246, effective upon passage, July 13, 2011)

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