

## STATE OF CONNECTICUT

Substitute Bill No. 5528

General Assembly

February Session, A.D., 1998

### **AN ACT CONCERNING A MODEL RIVER PROTECTION ORDINANCE AND PROTECTION OF RIDGELINES.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. (NEW) The Commissioner of Environmental Protection, in consultation with the Rivers Advisory Committee, shall prepare a model river protection ordinance which may be used by any municipality in this state in adopting ordinances or regulations for the protection of rivers. Such model ordinance may include, but need not be limited to, recommendations for the modification of municipal plans of development and zoning, subdivision, site plan and wetlands regulations as necessary to allow implementation of a river protection ordinance or regulation. Such recommendations may concern tourism, navigation, utility and transportation rights-of-way and water-dependent recreational, industrial, commercial, agricultural and other uses, as well as proposals for specific setbacks from the river, dimensions of new lots and buildings, restrictions on cutting of vegetation, restrictions on earth-moving for mining or other purposes, prohibited activities and regulation of paving and other forms of impervious ground cover. Such plan may also include recommendations for incentives for property owners to protect lands within the river corridor and to develop such lands in a manner that is compatible with resource protection. Such incentives may include tax credits for donation to appropriate parties of open space easements or land development rights and incentives for cluster development.

Sec. 2. Section 8-1aa of the general statutes is repealed and the following is substituted in lieu thereof:

As used in section 8-2:

(1) "Traprock ridge" means Beacon Hill, Saltonstall Mountain, Totoket Mountain, Pistapaug Mountain, Fowler Mountain, Beseck Mountain, Higby Mountain, Chauncey Peak, Lamentation Mountain, Cathole Mountain, South Mountain, East Peak, West Peak, Short Mountain, Ragged Mountain, Bradley Mountain, Pinnacle Rock, Rattlesnake Mountain, Talcott Mountain, Hatchett Hill, Peak Mountain, West Suffield Mountain, Cedar Mountain, East Rock, Mount Sanford, Prospect Ridge, Peck Mountain, West Rock, Sleeping Giant, Pond Ledge Hill, Onion Mountain, The Sugarloaf, The Hedgehog, West Mountains, The Knolls, Barndoor Hills, Stony Hill, Manitook Mountain, Rattlesnake Hill, Durkee Hill, East Hill, Rag Land, Bear Hill, Orenaug Hills;

(2) "AMPHIBOLITE RIDGE" MEANS HUCKLEBERRY HILL, EAST HILL, RAYTHUM HILL, HOAR HILL, SWEETHEART HILL AND ONION HILL IN CANTON;

(3) "RIDGELINE" means the line on a traprock OR AMPHIBOLITE ridge created by all points at the top of a fifty percent slope, which is maintained for a distance of fifty horizontal feet perpendicular to the slope and which consists of surficial basalt geology, identified on the

map prepared by Stone et al., United States Geological Survey, entitled "Surficial Materials map of Connecticut",

(4) "Ridgeline setback area" means the area bounded by (A) a line that parallels the ridgeline at a distance of one hundred fifty feet on the more wooded side of the ridge, and (B) the contour line where a ridge of less than fifty per cent is maintained for fifty feet or more on the rockier side of the slope, mapped pursuant to section 8-2;

(5) "Development" means the construction, reconstruction, alteration, or expansion of a building; and

(6) "Building" means any structure other than (A) a facility as defined in section 16-5oi or (B) structures of a relatively slender nature compared to the buildings to which they are associated, including but not limited to chimneys, flagpoles, antennas, utility poles and steeples.

Sec. 3. Subsection (c) of section 8-2 of the general statutes is repealed and the following is substituted in lieu thereof:

(c) In any municipality where a traprock ridge, as defined in section 8-1aa, OR AN AMPHIBOLITE RIDGE AS DEFINED IN SECTION 8-1aa, is located the regulations may provide for development restrictions in ridgeline setback areas, as defined in said section. The regulations may restrict quarrying and clear cutting, except that the following operations and uses shall be permitted in ridgeline setback areas, as of right: (1) Emergency work necessary to protect life and property; (2) any nonconforming uses that were in existence and that were approved on or before the effective date of regulations adopted under this section; and (3) selective timbering, grazing of domesticated animals and passive recreation.

Approved May 22, 1998

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## **General Statutes of Connecticut**

Revised to 1997 Title 25 - Water Resources, Flood and Erosion Control.

### **CHAPTER 477d: RIVER PROTECTION**

- Sec. 25-102pp. Definition.
- Sec. 25-102qq. Powers and duties of the commissioner.
- Sec. 25-102rr. River protection commissions.
- Sec. 25-102ss. Powers and duties of commission.
- Sec. 25-102tt. Designation of protected river corridor.
- Sec. 25-102uu. Recording of map and filing of plan.
- Sec. 25-102vv. Considerations in certain permit decisions.
- Sec. 25-102ww. Applications affecting Shepaug River and Bantam River.

#### **Sec. 25-102pp. Definition.**

As used in sections 25-102pp and 25-102qq, "protected river corridor" means any river, river segment and adjacent lands deemed worthy of permanent protection, preservation and resource management because of environmental, historic, hydrologic, ecologic, agricultural or recreational qualities.

(P.A. 84-522, S. 1, 8; P.A. 95-333, S. I 1.)

History: P.A. 95-333 deleted references to repealed sections.

### **Sec. 25-102qq. Powers and duties of the commissioner.**

River management and protection program. Advisory committee. (a) The Commissioner of Environmental Protection shall be responsible for state-wide river policy and comprehensive protection of rivers. The commissioner shall: (1) Identify rivers or river segments to be protected, (2) designate protected river corridors and (3) approve, reject or modify river corridor maps and management plans submitted pursuant to sections 25-205 and 25-235. (b) The commissioner may establish a river management and protection program designed to improve the management and protection of the state's rivers. (c) If the commissioner undertakes to establish such a program, he shall establish a River Protection Advisory Committee to assist him in developing the river protection program. The committee shall consist of the following members whose terms shall expire on October 1, 1992: (1) The Commissioners of Public Health, Transportation, Economic and Community Development and Agriculture, the Secretary of the Office of Policy and Management, the director of the Connecticut Historical Commission, and the State Archaeologist, or their designees; and (2) two members representing the business community, two members representing public service companies, seven members representing environmental and recreational organizations, four members representing river protection organizations, one member representing municipalities with a river or river segment within their borders, two members representing regional planning agencies, three members representing related professional practices and one member representing the public, which members shall be appointed by the commissioner. On and after October 1, 1992, the committee's membership shall consist of. (1) The Commissioners of Public Health, Transportation, Economic and Community Development and Agriculture, the Secretary of the Office of Policy and Management, the director of the Connecticut Historical Commission, and the State Archaeologist, or their designees; and (2) one member representing the business community, and one member representing a related professional practice appointed by the Governor; one member representing an environmental or recreational organization, one member representing a river protection organization and one member representing a related professional practice appointed by the president pro tempore of the Senate; one member representing an environmental or recreational organization, one member representing a river protection organization and one member representing a related professional practice appointed by the speaker of the House of Representatives; one member representing an environmental or recreational organization, one member representing a municipality with a river or river segment within its borders and one member representing the business community appointed by the majority leader of the Senate; two members representing an environmental or recreational organization, one member representing a river protection organization and one member representing a public service company appointed by the minority leader of the Senate;

one member representing an environmental or recreational organization, one member representing a public service company and one member representing a regional planning agency appointed by the majority leader of the House of Representatives; one member representing an environmental or recreational organization, one member representing a river protection organization, one member of the public and one member representing a regional planning agency appointed by the minority leader of the House of Representatives. (d) In developing the river protection program, the commissioner, with the assistance of the River Protection Advisory Committee, may: (1) Develop a proposal for a state-wide river management and protection program, which shall include but not be limited to: (A) The coordination of existing protective state authorities as a means of improving river management and protection; (B) the development of any statutory modifications to provide effective regional and interstate cooperation for the development of river management plans; (C) the development of recommendations for river protection for use in regulations of local land use agencies and (D) the development of any other needed protection or management of the state's rivers, as determined by the commissioner; (2) define the river resources to be inventoried and assessed; (3) conduct a state-wide inventory and assessment of the state's rivers; (4) develop a state-wide data base of river resource information to facilitate environmental planning, regulatory and management decisions; (5) develop a river classification system; (6) develop criteria for identifying rivers or river segments for designation as protected rivers and recommended priorities for the management of the rivers or river segments; and (7) develop a program to educate the public on river protection issues and ensure public involvement in the development and implementation of the river protection program.

(P.A.84-522, S.2, 8; P.A. 91-394, S. 1; P.A 93-381,S.9, 39; P.A. 95-250,S.1;95-257. S. 12,21,58; 95-333, S. 12.)

History: P.A. 91-394 added Subsecs. (b), (c) and (d) concerning the river management and protection program and advisory committee; in 1993 "and (2)" was inserted editorially following the second reference to state officials or their designees for consistency; P.A. 93-381 replaced commissioner of health services with commissioner of public health and addiction services, effective July 1, 1993; P.A. 95-250 replaced Commissioner and Department of Economic Development with Commissioner and Department of Economic and Community Development; P.A. 95-257 replaced Commissioner and Department of Public Health and Addiction Services with Commissioner and Department of Public Health, effective July 1, 1995; P.A. 95-333 amended Subsec. (a) to add provisions re the commissioner's involvement in the protection of rivers program and the multiple use rivers program.

#### **Sec. 25-102rr. River protection commissions.**

Section 25-102rr is repealed.

P.A. 84-522, S.3, 8; P.A. 95-333, S. 14.)

#### **Sec. 25-102ss. Powers and duties of commission.**

Section 25-102ss is repealed.

(P.A. 84-522 S. 4,8; P.A. 95-333, S. 14.)

**Sec. 25-102tt. Designation of protected river corridor.**

Factors to be considered by commissioner. Periodic review. Section 25-102tt is repealed.  
P.A. 84-522 S. 5, 8; P.A. 91-394, S. 2; P.A. 95-333 S. 14.)

**Sec. 25-102uu. Recording of map and filing of plan.**

Action on applications to agencies referred to river protection commissions. Exemptions.  
Section 25-102uu is repealed.  
(P.A. 84-522, S. 6, 8; P.A. 85-158; P.A. 95-333, S. 14.)

**Sec. 25-102vv. Considerations in certain permit decisions.**

Section 25-102vv is repealed.  
(P.A. 84-522, S. 7,8; P.A. 86-403, S. 58, 132; P.A. 95-333, S. 14.)

**Sec. 25-102ww. Applications affecting Shepaug River and Bantam River.**

The Shepaug Bantam River Protection Commission shall review and comment on all applications affecting the Shepaug River or the Bantam River, or both, which are received by the inland wetlands agencies of the towns of Litchfield, Morris, Roxbury, Warren and Washington.

(P.A. 90-341, S. 9; P.A. 95-333, S. 13.)

History: P.A. 95-333 deleted reference to repealed Sec. 25-102uu.

**CHAPTER 484: PROTECTED RIVERS**

- Sec. 25-200. Short title: Protected Rivers Act.
- Sec. 25-201. Definitions.
- Sec. 25-202. Eligible river corridors.
- Sec. 25-203. Establishment of river committees.
- Sec. 25-204. Resource inventory.
- Sec. 25-205. Approval of river corridor protection plan.
- Sec. 25-206. Consistency of state and municipal land use laws and plans with designated river corridor protection plan.
- Sec. 25-207. Structures and uses existing at time of designation of river corridor.
- Sec. 25-208. Acquisition of land within designated river corridor by state or municipality.
- Sec. 25-209. Commissioner authorized to provide guidance re river corridor protection plans.

- Sec. 25-210. Development of hydropower and maintenance of.-railroad rights-of-way within protected river corridors.
- Secs. 25-211 to 25-229. Reserved for future use.

**Sec. 25-200. Short title: Protected Rivers Act.**

Sections 25-200 to 25-210, inclusive, shall be known and may be cited as the "Protected Rivers Act".

(P.A. 94-150, S. 1.)

**Sec. 25-201. Definitions.**

For the purposes of sections 25-200 to 25-210, inclusive: (1) "Approved map" means a map approved by the commissioner pursuant to section 25-205; (2) "Approved river corridor protection plan" means a river corridor protection plan approved by the commissioner pursuant to section 25-205; (3) "Clear cutting" means removal of all standing woody vegetation greater than one inch diameter at breast height within a designated river corridor; (4) "Commissioner" means the Commissioner of Environmental Protection or his agent; (5) "Designation" means designation, by act of the General Assembly, of a river corridor for protection and preservation in accordance with an approved river corridor protection plan and the provisions of sections 25-200 to 25-210, inclusive; (6) "Designated river corridor" means that portion of a river corridor defined on a map prepared in accordance with section 25-204 and which has been designated by the General Assembly pursuant to sections 25-200 to 25-210, inclusive; (7) "Eligible river corridor" means a river corridor which is included on the list adopted by the commissioner pursuant to section 25-202; (8) "Local drainage basin" means a local drainage basin referenced on a map entitled "Natural Drainage Basins of Connecticut", published by the Department of Environmental Protection, 198 1; (9) "Member municipality" means a municipality which is a member of a river committee established pursuant to section 25-203; (10) "Major state plan" means the master transportation plan adopted pursuant to section 13b- 1 5, the plan for development of outdoor recreation adopted pursuant to section 22a-2 1, the solid waste management plan adopted pursuant to section 22a-21 1, the state-wide plan for the management of water resources adopted pursuant to section 22a-352, the state-wide environmental plan adopted pursuant to section 22a-8, the plan for the disposal of dredged material for Long Island Sound, the historic preservation plan adopted under the National Historic Preservation Act, as amended, the state-wide facility and capital plan adopted pursuant to section 4b-23, the water quality management plan adopted under the federal Clean Water Act, the marine resources management plan, the Connecticut hazardous waste management plan adopted pursuant to section 22a- I 34cc, the plan for managing forest resources, the wildlife management plans and the salmon restoration plan; (I 1) "Person" means "person" as defined in section 22a-2; (12) "River corridor" means any river, river segment or river system, together with its floodplains, wetlands and uplands, contributing overland runoff to such river, river segment or river system; (I 3) "River committee" means a river committee established pursuant to section 25-203; (14) "River system" means a river, its tributaries and any lands

draining into such river or its tributaries; (I 5) "Secretary" means the Secretary of the Office of Policy and Management or his agent; (I 6) "State rivers assessment data base" means the state-wide assessment of the state's rivers prepared by the commissioner pursuant to subdivision (3) of subsection (d) of section 25-102qq; (I 7) "State plan for conservation and development" means the state plan for conservation and development prepared pursuant to part I of chapter 297; (I 8) "Subregional drainage basin" means a subregional drainage basin as depicted on a map entitled "Natural Drainage Basins of Connecticut", published by the Department of Environmental Protection, 198 1; and (I 9) "Water-dependent use" means a use which, by its nature or function, requires direct access to, or location in or immediately adjacent to, water and which therefore cannot be located upland and shall include such recreational uses as riverside trails and bicycle paths.

(P.A. 94-150, S. 2.)

#### **Sec. 25-202. Eligible river corridors.**

(a) The commissioner, in accordance with the provisions of this section, shall adopt a list of rivers flowing within or through or bordering this state which, together with the surrounding land, the commissioner considers appropriate for designation as a protected river corridor. Such rivers shall include those with surrounding lands which are substantially undeveloped and which rivers or lands have exceptional value due to their natural, archaeological, scenic or recreational resources. (b) A river corridor may be included on such list if the commissioner determines that (1) the river corridor is substantially undeveloped or rural in character, (2) the river corridor has been highly rated in the state rivers assessment data bank for its natural, archaeological, scenic or recreational values and (3) existing uses of the river corridor are compatible with preservation of such values. (c) After compiling a draft list of eligible river corridors, the commissioner shall publish in a newspaper having a substantial circulation in the affected area notice of thirty days opportunity to submit comments to the commissioner regarding the list, and of the time and place of a public hearing. Such notice shall be published at least thirty days prior to the date of the hearing. After considering all comments made, the commissioner shall revise the list as appropriate and adopt such revised list, and shall furnish a copy thereof to the chief elected official of each municipality in the affected area. The commissioner may subsequently add or delete river corridors from the list in accordance with the procedures specified in this section.

(P.A. 94-150, S.3.)

#### **Sec. 25-203. Establishment of river committees.**

(a) The commissioner shall establish a river committee to plan for designation and protection and preservation of eligible river corridors and to perform such other functions as are specified in sections 25-200 to 25-210, inclusive, if (1) one or more municipalities within any such corridor request such action or (2) the legislative body of any such municipality provides for a referendum at a regular election held in such municipality on the question of whether such municipality shall

request the commissioner to establish a river committee and a majority of the electors in such municipality approve such action. A request under this subsection shall be accompanied by a list of persons who may appropriately serve on such committee. Such persons shall include (A) an official representative of each requesting municipality, (B) all persons or representatives thereof who have such a legal or management interest in or responsibility for the river corridor that the river committee could not properly function without their participation, and (C) persons having substantial relevant expertise in the areas of engineering or land or water use management. The commissioner shall appoint the members of the river committee from among the persons included on such list and from among such other persons as he deems necessary or appropriate to carry out the purposes of sections 25-200 to 25-210, inclusive, including at least one representative each of the Departments of Environmental Protection and Health and Addiction Services. Vacancies on the river committee shall be filled in the same manner as original appointments. (b) At the request of a municipality, the commissioner may add such municipality to a river committee. A request under this section shall be accompanied by a list of prospective committee members as specified in subsection (a) of this section. (c) Prior to transacting any official business, a river committee shall establish written procedures for conducting business. Such procedures shall be open to public inspection.

(P.A. 94-150, S. 4.)

#### **Sec. 25-204. Resource inventory.**

Statement of objectives. Map. Notice and hearing. River corridor protection plan. (a) A river committee shall prepare a written inventory of all resources within the local drainage basin of the river for which the committee was established. Such resources shall include fish and wildlife; endangered and threatened species, species of special concern and essential habitat identified by the commissioner pursuant to chapter 495; tidal and inland wetlands; unique natural phenomena; scenic areas; forest lands; agricultural lands, as defined in section 22-26bb and which are identified by the Commissioner of Agriculture in an inventory which said commissioner shall provide to the committee; and archaeological and other historic resources. The inventory shall specify which such resources render the river corridor exceptionally valuable and suitable for designation. In addition, the inventory shall identify existing uses within the river corridor, including agriculture, public and private water supply, power generation, waste assimilation, residential, commercial, industrial uses, recreation and water-based transportation and other water-dependent uses, for the purpose of determining whether any such uses are compatible with protection and preservation of the river corridor's resources. In preparing the inventory a river committee shall utilize all relevant available information, including the state rivers assessment data base and wetland maps prepared pursuant to sections 22a30 and 22a-42a. (b) After completing an inventory pursuant to subsection (a) of this section, a river committee shall prepare a written statement identifying those resources in the local drainage basin of the river for which the committee was established, particularly those resources which ranked high in the state rivers assessment data base, which should be protected or preserved and which degraded areas in such basin should be restored and preserved for their resource value. Such statement shall also identify any existing uses which are compatible with protection and preservation of such resources. Such statement shall be known as



the river committee's statement of objectives. (c) After completing an inventory prepared pursuant to subsection (a) of this section and a statement of objectives prepared pursuant to subsection (b) of this section, the river committee shall prepare a map consistent with such inventory, which defines the boundaries of the river corridor to be preserved under the river corridor protection plan prepared pursuant to subsection (f) of this section. (d) Upon completion of an inventory, statement of objectives and map pursuant to subsections (a), (b) and (c) of this section, the river committee shall publish in a newspaper having substantial circulation in the affected area at least thirty days' notice of a public hearing to be held in one of the municipalities represented on the committee. Such hearing shall provide an opportunity for public comment regarding such documents and the committee shall also provide for the submission of written comments to such committee regarding such documents. After considering all comments received, the river committee shall revise said documents as appropriate and submit them to the commissioner and the secretary. Within ninety days of receiving the revised documents, the commissioner shall provide written comments to the river committee and shall furnish a copy of such comments to the secretary. The secretary shall coordinate a review of the revised documents by all other relevant state agencies and regional planning organizations established pursuant to section 8-3 la and, within ninety days of receiving such revised documents, shall provide written comments thereon to the river committee and shall furnish a copy of such comments to the commissioner. After considering all comments received from the commissioner and the secretary, the river committee shall adopt an inventory, statement of objectives and map and shall publish, in a newspaper having substantial circulation in the affected area, notice of the adoption of the inventory, statement of objectives and map. (e) After adoption pursuant to subsection (d) of this section of an inventory, statement of objectives and map, the river committee shall prepare a report on all federal, state and municipal laws, plans, programs and proposed activities which may affect the river corridor defined in such map. Such laws shall include regulations adopted pursuant to chapter 440 and zoning, subdivision and site plan regulations adopted pursuant to section 8-3. Such plans shall include plans of conservation and development adopted pursuant to section 8-23, the state plan for conservation and development, water utility supply plans adopted pursuant to section 2532d, coordinated water system plans adopted pursuant to section 25-33h, the comprehensive energy plan adopted pursuant to section 16a-35m, municipal open space plans, the commissioner's fish and wildlife plans, the master transportation plan adopted pursuant to section 13b- 1 5, plans prepared by regional planning agencies pursuant to section 8-3 la, and publicly-owned wastewater treatment facility plans. State and regional agencies shall, within available resources, assist the river committee in identifying such laws, plans, programs and proposed activities. The report to be prepared pursuant to this section shall identify any conflicts between such federal, state, regional and municipal laws, plans, programs and proposed activities and the river committee's objectives for river corridor protection and preservation as reflected in the statement of objectives. If conflicts are identified, the river committee shall notify the applicable state, regional or municipal agencies and such agencies shall, within available resources, attempt with the river commission to resolve such conflicts. (f) (1) After adoption of an inventory, statement of objectives and map pursuant to subsection (d) of this section, the river committee shall prepare a river corridor protection plan. The river committee shall publish in a newspaper having a substantial circulation in the affected area at least thirty days' notice of a public hearing to be held in one of the municipalities represented on the committee. Such hearing shall provide an opportunity for public comment regarding the plan and the committee shall also provide for the

submission of written comments on the plan. The committee shall send a copy of such notice to the chief elected official of each municipality located wholly or partially in the subregional drainage basin in which the subject river corridor is located and shall send such notice by certified mail, return receipt requested, to each person who owns property adjacent to the river segment which is the subject of the river corridor proposed for designation under section 25-205. After considering all comments received, the river committee shall revise said documents as appropriate and submit them to the commissioner and the secretary. Within ninety days of receiving the revised documents, the commissioner shall provide written comments to the river committee and shall furnish a copy of such comments to the secretary. The secretary shall coordinate a review of the revised documents by all other relevant state agencies and regional planning organizations established pursuant to section 8-3 1a and within ninety days of receiving such documents shall provide written comments thereon to the river commission and shall furnish a copy of such comments to the commissioner. After considering all comments received from the commissioner and the secretary, the river committee shall revise the river corridor protection plan as appropriate and shall publish in a newspaper having a substantial circulation in the affected area notice of the availability of the response to comments and the revised plan. (2) A river corridor protection plan shall set forth a strategy for achieving the protection and preservation objectives contained in the statement of objectives adopted pursuant to subsection (d) of this section and for reconciling existing incompatible uses with resource preservation. Such plan shall make recommendations for the modification of municipal plans of conservation and development and zoning, subdivision, site plan and wetlands regulations as necessary to allow implementation of the river corridor protection plan and to assure that each member municipality similarly preserves that portion of the river corridor under its Jurisdiction. Such plan shall recommend that applicable municipal regulations be modified to prohibit mining, moving of earth and dredging, other than dredging to maintain existing uses, within the river corridor. Such plan may set out guidelines for disturbing vegetation within the river corridor and identify areas where clear-cutting should be prohibited; may recommend municipal adoption of programs to minimize pollution or development of the river corridor and maximize voluntary private preservation efforts; shall consider land and water uses which may be compatible with river protection, including hydropower, agriculture, recreation and waste discharges and may recommend appropriate revisions of any state or regional plans of development or municipal plans of conservation and development or open space plans. Such plan shall include a time schedule for state and municipal implementation of such regulatory modifications and programs. (3) A river corridor protection plan shall include the results of an instream flow study if the commissioner deems it necessary. An instream flow study shall be conducted in accordance with the commissioner's guidance and shall document water flow in the river corridor for the purpose of determining whether there is sufficient flow to allow withdrawals of water consistent with the resource protection and preservation objectives of the river corridor protection plan.

(P.A. 94-150, S. 5; P.A. 95-335, S. 24, 26; P.A. 96-180, S. 94, 166.)

History: P.A. 95-335 amended Subsecs. (e) and (f) to change "plan of development" to "plan of conservation and development", effective July 1, 1995; P.A. 96-180 amended Subsec. (f) to correct a statutory reference, effective June 3, 1996.

## **Sec. 25-205. Approval of river corridor protection plan.**

Designation of protected river corridor by General Assembly. (a) A river corridor protection plan adopted by a river committee pursuant to section 25-204 shall be submitted to the legislative bodies of the towns participating in such committee for their approval. Following the approval of all of such legislative bodies, a river committee may apply to the commissioner for approval of a map adopted pursuant to subsection (d) of f) section 25-204 and a river corridor protection plan prepared pursuant to subsection ( of said section. An application under this section shall include, in addition to such map and plan, the inventory and statement of objectives adopted pursuant to subsection (d) of section 25-204, the report prepared pursuant to subsection (e) of said section and the response to comments prepared pursuant to subsection (f) of said section. The river committee shall submit a copy of the application to the secretary. (b) In deciding whether to approve such a map and plan, the commissioner shall consider: (1) Whether such inventory, statement of objectives, map, response to comments and plan were completed in accordance with the requirements of section 25-204, (2) whether the inventory accurately identifies all resources, especially those of exceptional value, in the local drainage basin, (3) whether the river corridor protection plan would, if implemented, protect and preserve such resources particularly those resources of exceptional value and those resources ranked high in the state rivers assessment data base, (4) whether such plan would, if implemented, reconcile existing incompatible uses with resource protection and preservation and allow for uses which are compatible therewith, (5) whether the river corridor identified in the map prepared pursuant to subsection (c) of section 25-204 comprises sufficient river area and shoreland to implement the river protection plan, (6) whether the river committee adequately responded to public comments on the river corridor protection plan, (7) the comments submitted to the secretary pursuant to subsection (d) of section 25-204 and (8) other information the commissioner deems relevant. (c) If the secretary finds that any provision of a river corridor protection plan submitted to him in accordance with subsection (a) of this section conflicts with a program, policy or proposed activity of any state agency, he shall act in coordination with the commissioner, the affected state agency and any other interested persons to attempt to resolve the conflict. If the secretary recommends modifications to the map or the river corridor protection plan to resolve any such conflicts, the commissioner shall not approve the plan until it has been revised in accordance with the secretary's recommendations. (d) The commissioner's approval of a map and river corridor protection plan shall be in writing and shall be filed with the chief elected official of each member municipality and the river committee. If the commissioner denies such approval, the river committee may submit a revised map or river corridor protection plan. (e) Any revision to a river corridor protection plan approved or rejected by the commissioner pursuant to this section shall be prepared and submitted in accordance with the requirements of sections 25-200 to 25-210, inclusive, for the original submittal provided that approval of the General Assembly shall not be required for revision of a plan for a river corridor previously designated pursuant to this section. A revision of an approved river corridor protection plan shall not be effective until such revision has been approved by the commissioner in accordance with the provisions of this section. (f) The commissioner may periodically review an approved map and approved river corridor protection plan and recommend revisions. The river committee shall review an approved map and plan at least once every five years after their approval, and shall revise such map or plan as appropriate and in accordance with the requirements of section 25-204. (g) Upon approval of a map and river corridor protection plan

pursuant to this section, the commissioner shall recommend to the joint standing committee of the General Assembly having cognizance of matters relating to the environment that the General Assembly enact a law designating the river corridor which is the subject of such map and plan and providing for the protection and preservation of such corridor in accordance with the provisions of sections 25 -200 to 25 -210, inclusive. At any time prior to designation of the river corridor by law, any municipality, by vote of its legislative body, may withdraw from the river committee and, after such designation, the provisions of sections 25-200 to 25-210, inclusive, shall not apply to such municipality. A vote for withdrawal shall not be taken until after a public hearing on a proposed withdrawal 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 given in a newspaper or newspapers having a substantial circulation in such municipality at least fifteen days before such hearing. The map and river corridor protection plan shall be filed for public inspection in the office of the town or city clerk of the municipality holding said hearing at least ten days before such hearing.

(P.A. 94-150, S. 6.)

**Sec. 25-206. Consistency of state and municipal land use laws and plans with designated river corridor protection plan.**

Authority of Connecticut Siting Council and Department of Environmental Protection re activities within designated river corridors. (a) Within thirty days of designation of a river corridor, the river committee shall file the approved map and approved river corridor protection plan in the office of the town clerk of each member municipality. (b) Within one year of designation of a river corridor, each member municipality shall amend its zoning, subdivision, site plan and wetlands regulations, its municipal plan of conservation and development and any other applicable laws or plans in accordance with the recommendations of the approved river corridor protection plan. The river committee shall assist member municipalities in adopting any such amendments, and on behalf of a member municipality may petition the commissioner for an extension of the one-year deadline specified in this subsection for amending applicable laws. Before adopting any such amendment, a member municipality shall submit the proposed amendment to the commissioner, and such proposed amendment shall not be adopted unless the commissioner finds in writing that it is consistent with the approved river corridor protection plan. (c) After a member municipality has completed amending applicable laws and plans pursuant to subsection (b) of this section, no zoning variance or other exception to any such amended law shall be granted unless the zoning board of appeals for such municipality, in consultation with the river committee, finds in writing that it is compatible with the approved river corridor protection plan. (d) (1) Every major state plan other than the state plan for conservation and development, to the extent that it affects a designated river corridor, shall be consistent with the approved river corridor protection plan for such corridor, and any state plan which is inconsistent with such approved river corridor protection plan shall be modified accordingly. Such modifications shall be made in consultation with the commissioner at the next scheduled revision of such plan. (2) If the commissioner finds that the state plan for conservation and development is inconsistent with an approved river corridor protection plan for a designated river corridor, he shall apply to the secretary for a revision pursuant to section 16a-32. (3) Every regional plan of development

adopted pursuant to section 8-35a, to the extent that it affects a designated river corridor, shall be consistent with the approved river corridor protection plan for such corridor and any regional plan of development which is inconsistent with such approved river corridor protection plan shall be modified accordingly. Such modifications shall be made in consultation with the commissioner.

(4) Every municipal plan of conservation and development adopted pursuant to section 8-23, to the extent that it affects a designated river corridor, shall be consistent with the approved river corridor protection plan for such corridor and any municipal plan of conservation and development which is inconsistent with such approved river corridor protection plan shall be modified accordingly. Such modifications shall be made in consultation with the commissioner.

(5) The commissioner may notify any applicable federal agency of the designation of a river corridor and may take any other appropriate action to assure consideration of such designation in federal programs or activities. (e) (1) Neither the commissioner nor the Connecticut Siting Council shall issue a permit or other approval for any activity within a river corridor designated under section 25-205 unless the commissioner or the council, as the case may be, determines that such activity would not adversely affect any of the resources protected pursuant to the plan for such corridor. (2) A member municipality may submit written testimony to the commissioner and may appear by right as a party to any hearing before the commissioner concerning any permit or other license to be issued by the commissioner for an activity proposed within a designated river corridor and may appeal any decision of the commissioner concerning such permit or other license to the superior court in accordance with the provisions of section 4-183.

(P.A. 94-150, S. 7; P.A. 95-335 S. 25, 26.)

History: P.A. 95-335 amended Subsec. (b) and Subdiv. (4) of Subsec. (d) to change "plan of development" to "plan of conservation and development", effective July 1, 1995.

### **Sec. 25-207. Structures and uses existing at time of designation of river corridor.**

For purposes of sections 25-200 to 25-210, inclusive, any structure or related facility including, but not limited to, a parking lot, septic system, pool or surfaced area, including, but not limited to, a paved, bricked, graveled walk or driveway, or a lawn or other landscaped area or a waste discharge authorized under chapter 446k, which exists within a designated river corridor on the date of designation, or agricultural land used for any agricultural purpose, as defined in section 1-1q, identified by the Commissioner of Agriculture in the inventory provided to the committee pursuant to section 25-204, including land reserved for crop rotation, may be maintained as such provided if, on or after such date of designation, any such structure, related facility, surfaced or landscaped area or agricultural land is degraded, damaged or destroyed, it may be replaced or restored without regard to the provisions of sections 25-200 to 25-210, inclusive, only if there is no significant change in its location, dimensions or elevations. Any permitted activities, authorized under title 22a, which exists within a designated river corridor on the date of designation may be reauthorized under said chapter without regard to the provisions of sections 25-200 to 25-210, inclusive. Land reserved for crop rotation shall not include "forest land" as defined in section 12-107b.

(P.A. 94-150, S. 8)

**Sec. 25-208. Acquisition of land within designated river corridor by state or municipality**

(a) For the purpose of preserving or protecting a designated river corridor, the commissioner is authorized to acquire real property or any interest therein within such corridor. Such acquisition may be by purchase, gift or devise. The commissioner is authorized to accept any gift or bequest of money or other personal property to be used to acquire such real property or interest therein or to meet expenses involved in maintaining such real property. Such funds shall be held by the State Treasurer to be used and expended under the direction of the commissioner. (b) For the purposes of preserving or protecting a designated river corridor, a municipality may acquire real property, or any interest therein, within such corridor. Such acquisition may be by purchase, gift or devise. Such municipality is authorized to accept any gift or bequest of money or other personal property to be used to acquire such real property or interest therein, or to meet expenses involved in maintaining such real property.

(P.A 94-150 S. 9.)

**Sec. 25-209. Commissioner authorized to provide guidance re river corridor protection plans.**

The commissioner may, within available funds, issue written guidance for development of a river corridor protection plan. Such guidance may address legal means for preserving land and water resources.

(P. A. 94-150, S. 10.)

**Sec. 25-210. Development of hydropower and maintenance of railroad rights-of-way within protected river corridors.**

Nothing in sections 25-200 to 25-210, inclusive, and subsection (a) of section 13a-94, shall be construed to limit or preclude the development of hydropower except where in the commissioner's judgment, such development is incompatible with the applicable river corridor protection plan or to limit or preclude the maintenance of railroad rights-of-way for fire prevention purposes.

(P.A. 94-150, S. 12.)

**Secs. 25-211 to 25-229. Reserved for future use.**