
OLR Bill Analysis

sHB 5334

AN ACT CONCERNING RIPARIAN AREAS.

SUMMARY

This bill makes various changes to the Inland Wetlands and Watercourses Act (IWWA). The IWWA requires municipalities to regulate activities in inland wetlands and watercourse areas within their boundaries through an inland wetlands agency or by empowering another board or commission to carry out its responsibilities. The Department of Energy and Environmental Protection (DEEP) has the regulatory authority over state actions in these areas and for municipalities without an inland wetlands agency.

Principally, the bill:

1. requires anyone proposing a regulated activity in a wetland or watercourse to demonstrate to the inland wetlands agency that the proposed activity will not have an adverse impact on the wetland or watercourse;
2. expands the factors the DEEP commissioner and inland wetlands agencies must take into account when regulating, licensing, and enforcing activities under the IWWA;
3. adds removing natural vegetative cover in riparian areas (land bordering a watercourse) to the list of regulated activities that generally require a permit under the IWWA, and modifies whether certain activities that involve removing or conserving natural vegetative cover are considered to be “as of right” or “nonregulated”; and
4. makes conforming and technical changes.

EFFECTIVE DATE: October 1, 2026

REGULATED ACTIVITIES

Permit Approvals

By law, anyone proposing a regulated activity in an inland wetland or watercourse must apply for a permit from the applicable inland wetlands agency. The bill requires applicants to demonstrate to the inland wetlands agency that their proposed activity will not have an adverse impact on any wetland or watercourse.

Factors DEEP and Inland Wetlands Agencies Must Consider

Existing law requires DEEP to consider certain factors when regulating, licensing, and enforcing activities under the IWWA, and inland wetlands agencies must consider these same factors when granting, denying, or limiting a permit for a regulated activity. Under current law, DEEP and inland wetlands agencies must consider the proposed activity's impact on the environment, feasible and prudent alternatives that would have less environmental impact, and several other factors. The bill requires them to also consider the proposed activity's impact on:

1. public drinking water supply areas delineated in the Department of Public Health's Public Water Supply Watershed Map, other than aquifer protection areas (generally, protected sand and gravel aquifers);
2. cold water habitat watercourses delineated in DEEP's Cold Water Stream Habitat Map;
3. watercourses that would decrease resilience to severe storms and extreme weather events or increase water temperatures or drought extremes, including by removing natural vegetative cover; and
4. for the removal of natural vegetative cover (as described below), the protection of watercourses and wetlands by filtering, absorbing, reducing, or otherwise mitigating pollutants, such as nutrients and sediment, and regulating temperature.

Regulated Activities Occurring Outside Wetlands and Watercourses

By law, inland wetlands agencies can regulate certain activities that occur outside wetlands and watercourses if they might impact wetlands or watercourses. But they cannot deny applications for these regulated activities, or make them conditional, on the basis that they impact or affect aquatic, plant, or animal life unless the proposed activity will likely impact or affect the physical characteristics of the wetlands or watercourses, including the aquatic, plant, or animal life and habitats there.

The bill authorizes agencies to reasonably consider that adverse impacts or effects on the physical characteristics of the wetlands or watercourses (including their aquatic, plant, or animal life and habitats) will likely result from (1) removing natural vegetative cover or (2) increasing impervious coverage.

Removal of Natural Vegetative Cover in a Riparian Area

Under current law, regulated activities are generally those that remove or deposit material or that obstruct, build in, alter, or pollute a wetland or watercourse (other than certain specified activities). The bill includes the removal of natural vegetative cover in a riparian area as a regulated activity, meaning anyone seeking to do so must get a permit. Under the bill, “natural vegetative cover” is naturally occurring and adapted shrubs, trees, and other plants, but not (1) lawns or (2) any plant the Invasive Plants Council determines to be invasive or potentially invasive.

The bill also explicitly includes vegetation as a type of material that cannot be removed or deposited in a wetland or watercourse without a permit. Under current law, material means any substance, solid or liquid, organic or inorganic, including soil, sediment, and mud, among other things.

OPERATIONS AND USES ALLOWED “AS OF RIGHT”

By law, certain operations in and uses of wetlands and watercourses are permitted “as of right.” With certain exceptions, these include,

among other things, (1) certain agricultural activities; (2) activities DEEP does for restoration, enhancement, or mosquito control; (3) boat anchoring or mooring; and (4) uses incidental to the enjoyment and maintenance of residential property.

The bill expands these as of right operations and uses to include:

1. conserving soil or natural vegetative cover, including the re-vegetation of riparian areas with native vegetation and the removal of invasive species;
2. removing vegetation and trees as necessary for road construction or the erection of buildings directly related to farming operations;
3. placing or installing materials needed for road construction or the erection of buildings directly related to farming operations, including filling wetlands or watercourses if the filling is part of a conservation plan approved by the local conservation district; and
4. removing natural vegetative cover for anchoring or mooring boats if it unreasonably impedes access to water for water-dependent uses (any use or facility that requires direct access to an inland watercourse and cannot be reasonably located inland, for example, marinas, recreational and commercial fishing and boating facilities, and water-based recreational uses).

The bill also:

1. excludes the removal of natural vegetative cover within 10 feet of any watercourse from the types of uses incidental to the enjoyment and maintenance of residential property that are allowed as of right; and
2. expands the current as of right use for drainage pipe maintenance on residentially zoned property that does not contain hydrophytic vegetation to also include culvert maintenance on this property.

NONREGULATED ACTIVITIES

The IWWA allows certain activities in areas under its jurisdiction as “nonregulated uses” if they do not disturb the natural and indigenous character of the area by removing or depositing material, altering or obstructing water flow, or polluting. Examples include conservation of natural resources, outdoor recreation, and dry hydrant installation. The bill expands the nonregulated conservation uses to include conserving natural vegetative cover, including the re-vegetation of riparian areas with native vegetation and the removal of invasive species. (The bill does not define native vegetation.)

BACKGROUND

Inland Wetlands and Watercourses

By law, inland wetlands are land areas that consist of any of the soil types designated as poorly drained, very poorly drained, alluvial, and floodplain by the U.S. Department of Agriculture Natural Resources Conservation Service’s National Cooperative Soils Survey, which includes submerged land, but not land bordering or lying beneath tidal waters. “Watercourses” are, in general, 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 in, flow through, or border the state or any portion of it (CGS § 22a-38).

Under the IWWA, municipalities may regulate activities in areas that are likely to impact or affect wetlands or watercourses, commonly referred to as “upland review areas,” buffers, or setbacks. These buffers vary in size across municipalities.

Enforcement

State law permits municipal inland wetlands agencies, if they determine that a person is violating the IWWA or the associated local ordinance, to issue cease-and-desist orders, impose civil fines of up to \$1,000 per offense, or ask a court to issue certain orders or assess penalties. Higher penalties apply for willful or knowing violations (CGA § 22a-44).

COMMITTEE ACTION

Environment Committee

Joint Favorable Substitute

Yea 23 Nay 11 (03/13/2026)