



State of Connecticut -- Dept. of Environmental Protection  
Gina McCarthy, Commissioner  
www.ct.gov/dep

Municipal Inland Wetland Commissioners Training Program  
Segment III - October 2007

Mashantucket Pequot Tribal Nation's Environmental Management  
and Wetland Mitigation

**CONNECTICUT'S MUNICIPAL INLAND WETLANDS AGENCY  
AUTHORITY TO REQUIRE MITIGATION**

**Steven F. Tessitore**

I. Connecticut's Inland Wetlands and Watercourses Act (IWWA)

A. *Factors for consideration... - Section 22a-41(a)(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;"

1. This section provides municipal inland wetlands agencies with the authority to consider mitigation

2. No statutory definition of "mitigation". Based on Connecticut General Statutes section 1-1(a) if a word is not defined in the Act or other statutes, then use commonly understood dictionary definition

a. "Mitigate" is: To make or become less severe or intense\*

3. (C) is often referred to as "compensatory mitigation"

B. *... Permits... - Section 22a-42a(d)(1):* "... In granting a permit the inland wetlands agency, or its agent, may grant the application as filed or grant it upon other terms, conditions, limitations or modifications of the regulated activity which are designed to carry out the policy of sections 22a-36 to 22a-45, inclusive. Such terms may include any reasonable measures which would mitigate the impacts of the regulated activity and which would (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....;"

1. This section provides municipal inland wetlands agencies with the authority to grant permits and grant permits with conditions that relate to mitigation
- C. Connecticut's Inland Wetlands agencies must follow statutorily mandated order of priority when considering mitigation
1. Restore: To bring back into existence or use; to bring back to an original state \*
    - a. Example: a wetland that has been filled in over time due to poor stormwater management can have the sediment removed and plantings installed to bring the wetland back to its original state
    - b. Often interchangeable with enhancement
  2. Enhance: To increase or make greater, as in value, beauty, or reputation \*
    - a. Example: an existing wetland can have native plantings installed and various habitat management techniques occur to make more favorable habitat for a certain species thereby increasing its value for that species and increasing its aesthetic beauty
    - b. Often interchangeable with restoration
  3. Create: To bring into being; to give rise to \*
    - a. Example: A wetland is designed and placed in an upland area to create habitat where no wetland previously existed
    - b. Creation is not the same as conversion
    - c. Creation is the most uncertain endeavor and therefore the lowest statutory priority

D. Federal law regarding mitigation

1. Connecticut's municipal inland wetlands agencies DO NOT implement federal law, however, applicants may need federal/state permits in addition to local permits and therefore may be required to design mitigation projects to meet the standards of such federal/state law
  - a. Processing an application for federal 404/401 permit programs requires that the proposal be reviewed using a specific "chain" of consideration in the following priority: avoid, mitigate, compensate

- i. Under federal permitting mitigation involves not only restoration, enhancement and creation but can involve property preservation

\* As per Webster's II New Riverside University Dictionary