

# Index

## **ABATEMENT**

Public nuisance, failure by municipality as unreasonable conduct, § 6:13

## **ABSURD CONSEQUENCES**

Interpretation to avoid, § 3:3

## **ADMINISTRATIVE AGENCIES**

Interpretations, deference to, § 3:9

Jurisdictional aspects of § 22a-16 actions, standing against agency without environmental jurisdiction, § 5:21

State Administrative Agency, Notice of Intervention, form, § 11:3

## **ADMINISTRATIVE AGENCY DECISIONS**

Judicial Proceedings. Section 22a-19 Intervention in, this index

## **ADMINISTRATIVE PROCEDURES**

Generally. Powers of the Court, this index

## **ADMINISTRATIVE PROCEEDINGS**

Intervention

Administrative Proceedings, Section 22a-19 Intervention in, this index

Notice of Intervention, Administrative Appeal, form, § 11:5

Remand to, § 10:12

## **ADMINISTRATIVE PROCEEDINGS, SECTION 22A-19 INTERVENTION IN**

Generally, § 7:1-7:26

Administrative proceedings, generally, § 7:2

Agency consideration

Generally, § 7:18-7:26

Alternatives, § 7:23, 7:25, 7:26

Burden of proof on alternatives, § 7:23

Case law, § 7:19-7:22, 7:24

Finding on alternatives, requirement of, § 7:26

Lack of alternatives, § 7:25

Requirement of finding on alternatives, § 7:26

Two-step inquiry, § 7:19-7:22

Alternatives, agency consideration, § 7:23, 7:25, 7:26

Assumption of party status, verified petition, § 7:6

Bob Pon-Alternatives-Quarry Knoll II Corp. v. Planning & Zoning Commission,  
§ 7:24

Burden of proof on alternatives, agency consideration, § 7:23

Burton v. Dillman, § 7:10

Case law

Agency consideration, § 7:19-7:22, 7:24

CONNECTICUT ENVIRONMENTAL PROTECTION ACT

**ADMINISTRATIVE PROCEEDINGS, SECTION 22A-19 INTERVENTION  
IN—Cont'd**

Case law—Cont'd

Bob Pon-Alternatives-Quarry Knoll II Corp. v. Planning & Zoning Commission, § 7:24

Burton v. Dillman, § 7:10

Connecticut Fund for the Environment, Inc. v. Stamford, § 7:8

Connecticut Post Ltd. Partnership v. South Central Connecticut Regional Council of Governments, § 7:11

Gardiner v. Conservation Commission, § 7:20, 7:21

Keiser v. Zoning Commission, § 7:14

Nizzardo v. State Traffic Commission, § 7:12

Pathways, Inc. v. Planning & Zoning Commission, § 7:13

Post-Gardiner two-step inquiry cases, § 7:21

Red Hill Coalition, Inc. v. Town Plan & Zoning Commission, § 7:9

River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission, § 7:22

Class of potential intervenors, § 7:16

Connecticut Fund for the Environment, Inc. v. Stamford, § 7:8

Connecticut Post Ltd. Partnership v. South Central Connecticut Regional Council of Governments, § 7:11

Content of verified petition, § 7:4

Finding on alternatives requirement, agency consideration, § 7:26

Gardiner v. Conservation Commission, § 7:20, 7:21

Interests of intervenor, nature of, § 7:17

Intervenors, generally, § 7:15-7:17

Judicial review of administrative proceedings, § 8:2

Jurisdiction of administrative agency, § 7:7-7:14

Keiser v. Zoning Commission, § 7:14

Lack of alternatives, agency consideration, § 7:25

Licensing proceedings, § 7:2

Nature of intervenor's interest, § 7:17

Nizzardo v. State Traffic Commission, § 7:12

Party status assumption, verified petition, § 7:6

Pathways, Inc. v. Planning & Zoning Commission, § 7:13

Petitions. Verified petition, below

Post-Gardiner two-step inquiry cases, § 7:21

Potential intervenors, class of, § 7:16

Red Hill Coalition, Inc. v. Town Plan & Zoning Commission, § 7:9

Requirement of finding on alternatives, agency consideration, § 7:26

River Bend Associates, Inc. v. Conservation & Inland Wetlands Commission, § 7:22

Status of CEPA intervenor, verified petition, § 7:5

Two-step inquiry, agency consideration, § 7:19-7:22

Verified petition

Generally, § 7:3-7:6

Assumption of party status, § 7:6

Content of petition, § 7:4

## INDEX

### **ADMINISTRATIVE PROCEEDINGS, SECTION 22A-19 INTERVENTION IN—Cont'd**

- Verified petition—Cont'd
  - Party status, assumption of, § 7:6
  - Status of CEPA intervenor, § 7:5
- Who may intervene, § 7:15-7:17

### **ADMINISTRATIVE RELIEF**

- Section 22a-19 intervention in judicial proceedings, applicant as CEPA appellant, § 8:12

### **ADMINISTRATIVE REMEDIES**

- Exhaustion, jurisdictional aspects of § 22a-16 actions, § 5:24-5:29

### **AFFIRMATIVE DEFENSES**

- Generally, § 6:24, 6:25

### **AGENCIES**

- Administrative Agencies, this index
- Inland Wetlands and Watercourses Agency, Notice of Intervention, form, § 11:1
- State Administrative Agency, Notice of Intervention, form, § 11:3

### **AGENCY CONSIDERATION**

- Administrative Proceedings, Section 22a-19 Intervention in, this index
- Powers of the court, adequacy of, § 10:15

### **AGGRIEVEMENT**

- Generally, § 1:4

### **AGREEMENTS**

- Objection to Motion for Approval of Settlement Agreement in Land-Use Appeal, form, § 11:6
- Reasonable fee agreement, § 10:27

### **AGRICULTURAL LAND**

- Generally, § 4:4

### **ALLEGATIONS**

- Jurisdictional aspects of § 22a-16 actions, § 5:22, 5:23

### **ALLOCATION OF BURDEN OF PROOF**

- Class of potential defendants, § 6:22

### **ALTERNATIVES**

- Section 22a-19 intervention in administrative proceedings, agency consideration, § 7:23, 7:25, 7:26

### **AMENDMENTS TO CEPA**

- Generally, § 2:5

### **AMERICAN RULE**

- Costs and attorney's fees, § 10:22

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **ANIMAL RIGHTS FRONT, INC. v. JACQUES**

Substantive and procedural issues in § 22a-16 actions, compliance with statutory or administrative scheme, § 6:9

### **“ANY PERSON”**

Defined, § 7:15-7:17

### **APPEAL AND REVIEW**

Costs and attorney’s fees, appellate level, § 10:30

Judicial Proceedings, Section 22a-19 Intervention in, this index

Judicial Review, this index

Notice of Intervention, Administrative Appeal, form, § 11:5

Objection to Motion for Approval of Settlement Agreement in Land-Use Appeal, form, § 11:6

Two-pronged review, powers of the court, § 10:14, 10:15

### **APPELLATE LEVEL**

Costs and attorney’s fees, § 10:30

### **APPLICABILITY OF CEPA**

Generally, § 6:2, 6:3

### **APPLICATIONS**

Section 22a-19 intervention in judicial proceedings, applicant for administrative relief as CEPA appellant, § 8:12

### **APPOINTMENT**

“Technically qualified” master or referee, § 1:2

### **ARRIEU v. LITCHFIELD**

Exhaustion of administrative remedies, jurisdictional aspects of § 22a-16 actions, § 5:25

### **ASSUMPTION OF PARTY STATUS**

Section 22a-19 intervention in administrative proceedings, verified petition, § 7:6

### **ATTORNEY GENERAL**

Award of attorney’s fees, § 10:24

84 Connecticut Attorney General Opinions, No. 80 (1984), § 9:4, App. F

### **ATTORNEY’S FEES**

Costs and Attorney’s Fees, this index

### **BELFORD v. NEW HAVEN**

“Colorable claim” of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:10

### **BIZARRE RESULTS**

Interpretation to avoid, § 3:3

### **BOB PON-ALTERNATIVES-QUARRY KNOLL II CORP. v. PLANNING & ZONING COMMISSION**

Agency consideration, § 22a-19 intervention in administrative proceedings, § 7:24

## INDEX

### **BOND**

Powers of the court, posting bond, § 10:10

### **BROOKRIDGE DISTRICT ASSN. v. PLANNING & ZONING COMMISSION**

Settlement of claims, section 22a-19 intervention in judicial proceedings, § 8:22

### **BURDEN OF PROOF**

Class of potential defendants, § 6:22

Distinction from standing, jurisdictional aspects of § 22a-16 actions, § 5:6

Jurisdictional aspects of § 22a-16 actions, standing distinguished, § 5:6

Section 22a-19 intervention in administrative proceedings, burden of proof on alternatives, agency consideration, § 7:23

Showing of entitlement of attorney's fees, § 10:28

Standing distinguished, jurisdictional aspects of § 22a-16 actions, § 5:6

### **BURTON v. DILLMAN**

Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:10

### **CASE LAW**

Administrative Proceedings, Section 22a-19 Intervention in, this index

Alphabetical List of Cases, **App. I**

Chronological List of Cases, **App. H**

Compliance with statutory or administrative scheme, § 22a-16 actions, § 6:7-6:9

Costs and attorney's fees, powers of the court, § 10:25

Judicial Proceedings, Section 22a-19 Intervention in, this index

Jurisdictional Aspects of § 22a-16 Actions, this index

Natural resources protected under the act, § 4:4, 4:5

Other jurisdictions, construction and interpretation, § 3:11

### **CAUSES OF ACTION**

Equitable, taxable costs in, § 10:21

### **CEPA**

Connecticut Environmental Protection Act (CEPA), this index

### **CITIZENSHIP**

Intervenors, § 7:16

### **CLAIMS**

Section 22a-19 intervention in judicial proceedings, settlement of claims, § 8:18-8:22

### **CLASS OF POTENTIAL DEFENDANTS**

generally, § 6:17-6:21

Allocation of burden of proof, § 6:22

Broadly defined, § 6:17

Burden of proof, allocation of, § 6:22

Company officials who participate in unreasonable conduct, § 6:19

Definition, § 6:17

Officials of companies who participate in unreasonable conduct, § 6:19

Others' actions, defendant's action considered along with, § 6:21

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **CLASS OF POTENTIAL DEFENDANTS—Cont’d**

State as CEPA defendant, § 6:18

Unreasonable conduct, § 6:19, 6:20

### **CLASS OF POTENTIAL INTERVENORS**

Section 22a-19 intervention in administrative proceedings, § 7:16

### **CLEAR CUTTING OF TIMBER**

Generally, § 6:11

### **COLLATERAL ESTOPPEL**

Res Judicata and Collateral Estoppel, this index

### **“COLORABLE CLAIM”**

Jurisdictional aspects of § 22a-16 actions, requirement of “colorable claim” of harm to natural resources, § 5:7-5:13

### **COMMON LAW PRINCIPLES**

Construction and interpretation, § 3:12

### **COMMON SENSE**

Construction and interpretation, § 3:10

### **COMPANY OFFICIALS**

Unreasonable conduct, class of potential defendants, § 6:19

### **COMPLIANCE**

Statutory or administrative scheme, § 6:7-6:9

### **CONDUCT**

Unreasonable Conduct, this index

### **CONDUCT OF PROCEEDINGS**

Section 22a-19 intervention in judicial proceedings, effect of CEPA intervention on conduct of, § 8:14

### **CONNECTICUT ATTORNEY GENERAL OPINIONS, NO. 80 (1984)**

Generally, § 9:4, App. F

### **CONNECTICUT COALITION AGAINST MILLSTONE v. ROCQUE**

“Colorable claim” of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:11

Exhaustion of administrative remedies, jurisdictional aspects of § 22a-16 actions, § 5:29

Jurisdictional aspects of § 22a-16 actions, standing to enforce other environmental laws, § 5:20

### **CONNECTICUT ENVIRONMENTAL POLICY ACT**

Distinguished from Environmental Protection Act, § 1:3

### **CONNECTICUT ENVIRONMENTAL PROTECTION ACT (CEPA)**

Generally, § 1:1 et seq., App. A.

Aggrievement, § 1:4

Brief summary, § 1:2

Citizen suits in federal court, § 1:6

## INDEX

### **CONNECTICUT ENVIRONMENTAL PROTECTION ACT (CEPA)**

#### **—Cont'd**

- Citizen suit statutes in sister states, § 1:7
- Connecticut Environmental Policy Act, distinguished, § 1:3
- Distinction from Connecticut Environmental Policy Act, § 1:3
- Enactment, § 1:8
- Enforcement mechanism, § 1:4
- Environmental Policy Act, distinguished, § 1:3
- Federal court, citizen suits in, § 1:6
- Foreign states, citizen suit statutes in, § 1:7
- History. Legislative History, this index
- Legislative History, this index
- Parties, standing, § 1:4
- Prior environmental litigation, § 1:5
- Sister states, citizen suit statutes in, § 1:7
- Standing and aggrievement, § 1:4
- Summary of Act, § 1:2

### **CONNECTICUT FUND FOR THE ENVIRONMENT, INC. v. STAMFORD**

- Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:8

### **CONNECTICUT POST LTD. PARTNERSHIP v. SOUTH CENTRAL CONNECTICUT REGIONAL COUNCIL OF GOVERNMENTS**

- Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:11

### **CONSTRUCTION AND INTERPRETATION**

- Generally, § 3:1-3:14
- Absurd consequences or bizarre results, interpretation to avoid, § 3:3
- Administrative agency interpretations, deference to, § 3:9
- Agency interpretations, deference to, § 3:9
- Avoidance of absurd consequences or bizarre results, § 3:3
- Bizarre results, interpretation to avoid, § 3:3
- Case law from other jurisdictions, § 3:11
- Common law principles, § 3:12
- Common sense, § 3:10
- Deference to administrative agency interpretations, § 3:9
- Historic structures and landmarks of the state (§ 22a-19a), judicial construction, § 9:3
- History, legislative, § 3:6
- Legislative action in related fields, § 3:8
- Legislative history, reliance on, § 3:6
- Legislative policy, § 3:5
- Liberal construction of remedial statutes, § 3:4
- Other jurisdictions, case law from, § 3:11
- Plain meaning rule, § 3:2
- Policy, legislative, § 3:5
- Related fields, legislative action in, § 3:8
- Related statutes, § 3:7

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **CONSTRUCTION AND INTERPRETATION—Cont'd**

- Reliance on legislative history, § 3:6
- Remedial statutes, liberal construction of, § 3:4
- Stare decisis, § 3:13

### **CONTRACTS**

- Agreements, this index

### **COSTS AND ATTORNEY'S FEES**

- Generally, § 10:18-10:31
- Administrative procedures, CEPA as supplementary to, § 10:34
- Agreements, reasonable fee agreement, § 10:27
- American Rule, § 10:22
- Appellate level, § 10:30
- Applicability, taxation pursuant to § 22a-19a, § 10:31
- Award, generally, § 10:18-10:31
- Burden to make evidentiary showing of entitlement of attorney's fees, § 10:28
- Caselaw, § 10:25
- Effect of reasonable fee agreement, § 10:27
- Entitlement of attorney's fees, burden to make evidentiary showing of, § 10:28
- Equitable causes of action, taxable costs in, § 10:21
- Evidentiary showing of entitlement of attorney's fees, burden to make, § 10:28
- Existence of reasonable fee agreement, § 10:27
- Financial contribution pursuant to § 22a-16a, § 10:33
- General costs, § 10:19
- Non-taxable costs and attorney's fees, § 10:22
- Objection to award of attorney's fees by opposing counsel, timely, § 10:29
- Purpose of attorney's fees, § 10:23
- Reasonable attorney's fee, § 10:25
- Reasonable fee agreement, § 10:27
- References to "costs" within CEPA, § 10:18
- Rules of Professional Conduct 1.5(a), § 10:26
- Scope of costs included, taxation pursuant to § 22a-19a, § 10:32
- Supplemental environmental projects pursuant to § 22a-16a, § 10:33
- Taxable costs
  - Generally, § 10:20-10:22
  - Non-taxable costs and attorney's fees, § 10:22
  - Pursuant to § 22a-19a, taxing of costs, § 10:32, 10:33
  - Timely objection to award of attorney's fees by opposing counsel, § 10:29
  - Who may seek an award of attorney's fees, § 10:24

### **COURT POWERS**

- Powers of the Court, this index

### **DEBATES**

- Legislative history of CEPA, § 2:4

### **DECLARATORY RELIEF**

- Powers of the court, § 10:2, 10:4

## INDEX

### DEFENSES

- Affirmative, § 6:24, 6:25
- Special Defense-§ 22a-16 Action, form, § 11:8

### DEFINITIONS

- Any person, § 7:15-7:17
- Class of potential defendants, § 6:17
- Environmental issue, section 22a-19 intervention in judicial proceedings, § 8:16
- Factual sufficiency, § 6:23
- Natural resources, § 4:4-4:6
- Prime agricultural land, § 4:4
- Unreasonable conduct, § 6:6

### DE MINIMIS STANDARD

- Rejection, § 6:15

### DIETZEL v. PLANNING COMMISSION

- Settlement of claims, section 22a-19 intervention in judicial proceedings, § 8:20

### DISMISSAL

- Motion to Dismiss § 22a-16 Action, form, § 11:9

### DREDGING

- Permits, § 6:11

### DUE PROCESS

- Violations, § 7:17

### 84 CONNECTICUT ATTORNEY GENERAL OPINIONS, NO. 80 (1984)

- Generally, § 9:4, App. F

### ENACTMENT OF CEPA

- Generally, § 1:8

### ENFORCEMENT MECHANISM

- Generally, § 1:4

### ENTITLEMENT

- Attorney's fees, burden to make evidentiary showing of, § 10:28

### “ENVIRONMENTAL ISSUE”

- Section 22a-19 intervention in judicial proceedings, definition, § 8:16

### ENVIRONMENTAL POLICY ACT

- Distinguished from CEPA, § 1:3

### ENVIRONMENTAL PROTECTION ACT

- Connecticut Environmental Protection Act (CEPA), this index

### EPA

- Connecticut Environmental Protection Act (CEPA), this index

### EQUITABLE CAUSES OF ACTION

- Taxable costs, § 10:21

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **EQUITABLE RELIEF**

- Generally, § 10:5-10:11
- Authority, statutory, § 10:5
- Bond, posting, § 10:10
- Grounds for issuance of temporary injunctions, § 10:9
- Inadequate remedy at law, showing of, § 10:7
- Injunctions. Temporary Injunctions, this index
- Irreparable harm , showing of, § 10:7
- Issuance of temporary injunctions, grounds for, § 10:9
- Mandatory temporary injunctions, § 10:8
- Necessary parties, § 10:6
- Parties, necessary, § 10:6
- Posting bond, temporary injunctions, § 10:10
- Prohibitory and mandatory temporary injunctions, § 10:8
- Showing of irreparable harm and inadequate remedy at law, § 10:7
- Statutory authority, § 10:5

### **ESTOPPEL**

- Res Judicata and Collateral Estoppel, this index

### **EVIDENCE**

- Burden of Proof, this index
- Prima facie showing that defendant's conduct is unreasonable, § 6:23
- Showing of entitlement of attorney's fees, burden to make, § 10:28
- Unreasonableness based on hypothetical questions to experts, § 6:12

### **EXECUTIVE BRANCH INITIATIVES**

- Legislative history of CEPA, § 2:2

### **EXEMPTIONS**

- Applicability of CEPA, § 6:2, 6:3

### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

- Jurisdictional aspects of § 22a-16 actions, § 5:24-5:29

### **EXPERTS**

- Unreasonableness based on hypothetical questions to experts, § 6:12

### **“FACTUAL SUFFICIENCY”**

- Defined, § 6:23

### **FARMLAND**

- Generally, § 4:4

### **FEASIBLE ALTERNATIVES**

- Defense, no feasible alternatives as, § 6:24

### **FEDERAL COURT**

- Citizen suits in, § 1:6

### **FEDERAL STATUTES**

- Reasonableness, § 6:14

## INDEX

### FEES

Costs and Attorney's Fees, this index

### FINDINGS

Legislative findings, Natural resources protected under the Act, § 4:2

Section 22a-19 intervention in administrative proceedings, finding on alternatives requirement, agency consideration, § 7:26

### FISH UNLIMITED v. NORTHEAST UTILITIES SERVICE CO. (FISH I)

Exhaustion of administrative remedies, jurisdictional aspects of § 22a-16 actions, § 5:26

### FISH UNLIMITED v. NORTHEAST UTILITIES SERVICE CO. ("FISH II")

Jurisdictional aspects of § 22a-16 actions, standing to enforce other environmental laws, § 5:17

### FLORIDA ENVIRONMENTAL PROTECTION ACT

Generally, § 1:7

### FOREIGN STATES

Citizen suit statutes in, § 1:7

Sister States, this index

### FORESTS

Clear cutting of timber, § 6:11

### FORMS

Administrative Appeal, Notice of Intervention, § 11:5

Inland Wetlands and Watercourses Agency, Notice of Intervention, § 11:1

Motion to Dismiss § 22a-16 Action, § 11:9

Motion to Strike-§ 22a-16 Action, § 11:10

Notice of Intervention

Administrative Appeal, § 11:5

Inland Wetlands and Watercourses Agency, § 11:1

Pending Civil Action, § 11:4

Planning and Zoning Commission, § 11:2

State Administrative Agency, § 11:3

Objection to Motion for Approval of Settlement Agreement in Land-Use Appeal, § 11:6

Pending Civil Action, Notice of Intervention, § 11:4

Planning and Zoning Commission, Notice of Intervention, § 11:2

Section 22a-16 Action

Generally, § 11:7-11:10

Motion to Dismiss § 22a-16 Action, § 11:9

Motion to Strike-§ 22a-16 Action, § 11:10

Special Defense-§ 22a-16 Action, § 11:8

Special Defense-§ 22a-16 Action, § 11:8

State Administrative Agency, Notice of Intervention, § 11:3

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **FORT TRUMBULL CONSERVANCY, LLC v. ALVES**

“Colorable claim” of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:7

Jurisdictional aspects of § 22a-16 actions, standing to enforce other environmental laws, § 5:19

### **FORT TRUMBULL CONSERVANCY, LLC v. PLANNING & ZONING COMMISSION**

Initiation of appeals from administrative agency decisions, section 22a-19 intervention in judicial proceedings, § 8:11

### **FORT TRUMBULL CONSERVANCY v. NEW LONDON**

“Colorable claim” of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:8

### **GARDINER v. CONSERVATION COMMISSION**

Two-step inquiry cases, agency consideration, § 22a-19 intervention in administrative proceedings, § 7:20, 7:21

### **HARASSMENT**

Generally, § 6:15

### **H.B. NO. 5037**

1971 Connecticut General Assembly, § 2:3, App. D

### **HISTORIC PRESERVATION BOARD OF STATE**

Generally, § 9:5

### **HISTORIC STRUCTURES AND LANDMARKS OF THE STATE (§ 22A-19A)**

Generally, § 9:1-9:5

84 Connecticut Attorney General Opinions, no. 80 (1984), § 9:4

Construction, judicial, § 9:3

Historic Preservation Board of State, § 9:5

Judicial construction, § 9:3

Protection afforded historic structures and landmarks, § 9:2

State Historic Preservation Board, § 9:5

### **HISTORY OF CEPA**

Legislative History, this index

### **HOUSE BILL NO. 5037**

1971 Connecticut General Assembly, § 2:3, App. D

### **HYLLEN-DAVEY v. PLAN & ZONING COMMISSION**

Initiation of appeals from administrative agency decisions, section 22a-19 intervention in judicial proceedings, § 8:9

### **INADEQUATE REMEDY AT LAW**

Showing of, § 10:7

### **INITIATION**

Section 22a-19 intervention in judicial proceedings, initiation of appeals from administrative agency decisions, § 8:7-8:11

## INDEX

### INITIATIVES

Legislative history of CEPA, § 2:2, 2:3

### INJUNCTIONS

Temporary Injunctions, this index

### INLAND WETLANDS AND WATERCOURSES ACT

Generally, § 1:8

### INLAND WETLANDS AND WATERCOURSES AGENCY

Notice of intervention, form, § 11:1

### INTERPRETATION

Construction and Interpretation, this index

### INTERVENTION

Administrative Appeal, Notice of Intervention, form, § 11:5

Administrative Proceedings, Section 22a-19 Intervention in, this index

Citizenship of intervenors, § 7:16

Judicial Proceedings, Section 22a-19 Intervention in, this index

Notice of Intervention. Forms, this index

Section 22a-19 Intervention, this index

### IRREPARABLE HARM

Powers of the court, showing of, § 10:7

### JUDGMENT BY STIPULATION OF THE PARTIES

Generally, § 10:17

### JUDICIAL CONSTRUCTION

Historic structures and landmarks of the state (§ 22a-19a), § 9:3

### JUDICIAL PROCEEDINGS, SECTION 22A-19 INTERVENTION IN

Generally, § 8:1-8:26

Administrative agency decisions. Initiation of appeals from administrative agency decisions, below

Administrative proceedings, intervention in judicial review of, § 8:2

Administrative relief, applicant as CEPA appellant, § 8:12

Appeals

Initiation of appeals from administrative agency decisions, below

Judicial review, below

Scope of issues raised on appeal, § 8:15

Timeliness of, § 8:13

Applicant for administrative relief as CEPA appellant, § 8:12

Brookridge District Assn. v. Planning & Zoning Commission, § 8:22

Case law

Brookridge District Assn. v. Planning & Zoning Commission, § 8:22

Dietzel v. Planning Commission, § 8:20

Fort Trumbull Conservancy, LLC v. Planning & Zoning Commission, § 8:11

Hyllen-Davey v. Plan & Zoning Commission, § 8:9

Initiation of appeals from administrative agency decisions, § 8:8-8:11

Keeney v. Fairfield Resources, Inc., § 8:25

CONNECTICUT ENVIRONMENTAL PROTECTION ACT

**JUDICIAL PROCEEDINGS, SECTION 22A-19 INTERVENTION IN  
—Cont’d**

Case law—Cont’d

Mystic Marinelife Aquarium, Inc. v. Gill, § 8:8

“Other proceedings,” intervention in, § 8:24-8:25

Polymer Resources, Ltd. v. Keeney, § 8:24

Ralto Developers, Inc. v. Environmental Impact Commission, § 8:19

Red Hill Coalition, Inc. v. Conservation Commission, § 8:5, 8:6

Rocque v. Northeast Utilities Service Co., § 8:21

Zoning Commission v. Fairfield Resources Management, Inc., § 8:25

Claims, settlement of, § 8:18-8:22

Conduct of judicial proceedings, effect of CEPA intervention on, § 8:14

Dietzel v. Planning Commission, § 8:20

Effect of CEPA intervention on conduct of judicial proceedings, § 8:14

“Environmental issue” defined, § 8:16

Fort Trumbull Conservancy, LLC v. Planning & Zoning Commission, § 8:11

Hyllen-Davey v. Plan & Zoning Commission, § 8:9

Initiation of appeals from administrative agency decisions

Generally, § 8:7-8:11

Case law, § 8:8-8:11

Specificity required in pleadings, § 8:10

Judicial review

Generally, § 8:3-8:6

Administrative proceedings, intervention in, § 8:2

CEPA intervention, § 8:4-8:6

Post-Red Hill decisions, § 8:6

Scope of, § 8:14

Subsequent decisions, § 8:6

Keeney v. Fairfield Resources, Inc., § 8:25

Mystic Marinelife Aquarium, Inc. v. Gill, § 8:8

“Other proceedings,” intervention in, § 8:23-8:25

Pleadings, specificity required, initiation of appeals from administrative agency decisions, § 8:10

Polymer Resources, Ltd. v. Keeney, § 8:24

Post-Red Hill decisions, judicial review, § 8:6

Procedural issues, right to raise, § 8:17

Ralto Developers, Inc. v. Environmental Impact Commission, § 8:19

Red Hill Coalition, Inc. v. Conservation Commission, § 8:5, 8:6

Right to raise procedural issues, § 8:17

Rocque v. Northeast Utilities Service Co., § 8:21

Scope of issues raised on appeal, § 8:15

Scope of judicial review, § 8:14

Settlement of claims, § 8:18-8:22

Specificity required in pleadings, initiation of appeals from administrative agency decisions, § 8:10

Subsequent decisions, judicial review, § 8:6

Timeliness of appeal, § 8:13

Zoning Commission v. Fairfield Resources Management, Inc., § 8:25

## INDEX

### JUDICIAL REVIEW

- Adequacy of existing administrative and regulatory procedures, powers of the court, § 10:16
- Judicial Proceedings, Section 22a-19 Intervention in, this index

### JURISDICTION

- Administrative agency, § 22a-19 intervention in administrative proceedings, § 7:7-7:14
- Section 22a-16 actions. Jurisdictional Aspects of § 22a-16 Actions
- Section 22a-19 intervention in administrative proceedings, jurisdiction of administrative agency, § 7:7-7:14
- Two-pronged review, retention to conduct, § 10:14

### JURISDICTIONAL ASPECTS OF § 22A-16 ACTIONS

- Generally, § 5:1-5:29
- Administrative remedies, exhaustion of, § 5:24-5:29
- Agency without environmental jurisdiction, standing against, § 5:21
- Allegations, § 5:22, 5:23
- Arrieu v. Litchfield, § 5:25
- Belford v. New Haven, § 5:10
- Burden of proof, distinction of standing from, § 5:6
- Case law
  - Arrieu v. Litchfield, § 5:25
  - Belford v. New Haven, § 5:10
  - “Colorable claim” of harm to natural resources, requirement of, § 5:7-5:13
  - Connecticut Coalition Against Millstone v. Rocque, § 5:11, 5:20, 5:29
  - Exhaustion of administrative remedies, § 5:25-5:29
  - Fish Unlimited v. Northeast Utilities Service Co. (“Fish I”), § 5:26
  - Fish Unlimited v. Northeast Utilities Service Co. (“Fish II”), § 5:17
  - Fort Trumbull Conservancy, LLC v. Alves, § 5:7, 5:19
  - Fort Trumbull Conservancy v. New London, § 5:8
  - Lewis v. Planning & Zoning Commission (1998), § 5:9
  - Lewis v. Planning & Zoning Commission (2005), § 5:13
  - Manchester Environmental Coalition v. Stockton, § 5:15
  - Middletown v. Hartford Electric Light Co., § 5:16
  - Pac v. Inland Wetlands & Water Courses Commission, § 5:28
  - Rocque v. Mellon, § 5:12
  - Standing to enforce other environmental laws, § 5:15-5:20
  - Ventres v. Goodspeed Airport, LLC, § 5:12
  - Waterbury v. Washington, § 5:18, 5:27
  - “Colorable claim” of harm to natural resources, requirement of, § 5:7-5:13
  - Connecticut Coalition Against Millstone v. Rocque, § 5:11, 5:20, 5:29
- Distinction of standing from burden of proof, § 5:6
- Enforcement of other environmental laws, standing, § 5:14-5:21
- Exhaustion of administrative remedies, § 5:24-5:29
- Fish Unlimited v. Northeast Utilities Service Co. (Fish I), § 5:26
- Fish Unlimited v. Northeast Utilities Service Co. (“Fish II”), § 5:17
- Fort Trumbull Conservancy, LLC v. Alves, § 5:7, 5:19
- Fort Trumbull Conservancy v. New London, § 5:8

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **JURISDICTIONAL ASPECTS OF § 22A-16 ACTIONS—Cont’d**

- Legal sufficiency, CEPA allegations, § 5:22
- Lewis v. Planning & Zoning Commission (1998), § 5:9
- Lewis v. Planning & Zoning Commission (2005), § 5:13
- Manchester Environmental Coalition v. Stockton, § 5:15
- Middletown v. Hartford Electric Light Co., § 5:16
- Municipality without environmental jurisdiction, standing against, § 5:21
- Other environmental laws, standing for enforcement of, § 5:14-5:21
- Pac v. Inland Wetlands & Water Courses Commission, § 5:28
- Potential plaintiffs, standing, § 5:5
- Requirements
  - “Colorable claim” of harm to natural resources, requirement of, § 5:7-5:13
  - Exhaustion of administrative remedies, § 5:24-5:29
- Rocque v. Mellon, § 5:12
- Standing
  - Generally, § 5:2-5:5
  - Against municipality or agency without environmental jurisdiction, § 5:21
  - Agency without environmental jurisdiction, against, § 5:21
  - Burden of proof, distinction from, § 5:6
  - Case law, standing to enforce other environmental laws, § 5:15-5:20
  - Distinction from burden of proof, § 5:6
  - Enforcement of other environmental laws, § 5:14-5:21
  - Municipality or agency without environmental jurisdiction, against, § 5:21
  - Other environmental laws, enforcement of, § 5:14-5:21
  - Potential plaintiffs, § 5:5
  - Statutory standing conferred by CEPA, § 5:4
  - Threshold issue, § 5:3
- Statutory standing conferred by CEPA, § 5:4
- Sufficiency, CEPA allegations, § 5:22
- Threshold issue, standing, § 5:3
- Ventres v. Goodspeed Airport, LLC, § 5:12
- Waterbury v. Washington, § 5:18, 5:27

### **JURY TRIAL**

- Generally, § 6:4

### **KEENEY v. FAIRFIELD RESOURCES, INC.**

- Section 22a-19 intervention in judicial proceedings, § 8:25

### **KEISER v. ZONING COMMISSION**

- Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:14

### **LANDMARKS**

- Historic Structures and Landmarks of the State (§ 22a-19a), this index

### **LAND-USE APPEAL**

- Objection to Motion for Approval of Settlement Agreement in Land-Use Appeal, form, § 11:6

## INDEX

### **LEGISLATIVE BRANCH INITIATIVES**

Legislative history of CEPA, § 2:3

### **LEGISLATIVE FINDINGS**

Natural resources protected under the Act, § 4:2

### **LEGISLATIVE HISTORY**

Generally, § 2:1-2:5, **App. E**

Amendments since adoption, § 2:5

Construction and interpretation, reliance on, § 3:6

Debates, § 2:4

Executive branch initiatives, § 2:2

House Bill 5037 (1971), § 2:3, **App. D**

Initiatives, § 2:2, 2:3

Legislative branch initiatives, § 2:3

Senate Bill 400 (1971), § 2:3, **App. B.**

Senate Bill 675 (1971), § 2:3, **App. C**

### **LEGISLATIVE POLICY**

Construction and interpretation, § 3:5

### **LEWIS v. PLANNING & ZONING COMMISSION (1998)**

“Colorable claim” of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:9

### **LEWIS v. PLANNING & ZONING COMMISSION (2005)**

“Colorable claim” of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:13

### **LIBERAL CONSTRUCTION**

Remedial statutes, § 3:4

### **LICENSING PROCEEDINGS**

Section 22a-19 intervention in administrative proceedings, § 7:2

### **LIMITATION OF ACTIONS**

Generally, § 6:25

### **LIST OF CASES**

Alphabetical List of Cases, **App. I**

Chronological List of Cases, **App. H**

### **MANCHESTER ENVIRONMENTAL COALITION v. STOCKTON**

Jurisdictional aspects of § 22a-16 actions, standing to enforce other environmental laws, § 5:15

### **MANDATORY TEMPORARY INJUNCTIONS**

Generally, § 10:8

### **MASTER**

Generally, § 6:31

“Technically qualified” master or referee, appointment of, § 1:2

### **MICHIGAN ENVIRONMENTAL PROTECTION ACT OF 1970**

Generally, § 1:7

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **MIDDLETOWN v. HARTFORD ELECTRIC LIGHT CO.**

Jurisdictional aspects of § 22a-16 actions, standing to enforce other environmental laws, § 5:16

### **MILLSTONE v. ROCQUE**

Connecticut Coalition against Millstone v. Rocque, this index

### **MOOTNESS**

Powers of the court, § 10:3

### **MOTIONS**

Motion to Dismiss § 22a-16 Action, form, § 11:9

Motion to Strike-§ 22a-16 Action, form, § 11:10

Objection to Motion for Approval of Settlement Agreement in Land-Use Appeal, form, § 11:6

### **MUNICIPALITIES**

Award of attorney's fees, § 10:24

Jurisdictional aspects of § 22a-16 actions, standing against municipality without environmental jurisdiction, § 5:21

Subdivision ordinances, challenge of, § 5:23

Unreasonable conduct, failure of municipality to abate public nuisance as, § 6:13

### **MYSTIC MARINELIFE AQUARIUM, INC. v. GILL**

Initiation of appeals from administrative agency decisions, section 22a-19 intervention in judicial proceedings, § 8:8

### **NATURAL RESOURCES PROTECTED UNDER THE ACT**

Generally, § 4:1-4:6

Agricultural land, § 4:4

Case law, § 4:5

Concept of public trust, § 4:3

Definition of "natural resources," § 4:4-4:6

Evolution of term, "natural resources," § 4:4-4:6

Findings, legislative, § 4:2

Legislative finding, § 4:2

Public trust, concept of, § 4:3

Trees, § 4:5

Wildlife, § 4:5

### **NECESSARY PARTIES**

Powers of the court, § 10:6

### **NIZZARDO v. STATE TRAFFIC COMMISSION**

Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:12

### **NON-TAXABLE COSTS AND ATTORNEY'S FEES**

Powers of the court, § 10:22

### **NOTICE OF INTERVENTION**

Forms, this index

## INDEX

### NUISANCES

Failure of municipality to abate public nuisance as unreasonable conduct, § 6:13

### OBJECTIONS

Objection to Motion for Approval of Settlement Agreement in Land-Use Appeal, form, § 11:6

Timely objection to award of attorney's fees by opposing counsel, § 10:29

### OFFICIALS OF COMPANIES

Unreasonable conduct, class of potential defendants, § 6:19

### OTHER JURISDICTIONS

Case law, construction and interpretation, § 3:11

Foreign States, this index

Sister States, this index

### PAC v. INLAND WETLANDS & WATER COURSES COMMISSION

Exhaustion of administrative remedies, jurisdictional aspects of § 22a-16 actions, § 5:28

### PAIGE v. TOWN PLAN & ZONING COMMISSION

Generally, § 4:5

### PARTIES

Judgment by stipulation of parties, § 10:17

Necessary parties, § 10:6

Powers of the court

Judgment by stipulation of parties, § 10:17

Necessary parties, § 10:6

Standing, § 1:4

### PARTY STATUS ASSUMPTION

Section 22a-19 intervention in administrative proceedings, verified petition, § 7:6

### PATHWAYS, INC. v. PLANNING & ZONING COMMISSION

Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:13

### PCBs

Housatonic River v. General Electric Co., § 4:6

### PENDING CIVIL ACTION

Notice of Intervention, form, § 11:4

### PETITIONS

Administrative Proceedings, Section 22a-19 Intervention in, this index

### PLAIN MEANING RULE

Generally, § 3:2

### PLANNING AND ZONING COMMISSION

Notice of Intervention, form, § 11:2

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **PLEADINGS**

Section 22a-19 intervention in judicial proceedings, specificity required, initiation of appeals from administrative agency decisions, § 8:10

### **POLICY**

Construction and interpretation, legislative policy, § 3:5

### **POLYMER RESOURCES, LTD. v. KEENEY**

Section 22a-19 intervention in judicial proceedings, § 8:24

### **POST-GARDINER TWO-STEP INQUIRY CASES**

Section 22a-19 intervention in administrative proceedings, § 7:21

### **POSTING BOND**

Temporary injunctions, powers of the court, § 10:10

### **POTENTIAL DEFENDANTS**

Class of Potential Defendants, this index

### **POTENTIAL INTERVENORS CLASS**

Section 22a-19 intervention in administrative proceedings, § 7:16

### **POTENTIAL PLAINTIFFS**

Jurisdictional aspects of § 22a-16 actions, potential plaintiffs, standing, § 5:5

### **POWERS OF THE COURT**

Generally, § 10:1-10:34

Adequacy

Agency consideration, § 10:15

Existing administrative and regulatory procedures, judicial review of, § 10:16

Administrative procedures

CEPA as supplementary, § 10:34

Judicial review of adequacy of existing, § 10:16

Administrative proceedings, remand to, § 10:12

Agency consideration, adequacy of, § 10:15

Agreements, reasonable fee agreement, § 10:27

American Rule, costs and attorney's fees, § 10:22

Appellate level, costs and attorney's fees, § 10:30

Applicability, taxation of costs and fees pursuant to § 22a-19a, § 10:31

Attorney's fees. Costs and Attorney's Fees, this index

Authority, statutory, equitable relief, § 10:5

Awards. Costs and Attorney's Fees, this index

Bond, posting, § 10:10

Burden to make evidentiary showing of entitlement of attorney's fees, § 10:28

Caselaw, costs and attorney's fees, § 10:25

Causes of action, equitable, taxable costs in, § 10:21

Costs and Attorney's Fees, this index

Declaratory relief, § 10:2, 10:4

Entitlement of attorney's fees, burden to make evidentiary showing of, § 10:28

Equitable causes of action, taxable costs in, § 10:21

Equitable Relief, this index

Evidentiary showing of entitlement of attorney's fees, burden to make, § 10:28

## INDEX

### **POWERS OF THE COURT—Cont'd**

- Existence of reasonable fee agreement, § 10:27
- Fees and expenses. Costs and Attorney's Fees, this index
- Financial contribution pursuant to § 22a-16a, § 10:33
- First prong of two-pronged review, § 10:14
- General costs, § 10:19
- Grounds for issuance of temporary injunctions, § 10:9
- Inadequate remedy at law, showing of, § 10:7
- Injunctive relief
  - Generally, § 10:2
  - Equitable Relief, this index
- Irreparable harm, showing of, § 10:7
- Issuance of temporary injunctions, grounds for, § 10:9
- Judgment by stipulation of the parties, § 10:17
- Judicial review of adequacy of existing administrative and regulatory procedures, § 10:16
- Jurisdiction, retention to conduct two-pronged review, § 10:14
- Mandatory temporary injunctions, § 10:8
- Mootness, § 10:3
- Necessary parties, § 10:6
- Non-taxable costs and attorney's fees, § 10:22
- Objection to award of attorney's fees by opposing counsel, timely, § 10:29
- Parties
  - Judgment by stipulation of parties, § 10:17
  - Necessary parties, § 10:6
- Posting bond, temporary injunctions, § 10:10
- Procedure on remand, § 10:13
- Prohibitory and mandatory temporary injunctions, § 10:8
- Purpose of attorney's fees, § 10:23
- Reasonable fees, § 10:25, 10:27
- References to "costs" within CEPA, § 10:18
- Regulatory procedures, judicial review of adequacy of existing, § 10:16
- Remand to administrative proceedings, § 10:12, 10:13
- Retention of jurisdiction to conduct two-pronged review, § 10:14
- Review, two-pronged, § 10:14, 10:15
- Rules of Professional Conduct 1.5(a), costs and attorney's fees, § 10:26
- Scope of costs included, taxation pursuant to § 22a-19a, § 10:32
- Second prong of two-pronged review, § 10:14, 10:15
- Showing of irreparable harm and inadequate remedy at law, § 10:7
- Statutory authority, equitable relief, § 10:5
- Stipulation of the parties, judgment by, § 10:17
- Supplemental environmental projects pursuant to § 22a-16a, costs and attorney's fees, § 10:33
- Taxation of costs. Costs and Attorney's Fees, this index
- Temporary injunctions. Equitable Relief, this index
- Two-pronged review, retention of jurisdiction to conduct, § 10:14

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **PRESERVATION, HISTORIC**

Historic Structures and Landmarks of the State (§ 22a-19a), this index

### **PRIMA FACIE SHOWING**

Unreasonable conduct of defendant, § 6:23

### **“PRIME AGRICULTURAL LAND”**

Defined, § 4:4

### **PRIOR ENVIRONMENTAL LITIGATION**

Generally, § 1:5

### **PRIVITY**

Generally, § 6:28

### **PROCEDURAL ISSUES**

Section 22a-19 intervention in judicial proceedings, right to raise procedural issues, § 8:17

Substantive and Procedural Issues in § 22a-16 Actions, this index

### **PROHIBITORY TEMPORARY INJUNCTIONS**

Generally, § 10:8

### **PRUDENT ALTERNATIVES**

Defense, no prudent alternatives as, § 6:24

### **PUBLIC NUISANCE**

Unreasonable conduct, failure of municipality to abate as, § 6:13

### **PUBLIC TRUST DOCTRINE**

Generally, § 1:5

Natural resources protected under the Act, § 4:3

### **PUBLIC UTILITY ENVIRONMENTAL STANDARDS ACT**

Generally, § 1:8

### **QUESTIONS**

Unreasonableness based on hypothetical questions to experts, § 6:12

### **RALTO DEVELOPERS, INC. v. ENVIRONMENTAL IMPACT COMMISSION**

Settlement of claims, section 22a-19 intervention in judicial proceedings, § 8:19

### **REASONABLE FEES**

Powers of the court, § 10:25, 10:27

### **REASONABLENESS**

Federal statutes, § 6:14

Unreasonableness, this index

### **RECYCLING**

Violation of statute, § 6:10

### **RED HILL COALITION, INC. v. CONSERVATION COMMISSION**

Judicial review, section 22a-19 intervention in judicial proceedings, § 8:5, 8:6

## INDEX

### **RED HILL COALITION, INC. v. TOWN PLAN & ZONING COMMISSION**

Generally, § 4:4

Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:9

### **REFEREES**

Generally, § 6:31

“Technically qualified” master or referee, appointment of, § 1:2

### **REGULATORY PROCEDURES**

Judicial review of adequacy of existing, § 10:16

### **REJECTION**

De minimis standard, § 6:15

### **RELIEF AFFORDED UNDER CEPA**

Powers of the Court, this index

### **REMAND TO ADMINISTRATIVE PROCEEDINGS**

Powers of the court, § 10:12, 10:13

### **REMEDIATION**

Statute of limitations, § 6:25

### **RES JUDICATA AND COLLATERAL ESTOPPEL**

Generally, § 6:26-6:30

Inability to appeal initial finding, § 6:29

Prior CEPA plaintiffs, effects on subsequent plaintiffs of actions brought by,  
§ 6:30

Privity, § 6:28

Subsequent CEPA plaintiffs, effects of actions brought by prior CEPA plaintiffs,  
§ 6:30

Transactional test, § 6:27

### **RESULTS**

Bizarre results, interpretation to avoid, § 3:3

### **REVIEW**

Appeal and Review, this index

### **RIGHT TO JURY TRIAL**

Generally, § 6:4

### **RIVER BEND ASSOCIATES, INC. v. CONSERVATION & INLAND WETLANDS COMMISSION**

Two-step inquiry cases, agency consideration, § 22a-19 intervention in administrative proceedings, § 7:22

### **ROCQUE, MILLSTONE v.**

Connecticut Coalition against Millstone v. Rocque, this index

### **ROCQUE v. MELLON**

“Colorable claim” of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:12

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **ROCQUE v. MELLON—Cont'd**

Substantive and procedural issues in § 22a-16 actions, compliance with statutory or administrative scheme, § 6:8

### **ROCQUE v. NORTHEAST UTILITIES SERVICE CO.**

Settlement of claims, section 22a-19 intervention in judicial proceedings, § 8:21

### **S.B. NO. 400**

1971 Connecticut General Assembly, § 2:3, App. B

### **S.B. NO. 675**

1971 Connecticut General Assembly, § 2:3, App. C

### **SECTION 22A-16 ACTIONS**

Forms, this index

Jurisdictional Aspects of § 22a-16 Actions, this index

Substantive and Procedural Issues in § 22a-16 Actions, this index

### **SECTION 22A-19 INTERVENTION**

Administrative Proceedings, Section 22a-19 Intervention in, this index

Judicial Proceedings, Section 22a-19 Intervention in, this index

### **SECTION 22A-19A**

Historic Structures and Landmarks of the State (§ 22a-19a), this index

### **SENATE BILL NO. 400**

1971 Connecticut General Assembly, § 2:3, App. B

### **SENATE BILL NO. 675**

1971 Connecticut General Assembly, § 2:3, App. C

### **SETTLEMENT AGREEMENTS**

Objection to Motion for Approval of Settlement Agreement in Land-Use Appeal, form, § 11:6

### **SETTLEMENT OF CLAIMS**

Section 22a-19 intervention in judicial proceedings, § 8:18-8:22

### **SHOWING**

Irreparable harm and inadequate remedy at law, § 10:7

### **SISTER STATES**

Citizen suit statutes, § 1:7

### **SPECIAL DEFENSES**

Special Defense-§ 22a-16 Action, form, § 11:8

### **STANDARDS**

Rejection of de minimis standard, § 6:15

Unreasonable conduct, § 6:6

### **STANDING**

Generally, § 1:4

Jurisdictional Aspects of § 22a-16 Actions, this index

## INDEX

### **STARE DECISIS**

Generally, § 3:13

### **STATE**

Potential CEPA defendant, § 6:18

### **STATE ADMINISTRATIVE AGENCY, NOTICE OF INTERVENTION**

Form, § 11:3

### **STATE HISTORIC PRESERVATION BOARD**

Generally, § 9:5

### **STATUTE OF LIMITATIONS**

Generally, § 6:25

### **STATUTORY AFFIRMATIVE DEFENSE**

No feasible and prudent alternative, § 6:24

### **STATUTORY AUTHORITY**

Equitable relief, § 10:5

### **STIPULATION**

Judgment by stipulation of the parties, § 10:17

### **STRIKING OF MOTION**

Motion to Strike-§ 22a-16 Action, form, § 11:10

### **STRUCTURES, HISTORIC**

Historic Structures and Landmarks of the State (§ 22a-19a), this index

### **SUBDIVISION ORDINANCES**

Challenge of, § 5:23

### **SUBSEQUENT CEPA PLAINTIFFS**

Effects of actions brought by prior CEPA plaintiffs, § 6:30

### **SUBSTANTIVE AND PROCEDURAL ISSUES IN § 22A-16 ACTIONS**

Generally, § 6:1-6:31

Abatement of public nuisance, failure by municipality as unreasonable conduct,  
§ 6:13

Affirmative defenses, § 6:24, 6:25

Allocation of burden of proof, class of potential defendants, § 6:22

Alternatives, none feasible and prudent as defense, § 6:24

Animal Rights Front, Inc. v. Jacques, § 6:9

Applicability of CEPA, § 6:2, 6:3

Burden of proof, class of potential defendants, § 6:22

Case law, compliance with statutory or administrative scheme, § 6:7-6:9

Class of potential defendants

Generally, § 6:17-6:21

Allocation of burden of proof, § 6:22

Broadly defined, § 6:17

Burden of proof, allocation of, § 6:22

Company officials who participate in unreasonable conduct, § 6:19

Definition, § 6:17

CONNECTICUT ENVIRONMENTAL PROTECTION ACT

**SUBSTANTIVE AND PROCEDURAL ISSUES IN § 22A-16 ACTIONS**

**—Cont'd**

Class of potential defendants—Cont'd

Officials of companies who participate in unreasonable conduct, § 6:19

Others' actions, defendant's action considered along with, § 6:21

State as CEPA defendant, § 6:18

Unreasonable conduct, § 6:19, 6:20

Collateral estoppel. Res judicata and collateral estoppel, below

Company officials who participate in unreasonable conduct, class of potential defendants, § 6:19

Compliance with statutory or administrative scheme, § 6:7-6:9

Conclusion, § 6:16

Conduct. Unreasonable conduct, below

Defendants. Class of potential defendants, above

Defenses, affirmative, § 6:24, 6:25

Definitions

Class of potential defendants, § 6:17

Unreasonable conduct, § 6:6

De minimis standard, rejection of, § 6:15

Estoppel. Res judicata and collateral estoppel, below

Evidence

Prima facie showing that defendant's conduct is unreasonable, § 6:23

Unreasonableness based on hypothetical questions to experts, § 6:12

Exemptions, applicability of CEPA, § 6:2, 6:3

Experts, unreasonableness based on hypothetical questions to experts, § 6:12

Failure of municipality to abate public nuisance as unreasonable conduct, § 6:13

Feasible alternatives, none as defense, § 6:24

Inability to appeal initial finding, res judicata and collateral estoppel, § 6:29

Jury trial, right to, § 6:4

Limitation of actions, § 6:25

Master or referee, use of, § 6:31

Municipalities, abatement of public nuisance, § 6:13

Nuisance, failure of municipality to abate public nuisance as unreasonable conduct, § 6:13

Officials of companies who participate in unreasonable conduct, § 6:19

Other provisions of general statutes, exemptions, applicability of CEPA, § 6:3

Others' actions, defendant's action considered along with, § 6:21

Potential defendants. Class of potential defendants, above

Prima facie showing that defendant's conduct is unreasonable, § 6:23

Prior CEPA plaintiffs, effects on subsequent plaintiffs, § 6:30

Privity, § 6:28

Prudent alternatives, none as defense, § 6:24

Public nuisance, failure of municipality to abate as unreasonable conduct, § 6:13

Questions, unreasonableness based on hypothetical questions to experts, § 6:12

Referee, use of, § 6:31

Rejection of de minimis standard, § 6:15

Res judicata and collateral estoppel

Generally, § 6:26-6:30

## INDEX

### SUBSTANTIVE AND PROCEDURAL ISSUES IN § 22A-16 ACTIONS

#### —Cont'd

Res judicata and collateral estoppel—Cont'd

Inability to appeal initial finding, § 6:29

Prior CEPA plaintiffs, effects on subsequent plaintiffs of actions brought by,  
§ 6:30

Privity, § 6:28

Subsequent CEPA plaintiffs, effects of actions brought by prior CEPA  
plaintiffs, § 6:30

Transactional test, § 6:27

Right to jury trial, § 6:4

Rocque v. Mellon, § 6:8

Standard, unreasonable conduct, § 6:6

State as potential CEPA defendant, § 6:18

Statute of limitations, § 6:25

Statutory affirmative defense: no feasible and prudent alternative, § 6:24

Subsequent CEPA plaintiffs, effects of actions brought by prior CEPA plaintiffs,  
§ 6:30

Transactional test, § 6:27

Unreasonable conduct

Class of potential defendants, § 6:19, 6:20

Company officials who participate in, § 6:19

Definition, § 6:6

Failure of municipality to abate public nuisance, § 6:13

Prima facie showing that defendant's conduct is unreasonable, § 6:23

Unreasonableness

As question of fact, § 6:11

Based on hypothetical questions to experts, § 6:12

Conduct. Unreasonable conduct, above

Defined, § 6:14

Hypothetical questions to experts, unreasonableness based on, § 6:12

Ventres v. Goodspeed Airport, LLC, § 6:8

Venue, § 6:5

Violation of environmental statute, § 6:10

Waterbury v. Washington, § 6:7

Witnesses, unreasonableness based on hypothetical questions to experts, § 6:12

### SUFFICIENCY

Jurisdictional aspects of § 22a-16 actions, CEPA allegations, § 5:22

### SUPERIOR COURT

Venue, § 6:5

### TAXATION

Costs and Attorney's Fees, this index

### TEMPORARY INJUNCTIONS

Generally, § 10:6-10:11

Bond, posting, § 10:10

Grounds for issuance, § 10:9

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **TEMPORARY INJUNCTIONS—Cont'd**

Issuance, grounds for, § 10:9

Mandatory, § 10:8

Posting bond, § 10:10

Prohibitory and mandatory, § 10:8

### **THRESHOLD ISSUE**

Jurisdictional aspects of § 22a-16 actions, standing, § 5:3

### **TIMBER**

Clear cutting of, § 6:11

### **TIME**

Objection to award of attorney's fees by opposing counsel, timely, § 10:29

Section 22a-19 intervention in judicial proceedings, timeliness of appeal, § 8:13

Statute of Limitations, this index

### **TRANSACTIONAL TEST**

Generally, § 6:27

### **TREES**

Clear cutting of timber, § 6:11

Natural resources defined, § 4:5

### **TWO-PRONGED REVIEW**

Retention of jurisdiction to conduct, powers of the court, § 10:14

### **TWO-STEP INQUIRY**

Section 22a-19 intervention in administrative proceedings, agency consideration,  
§ 7:19-7:22

### **UNREASONABLE CONDUCT**

Class of potential defendants, § 6:19, 6:20

Company officials who participate in, § 6:19

Definition, § 6:6

Failure of municipality to abate public nuisance, § 6:13

Prima facie showing that defendant's conduct is unreasonable, § 6:23

### **UNREASONABLENESS**

As question of fact, § 6:11

Based on hypothetical questions to experts, § 6:12

Conduct. Unreasonable Conduct, this index

Defined, § 6:14

Hypothetical questions to experts, unreasonableness based on, § 6:12

### **VENTRES v. GOODSPEED AIRPORT, LLC**

"Colorable claim" of harm to natural resources, jurisdictional aspects of § 22a-16 actions, § 5:12

Substantive and procedural issues in § 22a-16 actions, compliance with statutory or administrative scheme, § 6:8

### **VENUE**

Generally, § 6:5

## INDEX

### **VERIFIED PETITION**

Administrative Proceedings, Section 22a-19 Intervention in, this index

### **VIOLATION OF ENVIRONMENTAL STATUTE**

Generally, § 6:10

### **WATERBURY v. WASHINGTON**

Exhaustion of administrative remedies, jurisdictional aspects of § 22a-16 actions, § 5:27

Jurisdictional aspects of § 22a-16 actions, standing to enforce other environmental laws, § 5:18

Substantive and procedural issues in § 22a-16 actions, compliance with statutory or administrative scheme, § 6:7

### **WATERS AND WATERWAYS**

Dredging permits, § 6:11

Inland Wetlands and Watercourses Act, § 1:8

Inland Wetlands and Watercourses Agency, Notice of Intervention, form, § 11:1

Wetlands and Watercourses Act, § 6:11

### **WETLANDS AND WATERCOURSES ACT**

Generally, § 6:11

### **WILDLIFE**

Natural resources defined, § 4:5

### **WITNESSES**

Unreasonableness based on hypothetical questions to experts, § 6:12

### **ZONING COMMISSION v. FAIRFIELD RESOURCES MANAGEMENT, INC.**

Section 22a-19 intervention in judicial proceedings, § 8:25

# **Index**

## **ABUSE OF DISCRETION**

Costs and attorney's fees, powers of court, § 10:25

## **ADMINISTRATIVE PROCEEDINGS, SECTION 22A-19 INTERVENTION IN**

Case law

Nizzardo v. State Traffic Commission, § 7:12

Pathways, Inc. v. Planning & Zoning Commission, § 7:13

Nizzardo v. State Traffic Commission, § 7:12

Notice requirements, § 7:2

Oaths, § 7:3

Pathways, Inc. v. Planning & Zoning Commission, § 7:13

Privileges and immunities, § 7:15

Procedural issues, right to raise, § 8:17

Right to raise procedural issues, § 8:17

Scope of issues raised on appeal, § 8:15

Scope of judicial review, § 8:14

## **ADMINISTRATIVE REMEDIES**

Exhaustion, jurisdictional aspects of § 22a-16 actions

“Exclusive domain,” § 5:29.50, 5:29

## **AFFIRMATIVE DEFENSES**

Generally, § 6:25.50, 6:30.50

Assumption of risk, § 6:25.60

Comparative recklessness, § 6:25.60

Failure to mitigate damages, § 6:25.70

## **AGGRIEVEMENT**

Jurisdictional aspects of § 22a-16 actions, standing distinguished from classical  
aggrievement, § 5:33

## **AMICUS CURIAE**

Judicial proceedings, section 22a-19 intervention in, § 8:6

## **APPEAL AND REVIEW**

CEPA review by DEP required by 2010 Connecticut general assembly, § 1:9

Temporary injunctions, § 10:9, 10:11

## **APPOINTMENT**

Master or referee, § 6:31

## **BURTON v. COMMISSIONER OF ENVIRONMENTAL PROTECTION**

“Colorable claim” of harm to natural resources, jurisdictional aspects of  
§ 22a-16 actions, § 5:13.20

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### **BURTON v. COMMISSIONER OF ENVIRONMENTAL PROTECTION**

#### **—Cont’d**

Exhaustion of administrative remedies, jurisdictional aspects of § 22a-16 actions, § **5:29.50**

Powers of the court, section 22a-20 construed, § **10:1.50**

Substantive and procedural issues in § 22a-16 actions, compliance with statutory or administrative scheme, § **6:9.50**

### **“COLORABLE CLAIM”**

Jurisdictional aspects of § 22a-16 actions, requirement of “colorable claim” of harm to natural resources, § **5:13.10 et seq.**

### **CONDUCT OF PROCEEDINGS**

Section 22a-19 intervention in judicial proceedings, effect of CEPA intervention on conduct of, § **8:14**

### **CONNECTICUT ENVIRONMENTAL PROTECTION ACT (CEPA)**

Review of CEPA by DEP required by 2010 Connecticut general assembly, § **1:9**

### **CONSISTENCY OR INCONSISTENCY**

Construction of related statutes, § **3:7**

### **CONSTRUCTION AND INTERPRETATION**

Plain meaning rule, § **3:2**

Powers of the court, section 22a-20 construed, § **10:1.50**

Proceedings, § **7:2**

### **COSTS AND ATTORNEY’S FEES**

Historic structures and landmarks of the state (§ 22a-19a), § **9:3**

Master or referee, use of, § **6:31**

### **DEFENSES**

Affirmative, § **6:25.50, 6:25.60, 6:25.70, 6:30.50**

### **DEFINITIONS**

Natural resources “of the state,” § **4:7**

Proceedings, § **7:2**

### **DISCRETION OF COURT**

Attorney’s fees, § **10:24**

Temporary injunctions, § **10:9**

### **DISMISSAL**

Substantive and procedural issues in § 22a-16 actions, dismissal of CEPA claim for plaintiff’s failure to make prima facie case, § **6:32**

### **DUE PROCESS**

Declaratory judgment actions, § **10:4**

### **EQUITABLE RELIEF**

Availability of injunctions, § **10:5.10**

Hearing in damages, injunctions issued in CEPA suits, § **10:11.50**

### **EVIDENCE**

Unreasonable conduct, evidence to establish, § **6:12.50**

## INDEX

### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

Jurisdictional aspects of § 22a-16 actions

“Exclusive domain,” § **5:29.50, 5:29**

### **FEDERAL PREEMPTION**

Jurisdictional aspects of § 22a-16 actions, § **5:30**

### **FINLEY v. INLAND WETLANDS COMMISSION**

Initiation of appeals from administrative agency decisions, section 22a-19

intervention in judicial proceedings, § **8:9.50**

### **FORT TRUMBULL CONSERVANCY, LLC v. NEW LONDON II**

“Colorable claim” of harm to natural resources, jurisdictional aspects of  
§ 22a-16 actions, § **5:13.10**

### **FRIENDS OF ANIMALS, INC. v. UNITED ILLUMINATING CO.**

Substantive and procedural issues in § 22a-16 actions, § **6:9.10**

### **HEARINGS**

Equitable relief, injunctions issued in CEPA suits, § **10:11.50**

Section 22a-19 intervention in administrative proceedings, § **7:2**

### **HISTORIC STRUCTURES AND LANDMARKS OF THE STATE**

(§ **22A-19A**)

Costs of repairs and restoration work, § **9:3**

Historic Preservation Board of State, § **9:2, 9:3**

Jurisdiction, § **9:3**

National Register of Historic Places, § **9:2, 9:3**

### **INLAND WETLANDS AND WATERCOURSES ACT**

Judicial proceedings, section 22a-19 intervention in, § **8:6**

### **INTENT**

Plain meaning rule, § **3:2**

### **JUDICIAL PROCEEDINGS, SECTION 22A-19 INTERVENTION IN**

Appeals

Scope of issues raised on appeal, § **8:15**

Case law

Finley v. Inland Wetlands Commission, § **8:9.50**

Conduct of judicial proceedings, effect of CEPA intervention on, § **8:14**

Effect of CEPA intervention on conduct of judicial proceedings, § **8:14**

Finley v. Inland Wetlands Commission, § **8:9.50**

Inland Wetlands and Watercourses Act, § **8:6**

Judicial review

Generally, § **8:6.50**

CEPA intervention, § **8:6.50**

Scope of, § **8:14**

Verified petition, § **8:4**

Vernon, Town of, § **8:22.50, 8:25.50**

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### JUDICIAL REVIEW

Adequacy of existing administrative and regulatory procedures, powers of the court, § 10:16

### JURISDICTION

Historic structures and landmarks of the state (§ 22a-19a), § 9:3

Remand to administrative proceedings, § 10:12

### JURISDICTIONAL ASPECTS OF § 22A-16 ACTIONS

Administrative remedies, exhaustion of

“Exclusive domain,” § 5:29.50, 5:29

Burton v. Commissioner of Environmental Protection, § 5:13.20, 5:29.50

Case law

Burton v. Commissioner of Environmental Protection, § 5:13.20

“Colorable claim” of harm to natural resources, requirement of, § 5:13.10, 5:13.11, 5:13.20, 5:13.30

Fort Trumbull Conservancy, LLC v. New London II, § 5:13.10

“Colorable claim” of harm to natural resources, requirement of, § 5:13.10, 5:13.11, 5:13.20, 5:13.30

Exhaustion of administrative remedies

“Exclusive domain,” § 5:29.50, 5:29

Federal issues, generally, § 5:32

Federal preemption, § 5:30

Justiciability, § 5:31.10, 5:31.20, 5:31

Requirements

“Colorable claim” of harm to natural resources, requirement of, § 5:13.10, 5:13.11, 5:13.20, 5:13.30

Exhaustion of administrative remedies

“Exclusive domain,” § 5:29.50, 5:29

Standing

Classical aggrievement, distinction from, § 5:33

### JUSTICIABILITY

Jurisdictional aspects of § 22a-16 actions, § 5:31.10, 5:31.20, 5:31

### MEETINGS

Section 22a-19 intervention in administrative proceedings, § 7:2

### MOOTNESS

Jurisdictional aspects of § 22a-16 actions, justiciability, § 5:31.20

### NATIONAL REGISTER OF HISTORIC PLACES

Historic structures and landmarks of the state (§ 22a-19a), § 9:2, 9:3

### NATURAL RESOURCES PROTECTED UNDER THE ACT

Definition of “natural resources,” § 4:7

Natural resources outside of state, § 4:8

### NIZZARDO v. STATE TRAFFIC COMMISSION

Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § 7:12

## INDEX

### **NOISE POLLUTION**

“Colorable claim” of harm to natural resources, § **5:13.40**

### **NOTICE**

Declaratory judgment actions, § **10:4**

### **OATHS**

Administrative proceedings, section 22a-19 intervention in, § **7:3**

### **PATHWAYS, INC. v. PLANNING & ZONING COMMISSION**

Jurisdiction of administrative agency, § 22a-19 intervention in administrative proceedings, § **7:13**

### **POWERS OF THE COURT**

Adequacy

Existing administrative and regulatory procedures, judicial review of, § **10:16**

Administrative procedures

Judicial review of adequacy of existing, § **10:16**

Judicial review of adequacy of existing administrative and regulatory procedures, § **10:16**

Notice requirements, § **10:4**

Regulatory procedures, judicial review of adequacy of existing, § **10:16**

Section 22a-20 construed, § **10:1.50**

### **PREEMPTION**

Jurisdictional aspects of § 22a-16 actions, federal preemption, § **5:30**

### **PREEXISTING CONDITIONS**

Class of potential defendants, § **6:17**

### **“PRIVATE ATTORNEYS GENERAL” DOCTRINE**

Powers of the court, showing of, § **10:7**

### **PRIVILEGES AND IMMUNITIES**

Administrative proceedings, section 22a-19 intervention in, § **7:15**

Substantive and procedural issues in § 22a-16 actions, governmental immunity, § **6:30.50**

### **PROCEDURAL ISSUES**

Section 22a-19 intervention in judicial proceedings, right to raise procedural issues, § **8:17**

### **REGULATORY PROCEDURES**

Judicial review of adequacy of existing, § **10:16**

### **REMEDIATION**

Violation of environmental statute, § **6:10**

### **SECTION 22A-20**

Powers of the court, construed, § **10:1.50**

### **SETTLEMENT OF CLAIMS**

Section 22a-19 intervention in judicial proceedings, § **8:22.50**

## CONNECTICUT ENVIRONMENTAL PROTECTION ACT

### STATE HISTORIC PRESERVATION BOARD

Generally, § 9:2, 9:3

### STATUTE OF LIMITATIONS

Remand to administrative proceedings, § 10:12

### SUBSTANTIVE AND PROCEDURAL ISSUES IN § 22A-16 ACTIONS

Affirmative defenses, § 6:25.50, 6:25.60, 6:25.70, 6:30.50

Assumption of risk, § 6:25.60

Burton v. Commissioner of Environmental Protection, § 6:9.50

Class of potential defendants

Municipality as defendant, § 6:18.50

Comparative recklessness, § 6:25.60

Defenses, affirmative, § 6:25.50, 6:25.60, 6:25.70, 6:30.50

Dismissal of CEPA claim for plaintiff's failure to make prima facie case, § 6:32

Evidence

Unreasonable conduct, evidence to establish, § 6:12.50

Experts

Testimony requirements, generally, § 6:12.60

Failure to mitigate damages, § 6:25.70

Friends of Animals, Inc. v. United Illuminating Co., § 6:9.10

Governmental immunity, § 6:30.50

Municipalities

Class of potential defendants, § 6:18.50

Standard of care imported into negligence per se actions, CEPA defendant,  
§ 6:33

Unreasonable conduct

Evidence to establish unreasonable conduct, § 6:12.50

### TEMPORARY INJUNCTIONS

Appeals, § 10:9, 10:11

Availability of injunctions in equitable relief, § 10:5.10

Discretion of court, § 10:9

### UNIFORM ADMINISTRATIVE PROCEDURE ACT

"Proceedings" defined, § 7:2

### VERIFIED PETITION

Judicial proceedings, section 22a-19 intervention in, § 8:4

### VERNON, TOWN OF

Judicial proceedings, section 22a-19 intervention, § 8:22.50, 8:25.50

### WITNESSES

Costs, § 10:24