

WHEN CAN AN APPLICANT SUBMIT A MUNICIPAL INLAND WETLANDS APPLICATION TO DEEP?

Statute: Sec. 22a-42a

(c)(1) ... If the inland wetlands agency, or its agent, fails to act on any application within thirty-five days after the completion of a public hearing or in the absence of a public hearing within sixty-five days from the date of receipt of the application, or within any extension of any such period as provided in section 8-7d, the applicant may file such application with the Commissioner of Energy and Environmental Protection who shall review and act on such application in accordance with this section. Any costs incurred by the commissioner in reviewing such application for such inland wetlands agency shall be paid by the municipality that established or authorized the agency. Any fees that would have been paid to such municipality if such application had not been filed with the commissioner shall be paid to the state. The failure of the inland wetlands agency or the commissioner to act within any time period specified in this subsection, or any extension thereof, shall not be deemed to constitute approval of the application.

DEEP Process: Excerpt from January 2015 letter mailed to a municipal inland wetlands agency:

The Department would review the application, including all projects plans, as it was submitted to the [Municipality] Inland Wetlands Agency. No changes to the application can be made. The application would be processed in accordance with the statutes, regulations and rules that govern applications submitted to the Department – as opposed to applications submitted to the [Municipality] Inland Wetlands Agency.

Under this process, an applicant must complete the Notice of Application requirements (CGS section 22a-6g) and submit a complete application with the necessary documentation to the DEEP Central Processing Unit. After DEEP completes its review of the application, it will publish a Notice of Tentative Determination to approve, approve with certain conditions, or reject the application, in accordance with CGS section 22a-6h. If an application is tentatively approved or approved with conditions, the Notice of Tentative Determination will inform the public that comments can be submitted for a thirty day period and that interested persons may file a petition for a formal public hearing. If after the public comment period no hearing is requested, the Department will finalize its decision regarding the permit. If DEEP receives a petition with at least 25 signatures, then a public hearing is mandatory. Unlike a hearing at a local level, this public hearing will be conducted as a contested case, in accordance with Connecticut's Uniform Administrative Procedure Act, CGS section 4-166, et seq., and DEEP's Rules of Practice (RCSA section 22a-3a-6). After completion of the public hearing, a proposed final decision and ultimately a final decision will be issued. Should a public hearing be requested, the elapsed time between receipt of an application and a proposed final decision is typically longer than 9 months.

If [Applicant] chooses to submit its application to DEEP, pre-application meetings with IWRD [Inland Water Resources Division] staff are strongly encouraged.

In addition, and the reason I am also sending this letter to [Municipality] Town Manager, I want to highlight that if [Applicant] submits its application to the Department, pursuant to CGS section 22a-42a (c)(1), any costs incurred by DEEP regarding this application shall be paid by the Town of [Municipality]. This includes, but is not limited to, salary and fringe for DEEP personnel (environmental analysts and engineers, supervisors, managers, legal counsel, hearing officers, and clerical), public notices – publication and mailing, document preparation, copying and mailing, and, if necessary, travel for DEEP personnel. DEEP would anticipate billing [Municipality] bimonthly during the application proceeding.