

Municipal Inland Wetland Agencies' Guide to Municipal Inland Wetland Application Submission to DEEP

When can an applicant submit a municipal inland wetlands application to DEEP?

The CT Inland Wetlands and Watercourses Act (IWWA) stipulates when an applicant for a municipal inland wetlands agency (MIWA) permit may file their application with DEEP.

Pursuant to the IWWA, the applicant submits a permit application to the MIWA for review and deliberation, and the application receives a specific date of receipt. Once this occurs, there are two instances when an applicant can file such application with DEEP:

1. the MIWA fails to act on the application within 65-days from the date of receipt of the application, or fails to act within any extension to the 65-day time period, or
2. a public hearing was held, and the MIWA fails to act on the application within 35-days after completion of the public hearing or fails to act within any extension to the 35-day time period.

If the MIWA fails to act per the two scenarios above, the failure to act does **not** constitute approval of the permit application.

Specifically, IWWA sec. 22a-42a states:

(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's process for reviewing such permit applications is as follows (excerpt from January 2015 letter to a MIWA):

1. DEEP reviews the application, including all projects plans, as it was submitted to the MIWA. No changes to the application can be made.
2. The application is processed in accordance with the statutes, regulations and rules that govern applications submitted to the DEEP (as opposed to applications submitted to the MIWA). Under DEEP's process, an applicant must complete the Notice of Application requirements (CGS sec. 22a-6g) and submit a complete application with the necessary documentation to the DEEP Central Processing Unit.
3. DEEP completes its review of the application.
4. DEEP publishes a Notice of Tentative Determination to approve, approve with certain conditions, or reject the application, in accordance with CGS sec. 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 30-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 DEEP will finalize its decision regarding the permit.
5. If DEEP receives a petition with at least 25 signatures, then a public hearing is mandatory. Unlike a hearing at the municipal level, this public hearing will be conducted as a contested case, in accordance with Connecticut's Uniform Administrative Procedure Act, CGS sec. 4-166, et seq., and DEEP's Rules of Practice (RCSA sec. 22a-3a-6).
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.
7. Any costs incurred by DEEP regarding such application shall be paid by the 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 the municipality bimonthly during the application proceeding.

It is important to note the above information concerns permit applications. A jurisdictional ruling form is not a permit application. Such form allows a MIWA to obtain sufficient information to make a finding (jurisdictional ruling) as to whether a proposed regulated activity requires a permit or can be ruled permitted as of right or nonregulated pursuant to IWWA sec. 22a-40.