

Connecticut Department of Energy & Environmental Protection

A Citizen's Guide To Participating in the Municipal Regulation Of Inland Wetlands and Watercourses

Do you own land that contains an inland wetland or watercourse? Do you feel someone is mismanaging his or her inland wetland? Do you want to know how the municipal process for inland wetlands and watercourses regulation works? And do you want to know how you can participate in that process? If so, this fact sheet is for you.

Each town's municipal inland wetlands agency regulates activities that affect inland wetlands and watercourses within their municipal boundaries. These activities, often referred to as "regulated activities", are those proposed or conducted by all persons other than state agencies. State agency actions are solely regulated by the Connecticut Department of Energy and Environmental Protection (DEEP). The volume of business conducted by municipal inland wetlands agencies is substantial on a statewide basis. Over 4,000 actions (such as permit approvals or denials, enforcement proceedings, etc.) are taken by Connecticut's municipal inland wetlands agencies annually, and this number is increasing by approximately 12 percent per year.

Your Involvement in the Municipal Regulatory Process

Property Owners

If your property includes wetlands, you are a custodian of a valuable natural resource. When you need to conduct work in or near wetlands (e.g.: clearing, grading, piping, culverting, excavating, filling, constructing), you must submit a description of your proposed project for review and approval by your town's wetland agency. Most applicants for permits use professional consultants such as engineers, soil scientists, and attorneys to represent their interests before a municipal inland wetlands agency. However, municipalities often have simpler application requirements for small-scale projects often undertaken by property owners. All municipal inland wetlands agencies have established municipal regulations to administer the Act.

Before you begin your activity you should carefully review your municipal inland wetlands regulations to determine which application requirements are appropriate to you. Many towns employ wetland agents to provide guidance and assist wetland agencies and citizens with related issues. The wetland agent can determine if your project is a regulated activity, and if so, explain the application process for your regulated activity and provide you with the necessary application forms.

A soil scientist may be required to field locate wetland areas which are determined by soil type in Connecticut though most town agencies have maps available to help determine if a property contains wetlands. If the wetlands agency approves your project, a permit will be issued allowing you to conduct the activity. For certain types of projects, a state and federal permit may also be required. If you own wetlands, you may be entitled to a re-evaluation of your property. Contact your town Tax Assessor for more information.

Enforcing The Law

Often citizen concerns are the first step in enforcement actions. As a citizen of a municipality, you may bring to the attention of the inland wetlands agency activities you feel may be improperly conducted. The best way to do this is to contact the wetlands agent. The agent can tell you if a permit has or has not been issued for the activity.

If you conduct an activity without the necessary approval from the municipal inland wetlands agency, or if you violate a condition of approval in the permit, you may be subject to enforcement action. Municipal inland wetlands agencies have authority to enforce all applicable sections of the Act and their municipal regulations. Enforcement actions may result in municipal fines, or court orders and civil penalties. The Act also provides that DEEP may take enforcement action in any municipality in Connecticut.

Municipal inland wetlands agencies and the DEEP have substantial flexibility in enforcement matters and will often use informal enforcement tools such as phone calls and letters to ensure compliance. Many municipalities employ a wetlands agent to assist the inland wetlands agency and such agents are often involved in enforcement matters. As in the case of an applicant for a permit, persons subject to enforcement actions should carefully review the municipal inland wetlands regulations and determine if representation by legal counsel or other professionals is appropriate.

Attending Regular Meetings

You may participate in the municipal inland wetlands regulatory process even if you are not an applicant or involved in an enforcement matter. You may have an interest in a particular proposal and wish to attend a meeting of the municipal inland wetlands agency. Most agency business is conducted during a regular meeting. A town or city agency must file each year a schedule of its regular meetings with the clerk of the town or city.

The Connecticut Freedom of Information Act gives the public the right to attend the meetings of public agencies and view meetings while they are taking place. However, it is important to note that the public *does not have the right* to speak about an application for a regulated activity before the municipal inland wetlands agency. The forum in which the public may speak is called a public hearing.

Public Hearings

Public hearings are different than regular meetings. You have the opportunity to speak on an application currently before the municipal inland wetlands agency. This allows you to express your concerns or show support for a particular regulated activity. A public hearing allows the municipal inland wetlands agency to receive comments from the public regarding a particular regulated activity. Municipal inland wetlands agencies may not allow you to question the applicant and his representatives unless you become a formal party to the proceeding by intervening (see below for further information).

As per the Act, the agency will only hold a public hearing when certain circumstances apply:

- A hearing is allowed if the inland wetlands agency determines that the proposed activity may have a significant impact on wetlands or watercourses.
- The agency can also hold a hearing if the agency finds that a public hearing regarding the application would be in the public interest.
- Lastly, the agency must hold a hearing if it receives a petition signed by at least 25 persons who are eighteen years of age or older and who reside in the municipality in which the regulated activity is proposed, and the petition requesting a hearing is filed with the agency within fourteen days of receipt of the application.

Becoming an Intervener

Besides attending an agency's regular meeting or participating in a public hearing, you may intervene in the municipal inland wetlands agency's proceedings pursuant to section 22a-19 of

the Connecticut General Statutes. Section 22a-19 of the Connecticut General Statutes allows any person to intervene as a party in any administrative proceeding by filing a verified pleading which claims that the proposal or proceeding "...involves conduct which has, or is reasonably likely to have, the effect of unreasonably polluting, impairing or destroying the public trust in the air, water or other natural resources of the state."

A verified pleading is an acknowledged written statement signed by the intervener and for purposes of inland wetlands and watercourses jurisdiction, should focus on such resources. Since the intervener becomes a party to the proceeding, this allows the person to fully participate in the application review process conducted during both a regular meeting of the inland wetlands agency and an agency public hearing. That means an intervener can speak at a regular meeting and question the applicants as well as present their own experts outside of the public hearing format.

Appealing Decisions

Finally, if you feel that the action or decision of a municipal inland wetlands agency is erroneous, you may obtain legal counsel and take the matter to the state courts. Whatever the outcome of a regular meeting or a public hearing, the action or decision of a municipal inland wetlands agency cannot be appealed to the DEEP.

The Wetlands Management Section of DEEP receives numerous telephone calls every year from persons requesting that the DEEP reverse or overturn an action or decision of a municipal inland wetlands agency. The Act does not provide any authority to the DEEP to act as a board of appeals or to overturn the actions of municipal inland wetlands agencies. Appeals must be taken to state courts. Only the state courts can overturn such actions or decisions. Section 22a-43 of the Act requires that appeals must be made to the superior court for the judicial district where the land affected is located. The majority of legal appeals of municipal inland wetlands agencies actions in Connecticut involve appeals of permit decisions.

Additional Information

For additional information regarding the municipal inland wetlands agency regulatory process contact the DEEP's Wetlands Management Section at (860) 424-3019.

Content last updated on March 22, 2012