

SECTION 10 - CONSIDERATIONS FOR DECISION

10.1 The Agency may consider the following in making its decision on an application:

- a. The application and its supporting documentation;
- b. Public comments, evidence and testimony;
- c. Reports from other agencies and commissions including but not limited to the Town of Killingly:
 1. Conservation Commission
 2. Planning & Zoning Commission
 3. Building Official
 4. Health Officer (Northeast District Department of Health)
 5. Town Engineer/Director of Public Works
 6. Town Planner
 7. Environmental Planner
 8. Water Pollution Control Authority
- d. The Agency may also consider comments on any application from the Windham County Soil and Water Conservation District, the Northeast Connecticut Council of Governments Regional Planning Agency or other regional organizations (i.e. Council of Elected Officials); agencies in adjacent municipalities which may be affected by the proposed activity, or other technical agencies or organizations which may undertake additional studies or investigations;
- e. Non-receipt of comments from agencies and commissions listed in Subdivisions 10.1.c and above within the prescribed time shall neither delay nor prejudice the decision of the Agency.

10.2 Standards and Criteria for Decision.

In carrying out the purposes and policies of Sections 22a-36 to 22a-45 of the General Statutes and these regulations, including matters relating to regulating, licensing and enforcing of the provisions thereof, the Agency shall take into consideration all relevant facts and circumstances, including but not limited to:

- a. The environmental impact of the proposed regulated activity on wetlands or watercourses; (Amend. Effective Date June 1, 1997)
- b. The applicant's purpose for, and any feasible and prudent alternatives to, the proposed regulated activity which alternatives would cause less or no environmental impact to wetlands or watercourses; (Amend. Effective Date June 1, 1997)
- c. The relationship between the short-term and long-term impacts of the proposed regulated activity on wetlands or watercourses and the maintenance and enhancement of long-term productivity of such wetlands or watercourses; (Amend. Effective Date June 1, 1997)
- d. 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; (Amend. Effective Date June 1, 1997)

- e. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity; (Amend. Effective Date June 1, 1997) and
- f. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with, or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses. (Amend. Effective Date June 1, 1997)

- 10.3 a. In the case of an application which received a public hearing pursuant to a finding by the Inland Wetlands Agency that the proposed activity may have a significant impact on wetlands or watercourses, a permit shall not be issued unless the Agency finds on the basis of the record that a feasible and prudent alternative does not exist. In making this finding the Agency shall consider the facts and circumstances set forth in subsections 10.1 a-e and 10.2 a-f. The finding and the reasons therefor shall be stated on the record in writing. (Amend. Effective Date June 1, 1997)
- 10.3 b. In the case of an application which is denied on the basis of a finding that there may be feasible and prudent alternatives to the proposed regulated activity which have less adverse impact on wetlands or watercourses, the Agency shall propose on the record in writing the types of alternatives which the applicant may investigate provided this subsection shall not be construed to shift the burden from the applicant to prove that he is entitled to the permit or to present alternatives to the proposed regulated activity. (Amend. Effective Date June 1, 1997)
- 10.3 c. For purposes of this section (CGS 22a-41, (1) "wetlands or watercourses" includes aquatic, plant or animal life and habitats in wetlands or watercourses, and (2) "habitats" means areas or environments in which an organism or biological population normally lives or occurs.
- 10.3 d. A municipal inland wetlands agency shall not deny or condition an application for a regulated activity in an area outside wetlands or watercourses on the basis of an impact or effect on aquatic, plant, or animal life unless such activity will likely impact or affect the physical characteristics of such wetlands or watercourses. (Effective date, May 15, 2011)

10.4

In reaching its decision on any application after a public hearing, the Agency shall base its decision on the record of that hearing. Documentary evidence or other material not in the hearing record shall not be considered by the agency in its decision.