



Inland Wetlands & Natural Resources Department

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Testimony of Diana Ross
Inland Wetlands and Environmental Director
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SB No. 141 –AN ACT CONCERNING REVISION OF DEFINITIONAL, TIMING AND PROCEDURAL PROVISIONS OF THE INLAND WETLANDS AND WATERCOURSES ACT.

Attn: Senator Kennedy, Representative Albis, co-chairs and members of the Committee on Environment
Testimony -Not in support of proposed change to 22a-42a(c)(1), 22a-42(h), and repeal of 22a-42(d)

Connecticut General statutes are clear that it is the responsibility of the DEEP Commissioner per Section 22a-39(a) to “*Exercise general supervision of the administration and enforcement of sections 22a-36 to 22a-45.*”
The intent of the proposed changes referenced above appears to be to transfer much of this responsibility from the DEEP Commissioner to applicants, general public, and the Judicial Court system.

I request that you do not support these changes for the following reasons:

1. **It is unclear what benefit these changes provide.** This change appears to be intended to address situations which occur only infrequently (applicants who were forced to go to DEEP if the local IWC does not process their application or complaints that the local IWC has failed to perform duties). DEEP does not appear to have put any effort into consideration of alternatives that may streamline the process.
2. **The changes may have profound implications moving forward by undermining the credibility of the wetland law.** Currently towns pay a high financial price to DEEP for failing to act on applications. If a town commission can't function in its capacity to process applications it may likely not enforce it's regulations either. Potential applicants may decide it is not worth the time and funds to go to court and that violating the law by not obtaining an approval costs nothing and poses low risk of enforcement action. Ignoring the law entirely may be the most productive and least costly option. Once a precedent such as this is set, it may become common practice for potential applicants to act without permits.
3. **Unclear language**-Section 22a-43(s) has been changed to allow any person aggrieved”...for failure to act” on an application pursuant to subsection (c) of section 22a-42a to appeal to superior court. Is it possible to appeal no action or decision?
4. **It appears there is no guidance or limit to the kind of “equitable relief” or “conditions on the defendant” which might be granted.** Section 22a-42 adds subsection (h) “*Any person may maintain an action in the superior court against a municipality for failure to perform its duties pursuant to this section. The court may grant temporary or permanent equitable relief or may impose such conditions on the defendant as are required to fulfill the requirements of this section.*”

DEEP should be required to consider options to address the limited resources, such as use of application fees to contract out application reviews to consultants or conservations districts, and making decisions based on reports from those reviews. For complaints, the IWCs must be required to submit documentation of actions taken, so that only the legitimate complaints need further processing. DEEP must maintain final regulatory authority for wetland protection rather than risk undermining the public trust.

I support the other changes proposed by this act.

Diana Ross
Director and Inland Wetlands Agent