

Summary of Wetland Appeals Changes:

Although the stated rationale is to make permitting more efficient, there were only four citizen appeals last year. The proposal –

- Eliminates 10-resident adjudicatory appeals;
- Eliminates appeals by abutting residents unless they can meet legal standard of “aggrieved” (which is a tougher standard);
- Removes appeals from Division of Administrative Appeals to DEP thus eliminating independent review of DEP decisions;
- Establishes presumptive timelines regardless of case complexity;
- Limits most wetland appeals to 1 day of hearing;
- Sets tight timelines -- 45 days from pre-screening conference to file all proof in case -- and interveners do not get any extra time;
- Does not allow testimony to be supplemented once filed;
- Removes notice provision to interested parties that superseding order area of resource delineation (SORAD) or superseding order of conditions (SOC) has been issued (or of site visit). As a result, DEP can overrule a local Conservation Commission, and interested parties will never know;
- Allows DEP to “opt out” of further participation after filing a Response unless the DEP presiding officer requires otherwise;
- Denies local Conservation Commissions an explicit right to intervene;
- Removes most discretion to adjust filing deadlines even when fairness requires;

Preface says DEP will evaluate and decide whether to extend to other programs in one year.