

*10 Essential Steps for Conservation Commission Review of Notices of Intent under the Massachusetts Wetlands Protection Act*

- 1. Each commission member should review the Notice of Intent and any supporting plans and documents. The public hearing on the project must be held within 21 days of the issuance of the DEP File Number.**
- 2. Has the commission conducted a site visit, taken photos, and made notes of important observations?**
- 3. The jurisdictional extent of all resource areas has been established for the site and agreed upon by the commission.**
- 4. Does the commission have a good understanding of the work proposed, and has the work been depicted clearly on the plans?**
- 5. Based upon discussion between the applicant and the commission, and the information presented in the Notice of Intent, does the commission have a working understanding of project-related impacts to protected resource areas?**
- 6. Has enough information been submitted to enable the commission to set conditions on the work to protect the capacity of the resource areas to provide for the 8 statutory interests of the Act? Has the applicant submitted a narrative and explained to the Commission how the General Performance Standards for each resource area to be impacted have been complied with? If yes, proceed to issuance of an Order of Conditions. If no, go to step 7 below.**
- 7. The commission needs to identify for the applicant what additional specific information is needed, and why it is needed, to ensure that the proposed work meets specific regulatory requirements, performance standards, etc. The commission needs to request in writing what information is needed and set a deadline for submission of the requested information in advance of the Public Hearing continuance to enable commission members adequate time to review this information.**
- 8. Has all of the requested information been submitted to the commission and the Department by the established deadline? If the information is not submitted, or partially submitted, does the commission desire to set another deadline for the requested information with the consent of the applicant?**
- 9. Has each commission member had a chance to review the information submitted?**
- 10. If all of the requested information has been submitted, and the commission determines that conditions can be set on the work to protect the capacity of the resource areas to provide for the 8 statutory interests of the Act, proceed to issue the Order of Conditions. If a portion of the requested information has not been submitted, the commission should consider only authorizing the work that can be conditioned in an Order of Conditions, and prohibit the work that cannot be conditioned. [See Regulations 310 CMR 10.05(6)(b)&(c)]. If none of the requested information has been submitted, the commission should consider issuing a Denial Order of Conditions.**

Note: If the commission has completed Steps 1 – 10 above, and has issued a partial or complete Denial Order of Conditions, citing the information which was lacking as per 310 CMR 10.05(6)(c), and if the applicant appeals to the Department, the Department will only evaluate the appeal if the requested information was submitted by the applicant, or was legitimately needed. If the applicant has not worked with the commission to provide the requested information, and the information is needed for protection of the wetland resource areas, the Department upon appeal will affirm the commission's decision and require the applicant to file a new Notice of Intent addressing the commission's issues.