

HEARING OR WITHIN 60 DAYS OF THE RECEIPT OF A COMPLETED APPLICATION IF NO HEARING IS HELD. AFTER NOTIFYING THE APPLICANT, THE DEPARTMENT MAY EXTEND ITS ACTION BEYOND THESE TIME PERIODS FOR AN ADDITIONAL 30 DAYS FOR EXTENUATING CIRCUMSTANCES.

8-1207.

(A) THE DEPARTMENT SHALL MAY NOT ISSUE A NONTIDAL WETLAND PERMIT FOR A REGULATED ACTIVITY ONLY IF THE DEPARTMENT FINDS THAT THE REGULATED ACTIVITY UNLESS THE DEPARTMENT FINDS THAT THE APPLICANT HAS DEMONSTRATED THAT THE REGULATED ACTIVITY:

(1) (I) IS WATER DEPENDENT OR AND REQUIRES ACCESS TO THE NONTIDAL WETLANDS WETLAND AS A CENTRAL ELEMENT OF ITS BASIC FUNCTION; OR

(II) IS NONWATER NOT WATER DEPENDENT AND HAS NO PRACTICABLE ALTERNATIVE;

(2) WILL MINIMIZE ALTERATION OR IMPAIRMENT OF THE NONTIDAL WETLAND INCLUDING EXISTING TOPOGRAPHY, VEGETATION, FISH AND WILDLIFE RESOURCES, AND HYDROLOGICAL CONDITIONS; AND

(3) WILL NOT CAUSE OR CONTRIBUTE TO A DEGRADATION OF GROUNDWATERS OR SURFACE WATERS--; AND

(4) IS CONSISTENT WITH ANY COMPREHENSIVE MANAGEMENT PLAN THAT MAY BE DEVELOPED IN ACCORDANCE WITH § 8-1208 OF THIS SUBTITLE.

~~(B)--IN ORDER TO SHOW THAT THE REGULATED ACTIVITY HAS NO PRACTICABLE ALTERNATIVE, THE APPLICANT MUST DEMONSTRATE TO THE DEPARTMENT'S SATISFACTION THAT:~~

(B) THERE SHALL BE A PRESUMPTION THAT PRACTICABLE ALTERNATIVES EXIST. THE APPLICANT SHALL DEMONSTRATE TO THE SATISFACTION OF THE DEPARTMENT THAT PRACTICABLE ALTERNATIVES HAVE BEEN ANALYZED AND THAT THE REGULATED ACTIVITY HAS NO PRACTICABLE ALTERNATIVE. IN EVALUATING WHETHER THE PROPOSED REGULATED ACTIVITY HAS A PRACTICABLE ALTERNATIVE, THE DEPARTMENT SHALL CONSIDER:

(1) WHETHER THE BASIC PROJECT PURPOSE CANNOT BE REASONABLY ACCOMPLISHED UTILIZING 1 OR MORE OTHER SITES IN THE SAME GENERAL REGION AREA THAT WOULD AVOID OR RESULT IN LESS ADVERSE IMPACT ON NONTIDAL WETLANDS;

(2) WHETHER A REDUCTION IN THE SIZE, SCOPE, CONFIGURATION, OR DENSITY OF THE PROJECT AS PROPOSED AND ALL ALTERNATIVE DESIGNS THAT WOULD RESULT IN LESS ADVERSE IMPACT ON THE NONTIDAL WETLAND WOULD NOT ACCOMPLISH THE BASIC PURPOSE OF THE PROJECT;