



2012 Statutory Changes Affecting the Wetlands Protection Act



Changes to the Wetlands Protection Act (WPA) under Chapter 238 of the Acts of 2012 (An Act Relative to Infrastructure Investment, Enhanced Competitiveness and Economic Growth in the Commonwealth) include revisions to Abutter Notification, Emergency Provisions, and the Permit Extension Act as well as adding an exemption for the maintenance, repair and replacement of "sewer" as a public utility. These changes also affect how Conservation Commissions may implement the Wetlands Protection Act. The brief summary below identifies the amended provisions of the WPA as well as what the revisions mean to Conservation Commissions.

Abutter Notification

- ❖ Existing abutter provisions continue to apply to most projects, including all inland (non-LUW)
 - Less than 50 acres
 - A linear shaped projects less than 1,000 feet.
- ❖ New abutter notice provisions apply to all abutters within 100 feet of project, unless the project locus is:
 - Land Under Water bodies or Waterways (LUW)
 - 50 Acres or more
 - Linear shaped projects greater than 1,000 feet
- ❖ Abutter - preserves 10.05(7)(a) appeal rights of "any owner of land abutting the land on which the work is to be done".
- ❖ New definitions in wetlands regulations (10.04) for linear shaped project, project locus and project site (see reverse side for project examples and the proposed definitions).

Sewer

- ❖ Purpose: To encourage the maintenance and repair, not substantial change or enlargement, of sewer systems to avoid and address health and environmental threats created by leaking sewers.
Maintenance, repair, replace
 - Cleaning systems
 - Replacing cracked pipe
 - Repairing manhole
- ❖ "substantially changing or enlarging" projects not included in this exemption
 - New pump station
 - System extensions
 - Increasing pipe diameter



Permit Extension Act

- ❖ Purpose: To promote job growth and long-term economic recovery.
- ❖ Effect: Automatically extends, for four years beyond its otherwise applicable expiration date, any permit or approval that was "in effect or existence" during the qualifying period beginning on August 15, 2008 and extending through August 15, 2012.
- ❖ Automatic: Occurs by action of law – no action needed by either approval holder or issuing authority.
FAQ: <http://www.mass.gov/hed/economic/eohed/pro/zoning-laws/permit-extension-act.html>

Storm Emergency Amendment:

The Storm Emergency statute amendment provides for more expeditious recovery and cleanup of widespread and severe storms. MassDEP Severe Weather Emergency Declarations authorize work necessary for the protection of the health and safety of residents of the Commonwealth. MassDEP: <http://www.mass.gov/dep/public/reglist.htm>



- ❖ The Severe Weather Emergency Declaration amendment:
 - Preserves conservation commission local emergency powers.
 - Eliminates need for MassDEP emergency regulation promulgation
 - Limits MassDEP authority to severe weather events
 - Facilitates communications and promotes timely responses.
- ❖ Benefits of Emergency Declarations
 - Reduces burdens on commissions to respond multitude of similar emergency requests.
 - Reduces administrative review and need for emergency regulation promulgation
 - Reduces administrative burdens on commissions following severe events
 - Allows for timely response to large-scale coastal and inland storm events.
 - Reduce delays and speed responses to clear roads, repair utilities, and remove debris.
 - Facilitates communications among local, regional, and state agencies
 - Does not pre-empt existing statutory allowance for emergency certifications issued by conservation commissions in response to local threats to public health or safety.