

Updated Forestry Memorandum of Understanding between the Massachusetts Department of Environmental Protection and Massachusetts Department of Conservation Recreation

In response to Secretary Beaton's May 2017 directive for state agencies to review existing regulations and policies for consistency relative to the sustainable forest practices, DEP and DCR undertook a review of a long-standing Memorandum of Understanding (MOU) between the Department of Environmental Protection (DEP) and Department of Environmental Management (DEM), predecessor agency to the Department of Conservation and Recreation (DCR). The original MOU, dated 1995, addressed Forestry Exemption of the Wetlands Protection Act and the requirements of the Forest Cutting Practices Act.

The MOU was developed to establish a basis for cooperation between DEP and DCR. The MOU identifies the roles that each agency will play to ensure that forestry practices are conducted in an environmentally responsible manner consistent with the wetland and forest cutting practices regulations. The MOU also serves to advise municipal conservation commissions, landowners, and other persons involved in forestry activities as to the respective roles and responsibilities of all involved.

The MOU addresses procedures and responsibilities for each agency relating to forestry activities under the Wetlands Protection Act (WPA), M.G.L. Chapter 131 Section 40 (and associated regulations at 310 CMR 10.00) and the Forest Cutting Practices Act (FCPA), M.G.L. Chapter 132, Sections 40-46 (and associated regulations at 304 CMR 11.00).

The MOU specifically addresses forestry activities, subject to the FCPA, involving the production of forest products such as biomass, sawlogs, and cordwood. Such activities are typically deemed to constitute an agricultural activity and are exempt from the wetland regulations if carried out in accordance with a forest cutting plan (FCP) approved by DCR.

The revised MOU includes the following key elements:

- Clarifies the regulatory provisions applicable to forest cutting in wetland resources.
- Provides updated reference to the Massachusetts Forestry Best Management Practices (BMP) Manual (2013) - <https://www.mass.gov/media/1869341/>
- Provides a new standard for providing scaled maps and identifying wetland resources based on the current Massachusetts Geographic Information wetlands datalayer - <https://maps.massgis.digital.mass.gov/images/dep/omv/wetviewer.htm>
- Reaffirms the need for the restoration of disturbed wetlands and streams by the reestablishment of pre-existing vegetation, substantial restoration of pre-existing grade, and the timely removal of temporary access structures.
- Reiterates and strengthens a commitment by DEP and DCR to ensure cross-training of staff and conduct outreach to stakeholders regarding the pertinent regulations and requirements of this MOU.
- Emphasizes greater outreach by DCR and DEP to local conservation commissions for assistance in delineating wetland resource areas.

- Provides more explicit guidance to conservation commission in the review of FCP adequacy and re-iterates the importance of communication with DCR in instances of non-compliance with FCPs.

The revised MOU also includes the following updates:

- Clarifies the role of the DCR Service Forester in approving, disapproving, amending, or extending forest cutting plans and communicating such actions to all stakeholders..
- Further articulates the methods by which DCR will address activities not in compliance with a FCP.
- Reaffirms the need for DEP and DCR to collaborate, and pursue consensus, on matters related to FCP violations in effort to achieve compliance prior to further enforcement action.
- Continues to assure that all FCPs will be reviewed for impacts within estimated and priority habitat areas subject to the review of the Natural Heritage and Endangered Species Program of the Division of Fisheries and Wildlife.