

Effective Meets Efficient

Three years of extensive work reviewing and incorporating public comments and receiving input from municipal partners and advisory committees, went into formalizing revisions to the wetlands and waterways regulations that went into effect on October 24, 2014. These changes to the Wetlands, Waterways (Chapter 91) and 401 Water Quality Certificate regulations are designed to save applicants and Commissions time and resources while building a community's resilience to climate change by promoting fundamental improvements to wetland ecosystems.

In addition, revisions to the Wetlands Protection Act in response to Chapter 238 of the Acts of 2012 (An Act relative to infrastructure investment, enhanced competitiveness and economic growth in the Commonwealth) include changes to Abutter Notification, Emergency Provisions, and the Permit Extension Act as well as adding an exemption for the maintenance, repair and replacement of "sewers" as a public utility. The revisions with regulatory citations are summarized within this brochure.



MassDEP Wetlands Program
One Winter Street
Boston, MA 02108

Contact Information

Nancy Lin P.W.S.
Phone: 617-556-1109
Email: Nancy.Lin@state.ma.us.

Alice Smith, M.E.M.
Phone: 617-292-5854
Email: Alice.Smith@state.ma.us



Funded in part by a
Federal Clean Water Act
Wetland Program Development Grant
(WPDG) 104(b)(3) from U.S. EPA.

The MassDEP's Wetlands and Waterways Program provides technical and regulatory support as well as effective, practical guidance to our municipal partners in our shared goal to protect our natural resources—**our Common Wealth.**



WETLANDS AND
WATERWAYS
PROGRAM

How MassDEP is Protecting Wetlands for Our Future

The ultimate test of man's conscience may be his willingness to sacrifice something today for future generations whose words of thanks will not be heard.

— Gaylord Nelson, founder of Earth Day



How MassDEP is Protecting Wetlands for Our Future

Renewable Energy (RE) Access

Consistent with the Commonwealth's goals to promote and develop renewable energy. The MassDEP wetlands protection regulations now provide greater latitude for such projects. The construction of a new access roadway, or the repair and replacement of an existing access roadway that is needed to transport RE equipment to project sites is now permissible. Such projects may be permitted if designed and constructed in a manner that avoids, minimizes and mitigates adverse impacts to resource areas and complies with protective conditions, to the maximum extent practicable by addressing the major environmental impacts before submitting their permit application. See 310 CMR 10.05 (11), 10.24(7)(c)(7), and 10.53(3)(t).



MassDEP wetlands protection regulations now provide greater latitude for such projects. The construction of a new access road-

way, or the repair and replacement of an existing access roadway that is needed to transport RE equipment to project sites is now permissible. Such projects may be permitted if designed and constructed in a manner that avoids, minimizes and mitigates adverse impacts to resource areas and complies with protective conditions, to the maximum extent practicable by addressing the major environmental impacts before submitting their permit application. See 310 CMR 10.05 (11), 10.24(7)(c)(7), and 10.53(3)(t).

Ecological Restoration Projects



Town Brook - before and after restoration

Projects that restore the ecological integrity of a resource may now qualify for a general permit also known as a Restoration Order of Conditions. The general permit contains standard conditions which makes the permitting process more predictable and consistent for qualified restoration projects that include:

- Dam Removal;
- Freshwater Culvert Repair or Replacement;
- Culvert Replacement to Eliminate or Reduce Tidal Restrictions;
- Stream Daylighting;
- Restoration of Rare Species Habitat; and
- Improvement of Fish Passage.

MassDEP also addressed restoration projects obstacle in the 401 Water Quality Certification and Chapter 91 Waterways License or Permit. The regulatory revisions now include a combined permit option for dredging projects. See 310 CMR 10.11-10.14.

Stream Crossing Standards (SCS)

Our rivers and stream ecosystems are particularly vulnerable to fragmentation from dams and road crossings culverts that alter wildlife and fish passage. It is estimated that there are over 28,500 road and railway stream crossings in Massachusetts. The regulations previously allowed replace-



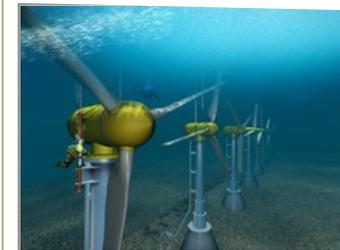
ment crossings to be reconstructed to the existing design. The revised regulations improve the condition of

stream crossings for fish and wildlife by incorporating the Stream Crossing standards developed by the North Atlantic Aquatic Connectivity Collaborative. Meeting these standards will also enhance road and infrastructure resilience to climate change as intense rainfall events become more frequent. The regulations now require that new, non-tidal stream crossing structures fully comply with the

Massachusetts Stream Crossing Standards. New crossings in tidal areas must be designed in a manner that does not restrict tidal flow over the full natural tidal range. Replacement of existing non-tidal crossing structures must comply with the SCS to the maximum extent practicable and replacement of existing tidal crossing structures must eliminate any tidal restriction to the maximum extent practicable. See 310 CMR 20.24 (10), 10.35(6), and 10.54(8).

Permitting of Test Projects

The recently revised regulations now provide a clear and simplified permitting pathway for short-term tests of innovative/new technology in coastal waters involving short-term placement of



temporary installations. Such projects must undergo standard permitting procedures. The regulations acknowledge that certain data necessary to

demonstrate that a new technology complies with performance standards may be absent from permitting process, but provide the latitude for Conservation Commissions to condition projects to monitor the impacts of the new technology during the test and to order project modification, cessation, and site restoration if unforeseen impacts arise. See 310 CMR 10.05(11).

MassDEP is moving forward to create an environment that integrates innovation and preservation we look to the public to work with us to create the change needed for future generations.