



Buzzards Bay Project
National Estuary Program

The Wetlands Protection Act
RE23RC01

Waquoit Bay Reserve
April 4, 2005

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The Wetlands Protection Act, Chapter 131, section 40 (WPA), and the Massachusetts Wetlands Regulations (310 CMR 10.00), protect wetland areas for the following reasons, public interests: protection of private and public water supply, protection of ground water supply, flood control, storm damage prevention, prevention of pollution, protection of land containing shellfish, protection of fisheries, and protection of wildlife habitat.

The WPA regulates activity that affects (“fill, dredge remove or alter”) certain “resource areas.”

Inland:

- Bank
- Bordering Vegetated Wetlands
- Land under Water Bodies and Waterways
- Land Subject to Flooding
- Riverfront Area (Check [here](#) for the new mouth of river mapping)

Coastal:

- Land Under the Ocean
- Designated Port Areas
- Coastal Beaches
- Coastal Dunes
- Barrier Beach
- Coastal Banks
- Rocky Intertidal Shores
- Salt Marsh
- Land Under Salt Ponds
- Land Containing Shellfish



Banks of Land Under the Ocean, Ponds Streams Rivers, lakes, or Creeks that Underlie Anadromous/Catadromous (“Fish Run”) Land Subject to Coastal Storm Flowage [FEMA Flood Insurance Rate Maps](#)

Under the WPA, projects in these areas, and within 100 feet of most of these areas, require Conservation Commission review prior to commencement. New WPA regulations allow certain work to proceed within 50 feet of a wetland without a permit, but on cape towns local permits under the local wetland protection bylaw are still needed so this regulatory change has little practical effect.

The [WPA](#), [310 CMR 10.00](#) and related [policies](#) are all available on-line.

A Request for Determination of Applicability (Form 1, 310 CMR 10.00) was used to ask the Conservation Commission to agree to areas of jurisdiction, or to decide if certain work requires a permit (Order of Conditions). This process is now being supplanted by the ANRAD, the Abbreviated Notice of Resource Area Delineation. There is a fee attached to the ANRAD, but unlike the RDA, it can be renewed after the initial three year approval.

A Notice of Intent (Form 3, 310 CMR 10.00) is the permit application for activity that would fill, dredge, remove or alter an area subject to protection under the WPA.

[WPA Forms](#) are available online, or at the local Conservation Commission office.

Appeals from local decisions made under the WPA can be made only within 10 business days of the date of the local decision to the Department of Environmental Protection regional office in Lakeville. Check 310 CMR 10.00 for the required procedures for appeals.

Once an Order of Conditions has been issued it is registered at the Registry of Deeds in the chain of title for the affected property. Many lending institutions want a Certificate of Compliance issued to clear the title prior to issuance of a loan. This takes time. A Certificate of Compliance requires a site inspection and must be issued at a meeting of the Commission.

New Regulations Issued March 1, 2005

A short PowerPoint [Power Point](#) show regarding the new regulatory changes is on the web (For those not using Microsoft Power Point, the [presentation](#) is also available in a pdf format)

Areas of Critical Environmental Concern (ACEC)

Stricter regulations apply to wetland activities in ACEC's. To determine if an ACEC exists in your area, check the DEP [ACEC website](#). Maps of each ACEC Boundary are available at the Division of Conservation and Recreation [ACEC website](#).

Other Related Permits

Local Wetland Protection Bylaws.

Many towns view the Wetlands Protection Act, (WPA), as a minimum to protect the town's natural resources. For over twenty years, towns have been implementing their own wetland protection strategies that offer greater protection than that provided by the WPA. Since wetlands provide natural protection for water quality and flood control, these local protection efforts have contributed to the environmental well-being of the community.

One protection tool is a wetland protective bylaw. A town is empowered to adopt a wetland protective bylaw under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes. The bylaw is adopted by a majority vote at Town Meeting. A wetland protective bylaw is a permitting mechanism, so it is only natural that the administration, enforcement, and variance requests, go through the Conservation Commission. Appeals are to Superior Court, with the following standard for review by the court: "Is there evidence established in the record that supports the decision of the Conservation Commission?"

To apply a bylaw, most Conservation Commissions have adopted regulations. These regulations are stricter than the provisions of 310 CMR 10.00

Most local bylaws require Conservation Commission review for project within 100 feet of any wetland and wetland resources. Always check with the local Commission for applicable regulations.

The Massachusetts Association of Conservation Commissions has a [site](#) that lists towns with wetland bylaws, but it is not a complete list..

[Ordinance.com](#) (# 732.502.3100) has a subscription service that will keep you updated of local wetland bylaws and regulations.

DEP Water Quality Certificates and US Army Corps of Engineers Permits

Any discharge to bordering vegetated wetlands or salt marsh requires a Water Quality Certificate (issued by DEP) and an USACOE permit. Many so called "Isolated " wetland s are also protected by the ACOE. Check with a local environmental permitting professional for details.

Chapter 91 Permits

Work below the high tide line or historic high tide line requires a permit from DEP. Consult an environmental permitting professional that specializes in Chapter 91 permitting.

Wetland Restrictions

Communities with Previously-Registered Wetlands

To date, approximately 46,000 acres of coastal and 8,000 acres of inland wetlands have been registered in 42 coastal and 11 inland communities. The following cities and towns on the cape and Islands have registered wetlands with accompanying restriction orders under either the Coastal Wetlands Restriction Act (c.130, s.105) or the Inland Wetlands Restriction Act (c.131, s.40A). Please note that some communities on the list may have only some of their wetlands registered. For a complete list of towns with wetland restrictions, go to <http://www.mass.gov/dep/brp/ww/files/commlist.htm>

Coastal Wetlands Restriction Act

Community and Date

Barnstable 9/8/81
Bourne 8/6/80
Brewster 11/13/80
Chatham 8/4/82
Chilmark 8/14/74
Dennis 12/10/81
Eastham 6/30/75
Edgartown 9/29/75
Falmouth 6/3/81
Gay Head 7/24/74
Harwich 11/13/80
Mashpee 7/13/87
Nantucket 8/10/82
Oak Bluffs 7/24/74
Orleans 11/30/76
Provincetown 1/13/82
Sandwich 3/10/80
Tisbury 7/24/74
Truro 3/18/76
Wellfleet 5/20/82
West Tisbury 7/24/74
Yarmouth 2/17/81

Both Inland and Coastal Acts

Community and Date

Eastham 6/30/75
Orleans 11/30/76
Sandwich 3/10/80
Truro 3/18/76