

Six tips for navigating the Wetland's Protection Act when designing an invasive species removal and native planting restoration project

Any proposed activity within 100 feet of a Resource Area (wetland, pond, intermittent stream, etc. or 200-feet from a perennial stream) requires review and approval by the Conservation Commission. Cutting of vegetation (regardless if it's native or non-native) is an activity regulated by the Massachusetts Wetlands Protection Act. Most projects within Resource Areas and/or Buffer Zones will require that you (1) hire a wetland scientist to delineate the wetlands and (2) Show the wetlands, buffer zones, elevations, existing conditions, and proposed work on a plan.

1. Review the Mass Wetlands Protection Act (WPA) and Regulations – 310 CMR 10.00.

- a. Wetlands Protection Act: M.G.L. c.131, §40:
 - <http://www.mass.gov/legis/laws/mgl/131-40.htm>
- b. Regulations for the Wetlands Protection Act: 310 CMR 10.00
 - <http://www.mass.gov/dep/water/laws/regulati.htm>
 - <http://www.mass.gov/dep/service/regulations/310cmr10a.pdf>
 - <http://www.mass.gov/dep/service/regulations/310cmr10b.pdf>

2. Helpful Sections of the WPA Regulations:

- a. The purpose of the WPA -10.01(2) Under the Wetland's Protection Act, you must demonstrate how the proposed project will not impair the resource area's ability protect the “8 Interests of the Act”:
 - i. Protect public and private water supplies
 - ii. Protect groundwater supplies
 - iii. Provide Flood Control
 - iv. Prevent Storm damage
 - v. Prevent Pollution
 - vi. Protect Fisheries
 - vii. Protect Shellfish
 - viii. Protect Wildlife Habitat
- b. Review the General Provisions for proposed work in the Buffer Zone: 10.53(1)
- c. Many invasive species removal or native planting projects may be permitted under 10.53(4) so long as the Applicant demonstrates the project will “improve the natural capacity of a resource area(s) to protect the Interests...”
- d. Read the Preamble under each resource area where work is proposed:
 - i. Bank: 10.54(1)
 - ii. Bordering Vegetated Wetland: 10.55(1)
 - iii. Land under Water Bodies and Waterways: 10.56(1)
 - iv. Land Subject to Flooding (flood plain): 10.57(1)
 - v. Riverfront Area: 10.58(1)

3. Other Helpful Resources:

- a. Massachusetts Association of Conservation Commission Website: <http://maccweb.org>
 - i. Protecting Wetlands and Open Space: MACC's Environmental Handbook for Massachusetts Conservation Commissioners - an online and interactive web-based handbook developed for Conservation Commissions.

- ii. Invasive species info: http://maccweb.org/resources_invasive.html
- iii. Article on Grassland Habitat Management in Wetlands (see pg. 3): <http://tinyurl.com/MACCMarch2008>

- b. Functions and Values of Riparian Areas – a series of nine fact sheets: <http://www.mass.gov/dfwele/river/resources/riverfactsheets.htm>
- c. New England Wildflower Society – lots of great info on invasive species management: <http://www.newfs.org/grow/tips/why-grow-native-plants.html>
- d. Massachusetts Wildlife Habitat Protection Guidance for Inland Wetlands: <http://www.mass.gov/dep/water/laws/wldhab.pdf>

4. Investigate online resources available from the Municipality:

- a. Visit municipal Conservation Commission website (most have brochures, information on filing requirements, meeting schedule, etc.). See Weston's examples of Notification to Abutters, NOI Checklist, brochures, etc.: www.tinyurl.com/wetlandpermit
- b. GIS or other mapping programs – some town/cities have an electronic mapping program. WARNING – not all wetland resource areas are shown on those maps!!

5. Contact the Conservation Commission early in the process – Once you have an idea of the scope of the project, request a meeting with the Conservation Agent or ask to informally present to the Conservation Commission – seek advice and guidance. Find out from the Agent:

- a. Are there any specific filing requirements?
- b. Does the Municipality have a local wetlands bylaw or ordinance?
- c. Has the Commission approved similar projects before?
- d. What type of specific information will the Commission want included?
- e. Will the Commission conduct a site visit before or after the hearing?
- f. Other Suggestions?

6. Permitting with the Conservation Commission

- a. In your application, be sure to clearly demonstrate (describe) how your project will not impair the resource area's ability protect the "8 Interests of the Act" (see Tip #1). Consider possible impact during and after the restoration activity.
- b. How will the Applicant prevent invasive species from returning in the future? Include long-term maintenance in your narrative. However, the more 'natural' (less maintained) the area can become, the better!
- c. Demonstrate/describe how the area will function in a 'natural manner'.
- d. "Nature likes it messy" – propose to keep downed woody debris, boulders, etc.
- e. How will the site be stabilized during and after restoration activities?
- f. Will chemicals be used? If so, where and what type? How will the resource areas be protected during chemical application?
- g. Who will conduct the restoration work and who will oversee the various phases?
- h. It will be helpful to have the wetland scientist present at the Commission hearing.