

## Emergency Work in Wetlands and Snow Disposal Guidance *under the MA Wetlands Protection Act and its Regulations*



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## 310 CMR 10.06: Emergencies

- ❑ Local – 10.06(1-5)
- ❑ Agricultural – 10.06(6)
- ❑ Hazardous Release- 10.06(7)
- ❑ Regional – 10.05(8)



## Overview of 310 CMR 10.06: Emergencies



310 CMR 10.06(1): emergency authorizations to repair damaged structures from localized, sudden or unforeseen events

- ❑ Request must specify why the emergency work in wetlands is necessary for the protection of public health or safety.
- ❑ Public agency/authority requests or orders work to be done.
- ❑ May be issued by local commission or DEP Commissioner
- ❑ If authorized, certification should describe work to be done – scope limited to that necessary to abate the emergency.
- ❑ Site visit required prior to certification.

## 310 CMR 10.06(2): Emergencies

Emergency certificates may only be issued when necessary for the protection of public health or safety.



## 310 CMR 10.06(3-4): Emergencies

### Emergency Certifications

- ❑ Time limitations for performance of work
- ❑ Not to exceed 30 day (or 60 days for hazardous material spill)
- ❑ Copy of emergency certification required to be sent to DEP (or from DEP to the conservation commission)



## 310 CMR 10.06(5): Emergencies

- ❑ DEP Can Intervene
  - On own motion
  - Or review at the request of any person work permitted under a certificate
- ❑ Commission denial or failure to act within 24 hours;
- ❑ Review does not stay the work – unless DEP specified.
- ❑ Review conducted within seven days
- ❑ DEP may
  - Revoke certificate
  - Condition the work permitted, or
  - Take other appropriate actions if work deemed excessive or not required to protect citizen health & safety

## 310 CMR 10.06(6-7): Emergencies

### Agriculture

- ❑ Eliminate imminent threat to land in agricultural use
- ❑ Restore damaged agricultural land
- ❑ Provision of emergency agricultural water source when existing source rendered unusable
- ❑ Eradicate infestation of Asian Longhorned beetle in response to USDA or DCR order



### Immediate Response Actions

- ❑ Based on oral approval of BWSC
- ❑ Clean-up efforts may commence before requesting commission emergency certification



## Severe Weather Emergency 310 CMR 10.06(8)

- ❑ Statutory Amendment: Chapter 238 of the Acts of 2012 – Section 50
- ❑ Promulgated as regulations 310 CMR 10.06(8) in October 2014.
- ❑ Promotes Expeditious Recovery of Widespread & Severe Storms.
  - Speeds up responses to clear roads, repair utilities & remove debris.
- ❑ MassDEP no longer needs to issue emergency regulations with each severe storm event.
- ❑ Severe Weather Emergency Declarations authorize work necessary for the protection of the health & safety of residents of the Commonwealth.

## The Severe Weather Emergency Declaration 310 CMR10.06(8)

- ❑ The types of work allowed without filing a Notice of Intent & obtaining an Order of Conditions;
- ❑ Any general mitigation measures to condition the work that is may be required to perform work;
- ❑ Any notification or reporting requirements;
- ❑ Geographic area that the declarations affect; &
- ❑ Period of time: No > 90 days, unless extended by DEP's Commissioner.



## Emergency Certification vs Emergency Declaration 310 CMR 10.06

### Emergency Certification

- ❑ Requires Public Agency approval/directive
- ❑ Issued at Discretion of Conservation Commission
- ❑ For localized emergency response.
- ❑ No NOI or Order of Conditions
- ❑ Limited to Activities Necessary to Abate the Emergency
- ❑ Limited in Scope, Location & Time period of Work allowed
- ❑ No  $\geq$  30 Days or 60 Days for Hazardous Material Spills (except if extended)
- ❑ <https://www.mass.gov/lists/wetlands-permitting-forms#emergency-certification->

### Emergency Declaration

- ❑ Issued by MassDEP Commissioner
- ❑ For Regional/Statewide Severe Weather Events – facilitates speedy recovery.
- ❑ Work can go forward based on Conditions of Declaration.
- ❑ No NOI or Order of Conditions
- ❑ Conservation Commissions still has local Authority (by-laws & ordinances).
- ❑ Reduces administrative burden to Commissions, DEP & the need to respond to a multitude of similar emergency requests.
- ❑ No  $\geq$  90 Days (except if extended)

## Snow Disposal Guidance: Updated Dec. 12, 2018

<https://www.mass.gov/guides/snow-disposal-guidance>



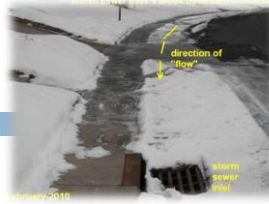
## Snow Disposal Guidance



Goal: To facilitate proactive planning/contingencies for snow disposal away from wetland resource areas, drinking water supplies & sensitive areas.

- ❑ Public Safety First.
- ❑ However, everything we do on the land can impact water resources.
  - Cleared snow can contain road salt, sand, litter, & auto pollutants such as oil.
  - Pollutants can move to surface water or through the soil reaching the groundwater & contaminate water supplies;
    - ❖ May be toxic to aquatic life.
    - ❖ May impact Public Health.

## Snow Disposal Guidance



- ❑ Snow disposal in wetland resource areas is considered an alteration. i.e. Temperature, chemical, filling of resources, etc.
- ❑ Guidance helps communities avoid the costs of a contaminated water supply, degraded waterbodies & flooding.
- ❑ Proactive Steps for Government Agencies & Businesses
  1. Site Selection
  2. Preparation & Maintenance
  3. Emergency Snow Disposal Options

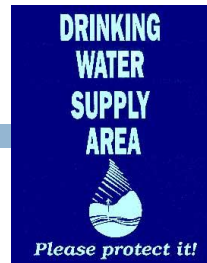
## Recommended Guidelines: Site Selection



Identify Upland Disposal Locations First.

- ❑ Plan, Identify, Locate & Map Ahead of Time.
- ❑ Start with pervious surfaces in upland areas or adjacent sites OR
- ❑ On impervious surfaces with functioning/maintained storm water management systems away from wetlands, sensitive water resources & drinking water wells.

## Recommended Guidelines: Site Selection



### Stay Away From:

- ❑ Zone II or Interim Wellhead Protection Area (IWPA) of a public water supply well or within 75 feet of a private well, where road salt may contaminate water supplies.
  - Snow from within the Zone II or IWPA can be disposed within this resource area.
- ❑ Any waterbody, including rivers, the ocean, reservoirs, ponds, or wetlands.
  - Degrades Water Quality, Causes Flooding, Obstructs Navigation.
- ❑ MassDEP-designated high & medium-yield aquifers where it may contaminate groundwater.

## Recommended Guidelines: Site Selection



### No Dumping

- ❑ In sanitary landfills & gravel pits.
  - Leachates from snowmelt.
- ❑ On top of storm drain catch basins or in stormwater drainage swales or ditches.
  - Localized flooding.
  - Can transport high volume of sand, sediment & litter in snowmelt to surface waters.



## Recommended Site Selection Procedures



Work Together to Select Appropriate Sites: Municipal DPW/Highway Dept., Conservation Commission & Board of Health.

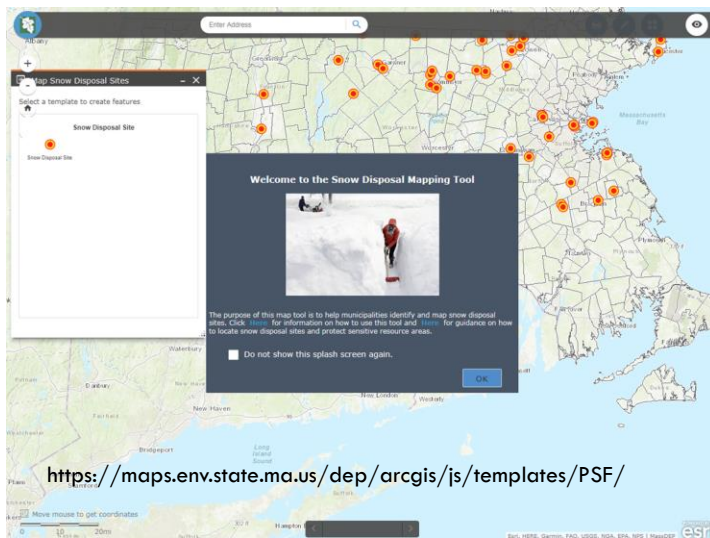
- Estimate how much snow disposal capacity is needed.
- Identify potential sites for disposal – use Mapping Tool.
- Select Upland locations first.
- Prioritize sites with the least environmental impact - if more space is needed.

## Snow Disposal Mapping Assistance

- MassDEP has an online mapping tool to assist municipalities & businesses identify snow disposal locations ahead of time.
  - Communities can create their own planning maps of potential snow disposal sites.
  - Maps show wetland resource areas\*, public drinking water supplies & other sensitive locations where snow should not be disposed.
  - Click on the link for the Mapping Tool & select your town & overlay different resource areas.
- <https://maps.env.state.ma.us/dep/arcgis/js/templates/PSF/>
- DEP & MEMA can also use these maps to assist in the event of severe winter storm emergencies.

\*including DEP orthophoto maps of local wetland resources.

# Snow Disposal Mapping Assistance



## Site Preparation & Maintenance



- ❑ Prepare & Maintain sites to maximize effectiveness.
  - Place silt fence or equivalent barrier on downgradient side of the snow disposal site.
  - Maintain a 50-foot vegetative buffer strip between the disposal site & adjacent waterbodies.
  - Clear Debris Before & After Snow Season (no later than May 15).

Massachusetts Department of Environmental Protection  
Bureau of Resource Protection - Wetlands  
**WPA Emergency Certification Form**  
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

**A. Emergency Information**

Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.

Issuance From: \_\_\_\_\_ Issuing Authority: \_\_\_\_\_

1. Site Location: \_\_\_\_\_

2. Reason for Emergency: \_\_\_\_\_

3. Applicant to perform work: \_\_\_\_\_

4. Public agency to perform work or public agency ordering the work to be performed: \_\_\_\_\_

5. Date of Site Visit: \_\_\_\_\_ Start Date: \_\_\_\_\_ End Date\*: \_\_\_\_\_

\*No later than 30 days from start date or 90 days in the case of an Immediate Response Action approved by DEP to address an unanticipated material release.

6. Work to be allowed\*: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\* May not include work beyond that necessary to abate the emergency.

**B. Signatures**

Certified to be an Emergency by this Issuing Authority.

Signatures:

Chairman (or designee) \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

A copy of this form must be provided to the appropriate DEP Regional Office.

WPA Emergency Certification  
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<https://www.mass.gov/lists/wetlands-permitting-forms#emergency-certification-/>

## WPA Procedures/Approvals for Snow Disposal



- ❑ Routine snow disposal – Minimal review
- ❑ Emergency Certifications by Conservation Commission
  - Must demonstrate no more capacity at upland locations. Commissions may allow disposal in:
    - ❖ Buffer zones to wetlands
    - ❖ Certain open water areas &
    - ❖ Certain wetland resource areas, i.e. within flood plains.
  - By request/order of public agency for the protection of the health/safety of citizens or
  - Limited to those activities necessary to abate the emergency.

## Emergency Certifications for Snow Disposal



- ❑ Dispose of snow in open water with adequate flow & mixing to prevent ice dams.
- ❑ NO disposal in salt marshes, vegetated wetlands, certified vernal pools, shellfish beds, mudflats, drinking water reservoirs & their tributaries, Zone IIs or IWPA's of public water supply wells, Outstanding Resource Waters, or Areas of Critical Environmental Concern.
- ❑ NO snow disposal where trucks may cause shoreline damage or erosion.
- ❑ Consult Conservation Commission to ensure that snow disposal in open water complies with local ordinances and bylaws.

## Emergency Declaration for Snow Disposal



- ❑ Regional snow disposal guidelines that mirror Snow Disposal Guidance.
- ❑ Greater latitude to grant disposal in waterbodies.
- ❑ Notice should be provided to MEMA personnel.
- ❑ Notice Acknowledgement may serve to support storm damage recovery claims.

## Federal Guidance for Snow & Debris Operations

- **Federal Guidance** for Snow & Debris Operations – Presidential Disaster Declaration.
  - Snow Assistance - FEMA thresholds, MEMA & National Weather Service identify counties, communities impacted by record snow fall.
  - Following MassDEP's SD Guidance may help communities obtain reimbursement for snow disposal costs from the FEMA (e.g. federal disaster relief- Spring 2018 Nor'easter).

## Who to Contact



During declared statewide snow emergency events, DEP's website will also highlight the emergency contact phone number (1-888-304-1133) for authorizations and inquiries.

For further non-emergency information about this Guidance you may contact your MassDEP Regional Office Service Center:

- Northeast Regional Office, Wilmington, 978-694-3234
- Southeast Regional Office, Lakeville, 508-946-2714
- Central Regional Office, Worcester, 508-767-2722
- Western Regional Office, Springfield, 413-755-2214