

MASSACHUSETTS

Wetland Definition

Surface waters are defined in 314 CMR4:00 to include for the purposes of the Surface Water Quality Standards:

“Surface waters. All waters other than groundwaters within the jurisdiction of the Commonwealth, including, without limitation, rivers, streams, lakes, ponds, springs, impoundments, estuaries, wetlands, coastal waters and vernal pools.”

Vernal pools are defined as:

“Vernal Pool. A waterbody that has been certified by the Massachusetts Division of Fisheries and Wildlife as a vernal pool. Vernal pools are confined basin depressions which, at least in most years, hold water for a minimum of two continuous months during the spring and/or summer, and which are free of adult fish populations.”

Wetland Water Quality Standards

Massachusetts regulates wetlands pursuant to a number of explicit wetland statutes. Regulation is jointly undertaken by the state and local governments. In addition to the wetland statutes, Massachusetts has adopted Surface Water Quality Standards, which relative to wetlands, provide, in part, as follows: (314 CMR 4.06):

“(2) Wetlands. Wetlands bordering Class A Outstanding Resource Waters are designated Class A Outstanding Resource Waters. Vernal pools are designated Class B Outstanding Resource Waters. All wetlands bordering other Class B, SB or SA Outstanding Resource Waters are designated as Outstanding Resource Waters to the boundary of the defined area. All other wetlands are designated Class B, High Quality Waters for inland waters and Class SA, High Quality Waters for coastal and marine waters.”

Special pollution control regulations have also been adopted for vernal pools (314 CMR 4.06 (1)(d.):

“12. Vernal Pools. No point source discharge shall be allowed to a vernal pool certified by the Massachusetts Division of Fisheries and Wildlife; and no discharge of dredged or fill material shall be allowed to a vernal pool certified by the Massachusetts Division of Fisheries and Wildlife unless a variance is granted under 314 CMR 9.08.”

Designated Uses

Massachusetts does not list wetland specific designated uses in its Surface Water Quality Standards, but depends upon the broader designated uses for all surface waters.

Narrative and/or Numeric Criteria

Massachusetts water quality regulations establish both numeric and narrative criteria for surface waters which are defined to include wetlands. Numeric criteria apply to dissolved oxygen, temperature, pH, bacteria, pH, among other parameters; and narrative criteria to solids, color and turbidity, oil and grease, taste and odor and nutrients, among other parameters. In addition, Massachusetts water quality regulations contain some additional, special standards for wetlands near public water supplies. Regulations provide, in part (314 CMR 4:00) “No discharge of dredged or fill material into wetlands or waters of the Commonwealth shall be allowed within 400 feet of the high water mark of a Class A surface water (exclusive of tributaries), unless conducted by a public water supply system...., maintenance or repair of existing public roads or railways, or conducted by a person granted a variance....”

Antidegradation Policy

Massachusetts regulations set forth antidegradation provisions for surface waters including wetlands. (314 CMR 4.04) provides in antidegradation provisions that “in all cases existing uses and the level of water quality necessary to protect existing uses shall be maintained and protected.” Other antidegradation provisions apply to high quality and other significant resource waters and outstanding resource waters.