

GENERAL GUIDELINES FOR FARMING IN WETLAND RESOURCE AREAS

These general guidelines are intended to provide an overview of regulations governing agricultural activities in or near wetlands. They are not intended as the final word on whether an activity is exempt from the provisions of the Wetland Protection Act (WPA) or the Harvard Wetland Protection Bylaw.

Wetland and water resources are found on many Massachusetts farms. These resources include streams, ponds, bogs, marshes, swamps, floodplain, isolated land subject to flooding, and wet meadows, among others. Agricultural activities are subject to the jurisdiction of the Massachusetts Wetland Protection Act and the Harvard Wetland Protection Bylaw when they occur within the resource area and their associated buffer zone as defined in the Act and the Bylaw.

WHEN IS PERMISSION REQUIRED?

Wetlands are defined by the kind of plants that grow in them and the kind of soils that exist there. The Conservation Agent or a wetland specialist can help you determine whether a farm contains or is near a wetland.

The farm owner shall inform the Conservation Commission of any activity or work:

- Within 100 feet of a:
 - Swamp or marsh
 - Forested wetland
 - Intermittent stream

- Within 200 feet of a:
 - Vernal Pool
 - Pond
 - Stream that flows year round

- Within the 100-year floodplain

to determine if the activity or work is exempt as normal maintenance or improvement of land currently in agricultural use. If not exempt, the permission of the Conservation Commission is required for any work in a wetland or its buffer zone.

Wetlands may not be wet all the time. Low areas that flood in the spring may be wetlands.

AGRICULTURAL EXEMPTIONS UNDER THE WETLAND PROTECTION ACT

Certain agricultural activities are exempt from the provisions of WPA. To be exempt the work or activity must be performed for the normal maintenance or improvement of land currently in agricultural use. Newly created farm land or land formerly in production, but abandoned for more than five years is not exempt.

The Conservation Commission generally considers land to be in agricultural use if it is in, or qualified to be in, Chapter 61A. This State statute includes the requirement of a commercial component, that is, there must be an agricultural crop or commodity produced for sale with the intent to make a profit.

Note that it is the work or activities that may be exempt not the land itself. An activity that is not on land in actual production may not be exempt simply because the whole property is in Chapter 61A.

Many activities are regulated under the Act, but permitted for land in agricultural use.

Examples of normal maintenance activities include:

- All aspects of crop or animal management
- Management of related water bodies
- Repairs to farm structures, fences and farm roads

Examples of improvement activities include:

- Creating windbreaks
- Establishing an irrigation system
- Digging a manure pit to prevent leaching

Land in agricultural use includes land currently being used for raising or producing agricultural crops or commodities. It also includes necessary and related land such as:

- Access roads
- Composting areas
- Barns and sheds
- Fire ponds
- Woodlot landings
- Field edges

A farmer must meet certain conditions to proceed with an exempt agricultural activity. The work must be done in such a manner as to prevent erosion and siltation of adjacent water bodies and wetlands, and the work must be done in accordance with all Federal and State laws.

WHY ARE BUFFER ZONES AROUND WETLANDS PROTECTED?

Buffer zones are critical in maintaining the health and productivity of wetlands – they protect the wetlands from human impacts and provide valuable wildlife habitat. In turn, healthy wetlands provide people with drinking water purification, groundwater recharge, flood control and pollution control.

For a more detailed explanation of the agricultural exemptions contact the Harvard Conservation Commission or the Harvard Agricultural Advisory Commission.