



Emergency Certificates Under the Wetlands Protection Act

People often ask about completing “emergency” repairs in or near wetlands. The Massachusetts Wetlands Protection Act regulations (310 CMR 10.00 *et seq.*) contain a provision for approval by the local Conservation Commission for emergency work under a document called an Emergency Certificate (EC). In an emergency, this process is used instead of following the normal Conservation Commission approval process using a Notice of Intent (NOI) to obtain an Order of Conditions (OOC) permit.

TIMELINE FOR AN EMERGENCY CERTIFICATE

1. **A situation must be declared a public health or safety emergency** by an “agency of the Commonwealth or subdivision thereof” (e.g., Board of Health, Police, Fire Department, Code Enforcement Officer). The person seeking the EC must request this declaration.
2. Once an agency declares a public health or safety emergency, the Conservation Commission is required to act within 24 hours to either approve or deny a request for the EC. If the Commission does not act within that timeframe, or denies the request, the person seeking the EC may petition the Massachusetts Department of Environmental Protection (DEP) to issue the EC.
3. The DEP has 7 days from the date they’re asked to intervene to approve or deny the request.
4. **All work must be completed within 30 days** of EC issuance, unless the emergency is part of a hazardous waste cleanup, in which case it is 60 days. There are no extensions to ECs.

REQUIREMENTS TO OBTAIN AN EMERGENCY CERTIFICATE

1. The Conservation Commission must have a written declaration of an emergency by a state or local agency, submitted by the person seeking the EC.
2. **The Commission must have sufficient information, prepared and submitted by the person seeking the EC, on the work is to be performed.** This information may include: the exact location of the work; a detailed scope of work (e.g., what activities are going to occur, will heavy equipment be involved); a general construction sequence and estimated timeline; the limit of work on a sketch or plan; equipment/personnel access information (i.e., how will the site be reached); contingency information in case something goes wrong; contact information, etc.
3. **An EC only approves actions required to remedy the emergency situation**, and does not approve any other repairs or activities. The EC process is not intended to be a “short cut” around the normal approval process. It is to be used when the usual time required to obtain an OOC (generally 4-6 weeks from NOI submittal to commencement of activities) would result in a public health or safety threat. **If a project can safely wait those 4-6 weeks to complete the normal NOI approval process, then an EC is not appropriate, as this would not be an “emergency”.** However, if an emergency is declared by a public official, and the Commission has sufficient information to understand what is planned to address the emergency, then they will approve the EC request.

The state regulations on the subject may be found at 310 CMR 10.06 “Emergencies”, on line at: <http://www.mass.gov/eea/docs/dep/service/regulations/310cmr10a.pdf>. If your “emergency” is related to beaver or muskrat activity, please refer to the guidance document, “Beavers In Ipswich”, as that approval process has additional requirements.

If you have questions about Emergency Certificates, please contact Conservation Agent, Alicia Geilen at Alicaig@ipswich-ma.gov or 978-356-6661.