



Massachusetts Association of Conservation Commissions

protecting wetlands, open space and biological diversity through education and advocacy

Massachusetts Association of Conservation Commissions
Comments on the
Massachusetts Local Food Action Plan October 23, 2015, Draft for Public Review

November 6, 2015

INTRODUCTION

The Massachusetts Association of Conservation Commissions (MACC) appreciates the opportunity to comment on the excellent October 23, 2015, Draft for Public Review of the Massachusetts Local Food Action Plan (the Plan).

We agree with the four general goals established for the Plan. The goals set important markers for the state and recognize the economic, health, and social values of locally grown and consumed agricultural products. The Plan often strikes a good balance between the four goals and the many other economic, social, and environmental goals our state must achieve and maintain to be a good place to live, work, and thrive.

With all that is good and comprehensive in the Plan, we think the Plan strikes the wrong balance in places and misses opportunities. In particular, the recommendations about wetlands and farming are not well-founded, would set the stage for unnecessary conflict, and potentially damage vitally important natural resources. We support many of the other recommendations for increasing agricultural production and farm viability, such as revisions to state and local land use laws to promote more compact development in appropriate locations and allow for agriculture within residential and urban areas. Our comments focus on those important aspects of the Plan, where we have considerable expertise and experience.

MACC

MACC, established in 1961 and incorporated in 1978, is the professional association of Massachusetts conservation commissions. The conservation commission in each of the 351 cities and towns in Massachusetts is an integral part of its municipal government, with responsibilities for protecting wetlands, wildlife, and conservation lands. Conservation commissions administer and enforce the Massachusetts Wetlands Protection Act (G.L. c.131, § 40) and municipal home-rule wetlands laws and regulations. Most projects in or near wetlands require a permit (Order of Conditions) issued by the local conservation commission before work can be performed and the work must be consistent with the conditions of the permit and state and local wetlands protection requirements. Conservation commissions also protect conservation lands and other natural resources in their communities under the Massachusetts Conservation Commission Act (G.L. c.40, § 8c) and Community Preservation Act (G.L. c.44B). Many conservation commissions manage municipally-owned conservation lands; some hold conservation restrictions or easements on other parcels. In some communities, conservation commissions manage or hold conservation easements or restrictions on lands used for agriculture.

We provide legal, scientific, policy, and technical training and advice to Massachusetts conservation commissioners: to new commissioners who may lack information about their responsibilities, the laws they must implement, and the scientific and technical basis of the work; and to more experienced commissioners faced with new laws, regulations, and policies, evolving science, new technologies, and other changing circumstances they must understand and consider. We also speak for wetland and open space protection on federal and state advisory committees and in meetings with state and federal officials. We advocate for environmental laws, regulations, and policies that will work, are scientifically sound, and can be implemented and enforced at the local level.

We wrote and publish *Protecting Wetlands and Open Space: MACC's Environmental Handbook for Massachusetts Conservation Commissioners*. With twenty-two chapters and eight special topic sections, it is the indispensable resource for those serving on, working with, or appearing before conservation commissions. We also wrote and publish the *Massachusetts Runoff, Erosion & Sediment Control Field Guide*, a reference used by conservation commissions in hearings and on field visits to assure that work done in wetlands does not result in runoff and erosion, major causes of water pollution and stream degradation. We created and present the ten-unit certificate course, Fundamentals for Conservation Commissioners, which provides a grounding in the laws, regulations, science, technology, and policy of wetlands protection and the acquisition and management of conservation lands. Our Annual Environmental Conference is the largest of its type in New England, with an annual attendance of about 750 people, offering workshops, trainings sessions, and exhibits focused on wetlands and open space protection and implementation of the Massachusetts Wetlands Protection Act and Conservation Commission Act.

Our comments are informed by our knowledge of the Massachusetts Wetlands Protection Act and its regulations, local wetland bylaws and ordinances, and the intersection between wetlands protection and agriculture, including the manual, *Farming in Wetland Resource Areas: A Guide to Agriculture and the Massachusetts Wetlands Protection Act*, (January 1996, produced by the Massachusetts Departments of Environmental Management, Environmental Protection, and Food and Agriculture). We also know and appreciate the value of having a vibrant and sustainable food system in Massachusetts.

DISCUSSION

Plan Goal 3 is to “protect the land and water needed to produce food, maximize environmental benefits from agriculture and fishing, and ensure food safety.” That is a laudable goal. The Plan, however, calls for making more land available for farming by, among other things, reviewing how to bring current wetlands back to agricultural use and changing the Wetlands Protection Act and regulations to allow wetlands to be converted to farmland. Those actions, if carried through, would destroy wetlands and the ecosystem services they provide. That is the wrong balance to strike in the Plan.

We were surprised to read a plan written in the 21st century that would create a pathway to reducing wetland acres in Massachusetts. Too many wetland acres in Massachusetts (and nationally) have been lost to development. The Plan replicates a sorry history of seeing wetlands as a path of least resistance for development because wetlands are undeveloped and thus often easier and less expensive to acquire and use than already developed land. The theme that runs through part of the draft Plan, especially in Goal 3 - to expand or redefine the agricultural exemption under the Wetlands Protection Act to allow more wetlands to be converted to farmland - is simply unacceptable and contrary to our state's goal to

protect its natural resources.¹ Wetlands are critical natural resources. They protect and improve water quality (including the drinking water for much of Massachusetts), provide opportunities for boating, fishing, birding, swimming, and other recreation, support active fisheries, and are home to native animals and plants, including rare and endangered species that would go extinct if not for wetlands. With a changing climate and rising sea levels, the ability of wetlands to soak up carbon and storm water and buffer us from floods is especially significant. Wetlands are a critical part of the web of life that supports and protects us all, locally and globally. The Plan, in its introduction to Goal 4, notes that wetlands and other natural resources on farmland “filter water, reduce flooding, recharge aquifers, and provide year-round habitat for many species of fish and wildlife and stopovers for migrating birds,” yet at the same time the Plan seeks pathways that would expand agricultural use into wetlands, destroying or reducing the critical environmental services those wetlands provide. The current balance in the law, exempting current farmland from most wetlands requirements, but not allowing more conversion, is the right balance and has served the Commonwealth well.

We think it is a mistake for the Plan to point back to the days when wetlands could be sacrificed for agricultural use. We now know more about the functions and values of wetlands and the environmental services they provide. Modern farming techniques do not have to rely on antiquated practices that converted wetlands to farmlands. Those marginal farming areas are better reverted to wetlands so they can provide adequate protection of water quality and ecosystem health needed to sustain long-term agricultural operations outside the wetlands.

The Plan identifies other options that would increase the availability of land for agricultural use without the many negative environmental impacts that would ensue from conversion of wetlands to farmlands. We agree with those other options and suggest the Plan include more emphasis on how low impact development, cluster development, and other modern zoning and site planning techniques can be used to designate uplands for agricultural use while at the same time provide buffers to important wetland and water resources. Agriculture can be mixed with other development, allowing small farms and other crop producing areas to be located throughout the state. Those zoning and site planning requirements can be written into the state zoning code or made an option for local communities to adopt. We suggest that Plan Recommendations 3.3 and 3.4 and the Action items under them be expanded to make planning and zoning changes more explicit. The Plan may also suggest working with organizations such as MACC and Citizen Planner Training Collaborative to revise local zoning bylaws and ordinances to allow for low impact residential development that could open upland areas to agriculture while at the same time protect wetlands.

We suggest the Plan include a recommendation or action item in Goal 3 that prime agricultural soils be mapped. That would allow those lands to be listed for potential future use as agriculture and perhaps protected to allow for agricultural expansion.

We are concerned that the Action items listed in Recommendation 3.7 appear to focus solely on agricultural uses having priority over wetlands protection. The discussion should not be about how to return wetlands to agricultural land. Instead, the discussion should be about developing standards to allow agriculture to exist in the landscape among important natural systems.

¹ The Plan ignores the federal Clean Water Act requirements related to wetlands and agriculture, which would serve to prevent conversion of wetlands to farmlands in most instances.

Recommendation 3.7 and Action items 3.7.1 through 3.7.4 also require better balance. We agree communication between the farming community and the conservation community can be beneficial. Ensuring a common understanding of wetland laws and regulations, wetlands values, functions, and protection opportunities, and agricultural practices would be important. We are ready to play a role in that undertaking and work with the MA Association of Agricultural Commissions, as recommended in Action item 3.7.4. For better balance, and a better starting point for discussion, we suggest that Action 3.7.3, to “Pursue a program that would allow towns to obtain better insurance rates if Conservation Commission members attend trainings,” should be extended to Agricultural Commissioners also.

We think Recommendation 3.7 and its Action items wrongly imply that conservation commissions have little or no understanding of the interaction between wetlands and agricultural lands. Our Annual Environmental Conference often includes a well-attended workshop on agriculture and the state wetlands regulations. *Protecting Wetlands and Open Space: MACC’s Environmental Handbook for Massachusetts Conservation Commissioners* devotes a Special Topic section to agriculture and additional pages within the Handbook to the agriculture exemption.

The title of Recommendation 3.7 should not be the one-sided, “Improve understanding among the agriculture and conservation communities of state and federal wetlands laws and regulations and their impact on farmland.” The title should be more balanced; it should also include agriculture impacts on wetlands.

Recommendations 3.8 and 3.9 would benefit from suggesting financial incentives for farmers to place portions of their lands that are not suitable for farming into conservation easements or restrictions. Consistent with our comments on other recommendations, we suggest Recommendation 3.9 explicitly note that the recommendation is not intended to convert wetlands to agricultural land.

We agree with the Plan’s Inputs Goal 5 to increase energy efficiency and the use of renewable energy and reduction of energy costs. We would like to add a word of caution. We have learned of instances where wetlands on agricultural land, because they are inappropriate for agricultural use, were proposed for solar arrays. Placing solar arrays in a wetland is generally an inappropriate use of a wetland and would alter or harm the value of the wetland. We suggest the Plan acknowledge that use of renewable energy must be consistent with other state laws and regulations.

We appreciate the opportunity to comment on the Plan. Overall, we are heartened by its readability, comprehensiveness, and goals. As discussed in these comments, the Plan requires amendment to achieve a better balance between agriculture and the natural environment.

For follow up on these comments, please contact MACC Executive Director Eugene B. Benson at 617-489-3930 or eugene.benson@maccweb.org.