

Table 8-4. Regulatory Requirements Summary (Preliminary)

Requirement	Citation	Status	Synopsis	Actions Needed to Comply with the Requirement
Massachusetts Environmental Policy Act	MGL Chapter 30 Section 61-62H 301 CMR 11.00	Applicable	Certifies State actions exceeding review thresholds for compliance with State environmental policy to minimize, or mitigate environmental impacts. Certification is required prior to other State actions (i.e., permitting).	At a minimum, file an Environmental Notification Form (ENF) with alternatives for agency review and public comment. May require Draft and Final Environmental Impact Report (EIR). Exceeded ENF thresholds include wetland and possible protected species impacts.
Clean Water Act Section 404 and Rivers and Harbors Act	40 CFR 230.70-76; 33 USC 401-426(m)	Applicable	Controls discharges of dredged or fill material in order to restore and maintain the chemical, physical and biological integrity of waters of the United States.	The impact of dredging activities on the environment will be minimized and/or mitigated by the use of dredging equipment and dredging rates that minimize sediment disturbance and migration.
Certification for Dredging, Dredged Material Disposal, and Filling in Waters	21 MGL 26-53; 314 CMR 9.06(1-2)	Applicable	<p>Establishes procedures and criteria for administration of Section 401 of the Federal Clean Water Act for the discharge of dredged or fill material in waters of the U.S. within the Commonwealth of Massachusetts.</p> <p>9.04: Activities requiring an application include:</p> <ul style="list-style-type: none"> • An activity subject to 310 CMR 10.00 and will result in the loss of more than 5,000 SF cumulatively of bordering vegetated wetlands and land under water • Any dredging or dredged material disposal of more than 100 CY <p>9.06: Provides the criteria for evaluation of Applications for discharge of dredged or fill material, which includes:</p> <ul style="list-style-type: none"> • no discharge of dredged material shall be permitted if there is a practicable alternative that would have less adverse impact on the aquatic ecosystem, so long as the alternative does not have other significant adverse environmental consequences • no discharge of dredged material shall be permitted unless appropriate and practicable steps have been taken which will avoid or minimize potential adverse impacts to the bordering vegetated wetlands and land under water 	<p>The Cooperating Parties will submit the following as part of the application process:</p> <ul style="list-style-type: none"> • MassDEP Bureau of Resource Protection (BRP) WW10 Major Project Certification – 401 Water Quality Certification for Fill and Excavation Projects in Waters and Wetlands • BRP WW07, 08 Dredging – 401 Water Quality Certification for Projects Proposing more than 100 cubic Yards of Dredging or Dredged Material Disposal

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Certification for Dredging, Dredged Material Disposal, and Filling in Waters (continued)			<p>9.07: Provides the criteria for evaluation of applications for dredging and dredged material management, which includes:</p> <ul style="list-style-type: none"> • dredging and dredged material management shall be conducted in a manner that ensure protection of human health, public safety, public welfare, and the environment. • dredged material shall not be disposed if a feasible alternative exists that involves reuse, recycling, or contaminant destruction and/or detoxification • provides dredging performance standards <ul style="list-style-type: none"> ○ all dredged material when transported upon public roadways shall have no free liquid (as determined by the PFLT) and be covered to minimize fugitive dusts (unless transported in vehicles specifically designed to haul liquid materials) ○ provides standards for management of dredged material at disposal sites under 310 CMR 40.0000 ○ the dredging, management and placement of dredged material shall be performed pursuant to 310 CMR 40.0000 and 314 CMR 9.00 – a copy of the Remedial Action Plan shall be included in the application for the 401 Water Quality Certification ○ for dredged material going to out-of-state management facilities, the applicant shall demonstrate to MassDEP that this alternative is approved by the receiving state 	<p>The Comprehensive Response Action will include dredging as a component. Consistent with 310 CMR 40.0851 of the MCP, feasible alternatives to dredging will be considered and evaluated. During the performance of the Comprehensive Response Action, work will be conducted in a manner that ensures protection of human health, public safety, public welfare, and the environment. Dredged materials will be managed and transported in accordance with a Waste Management Plan that will be prepared as part of the design.</p>
Administration of Waterways Licenses Law	91 MGL 1.00 et seq.; 310 CMR 9.00	Applicable	<p>Applicable provisions are listed below:</p> <p>9.05 (2): Any dredging activity requires submitting a permit application to the Department in accordance with 310 CMR 9.11.</p> <p>9.33: All projects must comply with the environmental regulatory programs listed in this section.</p>	<p>Temporary unavoidable impacts to public access rights to the water and to water dependent users will occur during remedial activities.</p>

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Administration of Waterways Licenses Law (continued)			<p>9.40: Provides standards for dredging and dredge material management. Some of the requirements include:</p> <ul style="list-style-type: none"> • no activity shall occur in areas with anadromous/ catadromous fish runs between March 15 and June 15 of any year, except upon a determination by the Division of Marine Fisheries (MassDMF) • in general, no basin, canal, or channel shall be dredged deeper than the main channel to which it is connected • hydraulic dredging shall be favored over mechanical methods • the licensee shall inform the Department at least three days before commencing any authorized dredging or dredged material disposal • the licensee shall provide a dredging inspector approved by the Department who shall accompany the dredged material while in transit and during discharges for the following activities: <ul style="list-style-type: none"> ○ Any onshore disposal of dredged material greater than 10,000 CY; or ○ The disposal of materials defined by the Department as potentially degrading or hazardous • the name, address, and qualifications of the dredging inspector shall be submitted to the Department as part of the license application • within 30 days after completion of the dredging, a report shall be submitted to the Department certified by the dredging inspector, including daily logs indicating the volume of dredged material, point of origin, point of destination and other appropriate information 	The dredging and dredge material management activities will require submission of a Permit Application to the MassDEP.

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Massachusetts Coastal Zone Management (CZM) Review of Federal Consistency and the Coastal Zone Management Act (CZMA)	MA CZM Review of Federal Consistency and the CZMA	Applicable	Any applicant for a required federal license or permit to conduct an activity, in or outside the coastal zone, affecting any land or water use or natural resource of the coastal zone of that state shall provide a certification that the proposed activity complies with the enforceable policies of the state's approved program and that such activity will be conducted in a manner consistent with the program.	Typically reviewed as part of the Massachusetts Programmatic General Permit (PGP) agency screening process. Coastal Zone Management also comments on MEPA submissions. Therefore, consistency statements should be included in the MEPA ENF.
National Pollutant Discharge Elimination System (NPDES) Stormwater Discharge Requirements for Construction Activities	40 CFR 122.26(a)(14)(x), 122.26(c)(1)(ii)(c) and (d); Federal Register, Vol. 63, No. 31, 9/17/98, Part IV, Stormwater Pollution Prevention Plan (SWPPP) Requirements	Applicable	Regulation requires best management practices to control pollutants in stormwater discharges during and after construction, including erosion and sediment control.	Erosion control will include implementation of best management practices for the control of pollutants in stormwater and erosion and sediment control during upland excavation and backfill work.
NPDES Remediation General Permit	133 U.S.C. §§ 1251 et seq.; the "CWA" M.G.L. Chap. 21, §§ 26-53 Mass General Permit No. MAG910000	To Be Considered	Authorizes discharge of wastewater from remediation activities to surface waters subject to condition compliance (including sampling). This may be covered by the AWQC. All discharges will need to be reviewed.	Does not apply to contaminated dredging drain back waters covered by WQC and 404. Discharge from other sources (i.e., stormwater in contact with contaminated materials) should be reviewed in light of coverage exclusions. May require individual NPDES permit. Would apply to groundwater dewatering, but this is not currently anticipated.
Massachusetts Surface Water Discharge Requirements	31 MGL 27; 314 CMR 3.000	Applicable	Outlines requirements for discharges to surface waters.	A Stormwater Management Plan will be prepared. The Plan will be prepared for the dewatering facility construction activities and will address best management practices to properly manage and control stormwater, in accordance with applicable federal and state regulatory requirements.

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Surface Water Discharge	21 MGL 23(12) and 34; 314 CMR 3.10(3)(4-6); (9)(a); (19)(3-6), (10), (12)(a-b), (13)	Applicable	This section outlines the requirements for obtaining an NPDES permit in Massachusetts. The Drinkwater River system is classified as Class B, which is designated as: a habitat for fish, other aquatic life, and wildlife; for primary and secondary contact recreation and suitable for irrigation and other agricultural uses; compatible industrial cooling and process uses; and suitable as a source of public water supply with appropriate treatment.	Discharge to surface waters is anticipated.
Surface Water Quality Standards	27 MGL 27; 314 CMR 4.03(1)(3)(c); 4.04(1)(2)(4)(6); 4.05(4)(a-b), (5)	Applicable	MassDEP surface water quality standards incorporate the federal AWQC as standards for surface waters of the state. Standards establish acute and chronic effects on aquatic life for contaminants.	A project-specific water quality monitoring plan will be developed.
Wetlands Protection Act (WPA)	131 MGL 40; 310 CMR 10.00	Applicable	WPA regulates work conducted within coastal and inland wetland areas and associated buffer zones (collectively referred to as Resource Areas). Resource Areas within and adjacent to the site include bordering vegetated wetlands, banks, land under water bodies, and land subject to flooding. For any work within these resource areas, a Notice of Intent (NOI) is required to be filed with the local Conservation Commission. An Order of Conditions would then be placed on the work activities.	A NOI will be filed with the Conservation Commission in the towns of Hanover and Hanson and propose this project under the limited project status of the WPA. An Order of Conditions will be obtained from the Conservation Commission for the project.

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Wetlands Protection Act (continued)			<p>310 CMR 10.24(7)(c)(6) and 10.53(3)(q) allow activities, such as Comprehensive Response Actions, to be performed as a “limited project” if they are conducted in accordance with the MCP. However, if the activity can meet normal wetland regulatory performance standards, they will continue to be governed by those standards.</p> <p>Under “limited project status”, Conservation Commissions can condition the project activity without requiring the applicant to go through a variance process under the WPA. As a “limited project”, the applicant must demonstrate that there are no practical alternatives to the response action being proposed that would be less damaging to the Resource Areas. A Comprehensive Remedial Action Alternative that is selected in accordance with 310 CMR 40.0851 of the MCP is deemed to have met the above standard.</p>	<p>A Comprehensive Remedial Action Alternative will be selected in accordance with 310 CMR 40.0851 of the MCP. Where avoidance is not possible, the Comprehensive Response Action will be designed to minimize impacts to the Resource Area and meet the following performance standards in 310 CMR 10.53(3)(q):</p> <ul style="list-style-type: none"> • hydrologic changes shall be minimized • best management practices (BMPs) shall be used during construction • mitigation measures shall be implemented • compensatory storage shall be provided for all flood storage lost • temporary structures and access roads will be removed within 30 days of completion • work in the Resource Areas will be performed when the ground is sufficiently frozen, dry, or otherwise stable to support the equipment
Massachusetts Stormwater Management Standards	131 MGL 40; 310 CMR 10	To Be Considered	Regulates work conducted within coastal and inland wetlands and riverfront areas. For construction activities, the regulated area is 25 feet inland from the riverfront and the land subject to coastal storm flowage.	The project-specific Environmental Protection Plan will be reviewed for consistency with the policy requirements.
Fish and Wildlife Coordination Act	16 USC Part 661 et. seq.; 40 CFR 6.302(g)	Applicable	USFWS and appropriate state agencies must be consulted during project planning to determine ways to avoid or minimize potentially adverse effects to fish and wildlife.	Activities will be coordinated with the MassDMF and the USFWS to determine if dredging activities may occur throughout the year and if there are constraints to remedial activities due to fish migration or life cycle considerations.
Federal Endangered Species Act	16 USC Part 1531 et. seq.; 40 CFR 6.302(h)	Applicable	Appropriate federal and state agencies must be consulted if a threatened or endangered listed species or their habitat may be affected.	

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Massachusetts Natural Heritage and Endangered Species Program	MGL c. 131A 321 CMR 10.00	To Be Considered	Indian Head River contains a priority habitat. A review of project impacts for habitat alterations and potential 'take' will be required.	Conduct outreach and solicit comments during MEPA process. If required, submit written report whether there will be a "take." May require additional process.
National Historic Preservation Act of 1966; National Preservation of Historical and Archaeological Data Act of 1974	16 USC 470 et. seq. & 40 CFR 800, as amended; 16 USC 469 et. seq.	Applicable	Requires an assessment be conducted to determine potential project impacts to cultural resources that are eligible for, nominated to, or listed in the National Register of Historic Places (NRHP). Specifically, cultural resources concerns will involve evaluation of project impacts to potentially significant (per 36 CFR 60.4 - NRHP Criteria for Evaluation) cultural resources.	
Air Pollution Control	111 MGL 142A-J; 310 CMR 7.09(1-4); 7.10(1-2)	Applicable	Standards for, among other things, fugitive dust, excessive odor and noise at construction sites. Pollution abatement controls may be required.	Engineering controls will be used as necessary to meet air action levels for dust, odor and noise. During sediment dredging activities work will be performed by long-arm excavator or by underwater excavation, and little or no fugitive dust generation is expected. During upland excavation and material handling, controls such as water spraying may be utilized to control dust.
Ambient Air Quality Standards	111 MGL 142D; 310 CMR 6.04(2)	Applicable	Establishes ambient air level for contaminants and particulates.	Emissions during construction will meet the particulate standard. Dust suppression will be used when needed to reduce particulate emissions.
Air Quality Guidelines	MassDEP Memorandum dated 12/6/1995	To Be Considered	Provides short-term and long-term exposure point concentrations for air contaminants that were developed to be protective of public health.	Compliance with these guidelines will be ensured through an ambient air monitoring program that is designed to protect the public.
Noise Control	310 CMR 7.10(1) & (2)	Applicable	Activities must not cause or contribute to unnecessary emissions that may cause noise.	Engineering controls will be used during remedial construction such that the activities do not cause or contribute unnecessarily to noise emissions.
Allowable Sound Emissions	DAQC Policy 90-001; 2/1/90	To Be Considered	Establishes guideline where source of new noise should not emit more than 10 decibels above the existing (background) level.	Site operations noise level will be minimized and will follow the suggested noise limit to the extent practicable.