

## WPA Form 3 - Notice of Intent

Massachusetts Wetlands Protection Act (M.G.L. Chapter 131, Section 40)

# Instructions for Completing Application WPA Form 3 – Notice of Intent

*Please read these instructions before completing the Notice of Intent application form (WPA Form 3) for more information on certain items that are not self-explanatory.*

### **Purpose of the Notice of Intent**

To protect the Commonwealth's wetland resources, the Massachusetts Wetlands Protection Act (General Law Chapter 131, Section 40) prohibits the removal, dredging, filling, or altering of wetlands without a permit. To obtain a permit (called an Order of Conditions), a project proponent must submit an application to the Conservation Commission and the Department of Environmental Protection (the Department). The Notice of Intent application provides the Conservation Commission and the Department with a complete and accurate description of the:

- site, including the type and boundaries of resource areas under the Wetlands Protection Act, and
- proposed work, including all measures and designs proposed to meet the performance standards described in the Wetlands Protection Act Regulations, 310 Code of Massachusetts Regulations (CMR) 10.00, for each applicable resource area.

The applicant is responsible for providing the information required for the review of this application to the issuing authority (Conservation Commission or the Department of Environmental Protection). The submittal of a complete and accurate description of the site and project will minimize requests for additional information by the issuing authority which may result in an unnecessary delay in the issuance of an Order of Conditions.

To complete this form, the applicant should refer to the wetlands regulations (310 CMR 10.00) which can be obtained from the Department's web site at [www.state.ma.us/dep](http://www.state.ma.us/dep). Regulations are available for viewing at public libraries and county law libraries across the state, as well as at the Department's Regional Service Centers (see Appendix A for locations). Regulations also are available for sale from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378).

### **Requirements for Professional Services**

The issuing authority may require that supporting plans and calculations be prepared and stamped by a registered professional engineer (PE) when, in its judgment, the complexity of the proposed work warrants this certification. Examples of information likely to require certification by a PE include: hydraulic and hydrologic calculations; critical elevations and inverts; and drawings for water control structures such as head walls, dams, and retention areas.

The issuing authority also may require that supporting materials be prepared by other professionals including, but not limited to, a registered architect, registered landscape architect, registered land surveyor, registered sanitarian biologist, environmental scientist, geologist, or hydrologist when the complexity of the proposed work warrants specialized expertise.

### **Completing WPA Form 3**

Leave the box entitled "DEP File Number" blank. The DEP File Number for this project will be issued to the Conservation Commission. Once issued, all subsequent correspondence on the project should reference the DEP file number.

### **Section A: General Information**

**Item 5. Project Location.** Include a street address (if one exists) and, if known, the Assessors map or plat number, the parcel number, and the lot number. The map or plat, parcel, and lot numbers must be included if the lot subject to the Notice does not contain a residence, school, or commercial or industrial establishment, or if the lot is being subdivided.

**Item 7. Summary of Project Impacts.** Provide a summary of project impacts, which are more fully described in Section C, Item 1b. Identify each resource area and describe the size of the impact using the appropriate measurement term for the resource area involved (e.g., Bordering Vegetated Wetland: square feet, Bank: linear feet; fill in Bordering Land Subject to Flooding: cubic feet).

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#### **Section B: Project Description**

Item 1. General Project Description. The applicant should provide a brief description of the project. Describe, and show on accompanying maps and plans, both existing and proposed site conditions, including temporary construction impacts, replication areas, and/or other mitigation measures. Attach maps, plans, and other documents identifying proposed activities and their location relative to the boundaries of each wetland resource area and Buffer Zone.

#### **Section C: Activities Subject to Regulation**

To determine the size and location of any impacts which a proposed project may have on each wetland resource area, first determine the resource area boundaries (even if the project is entirely in the Buffer Zone).

The boundary of the Buffer Zone is determined by measuring 100 feet horizontally from those areas specified in Item 1a.

The boundaries of inland resource areas in Items 1a and 1b can be determined by reference to the wetlands regulations, subsection (2), "Definitions, Critical Characteristics, and Boundaries," for each resource area covered under 310 CMR 10.54 - 10.58. The Riverfront Area, listed in Item 2b, also can be a coastal resource area.

The boundaries of coastal resource areas (in Items 1a and 1b) can be determined by reference to 310 CMR 10.25 – 10.35, and to the definitions found in 310 CMR 10.04 and 10.23, and M.G.L. c. 131, § 40.

The width of the Riverfront Area (in Item 1b) is described in 310 CMR 10.58(2)(a)3, and the methods for determining the Mean Annual High-Water Line (which is the inner boundary) are found in 310 CMR 10.58(2)(a)2 and 10.58(2)(c).

#### Item 2. Bordering Vegetated Wetland Delineation.

If the Conservation Commission or the Department has issued a Final Order of Resource Area Delineation that confirms the BVW boundary delineation, submit the Order with the Notice of Intent. Otherwise, use one of the methods indicated in Item 2 to determine the boundaries of Bordering

Vegetated Wetlands (BVW). On the form, check all the methods that are used to determine the boundary. These methods are discussed in the wetland regulation at 310 CMR 10.55(2)(c). When undertaking BVW delineations, whether by vegetation alone or by vegetation and other indicators of wetland hydrology, applicants are encouraged to use the Department's BVW Handbook: *Delineating Bordering Vegetated Wetlands Under the Massachusetts Wetlands Protection Act* (1995). This document is available for purchase from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378). The Department encourages applicants to complete the BVW Field Data Form contained in the handbook and submit it with the Notice of Intent. If detailed vegetative assessments are not required for a particular site, the reasons should be noted on the Field Data Form.

#### Item 3. Sites Subject to Special Protection

3a. Rare Wetland Wildlife Habitat. Except for Designated Port Areas, no work may be permitted in any resource area subject to the Act which would have adverse effects on the habitat of rare, "state-listed" vertebrate or invertebrate animal species. The applicant must contact the Conservation Commission to see if the proposed work (including work in the Buffer Zone) is within estimated habitat as indicated on the most recent Estimated Habitat Map of State-Listed Rare Wetlands Wildlife (if any) published by the Natural Heritage and Endangered Species Program. If the proposed work is located within such an area, the applicant must send the Natural Heritage Program (Natural Heritage and Endangered Species Program, Division of Fisheries and Wildlife, Route 135, North Drive, Westborough, MA 01581 508.792.7270) a copy of the Notice of Intent by certified mail or priority mail (or otherwise sent in a manner that guarantees delivery within two days), no later than the date of the filing of the Notice of Intent with the Conservation Commission and the Department. Evidence of mailing to the Natural Heritage Program (such as Certified Mail Receipt or Certificate of Mailing for Priority Mail) must be submitted to the Conservation Commission and the Department's Regional Office along with the Notice of Intent.

3b. Areas of Critical Environmental Concern. If the project is proposed in one of the communities listed in Appendix D, the project may be located in an Area of Critical Environmental Concern (ACEC). To confirm whether the project location is in an ACEC,

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contact the Conservation Commission or the Department of Environmental Management (DEM) ACEC Program at either:

100 Cambridge Street, Room 1404  
Boston, MA 02202  
617.727.3160 x552

or

136 Damon Road  
Northampton, MA 01060  
413.586.8706 x21

The ACEC Program also may be contracted for additional information or to verify new ACEC designations.

**3c. Restriction Orders.** If any portion of the proposed project is located on a site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131 § 40A) or Coastal Wetlands Restriction Act (M.G.L. c. 130 § 105), attach a copy of the order to the Notice of Intent. To determine if a Wetlands Restriction Order exists for the site, contact the Conservation Commission or the Department's Regional Office (see Appendix A).

#### **Section D: Performance Standards**

The wetland regulations describe the type and extent of work that may be permitted in resource areas, called performance standards. Proposed work must meet these standards.

**Item 1. Limited Projects** are categories of activities specified in the regulations at 310 CMR 10.24(7) and 10.53(3) – (6), which can proceed at the discretion of the issuing authority without fully meeting the resource area performance standards.

**Item 2. Exemptions.** Exemptions are allowed under the Wetlands Protection Act for certain mosquito control, commercial cranberry bogs, agricultural, and aquacultural projects and for projects authorized by Special Act prior to 1/1/73. These exemptions are defined, in part, in the 310 CMR 10.03(6) and in the definitions of agriculture and aquaculture in 310 CMR 10.04. In addition, there are exemptions for certain stormwater management projects (310 CMR 10.02(3)); specific minor activities in the Buffer Zone (310 CMR 10.02(2)(b)); and certain other projects in the Riverfront Area (310 CMR 10.58(6)(b)).

**Item 3. Riverfront Area.** For projects in the Riverfront Area, project purpose is defined in 310 CMR 10.58(4)(c)1. and 2.

**Item 4a. Performance standards for inland resource areas,** including the Riverfront Area (which can be either inland or coastal), are described in the wetland regulations, subsection (3) "General Performance Standards" for each resource area covered under 310 CMR 10.54 - 58. **Performance standards for coastal resource areas** (excluding the Riverfront Area) are described in various subsections within 310 CMR 10.25 - 10.35. **Performance standards for limited projects** are described in the regulations at 310 CMR 10.24(7) and 10.53(3)-(6). Among other performance standards, **alternatives analyses** are required for most limited projects and for all projects in the Riverfront Area. Detailed requirements for the evaluation of alternatives to proposed work in the Riverfront Area are described at 310 CMR 10.58(4).

**Item 4b. Stormwater Management.** According to DEP's Stormwater Policy (revised March 1997), certain projects require stormwater management measures. To determine if a project requires stormwater management, consult the policy which is included in the Department publications: *Stormwater Management Volume One: Stormwater Policy Handbook* (March 1997) and *Stormwater Management Volume Two: Stormwater Technical Handbook* (March 1997). These documents are available for purchase from the State House Bookstore (617/727-2834) and State House Bookstore West (413/784-1378) and also may be obtained from DEP's web site at [www.state.ma.us/dep](http://www.state.ma.us/dep).

If stormwater management is required, applicants are encouraged to complete Appendix C: Stormwater Management Form and submit it with the Notice of Intent to provide stormwater management information for Conservation Commission review consistent with the wetland regulations, 310 CMR 10.05(6)(b). The Department encourages engineers to use the form to certify that the project conforms with the Stormwater Policy and meets acceptable engineering standards.

#### **Section E: Additional Information**

All listed information must be provided along with the Notice of Intent.

**Plans** should be of adequate size, scale, and detail to completely and accurately describe the site, resource

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area boundaries, and proposed work. The following guidelines are provided to encourage uniformity:

#### *Sheet Size*

- Maximum 24" x 36"
- If more than one sheet is required to describe the proposed work, provide an additional sheet indexing all other sheets and showing a general composite of all work proposed within the Buffer Zone and areas subject to protection under the Act.

#### *Scale*

- Not more than 1" = 50'
- If plans are displayed, include graphical scales.

#### *Title Block*

- Included on all plans
- Located at the lower right hand corner, oriented to be read from the bottom when bound at the left margin
- Include original date plus additional space to reference the title and dates of revised plans.

#### **Section F: Fees**

A wetland application filing fee must accompany the Notice of Intent. The fee is based on the category of the proposed activity (described in 310 CMR 10.03(7)) and the resource area to be impacted by the activity. To calculate the filing fee, see the instructions in Appendix B: Wetland Fee Transmittal Form.

The total fee for a Notice of Intent that involves more than one activity is determined by adding the fees for each proposed activity. When work is proposed in the Riverfront Area, as well as another resource area or the Buffer Zone, add 50% to the fee for each activity in the Riverfront Area. For activities exclusively within the Riverfront Area, and not within other resource areas or Buffer Zones, the fee is determined by adding the amounts for each proposed activity. The city/town share of the fee is the first \$25, plus half of the remaining total fee. The state share is half the total fee in excess of \$25.

Complete pages 1 and 2 of Appendix B and send them, along with a check for the state share of the filing fee, payable to *the Commonwealth of Massachusetts*, to DEP, Box 4062, Boston, MA 02211. Review of the Notice of Intent cannot begin until the fee is received.

Include check number and payor name information on the Notice of Intent to expedite fee payment confirmation.

No fee shall be assessed for projects of the federal government, the Department of Environmental Protection, or cities and towns of the Commonwealth.

In addition, a notice of the application must be placed in a local newspaper, and published at least five days prior to the hearing, at the applicant's expense. Please contact your Conservation Commission regarding the procedure for public newspaper notice.

#### **Section G: Signatures and Submittal Requirements**

Submittal Requirements. Follow the filing instructions on the form. The Notice must be sent to the appropriate DEP Regional Office (see Appendix A). For additional filing requirements, see instructions for Section C, Item 3a - c: Sites Subject to Special Protection. The original and copies must be sent simultaneously. Failure by the applicant to send the copies in a timely manner may result in dismissal of the Notice of Intent.