

WPA Form 4 – Abbreviated Notice of Intent

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

Instructions for Completing Application

WPA Form 4 – Abbreviated Notice of Intent

Please read these instructions before completing the Abbreviated Notice of Intent application form (WPA Form 4) for more information on certain items that are not self-explanatory.

Introduction

The Abbreviated Notice of Intent (WPA Form 4) simplifies filing requirements for projects which are likely to result in limited impacts to wetland resource areas. The form may be used when:

- the proposed work is within the Buffer Zone as defined in 310 CMR 10.04 (if the filing of a Notice of Intent is required) or within Land Subject to Flooding, as defined in 310 CMR 10.57(2), or within the Riverfront Area, as defined in 310 CMR 10.58; and
- the proposed work will disturb less than 1,000 square feet of surface area within the Buffer Zone and/or Land Subject to Flooding or less than 1,000 square feet of Riverfront Area, provided the work conforms to the requirements of 310 CMR 10.58(4)(c)2.a. pertaining to analysis of alternatives; and
- neither a Department of Army permit nor a Chapter 91 Waterways license from the Department is required.

Background

To protect the Commonwealth's wetland resources, the Massachusetts Wetlands Protection Act (General Law c. 131, §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 Abbreviated 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 <http://www.mass.gov/dep/water/laws/regulati.htm#wl>. 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 Attachment 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 professional 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.

WPA Form 4 – Abbreviated Notice of Intent

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

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 Form 4

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 Abbreviated Notice of Intent does not contain a residence, school, or commercial or industrial establishment, or if the lot is being subdivided.

Item 6. 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 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. For projects in the Riverfront Area, the project purpose should be described in Section B, Item 3g.

Section B: Site and 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 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. This section of the application requires information about the resource areas on the site and how the proposed project meets the performance standards for the specific resource area involved.

Item 1a. Buffer Zone. The boundary of the Buffer Zone is determined by measuring 100 feet horizontally from those areas specified under Section B, Item 1a. Buffer Zone may border two inland resource areas: Bank and Bordering Vegetated Wetland (BVW), the boundaries of which can be determined by reference to the wetland regulations, subsection (2), “Definitions, Critical Characteristics, and Boundaries” under 310 CMR 10.54 and 10.55, respectively. The boundaries of coastal resource areas that have Buffer Zones can be determined by reference to 310 CMR 10.27 – 10.32, and to the definitions found in 310 CMR 10.04 and 10.23.

Item 1b. Method to Determine BVW Boundary. 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 Abbreviated Notice of Intent. Otherwise, use one of the methods indicated in Item 1b to determine the boundaries of BVW. On the form, check all the methods that are used to determine the boundary. These methods are discussed in the wetland regulations 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 Abbreviated Notice of Resource Area Delineation. If detailed vegetative assessments are not required for a particular site, the reasons should be noted on the Field Data Form.

WPA Form 4 – Abbreviated Notice of Intent

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

Item 2. Land Subject to Flooding. The boundaries of Inland Land Subject to Flooding are explained in 310 CMR 10.57(2). Performance standards for work in this resource area are found at 310 CMR 10.57(4).

Item 3. Riverfront Area. The boundaries of the Riverfront Area can be determined by reference to 310 CMR 10.58(2). The width of the Riverfront Area (Item 3b) is described in Section 10.58(2)(a)3 of the wetland regulations and the methods for determining the Mean Annual High-Water Line (Item 3c), which is the inner boundary of this resource area, are found in Sections 10.58(2)(a)2, and 10.58(2)(c). The project purposes for Riverfront Area projects (Item 3g) are explained in 310 CMR 10.58(4)(c)1 and 2. Performance standards (Item 3i) are found at 310 CMR 10.58(4), including standards for consideration of alternative project design or location.

Item 4. 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 <http://www.mass.gov/dep/water/laws/policies.htm#storm>.

If stormwater management is required, applicants are encouraged to complete the Stormwater Management Form and submit it with the Abbreviated 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.

Item 5. Sites Subject to Special Protection

5a. 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 Abbreviated 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 Abbreviated 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 Abbreviated Notice of Intent.

5b. Areas of Critical Environmental Concern. If the project is proposed in one of the communities listed on the Department's web site: <http://www.mass.gov/dep/water/approvals/wwforms.htm#appendix>, the project may be located in an Area of Critical Environmental Concern (ACEC). To confirm whether the project location is in an ACEC, contact the Conservation Commission or the MA Department of Conservation & Recreation (formerly the Department of Environmental Management) ACEC Program at:

251 Causeway St., Suite 600
Boston, MA 02114
617.626.1394

WPA Form 4 – Abbreviated Notice of Intent

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

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

5c. 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 Abbreviated 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 <http://www.mass.gov/dep/about/region/findyour.htm>).

Item 6. 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 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 Buffer Zone (310 CMR 10.02(2)(b)); and certain other projects in the Riverfront Area (310 CMR 10.58(6)(b)).

Section C: Additional Information

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

Plans should be of adequate size, scale, and detail to completely and accurately describe the site, resource 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 generalized 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 D: Fees

The wetland filing fee should be calculated using the following steps. The examples listed for each step are based on a project that involves two driveway crossings through a Riverfront Area and Bordering Vegetated Wetland and six single family houses in Riverfront Area only.

Step 1/Type of Activity: Review plans and narrative to identify each activity in wetland resource areas and their applicable Buffer Zones. Example: driveway crossing and construction of a single family house.

Step 2/Number of Activities: Determine the number of each activity associated with the project. Example: driveway crossings and 6 single family homes.

WPA Form 4 – Abbreviated Notice of Intent

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

Step 3/Individual Activity Fee: List the fee amount for each category of activity (see Category Activities and Fee, below) Example: Driveway crossing is a Category 2(f.) activity and is \$500 each. Construction of a single family house is a Category 2(a.) activity and is \$500 each.

Step 4/Subtotal Activity Fee: Determine the subtotal fee for each type of activity by multiplying the fee for the activity (Step 3) by the number of activities (Step 2). If the activity is within the Riverfront Area as well as another resource area or its Buffer Zone, add 50% to total fee (e.g., multiply the fee by 1.5). If the activity is located in a Riverfront Area only, apply the fee amount for the category without the additional 50%. Example: 2 (driveway crossings in BVW) x \$500 x 1.5 (for riverfront area) = \$1,500; 6 (single family homes) x \$500 = \$3,000.

Step 5/Total Project Fee: Add all the subtotals identified in Step 4 to determine the total fee. Example: \$1,500 + \$3,000 = \$4,500.

Step 6/Fee Payments: The state share of the fee is 50% of any filing fee in excess of \$25 (i.e., the state share can be determined by dividing the total fee in half and subtracting \$12.50); the remaining portion of the fee shall be made to the city or town (i.e., the City/Town share can be determined by dividing the total fee in half and adding \$12.50). Example: City/Town share: \$2,262.50; state share: \$2,237.50.

Category Activities and Fees

Category 1 (Fee for each activity is \$110):

- a.) work on single family lot; addition, pool, etc.;
- b.) site work without a house;
- c.) control vegetation;
- d.) resource improvement;
- e.) work on septic system separate from house;
- f.) monitoring well activities minus roadway;
- g.) new agricultural or aquaculture projects.

Category 2 (Fee for each activity is \$500)

- a.) construction of single family house;
- b.) parking lot;
- c.) beach nourishment;
- d.) electric generating facility activities;
- e.) inland limited projects minus road crossings and agriculture;
- f.) each crossing for driveway to single family house;
- g.) each project source (storm drain) discharge;
- h.) control vegetation in development;
- i.) water level variations;
- j.) any other activity not in Category 1, 3, 4, 5 or 6;
- k.) water supply exploration.

Category 3 (Fee for each activity is \$1,050)

- a.) site preparation (for development) beyond Notice of Intent scope;
- b.) each building (for development) including site;
- c.) road construction not crossing or driveway;
- d.) hazardous cleanup;
- e.) water supply development.

Category 4 (Fee for each activity is \$1,450):

- a.) each crossing for development or commercial road;

WPA Form 4 – Abbreviated Notice of Intent

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

- b.) dam, sluiceway, tidegate (safety) work;
- c.) landfills operation/closures;
- d.) sand and gravel operations;
- e.) railroad line construction;
- f.) bridge;
- g.) hazardous waste alterations to resource areas;
- h.) dredging;
- i.) package treatment plant and discharge;
- j.) airport tree clearing;
- k.) oil and/or hazardous material release response actions.

Category 5 (Fee is **\$4 per linear foot**; total fee not less than \$100 or more than \$2,000):

- a.) work on docks, piers, revetments, dikes, etc. (coastal or inland).

Category 6 (Fee is **\$2 per linear foot**; but not to exceed \$200 for activities associated with a single family house or \$2,000 for all other activities)

- a.) boundary delineations for Bordering Vegetated Wetlands.

Examples of How to Calculate Wetland Filing Fees

Example 1: New single family house with associated work located within Riverfront Area (RA) only:

There is one Category 2 activity (2.a., single family home construction and associated work).

Fee for home and associated work (RA): = \$500

Total Fee: \$500

Fee due City/Town: \$262.50 ($\$500/2 + \12.50)

Fee due State: \$237.50 ($\$500/2 - \12.50)

Example 2 : Construction of 10 single family homes within a subdivision, eight of the homes are within a Riverfront Area (RA), and a portion of each of the two remaining homes are within Bordering Vegetated Wetland (BVW) and RA. There will be 4 stormwater discharges located within BVW's Buffer Zone. There also is one limited project access roadway reviewable under 310 CMR 10.53(3)(e) located in BVW and RA.

There are ten Category 2 projects (2(a.), 10 homes each involving work in a wetland resource area) and one Category 4 project 4(a.), limited project for access to residential subdivision). The fee for review of the stormwater discharges is included in Category 2(a.).

Fee for single family homes:

8 in RA (\$500 for each of the 8 homes) = \$4,000

2 in BVW: $\$1,000 \times 1.5$ (RA) = \$1,500

Fee for limited project access: $\$1,450$ (BVW) $\times 1.5$ (RA) = \$2,175

Total Fee: \$7,675

Fee due City/Town: \$3,850 ($\$7,675/2 + 12.50$)

Fee due State: \$3,825 ($\$7,675/2 - \12.50)

Example 3: Construction of a parking lot and three storm drain outlets within Bordering Land Subject to Flooding (BLSF), and within the Riverfront Area (RA). A septic system will be constructed within a Buffer Zone of a BVW that is also within RA.

WPA Form 4 – Abbreviated Notice of Intent

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

There is one Category 1 activity (i.e. septic system in Buffer Zone) and four category 2 activities (2.b. parking lot and (2.g., three storm drain outlets):

Fee for parking lot: \$500 (BLSF) x 1.5 (RA)	\$ 750
Fee for storm drain: \$1,500 (3 storm drains in BLSF) x 1.5 (RA)	= \$2,250
Fee for septic system: \$110 (Buffer Zone) x 1.5 (RA)	= \$ 165
Total Fee:	\$3,165
Fee due City/Town:	\$1,595 (\$3,165/2 + \$12.50)
Fee due State:	\$1,570 (\$3,165/2 - \$12.50)

Mail transmittal forms and DEP payments, payable to:

Commonwealth of Massachusetts
Department of Environmental Protection
Box 4062
Boston, MA 02211

Section E: Signatures and Submittal Requirements

Submittal Requirements. Follow the filing instructions on the form. The Abbreviated Notice of Intent must be sent to the appropriate DEP Regional Office (see <http://www.mass.gov/dep/about/region/findyour.htm>). For additional filing requirements, see instructions to Section B, Item 5: 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 Abbreviated Notice of Intent.