Rockport Wetlands By-law and MA Wetlands Protection Act
Application Guidelines for Requests for Determination of Applicability (RDA's)

(Revised 01/12/15)

The following submission guidelines are intended to assist applicants and their consultants by providing the information necessary to address the concerns of the Rockport Wetlands Protection By-law and MA Wetlands Protection Act Regulations. The Rockport Wetlands Protection By-law and Regulations may be downloaded at *www.town.rockport.ma.us* via the Conservation Commission link under 'Regulatory and Land Use'; the MA Wetlands Protection Act Regulations may be downloaded at the MA DEP website at *http://www.mass.gov/eea/agencies/massdep/water/regulations/310-cmr-10-00-wetlands-protection-act-regulations.html*

1) **Review the Rockport Wetlands By-law and the MA Wetlands Protection Act Regulations with special attention to pertinent resource areas.**

2) **It is strongly recommended that you schedule an appointment to review your application materials before the filing deadline.** Our Conservation Agent is available to assist applicants during the permitting process. Please contact the Conservation Office at (978) 546-5005.

3) **Submit at least two (2) copies of a complete application and seven (7) copies of the plan(s) and project narrative to the Rockport Conservation Commission two weeks before a regularly scheduled hearing (see details below). Send one (1) complete copy, simultaneously via <u>certified mail</u> to the:**

MA Department of Environmental Protection (DEP)
Northeast Region - Wetlands & Waterways
205B Lowell Street
Wilmington, MA 01887

4) We recommend you keep one copy of the complete application for your own records, for a total of eleven (11) copies. The Rockport Conservation Commission (RCC) encourages electronic submittal of applications.

All portions of applications may be submitted to the RCC Office electronically including:

- The Plan(s)
- WPA forms
- Locus map
- Narrative letter
- Photos
- If within a Riverfront Area, an alternatives analysis

Electronic filing will also require the following paperwork:

a. The narrative (7 copies);
b. The site plan (7 copies, may reduce size but no smaller than 11"x 17"); and
c. One (1) paper **original** and one (1) paper **copy** of the entire submission, including large scale 36"x 24" plan (where applicable).

The Conservation Agent will prepare a file for viewing the material at the meeting. A laptop computer, projector and screen are available for this purpose. The electronic presentation should be submitted in a protected format (such as pdf or CAD). Electronic submission will greatly

reduce the amount of paper used when filing requests and make the material easier to display for the public viewing during presentations to the RCC.

A complete application includes:

a. **The WPA Form 1** - Request for Determination of Applicability.

b. **Fees: The local filing fee calculation worksheet with an enclosed check for the appropriate amount.** Make check payable to: *The Town of Rockport* *Please include the applicants name and address on the check.
Legal Ad Fee: Legal Ad Fee: There is a fee for placing a legal ad in the Gloucester Daily Times. Our Conservation Agent will create the legal ad and submit it to the paper. **Please contact our Agent @ 978-546-5005 for the most current fee amount.** Make check payable to: *Gloucester Daily Times* and submit to the Rockport Conservation Commission with the application. *Please include the applicants name and address on the check.

c. **A narrative cover letter** providing details of the project and the proposed work's location relative to the boundaries of each wetland resource area within 100 feet. Include details about the construction sequence, construction materials, equipment to be used, stockpiling areas, plans to mitigate for increased run-off, placement of erosion and sediment controls, the limit of work area, plantings, etc.

d. **A Plan showing the boundaries of all inland and coastal wetlands as well as their respective 100-foot buffer zones.** The drawing should cite the name(s) of all person(s) who prepared the Plan. The Plan requires a date, title, and compass rose, property boundaries, and significant topographic features. All Plans shall be a maximum of 24" x 36"and drawn to a preferred scale of 1": 20'. The Commission strongly encourages and may require if warranted, that a registered professional engineer, land surveyor, architect, or landscape architect prepare the Plan and/or calculations.

e. Indicate on **locus or USGS map** of Rockport, the location of the project (you may use the locus map found on our website).

f. **RDA's shall not be used for delineating wetland resource areas** - the Commission prefers that an Abbreviated Notice of Resource Area Delineation (ANRAD) - WPA Form 4A be submitted for this purpose.

5) **Once the Conservation Office receives copies of a complete application, a public hearing will be scheduled. The Commission requires that a complete application be submitted a minimum of 2 weeks before a regularly scheduled, public hearing.** Please check in with the Conservation Office for upcoming deadlines.

6) The Commission will arrange for the publishing of a legal notice in a local newspaper and at Town Hall. **Please note that the newspaper will not print the legal advertisement until the fee is prepaid (see 3b above).**

7) **The applicant or a designated representative is required to attend the scheduled public hearing and give a brief on the proposed project to the Commission members and the public.** Most often our conservation Agent will have been to the site and reported findings during the first hearing , but a followed-up site visit by the Commission may alos be required on the following Saturday morning. Hearings continue until the Commission members are satisfied that all necessary information to vote on the proposal has been presented.

8) **The Commission will then vote on the RDA application at a public hearing.** The Determination of Applicability issued by the Commission will either be mailed to the applicant via certified mail within 21 days of the vote or the applicant may arrange to pick it up at Town Hall.

Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program

WPA Form 1 Request for Determination of Applicability)

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

Instructions and Supporting Materials

Instructions for Completing Application

WPA Form 1 – Request for Determination of Applicability

Please read these instructions before completing the Request for Determination of Applicability (WPA Form 1) for more information on certain items that are not self-explanatory.

Purpose of the Request for Determination of Applicability
The Request for Determination of Applicability is a process which provides applicants with the *option* of seeking a determination on the applicability of the Wetlands Protection Act (the Act) to a proposed site or activity. Before filing this form to confirm the boundary delineation of a resource area, the applicant should discuss other delineation review options with the Conservation Commission. The Commission may require the submission of WPA Form 4A (Abbreviated Notice of Resource Area Delineation), WPA Form 3 (Notice of Intent), or WPA Form 4 (Abbreviated Notice of Intent).

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 a Determination of Applicability.

The issuing authority also may require that supporting materials (plans and calculations) be prepared by professionals including, but not limited to, a registered engineer, 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.

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**. 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. Regulations also are available for sale from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378).

Completing WPA Form 1

Section B: Determinations. The Request for Determination of Applicability can be used for a variety of purposes. Check one or more of the boxes under the following circumstances.

1a. To determine whether the Act applies to a particular area of land. Areas subject to jurisdiction are described in the wetlands regulations at 310 CMR 10.02.

1b. To confirm the precise boundaries of any delineated wetland resource area. NOTE: before checking 1b., consult the Commission to determine whether it will provide confirmation of wetland resource area boundaries in response to the filing of WPA Form 1. If the request is filed for a determination of Bordering Vegetated Wetlands (BVW) boundary, the Commission may require applicants to file WPA Form 4A (Abbreviated Notice of Resource Area Delineation), WPA Form 3 (Notice of Intent), or WPA Form 4 (Abbreviated Notice of Intent) to obtain confirmation.

1c. To determine whether the Act applies to work which is planned within a wetland resource area or within the Buffer Zone to a resource area. Work subject to jurisdiction is described in the wetlands regulations at 310 CMR 10.02.

1d. To determine whether the city or town has a local wetlands ordinance or bylaw which applies to any particular area of land and/or to work which is planned within this area of land.

1e. To determine the scope of alternatives to be considered for work in the Riverfront Area. The scope of alternatives which must be considered for various types of projects in the Riverfront Area is contained in the wetland regulations at 310 CMR 10.58(4)(c)2.

In order for the reviewing agency to obtain a complete description of the project site, resource area boundaries must be clearly delineated. Further explanation of Boxes 1a – 1e follows.

Resource Areas: Boundaries.
For boundaries of inland resource areas (including the Riverfront Area, which may be either inland or coastal), refer to subsection (2), "Definitions, Critical Characteristics and Boundaries" for each resource area covered under 310 CMR 10.54 – 10.58.

For boundaries of coastal resource areas, refer to the definitions in 310 CMR 10.04 and 10.24 for each resource area covered under 310 CMR 10.25 – 10.35, as well as in the text of Section 10.25 – 10.35.

The boundary of the Buffer Zone is determined by measuring 100 feet horizontally from those areas specified in 310 CMR 10.02(1)(a).

1a. Describe the site and, if possible, the boundary of any area that may be subject to protection under the Act (including the Buffer Zone).

1b. As noted earlier, 1b, should only be checked with approval of the Conservation Commission. If checked, submit:

- plans identifying the precise boundaries of the resource area(s) delineated;
- method used to determine the boundaries of Bordering Vegetated Wetland. Note whether the boundary was delineated based on the presence of one or more of the following:
    - 50% or more wetland indicator plants
    - Saturated/inundated conditions
    - Groundwater Indicators
    - Direct Observation
    - Hydric soil indicators
    - For disturbed sites: specific, credible evidence of conditions prior to disturbance.

Use one of the methods indicated above 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 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 Request for Determination of Applicability. If detailed vegetative assessments are not required for a particular site, the reasons should be noted on the Field Data Form.

1c. Describe the boundaries of all resource areas and Buffer Zones where work will occur or which could be impacted by the work.

1d. Describe the site, and if possible, the boundary of any area that may be subject to a municipal wetlands ordinance or bylaw. If there are areas on the site which are not subject to the Wetlands Protection Act, but which may be subject to a municipal wetlands ordinance or bylaw (if any), specifically note the boundaries of such areas. Describe all areas where work is planned if such work may be subject to a municipal wetlands ordinance or bylaw.

1e. Indicate the precise location of all work relative to the boundaries of the Riverfront Area.

Section C: Project Description. In this section, the applicant must describe the area and proposed work (if any) subject to the Request. The type of information required depends, in part, on the type of determination requested in Section B. In all cases, the applicant should describe the site based on resource areas jurisdiction and boundaries under the Wetlands Protection Act and regulations.

1a. 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 Request does not contain a residence, school, or commercial or industrial establishment, or if the lot is being subdivided.

1b. Area Description. The area should be described in narrative form. If needed, attach additional sheets for a more complete description of the area; a map or plan may also be used as part of the area description (see instructions for 1c for plan and map requirements).

1c. Plan and/or map reference(s). On the application form, list the titles of all attached plans and maps, as well as, the most recent revision date.

Submit an 8.5" x 11" section of the U.S. Geologic Survey (USGS) quadrangle or other map of the area (along with a narrative description, if necessary) containing sufficient information for the Conservation Commission and the Department to locate the site.

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 site and/or 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

2a. Work Description. Work subject to the jurisdiction of the Wetlands Protection Act is described in 310 CMR 10.02. If the Request is for determining jurisdiction over proposed work, the applicant is asked to describe the work in detail. Proposed work can be described in narrative form. If needed, attach additional sheets for a more complete description of the work; a map or plan may also be used to describe the work (see instructions in 1c for plan and map requirements).

Provide the following information, depending on which boxes were checked under Section B:

1c. Describe the proposed work and its precise location relative to the boundaries of each wetland resource area and the Buffer Zone on the site.

1d. Describe the proposed work and its precise location relative to the boundaries of areas which may be subject to municipal wetland ordinance or bylaw.

1e. Describe the proposed work and its precise location relative to the boundaries of the Riverfront Area.

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

3a. Riverfront Area Scope of Alternatives. Complete this section *only* if 1e. under Section B is checked. In 3a, check one box that best describes the project. The classifications listed in 3a and the scope of alternatives which projects in each classification must analyze are explained in 310 CMR 10.58(4)(c)2.

Section D: Signatures and Submittal Requirements
A completed WPA Form 1, with all attachments, must be submitted to the Conservation Commission. Applicants also must send a copy of WPA Form 1 and all attachment to the appropriate DEP Regional Office (see http://www.mass.gov/eea/agencies/massdep/about/contacts/find-the-massdep-regional-office-for-your-city-or-town.html for locations of regional offices and the communities they serve) and to the property owner, if different from the applicant. **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 Request for Determination of Applicability

Fees
There is no application fee for the Request for Determination of Applicability. However, 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.