



WPA Form 2 - Determination of Applicability

Instructions for Completing WPA Form 2 – Determination of Applicability

Please read these instructions before completing the Determination of Applicability (WPA Form 2) for more information on certain items that are not self-explanatory.

Purpose of the Determination of Applicability

The Determination of Applicability (DOA or Determination) is a process that the Conservation Commission or the Massachusetts Department of Environmental Protection (MassDEP), as the issuing authority, may use to provide applicants with a Determination in response to their Request for Determination Applicability (RDA) submittal asking whether their project site or proposed activity is subject to the jurisdiction of the MA Wetlands Protection Act (the Act) and its regulations.

The Applicant is responsible for submitting a complete and accurate description of the project site and proposed activities to avoid receiving a Positive Determination of Applicability for minor projects that would otherwise not require the filing of a Notice of Intent.

These instructions are provided for the Conservation Commission as the issuing authority. In response to an RDA, commissions may require that supporting materials (plans and calculations) be prepared by professionals including, but not limited to, a registered engineer, registered landscape architect, registered land surveyor, biologist, environmental/wetland scientist, geologist, or hydrologist when the complexity of the proposed activity warrants specialized expertise.

To complete this form, the Conservation Commission can refer to the Wetlands Protection Act Regulations (310 CMR 10.00) at [MassDEP's website](#). Copies of the 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. Official copies of the wetland regulations are available for sale from the State House Bookstore (617.727.2834) and State House Bookstore West (413.784.1378).



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Submit a Completed WPA Form 2 – Determination of Applicability

Submitting the DOA to MassDEP can be accomplished electronically using the eDEP DOA Submittal Platform or by mailing the DOA to the appropriate MassDEP regional office. Both methods of submitting the DOA fulfill the regulatory requirement to ‘mail’ a copy of the DOA to the MassDEP regional office. Separate instructions are provided below for each submittal method.

Submit DOA Electronically – eDEP Submittal Platform Option

A Submittal Platform is available in eDEP that allows Conservation Commissions to attach a completed DOA form for submittal to MassDEP. The option to electronically submit a DOA using eDEP fulfills the regulatory requirement to mail a copy to the MassDEP regional office and saves the cost of mailing for the Conservation Commission. A dated receipt of submittal is provided by email when the attachment is uploaded.

MassDEP encourages Conservation Commissions to use this option to submit DOAs. To submit the DOA electronically, simply:

- Log into eDEP,
- Select “Wetland Forms” from the dropdown menu under FORMS tab in MYEDEP,
- Select ‘DOA Submittal Platform’ on the Wetlands Form page,
- Fill in the requested information,
- Attach a completed WPA Form 2 - Determination of Applicability,
- Submit to MassDEP,
- Print the dated submittal receipt for your records.

Step by step directions are included on the eDEP site to help you complete the submittal process including how to upload and attach the hard copy.

Submit DOA by Mail Option

The DOA may also be mailed to the MassDEP regional office. Find the appropriate MassDEP regional office on the web at <https://www.mass.gov/service-details/massdep-regional-offices-by-community>.

Whether the Conservation Commission opts to use the eDEP submittal platform or mail the DOA hard copy to MassDEP, these instructions will guide you on how to complete the hard copy of the DOA to submit to MassDEP by mail **or** upload onto the eDEP submittal platform.



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Complete WPA Form 2 Section A. General Information

Applicant and/or Property Owner information: Complete the requested information to ensure that the applicant and/or property owner (if different than the applicant) receives the Determination. Include their preferred email address and phone number.

How to Fill in the Latitude and Longitude for the Project Site Location

If the Applicant has not provided the latitude and longitude for the Project site, the Commission can obtain the information to complete the DOA in two different ways:

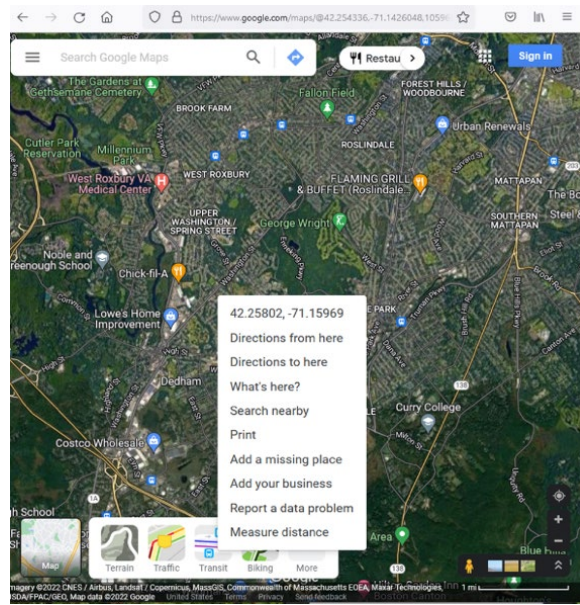
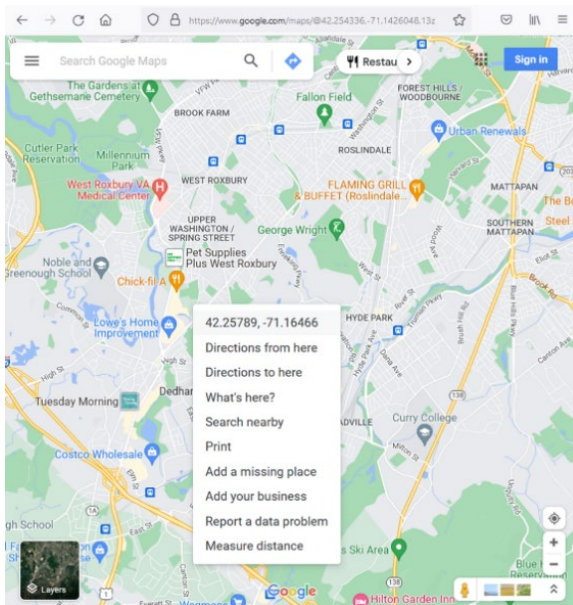
When attaching and submitting the DOA using the eDEP Platform

Do this **only** if you are planning to submit the DOA via the eDEP platform. Leave the latitude and longitude **BLANK** on the **hard copy form**. When you go into the eDEP submittal platform there will be a map viewer for you to enter the latitude and longitude. Step by step instructions on how to use the Map Viewer are available on the [eDEP RDA Information Page](#).

When mailing a hard copy to the MassDEP Regional Office

Follow these instructions **only** if you are submitting a hard copy by mail to the [MassDEP regional office](#). Use Google Maps or another mapping program to get the latitude and longitude in decimal degrees format. [A link to video instructions](#) for google maps is also on the DOA form. To find the coordinates of the project location:

1. On your computer, open Google Maps. <https://www.google.com/maps>
2. Right-click the project location or area on the map. This will open a pop-up window. You can find the latitude and longitude in decimal format at the top.
3. To copy the coordinates automatically, click on the latitude and longitude.
4. Enter the Latitude and Longitude data into the WPA Form 2 **to 5 places after the decimal point**.
5. Save your work and continue completing the form.





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Complete WPA Form 2 Section B: Determinations.

The Conservation Commission can issue a DOA for a variety of determinations in response to an applicant's RDA. Check one or more of the boxes below that apply to the specific RDA that the Commission reviewed, and the Determination made at the public meeting.

Positive Determination

Note: If the applicant's RDA is filed for a determination of Bordering Vegetated Wetlands (BVW) and/or other resource areas boundaries, the Commission may require that the applicant file WPA Form 3 (Notice of Intent), WPA Form 4 (Abbreviated Notice of Intent), or WPA Form 4A (Abbreviated Notice of Resource Area Delineation) to obtain confirmation of the Resource Area Boundary. Check the box that applies to the Positive Determination:

1. The area described on the RDA's referenced plan(s) is an area subject to protection under the Act and its regulations at 310 CMR 10.02 and the removing, filling, dredging, or altering of the area requires the filing of a Notice of Intent.
- 2a. The Commission may approve some Wetlands Resource Area boundaries but not others based on the RDA information submitted. The specified delineated wetland Resource Area(s) boundaries as listed by the Conservation Commission in this section and referenced in the RDA plan(s) are accurate and boundaries are binding for as long as the DOA is valid. In the space provided, reference the final plans and other supporting documents that were used to confirm the specific approved wetland Resource Area(s) boundaries.
- 2b. The boundaries of Wetlands Resource Area(s) and Buffer Zone(s) as listed and provided in the RDA are **not** accurate regardless of the referenced plans or documentation submitted in the applicant's RDA.
3. The activity described in the applicant's RDA, including referenced plan(s) and document(s), is within an area subject to protection under the Act and will remove, fill, dredge, or alter that area; so, any activity described on the project site would require submitting a Notice of Intent.
4. The activity described on referenced plan(s) and document(s) is within the Buffer Zone and **will alter** an Area subject to protection under the Act. Therefore, the activity will require the filing of a [Notice of Intent \(WPA Form 3\)](#), an [Abbreviated Notice of Intent \(WPA Form 4\)](#).
- 5 & 6. Check the appropriate boxes where they are applicable to the municipal wetland's ordinance or bylaw.
7. Check this box and the related check boxes for the required alternatives analysis if a Request for Determination of Applicability is filed for the activity in the Riverfront Area 310 CMR 10.05(3)(b)2 as described on referenced plan(s) and document(s). When filing the Notice of Intent, due to a positive determination by the conservation commission, the applicant must consider the checked alternatives that includes all or part of the activity described in the RDA. (See the wetland regulations at 310 CMR 10.58(4)(c) 2. for more information about the scope of alternatives requirements).



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Negative Determination

As noted on the DOA form, any of the checked boxes under the Negative Determination section requires no further action by the applicant under the Wetlands Protection Act.

However, if the Department is requested to issue a Superseding Determination of Applicability, activity may not proceed on this project unless the Department fails to act on such a request within 35 days of the date the request is post-marked for certified mail or hand delivered to the Department. If the conservation commission issues a negative DOA, work may then proceed at the owner's risk only upon notice to the Department and to the Conservation Commission. Requirements for requests for Superseding Determinations of Applicability are listed at the end of the DOA under the D. Appeals section. The Request for Departmental Action Fee Transmittal Form should be submitted to MassDEP regional office, and the fee payment must be submitted to the DEP Lockbox address.

Check the applicable box:

1. If the area and Buffer Zone are not subject to the Act.
2. If the area is subject to the Act but the activity will not remove, fill, dredge, or alter that area.
3. If the activity is within the Buffer Zone, as defined in the regulations, but will not alter an Area subject to protection under the Act. The Conservation Commission can add specific conditions in the space provided to ensure that the activity will not impact the resource areas.
4. If the activity described in the Request is not within an Area subject to protection under the Act (including the Buffer Zone). The caveat language provides the ability for the Commission to reassert jurisdiction should the activity alter WPA resource area(s).
5. If the activity is exempt and specify the applicable citations from the Wetlands Protection Act statute and its regulations. 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))).
6. If there is no need for additional review or approval based on the municipal wetlands' ordinance or bylaw. Provide the appropriate citation.



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C. Authorization

Enter the issuance date that the signed Determination (DOA) and the manner that the DOA is sent to the Applicant.

On the same date that the Determination is issued to the Applicant, a copy of the Determination must be sent to the appropriate DEP Regional Office and the property owner (if not the applicant). Identify and fill in the issuance date and the manner that the copies were sent to MassDEP and the property owner (if applicable).

Note that if Conservation Commission opts to use the eDEP submittal platform, the completed signed hard copy of the DOA must be uploaded onto the platform to ensure that the submittal is complete. Once the eDEP submittal is sent, the Conservation Commission will be sent a confirmation email of the date of receipt by MassDEP (the date of issuance).