



Commonwealth of Massachusetts
Department of Conservation and Recreation

Massachusetts

Massachusetts Watershed Protection Act
M.G.L.* ch. 92A 1/2 (*MA General Laws) Watershed Protection Regulations
313 CMR** 11.00 (**Code of MA Regulations)



WsPA Form 5 Request For Exemption of a Tributary

Instructions

I. Using This Form

This form may be used to apply for an Exemption of a Tributary under the Watershed Protection Regulations.

To obtain further information, please refer to the 1) [Watershed Protection Act Guidance Document for Applicants of Advisory Rulings, Determinations of Applicability, Variances, and Exemptions of Tributaries](#); 2) [Watershed Protection Act, Chapter 36 of the Acts of 1992](#); 3) [Massachusetts General Law c. 92A½](#); or 4) [the Watershed Protection Regulations, 313 CMR 11.00](#). These documents are available from either office listed below or the [DWSP website](#).

II. Filing This Form

If your property is located in **Boylston, Holden, Leominster, Paxton, Princeton, Sterling, West Boylston, or Worcester**, send your form to:

DCR, Division of Water Supply Protection AND Attn: Environmental Planning 180 Beaman Street West Boylston, MA 01583 (508) 792-7806	Department of Environmental Protection CERO 8 Bond Street Worcester, MA 01606 Attn: Deputy Regional Director, Bureau of Water Resources
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If your property is located in: **Barre, Hubbardston, Oakham, Phillipston, Rutland, Templeton, or Westminster**, send your form to:

DCR, Division of Water Supply Protection AND Attn: Environmental Planning 485 Ware Road Belchertown, MA 01007 (413) 323-7221	Department of Environmental Protection CERO 8 New Bond Street Worcester, MA 01606 Attn: Deputy Regional Director, Bureau of Water Resources
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If your property is located in: **Athol, Hardwick, New Salem, Orange, Pelham, Petersham, Shutesbury, or Wendell**, send your form to:

DCR, Division of Water Supply Protection AND Department of Environmental Protection
Attn: Environmental Planning WERO
485 Ware Road 436 Dwight Street
Belchertown, MA 01007 Springfield, MA 01103
(413) 323-7221 Attn: Deputy Regional Director,
Bureau of Water Resources

III. After Filing

The Division will hold a public hearing within **thirty days** of the Date of Submission as defined in 313 CMR 11.03. Note that the Date of Submission is defined as the date on which all information necessary to make the Exemption of a Tributary Decision has been received – not necessarily the date of initial intake of this request. DCR will notify you of the date, time and location of the public hearing.

Within **thirty days** of the close of the public hearing, the Division shall issue a written Exemption of a Tributary Decision. If the Exemption is **granted**, the Division may impose reasonable conditions, safeguards and limitations to protect water quality. If the Exemption is **denied**, the Decision will contain a statement of reasons for the denial. The Exemption of a Tributary must be recorded in the Registry of Deeds or the Land Court before the Exemption can take effect.

If you wish to appeal the Decision, you must file a Notice of Claim for an Adjudicatory Proceeding with the Commissioner and the Division within **twenty-one** days of issuance of the decision. [See 801 CMR 1.00 et seq. for applicable procedures.](#)

IV. Checklist

Before you send your request to the Division, please check to be sure that you have enclosed:

- A copy of the property deed or property tax bill to show ownership.
- A complete description of your proposal related to any structure, use and/or activity.
- Written permission from the owner, if the applicant is not the owner of record.
- A completed and signed request WsPA-Form 5.

OTHER REQUIREMENTS

Please note that the granting of an Exemption of a Tributary from the provisions of the Watershed Protection Act does not relieve the applicant of the duty to obtain any other required state, federal, or local permits or variances. Where applicable it will still be necessary to obtain wetlands permits or variances, Title 5 variances, 401 water quality certifications, and any local zoning actions.

End of Instructions



Commonwealth of Massachusetts
Department of Conservation and Recreation

Massachusetts Watershed Protection Act
M.G.L. ch. 92A ½

Watershed Protection Regulations
313 CMR 11.00

WsPA Form 5 Request For Exemption of a Tributary

I. Owner, Applicant, Lot Identification

Please fill in all parts of this section as appropriate

A. Property Owner

Name: _____

Address: _____

Telephone Number: _____ Email: _____

B. Applicant/Representative

Name: _____

Address: _____

Telephone Number: _____ Email: _____

Applicant Status:

Affected landowner(s) State agency or Regional Planning Commission

City or Town officials Governor or member of the General Court

Other (describe)

C. Request for Tributary Exemption

I/we request that the Tributary described as follows be exempt from the provisions of the Watershed Protection Act:

Tributary: _____
(Locate tributary using USGS coordinates. Please include a locus map.)

If the request is for exemption of a portion of the Tributary, please describe:

II. Development

Existing and Full Build-Out Land Use

To determine whether an exemption of a Tributary would pose any significant risk to water quality, the Division must examine certain characteristics, both for conditions existing as of the date of this application, and for conditions which may result if the exemption were granted and development occurred to the maximum extent allowed by current law (full build-out). To this end, this application should include a general identification of land uses as they exist now and as they might be built out if the tributary or portion were exempted.

Attach a general plan showing zoning and existing land use within the areas subject to the Act and the contributing drainage area.

State percentage imperviousness of the contributing drainage area:

With existing land uses: _____

With full build-out (indicate type of land use): _____

Change in percent imperviousness: _____

State change in wastewater generation:

State Stormwater Management Measures:

III. Physical Conditions of Tributary

The Division is required to examine the rate of flow, slope, soil characteristics, proximity to a reservoir or the Ware River above the Ware River intake, and level of water quality in order to make a determination of whether exemption would pose a significant risk to water quality.

Some of these characteristics should be supplied for both existing conditions and projected full build-out. Where indicated, explain basis and method for assessing full build-out scenarios.

A. Soil Characteristics

Attach a map prepared at a minimum scale of 1" = 100' showing soil types as mapped by the United State Department of Agriculture (USDA), Natural Resource Conservation Service (NRCS).

Describe the Characteristics of the soils specific to the area in question, including:

Erodibility: _____

Texture: _____

Drainage Class: _____

Hydrologic Soils Group: _____

Analysis of Permeability: _____

Site-specific soils data (i.e., borings, test pits, percolations test, etc.) should also be submitted if available. Include copies of all field logs, notes, observations, conclusions and test methods used, both witnessed and unwitnessed by the local Board of Health.

B. Flow Rate

Give the flow rate of the Tributary. State as annual average stream flow, reported as cubic feet per second (i.e., cfs units) as measured at the downstream point of discharge for the tributary or portion thereof, taking into account the entire contributing drainage area. The rate may be based on data obtained by using the United States Geological Survey (USGS) methods, or estimated, using USGS methods or United States Department of Agriculture (USDA) methods.

Existing: _____

Full build-out: _____

Explanation of methodology used: _____

C. Slope

Attach a topographic map (at a scale of 1" = 100' or larger) prepared and stamped by a professional surveyor or engineer licensed in Massachusetts, showing the slope at all lands within areas subject to the Act, depicting areas of less than 3%, between 3% and 15%, and greater than 15% slope, and the contour elevations at two-foot intervals or less. Also include Slope of Tributary depicting sections less than 3%, between 3% and 10%, and the average slope of the tributary through the subject area.

Describe changes in ground slope that may result from full build-out.

D. Proximity to the Reservoirs or Ware River Intake

Indicate below the proximity of the Tributary to a Reservoir (or to the Ware River above the Ware River intake) with respect to DEP Division of Water Supply Protection Zones (e.g., Zone A, Zone B, and Zone C).

Reservoir or Ware River:

Distance (measured in stream miles from the downstream discharge point of the Tributary or portion thereof in question) from the Tributary's ultimate point of confluence with a Reservoir, or stream miles above the Ware River Intake:

E. Water Quality

The applicant must make a detailed analysis of existing water quality with reference to DEP Surface Water Quality Standards for Class A Surface Waters and Outstanding Resource Waters of the Commonwealth (314 CMR 4.00 *et seq.*).

The analysis requires the submission of a minimum of monthly samples for a continuous one-year period for the following parameters: **color, turbidity, pH, temperature, dissolved oxygen, total suspended solids, total phosphorous, ammonia, nitrogen, total Kjeldahl nitrogen, chloride, and fecal coliform bacteria** counts. Supporting data and descriptions of methodology will also be requested. If available, published data from various sources (e.g., DCR, DEP, MWRA) may be used.

The analysis should predict the effect of a full build-out scenario on each parameter and the water quality in general.

Please attach this analysis to the Form.

The Division may also request clarifying information regarding what has been submitted with this form. See information regarding date of submission under "After Filing" on page 2 of the WsPA Form 5 Instructions.

IV. Supporting Materials

Check all attachments included in your Exemption of Tributary request:

Land Use Plan

Topographic Plan

Existing Uses

Full Build-Out

Deed or property tax bill

Soil Types Map

Site Plan – stamped

Site-specific Soils Data

Water Quality Analysis

Water Quality Sampling Data

Other:

V. Statement of No Significance Risk

Exemption of the described tributary will not pose a significant risk to water quality because (include a description of all mitigating measures, qualifying their pollutant removal efficiencies' and attachments as necessary):

VI. Certification

(Please read statement below and 313 CMR 11.09 before signing)

I certify that the information provided on this form and in all attachments is correct and accurate to the best of my knowledge. I understand that the Division of Water Supply Protection, Office of Watershed Management staff may, at reasonable times, inspect my property for the purposes of confirming information given here and for determining the impact of this proposal on water quality.

Signature: _____

(Print Owner of Record)

Date: _____

Signature: _____

(Print Applicant, if different than Owner of Record)

Date: _____

Note: If the owner's signature is not included, then a document must be attached that certifies that the applicant has the owner's permission to file this Request on his or her behalf.

Other Requirements: All relevant provisions of the Wetlands Protection Act, Rivers Protection Act, Title 5, NPDES Phase II Storm Water Discharge permit program, and other state, federal, and local laws and regulations remain in full force. The applicant should address these issues with the local Conservation Commission, Board of Health, and other appropriate municipal, federal, and state agencies. The applicant should address these issues with the local Conservation Commission, Board of Health, and other appropriate municipal, federal, and state agencies.