



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Waterways Regulation Program

BRP WW 14/15, 16, 17

Nonwater-Dependent (NWD) License/Permit Application

Instructions and Supporting Materials

These instructions are also applicable for an application for an Amendment (WW03) to a Nonwater-Dependent authorization, but the specific information needed for a WW03 will depend on the type of amendment being requested. Please see the relevant EEA ePLACE Instructions for details on the WW03 process.

[EEA ePLACE WW03 Instructions](#)

All existing unauthorized or proposed Nonwater-Dependent (NWD) Use projects subject to the jurisdiction under M.G.L. Chapter 91 and that do not meet the Simplified Waterways License criteria (existing pre-1984 accessory structure to a residential dwelling, less than 600 square feet in size (<https://www.mass.gov/how-to/pre-application-form-for-ww24-general-license-certification-and-ww06-simplified-license-application>)), must obtain a NWD Waterways License. NWD Projects that are eligible for a Simplified License, but for which a longer license term is sought, may apply for a NWD Waterways License. The different NWD application types are listed below. If there are both water-dependent and NWD uses, the entire project is authorized through the NWD application process.

If requesting a license term renewal or a change to an existing valid license that is not a Substantial Structural Alteration or Substantial Change in Use (less than 10% change) an Amendment (WW03) is the appropriate application type. If an amendment is being requested for an authorization that does not have an existing record in the ePLACE online system, the record will first need to be “claimed” before processing an amendment.

[Chapter 91 Claim Authorization Instructions](#)

[EEA ePLACE Claim Authorization Instructions](#)

Initial submittal of an application may be completed by a consultant or other representative and does not require input from the applicant/owner. After a preliminary review of the application by staff an Initial Application and Proof of Signature form will be emailed to be signed by all applicants and property owners and uploaded to the online record. *Processing of the application will not begin until the fully executed Proof of Signature form, minimum required documents, and the application fee have been submitted.*

- 1) Review the instructions.**
- 2) Prepare the information and plans as required by the application and instructions.**
- 3) Complete the online application.**
- 4) After the preliminary review of the online Application “Proof of Signature” document will be emailed to the application submitter, which will include signature pages for all Applicants (Permittees) and Property Owners required to execute the form. Once the form is fully executed, upload the complete executed “Proof of Signature” to the online application.**
- 5) Staff will initiate the Administrative Review and prepare a Public Notice and checklist of necessary information which will be sent to the Application Submitter.**



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If you intend to save a copy of the draft application to review and share with any other parties prior to submittal, do not complete the certification page and submit the application. At Step 5 (Review and Certification), a copy of the summary page may be saved by selecting “Print” and “Print to pdf”. Ensure that you select “save and resume later” to save the information that has been submitted.

- WW14 - This application is the correct form for both full (WW14) and partial (WW15) NWD applications. Do not use this application type if the project site is located in a Municipal Harbor Planning Area or if the application is a joint Chapter 91 - EIR/MEPA application.**
- WW16 - This application is the correct form for a NWD project that is located within the Planning Area for a State-approved Municipal Harbor Plan.**
- WW17 - This application is the correct form for a NWD project that is a joint Chapter 91 and EIR/MEPA filing.**

Required Documents/Information to Submit a Nonwater-Dependent Application (or Amendment)
(Additional information and documents will be required but may not be necessary at the time of the initial submittal, depending on the proposed project type).

- **Completed Online Application Form** (signature document sent after preliminary review)
- **Description** of the proposed project sufficient for review by the Department (certain forms or details will be requested through the online application depending on the scope of work)
- **MEPA Certificate** (if the project exceeds the thresholds at 301 CMR 11.03)
- **Wetlands Protection Act Filing:** a copy of the Notice of Intent and associated plans that were filed with the Conservation Commission; if an Order of Conditions has already been issued, please provide that authorization, along with a copy of the plans referenced therein. If the project received a negative determination of applicability and is not subject to the WPA please upload the determination and a copy of the plans that were submitted for review.
- **Chapter 91 plans** in accordance with Appendix A and/or Appendix B (depending on the project)
- **List of applicable environmental regulatory programs** (310 CMR 9.33 – see link below)
- **Project Site Area Calculations** provide the total area of the project site, breakdown of the project site located within c.91 Jurisdiction, area located outside of c.91 Jurisdiction, area of Filled Private Tidelands, Filled Commonwealth Tidelands, Flowed Private Tidelands, Flowed Commonwealth Tidelands.
- **Calculations** for all proposed buildings (including eaves, overhangs, balconies, etc.), open space, and any other structures and/or fill areas.
- **Project Compliance** All NWD Applications require a document ‘**Project Compliance Statement**’ which must identify how the proposed project complies with the applicable provisions at 310 CMR 9.51 through 9.53. If the project is located within an MHP Area and requires relief from the regulations pursuant to an MHP, an “MHP Supplement” which demonstrates compliance with any applicable amplifications, substitutions, and/or conditions in accordance with the Secretary’s Decision on the MHP.
- **Application Fee**



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Application Documents

[List of Environmental Regulatory Programs](#)

[Planning Notification Form](#)

[Zoning Certification Form](#)

The three forms above are to be submitted using the templates at those links. The planning and zoning forms are not required to be included with the initial application. All other required documents are to be prepared by the applicant.

It is strongly recommended that the following steps be taken, and information prepared prior to initiating the application process:

Determine if there are any unauthorized fill areas or structures at the project site. If there are any unauthorized fill areas or structures those should be included with the scope of work in the application.

This link can be used to look up a project site and overlay the Chapter 91 jurisdictional data on an aerial view http://maps.massgis.state.ma.us/map_ol/oliver.php

See the following Data Layers: Images, Coastal and Marine Features: Tidelands Jurisdiction Data Chapter 91: Historic High Water and Chapter 91 Jurisdiction lines.

Identify prior authorizations for the project site

A valid Chapter 91 license is required to have been properly recorded against the chain of title for the affected property at the Registry of Deeds. Records are often available at the Registry website, but any valid Chapter 91 license should be able to be located through a title search. You may also use the resources below, but please note that these records may not be complete, and the absence of a record should not be relied on as confirmation that there is not a license.

Request a spreadsheet with Chapter 91 records from the Waterways Program Programmatic email account (dep.waterways@mass.gov) and review records using information such as property address, adjacent property records, prior property owners, etc.

Conduct a search of the Massachusetts Legislative Acts and Resolves website (<https://www.mass.gov/service-details/massachusetts-acts-and-resolves>)

Projects Involving Dredging

If the project involves dredging it will need to be identified as either maintenance or improvement dredging. Maintenance dredging is only applicable if the proposed dredging will be within the same footprint and same depth as a prior Chapter 91 authorization. You will be asked for the authorization number in the application. If there is no prior Chapter 91 authorization it is improvement dredging.

Proper Public Purpose: For nonwater-dependent projects, a statement must be included that explains how the project serves a proper public purpose that provides greater benefit than detriment to public rights in tidelands or great ponds and the manner in which the project meets the applicable standards. If the project is a nonwater-dependent project located in the coastal zone, the statement should explain how the project complies with the standard governing consistency of the policies of the Massachusetts Coastal Zone Management Program, according to 310 CMR 9.54.



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Categorically Restricted Projects

Categorical Restrictions on Fill and Structures are listed at 310 CMR 9.32. It is advisable to review these standards and contact the Waterways Program and request a pre-application meeting if it is unclear whether the project complies with these standards.

Environmental Protection Standards

All projects must comply with applicable environmental regulatory programs of the Commonwealth per 310 CMR 9.33. Please use the checklist on the “List of Environmental Regulatory Programs” to identify all that apply. This document is required to be completed and uploaded to the online application record.

DPA

If the project is proposing a Supporting DPA Use (as defined in 310 CMR 9.02) in a Designated Port Area (DPA) a *'Supporting Designated Port Area Use Statement'* is required. The information must demonstrate how the proposed use meets said definition, whether it will provide direct economic or operational support, calculations and/or justification for how the proposed amount/type of support adequately compensates for the reduced amount of tidelands on the project site that will be available for Water-Dependent Industrial Use during the term of the license, and provide calculations to demonstrate that the proposed Supporting DPA Use does not occupy more than 25% (or as varied in a State Approved Municipal Harbor Plan) of the project site within Chapter 91 justification. The breakdown of use areas shall be delineated on a site plan to be included with the application.

Variance

If the project requires a Variance pursuant to 310 CMR 9.21, *'Variance Supplement'* is required to be included in the document section which details how the project meets the standards for a Variance in accordance with 310 CMR 9.21 and includes all the required items at 310 CMR 9.21(2)(a).

FLA

If the project includes a proposed Facility of Limited Accommodation (FLA) a *'FLA Supplement'* document that demonstrates compliance with 310 CMR 9.56 is required to be included.

CWD

If the project includes a request for a Consolidated Written Determination pursuant to 310 CMR 9.14(4), a *'CWD Supplement'* that details the proposed number of authorizations and timing being requested.

Is the project located within an Area of Critical Environmental Concern?

http://maps.massgis.state.ma.us/map_ol/oliver.php use “ACEC” as a search term in the data layer field

A complete list of information, documents and other items required for a complete application will be provided by the Department after the project has been reviewed. The regulations at 310 CMR 9.11(3) identify the administrative completeness requirements.



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Abutters

Locate abutter information on the Town Assessors maps (using the Chapter 91 definition for abutters: *Abutter means the owner of land which shares, along the water's edge, a common boundary or corner with a project site, as well as the owner of land which lies within 50 feet across a water body from such site. Ownership shall be determined according to the records of the local tax assessor's office.*) Most project sites have two abutters.

How to properly register and/or identify the application parties and contributors in the ePLACE system:

“Permittee” is the individual, or individual authorized by a company/organization submitting the application and the authorization will be issued to them (or their Company/Agency) (previously referred to as the “Applicant” in Chapter 91 forms).

If you are a consultant, engineer, attorney, or other representative who is preparing the application on behalf of the Permittee you are an “Application Contact”. Do not enter your name or contact information in the fields for the Permittee.

- If a Permittee is a company or agency, please first enter the name of the individual who is the authorized representative of the company in the Permittee field (e.g., President, Manager, Director, etc. – do not enter the name of the consultant or attorney in this field). Then, under Application Contacts, select “Permittee Company and enter the company name and details.
- If the Permittee has an EEA ePLACE account and they will be contributing to the Application process, click “Look Up” button, search and select the appropriate Permittee.
- If the Permittee does not have an EEA ePLACE account and will not be contributing to the Application process, click “Add New” button and enter the Permittee information on their behalf.
- If there are multiple Permittees, please enter information for one primary Permittee and any additional Permittees in the “Application Contact” field.

An application will not be processed without valid contact information for the Permittee that includes their mailing address and phone number or email address.

An “Application Contact” is an individual or organization who is a party to the application (in addition to the Permittee), or who is contributing to the application. For example, a Property Owner, Additional Permittee, a consultant, an authorized representative etc.

If a Contact who will be submitting information in the online application process has not yet created an account, click on “save and resume later” button, advise the Contact to create an account in the EEA ePLACE Portal, and then resume the application and “Look Up” that person.

Reporting Recording Information

Recording information for authorizations with a record in the ePLACE online system is to be uploaded to the online record. Instructions for providing recording information for an issued license are at this link: [ePlace Waterways Recording Information Amendment](#)



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Appendix A: License Plan Checklist

General View

- PE or RLS, as deemed appropriate by the Department, stamped and signed, in ink, each sheet within 8 1/2 inch by 11 inch border
- Format and dimensions conform to "Sample Plan" (attached)
- Minimum letter size is 1/8 of an inch if freehand lettering, 1/10 of an inch if letter guides are used
- Sheet number with total number in set on each sheet
- Title sheet contains the following in lower left: Plans accompanying Petition of [Applicant's name, structures and/or fill or change in use, waterway and municipality]
- North arrow
- Scale is suitable to clearly show proposed structures and enough of shoreline, existing structures and roadways to define its exact location
- Scale is stated & shown by graphic bar scale on each sheet
- Initial plans may be printed on bond; final plans due before License issuance must be on 3mil Mylar.

Structures and Fill

- All Structures and Fill shown in full BLACK lines, clearly labeling which portions are existing, which are Proposed and indicating Existing Waterways Licenses
- Cross Section Views* show MHW* and MLW* and structure finish elevations
- Dredge or Fill*, actual cubic yardage must be stated and typical cross sections shown
- All Structures and Fill shown in full BLACK lines, clearly labeling which portions are existing, which are Proposed and indicating Existing Waterways Licenses
- Cross Section Views* show MHW* and MLW* and structure finish elevations
- Dredge or Fill*, actual cubic yardage must be stated and typical cross sections shown
- Actual dimensions of structures(s) and or fill and the distance which they extend beyond MHW* or OHW*
- Change in Use of any structures on site must be stated

* See 310 CMR 9.02, Waterways Regulations definitions of High Water Mark, Historic High Water Mark, Historic Low Water Mark, and Low Water Mark. *Note:* DEP may, at its discretion, accept appropriately scaled preliminary plans in lieu of the plans described above. In general, DEP will accept preliminary plans only for non-water dependent projects and projects covered by MEPA to address site design components such as visual access, landscaping & site coverage. *Anyone wishing to submit preliminary plans must obtain prior approval of the DEP Waterways Program before submitting them with their application.*



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Appendix A: License Plan Checklist (cont.)

Boundaries

- Property lines, full black lines, _____, along with abutters' names and addresses
- Mean High Water (MHW)* or Ordinary High Water (OHW)*, full black line _____
- Mean Low Water (MLW)*, black dotted line, (.....)
- Historic MHW* or OHW* (— — — —)
- Historic MLW* (... ..)
- State Harbor Lines, black dot-dash line (- . - . - . -) with indication of Chapter & Act establishing them (Ch. , Acts of)
- Reference datum is National Geodetic Vertical Datum (NGVD) or (NAVD).
- Floodplain Boundaries according to most recent FEMA maps
- Proposed & Existing Easements described in metes & bounds

Water-Dependent Structures

- Distance from adjacent piers, ramps or floats (minimum distance of 25' from property line, where feasible)
- Distance from nearest opposite shoreline
- Distance from outside edge of any Navigable Channel
- Access stairs at MHW for lateral public passage, or 5 feet of clearance under structure at MHW.

Non Water-Dependent Structures

- Depict extent of "Water-dependent Use Zone".

See Waterways Regulations at 310 CMR 9.51-9.53 for additional standards for non water-dependent use projects.

Note: Final Mylar project site plans will be required upon notice from the Department, prior to issuance of the Chapter 91 Waterways License.



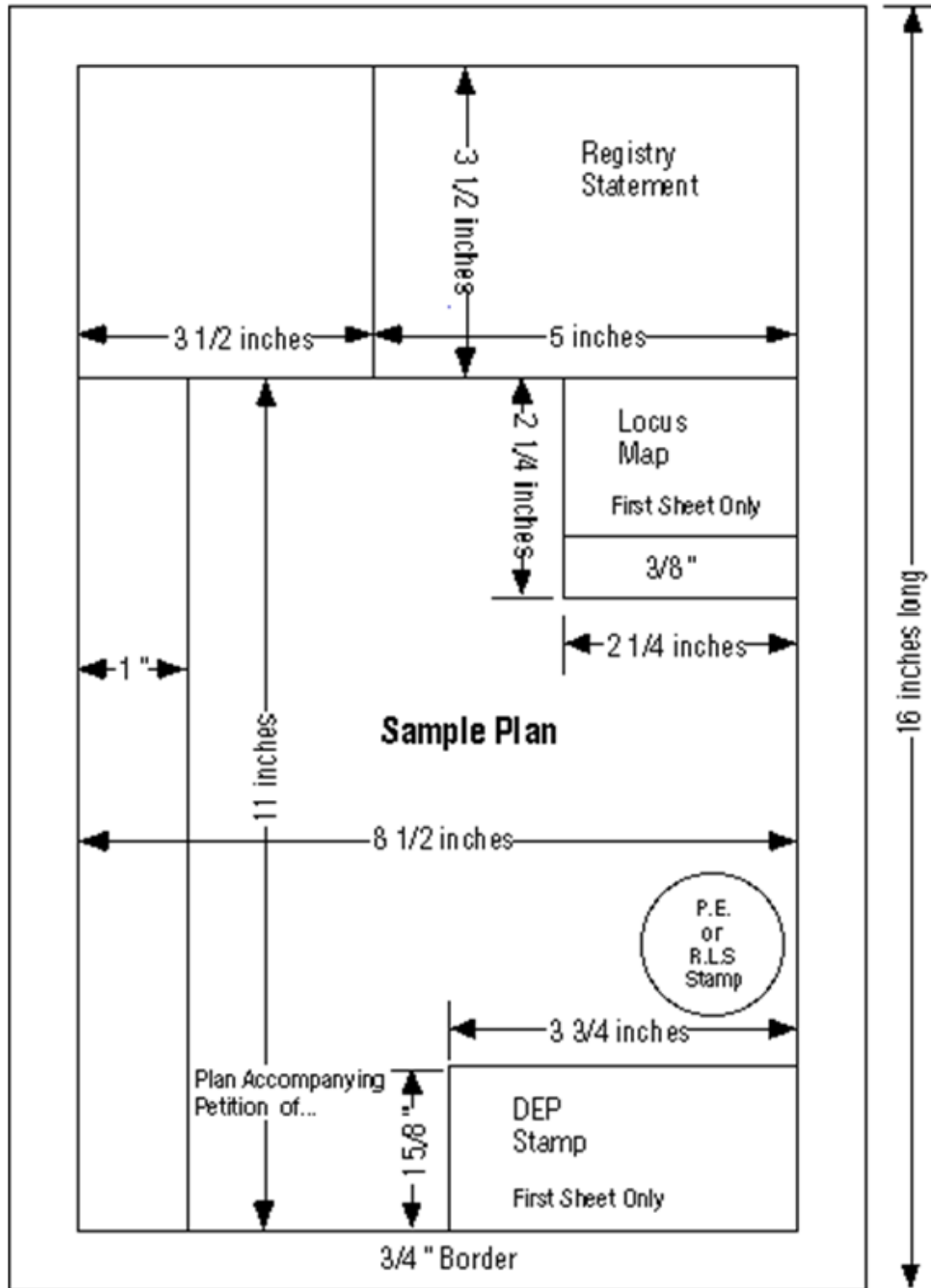
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Appendix A Plan Template





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Appendix B: Dredging Permit Plan Checklist

For projects applying for dredging permits only, enclose drawings with the General Waterways Application that include the following information:

General View

- Submit one original of all drawings. Submit the fewest number of sheets necessary to adequately illustrate the project on 8-1/2 inch X 11 inch paper.
- A 1-inch margin should be left at the top edge of each drawing for purposes of reproduction and binding. A 1/2 inch margin is required in the three other edges.
- A complete title block on each drawing submitted should identify the project and contain: the name of the waterway; name of the applicant; number of the sheet and total number of sheets in the set; and the date the drawing was prepared.
- Use only dot shading, hatching, and dashed or dotted line to show or indicate particular features of the site on the drawings.
- If deemed appropriate by the Department, certification by the Registered Professional Engineer or Land Surveyor is included.

Plan View

- North Arrow
- Locus Map
- Standard engineering scale.
- Distances from channel lines and structures if appropriate.
- Mean high water and mean low water shorelines (see definitions of "High Water Mark" and "Low Water Mark" at 310 CMR 9.02, C. 91 Regulations).
- Dimensions of area proposed to be dredged or excavated.
- Notation or indication of disposal site.
- Volume of proposed dredging or excavation.
- Ordinary high water, proposed drawdown level, and natural (historic) high water (for projects lowering waters of Great Ponds).

Section Views

- Existing bottom and bank profiles.
- Vertical and/or horizontal scales.
- Proposed and existing depths relative to an indicated datum.
- Elevation and details of control structure (for projects lowering waters of Great Ponds).