



DEPARTMENT OF THE ARMY
US ARMY CORPS OF ENGINEERS
NEW ENGLAND DISTRICT
696 VIRGINIA ROAD
CONCORD MA 01742-2751

July 24, 2017

Regulatory Division
NAE-2017-1755

Byfield Estates, LLC
2 Dearborn Way
Middleton, Massachusetts 01949

Dear Byfield Estates, LLC:

We understand you intend to perform work at 55 Person Drive Rear in Newbury, Massachusetts. It appears that this project may involve activities that require a permit from the Corps of Engineers.

Section 10 of the Rivers and Harbors Act of 1899 requires a Department of the Army permit for all work in navigable waters of the United States. In New England, for purposes of Section 10, navigable waters of the United States are those subject to the ebb and flow of the tide and a few of the major waterways used to transport interstate or foreign commerce. See the definition of navigable waters on page 48 of the General Permits for Massachusetts (GPs for MA) at the web address provided below for more information.

Section 404 of the Clean Water Act requires a Department of the Army permit for discharges of dredged or fill material into all waters of the United States, including navigable waters, inland rivers, lakes, streams, and adjacent wetlands, as well as the excavation/grading within these waters/wetlands. On the coastline our jurisdiction extends landward to the high tide line (HTL) (i.e., the highest predictable tide) or to the landward limit of any wetlands, whichever is more extensive. In interior waters our jurisdiction extends landward to the ordinary high water (OHW) mark or to the landward limit of any wetlands, whichever is more extensive.

Federal regulations at 33 CFR 328.3(b) define wetlands as "...those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions." Wetlands generally include swamps, marshes, and bogs; however, forests and meadows that lack surface waters can also be wetlands.

You do not need to submit a formal application if your project meets all the terms and conditions of "Self-Verification" as defined in the attached federal permit known as the GPs for MA. However, you must ensure that your project complies with all of the terms and conditions required for Self-Verification under the GPs and **you must also complete and return the Self-Verification Notification Form to this office** before starting work in Corps jurisdiction. For work not authorized through the Self-Verification process, you must submit an application to and receive written authorization from this office before starting work in Corps jurisdiction.

Performing such work without first obtaining Corps authorization could result in substantial penalties.

An application to our office is required if your project requires Preconstruction Notification or an Individual Permit as specified in the GPs for MA. Information on how to submit an application is included in the GPs for MA, which is located at www.nae.usace.army.mil/missions/regulatory >> State General Permits >> Massachusetts. Please contact this office for samples of the necessary plans. When preparing the plans, please ensure they are no larger than 11"x17." All plans must be drawn to scale (not reduced) and all pertinent features and labeling must be legible and reproducible.

Applications must include sufficient information for us to verify the extent of federal jurisdiction. This will include wetland delineation data sheets for work in wetlands. Wetlands must be identified and delineated in accordance with the Corps of Engineers Wetland Delineation Manual and the Interim Regional Supplement to the Corps of Engineers Wetland Delineation Manual: Northcentral and Northeast Region, both located at www.nae.usace.army.mil/Missions/Regulatory/JurisdictionalLimits/WetlandDelineationManual.

If you have any questions regarding this letter, please contact me at (978) 318-8026, (800) 343-4789, (800) 362-4367 within Massachusetts, or Christine.M.Jacek@usace.army.mil.

Sincerely,



Christine Jacek
Project Manager
Regulatory Division

Copies Furnished:

Rachel Freed, DEP NERO, Wetland and Waterways, Wilmington, Massachusetts;
rachel.freed@state.ma.us

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Town of Newbury Conservation Commission, Newbury Municipal Offices, 12 Kent Way, Suite
101, Byfield, Massachusetts 01922, conscom@townofnewbury.org