

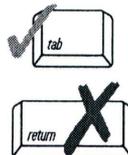
Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
293-0754
MassDEP File #
eDEP Transaction #
Spencer
City/Town

A. General Information

Please note:
this form has been modified with added space to accommodate the Registry of Deeds Requirements

Important:
When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



1. From: Spencer
Conservation Commission

2. This issuance is for (check one):
a. Order of Conditions b. Amended Order of Conditions

3. To: Applicant:
Robert McNeil, U&F Superintendent Adam Gaudette, Town Administrator
a. First Name b. Last Name

Town of Spencer
c. Organization

3 Old Meadow Road
d. Mailing Address

Spencer MA 01562
e. City/Town f. State g. Zip Code

4. Property Owner (if different from applicant):
Town of Spencer
a. First Name b. Last Name

Town Hall
c. Organization

157 Main Street
d. Mailing Address

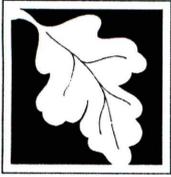
Spencer MA 01562
e. City/Town f. State g. Zip Code

5. Project Location:
Public Road, Town wide Spencer
a. Street Address b. City/Town

n/a n/a
c. Assessors Map/Plat Number d. Parcel/Lot Number

Latitude and Longitude, if known: d m s d m s
d. Latitude e. Longitude

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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
 Worcester

a. County Worcester b. Certificate Number (if registered land) _____
 c. Book 02411 d. Page 0251

7. Dates: 12/22/10 2/23/11 3/23/11
 a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance

8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):

a. Plan Title _____
 b. Prepared By _____ c. Signed and Stamped by _____
 d. Final Revision Date _____ e. Scale _____
 f. Additional Plan or Document Title _____ g. Date _____

B. Findings

1. Findings pursuant to the Massachusetts Wetlands Protection Act:
 Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. Public Water Supply
- b. Land Containing Shellfish
- c. Prevention of Pollution
- d. Private Water Supply
- e. Fisheries
- f. Protection of Wildlife Habitat
- g. Groundwater Supply
- h. Storm Damage Prevention
- i. Flood Control

2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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B. Findings (cont.)

Denied because:

- b. the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
- 3. Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) 0 a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

Resource Area	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
4. <input checked="" type="checkbox"/> Bank	a. linear feet	b. linear feet	c. linear feet	d. linear feet
5. <input type="checkbox"/> Bordering Vegetated Wetland	a. square feet	b. square feet	c. square feet	d. square feet
6. <input type="checkbox"/> Land Under Waterbodies and Waterways	a. square feet e. c/y dredged	b. square feet f. c/y dredged	c. square feet	d. square feet
7. <input checked="" type="checkbox"/> Bordering Land Subject to Flooding	a. square feet	b. square feet	c. square feet	d. square feet
Cubic Feet Flood Storage	e. cubic feet	f. cubic feet	g. cubic feet	h. cubic feet
8. <input checked="" type="checkbox"/> Isolated Land Subject to Flooding	a. square feet	b. square feet		
Cubic Feet Flood Storage	c. cubic feet	d. cubic feet	e. cubic feet	f. cubic feet
9. <input checked="" type="checkbox"/> Riverfront Area	a. total sq. feet	b. total sq. feet		
Sq ft within 100 ft	c. square feet	d. square feet	e. square feet	f. square feet
Sq ft between 100-200 ft	g. square feet	h. square feet	i. square feet	j. square feet

Order of Conditions
Address: Spencer Highway Department
Department of Utilities and Facilities
3 Old Meadow Road
Spencer, Massachusetts

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DEP #293-0754

Date: 3/23/11

FINDINGS:

1. Each of the activities described in the Notice of Intent "PROJECT TYPES AND SEQUENCE OF WORK" is in at least one of the locations of maintenance significant to the interests of the act as presumed in the Wetlands Protection Act regulations, 310 CMR 10.00 et seq. None of the presumptions has been rebutted by the Applicant.
2. The road maintenance activities in the Notice of Intent may be permitted by the Commission as limited project per 310 CMR 10.53(3)(f) or 10.53(3)(k) and further such activities to take place in Riverfront Area where it does not overlap any other resource area are exempt from giving any Notice of Intent per 310 CMR 10.58 (6)(a).
3. In protected resource areas and their buffer zones the Commission may impose such conditions as it deems necessary to contribute to the protection of the applicable and presumed interests of the Wetlands Protection Act..
4. Special Condition 7 of this Order the Commission has revised descriptions in PROJECT TYPES AND SEQUENCE OF WORK from those of the Notice of Intent. The Commission finds these revisions necessary to adequately protect the public interests of the Wetlands Protection Act and Local Bylaw in so far as is consistent with Public Safety. Where the Special Condition descriptions differ from the Notice of Intent, this Order shall rule.
5. The scale of the maps submitted with the Notice of Intent is too fine to give effective guidance for work on the ground. Therefore Special Conditions 11 and 12 are required by this Order.



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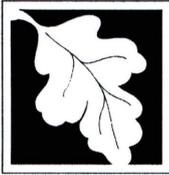
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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

	Proposed Alteration	Permitted Alteration	Proposed Replacement	Permitted Replacement
10. <input type="checkbox"/> Designated Port Areas	Indicate size under Land Under the Ocean, below			
11. <input type="checkbox"/> Land Under the Ocean	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
12. <input type="checkbox"/> Barrier Beaches	Indicate size under Coastal Beaches and/or Coastal Dunes below			
13. <input type="checkbox"/> Coastal Beaches	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
14. <input type="checkbox"/> Coastal Dunes	_____	_____	_____ cu yd	_____ cu yd
	a. square feet	b. square feet	c. nourishment	d. nourishment
15. <input type="checkbox"/> Coastal Banks	_____	_____		
	a. linear feet	b. linear feet		
16. <input type="checkbox"/> Rocky Intertidal Shores	_____	_____		
	a. square feet	b. square feet		
17. <input type="checkbox"/> Salt Marshes	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
18. <input type="checkbox"/> Land Under Salt Ponds	_____	_____		
	a. square feet	b. square feet		
	_____	_____		
	c. c/y dredged	d. c/y dredged		
19. <input type="checkbox"/> Land Containing Shellfish	_____	_____	_____	_____
	a. square feet	b. square feet	c. square feet	d. square feet
20. <input type="checkbox"/> Fish Runs	Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above			
	_____	_____		
	a. c/y dredged	b. c/y dredged		
21. <input type="checkbox"/> Land Subject to Coastal Storm Flowage	_____	_____		
	a. square feet	b. square feet		



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B. Findings (cont.)

* #22. If the project is for the purpose of restoring or enhancing a wetland resource area in addition to the square footage that has been entered in Section B.5.c (BVW) or B.17.c (Salt Marsh) above, please enter the additional amount here.

22. Restoration/Enhancement *:

_____ a. square feet of BVW

_____ b. square feet of salt marsh

23. Stream Crossing(s):

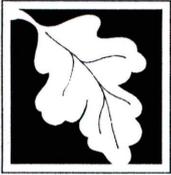
_____ a. number of new stream crossings

_____ b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on 3/23/14 unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,
"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number 293-0754 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. **The work associated with this Order (the “Project”) is (1) is not (2) subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:**

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:

- i.* all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii.* as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii.* any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
- iv.* all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v.* any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- g) The responsible party shall:
 - 1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
 - 2. Make the maintenance log available to MassDEP and the Conservation Commission (“Commission”) upon request; and
 - 3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.
- h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.
- i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.
- j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.
- k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.
- l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):

See Page 9A

Order of Conditions

Spencer Highway Department
Department of Utilities and Facilities
3 Old Meadow Road
Spencer, Massachusetts

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DEP #293-0754

Date: 3/23/11

SPECIAL CONDITIONS:

1. This Order of Conditions permits only to those types of road maintenance activities specifically mentioned in these conditions as permitted and which are conducted by or under the supervision of Spencer Highway Department Superintendent or Highway Foreman. Other operations of the Department of Utilities and Facilities are NOT authorized by this Order. Even routine maintenance work to be done in Bordering Vegetated Wetlands, Land Under Water, or Bank (of Perennial stream channels) shall be done only after filing a separate Notice of Intent and issuance of an Order of Conditions for that work.

2. This Order shall have a term of 3 years.

3. A member of the Conservation Commission or its agent may enter and inspect all activities that are the subjects of this Order at all reasonable times, with or without probable cause or prior notice for the limited purpose of evaluating compliance with this Order, the Local Bylaw, and Bylaw Regulations.

4. The exemptions and requirements in the attached January 19, 2011 letter from the Division of Fisheries & Wildlife and any later requirements from the Natural Heritage and Endangered Species Program pertaining to work permitted by this Order that fall in Priority or Estimated Habitat must be fully complied with and are conditions of this Order.

5. For any contemplated work to take place in or within 100 feet of any resource area protected by the Massachusetts Wetlands Protection Act (WPA) or Spencer Wetlands Bylaw, Article 7 of Spencer General Bylaws (the Local Bylaw) which is not specifically permitted by this Order, the Highway Department must, inquire from this Commission or its agent, 60 days prior to the planned start of the work, whether that work requires the filing of a separate Notice of Intent. If required by the Commission the Highway Department must file such Notice. In addition to areas regulated by the WPA, the Local Bylaw defines as directly protected the area within 100 feet of isolated or bordering vegetated wetland, bank, body of water, lake pond or stream, and isolated or bordering land subject to flooding.

6. Routine maintenance projects (see project types described below) will be performed only in the 100-foot buffer zone and the following resource areas: Riverfront, Land Subject to Flooding (Bordering and Isolated), Bank (only ON INTERMITTENT STREAM CHANNELS, AND ONLY WHEN NOT FLOWING). Other than temporary impacts due to cutting of vegetation along Town owned roads – see project type A – cutting of vegetation along Town owned roads; any routine maintenance work to be done in Bordering Vegetated Wetlands, Land Under Water, or Bank (of Perennial stream channels) shall be done only after filing a separate Notice of Intent and issuance of an Order of Conditions for that work.

Order of Conditions

Spencer Highway Department
Department of Utilities and Facilities
3 Old Meadow Road
Spencer, Massachusetts

SPECIFIC ROUTINE MAINTENANCE ACTIVITIES PERMITTED

7. These activities are permitted by the Order only as described in A through I below.

A. Cutting of vegetation along Town owned roads and properties – The Spencer Conservation Commission agent shall be notified prior to the commencement of any cutting program. Grass and small brush will be cut with a hand held brush cutter/string trimmer or tractor mounted rotary or deck mowers. Larger brush and trees shall be cut with chain saws. No live trees larger than 2-inches diameter breast height will be removed until written approval is obtained from the Spencer Tree Warden. In residential areas larger brush will be chipped and the chips shall be blown into a truck and removed. In non-residential areas the brush may be chipped in place. Wood from cut trees will be removed by the Town. Cutting of vegetation along the roads is necessary to allow sunlight to reach the road in winter. This decreases the amount of sand and salt that must be used on the road. Cutting also is necessary for safety reasons; to clear proper sight distances, make road signage visible, prevent dead and dying trees from falling on the roadway. The width of cutting varies within any resource area or the buffer zone

B. Fixing of potholes on all Town owned roads and properties – No notification before the start of this work will be provided. On hard surface roads the potholes will be filled to match the surrounding grade with high-performance cold patch (UPM) or hot mix asphalt and compacted. On gravel roads, the potholes will be filled to match the surrounding grade with gravel and compacted.

C. Cleaning of turnouts/low spots and settling pool/detention areas – No turnout or settling pool will be in bordering vegetated wetland, or certified vernal pool or discharge directly to land under water or bank of a perennial stream without a separate individual Notice of Intent. No notification before the start of this work will be provided. Hay-bales and silt-fence or equivalent erosion controls must be installed in areas necessary to protect priority habitat, bank, water bodies, streams or vegetated wetlands. The Commission or its agent may require additional controls or modification of the controls as they deem necessary to be effective. Erosion controls shall remain in place and be maintained until all disturbed areas are stabilized. Once stable, all silt fence will be removed. Periodically during the year, turnouts and settling pool/detention areas will be cleaned out with a backhoe or front-end loader. Whenever hydraulic machinery is within 40 feet of open water, absorbent materials, as appropriate to the machinery and site circumstances, must be on site for rapid deployment if necessary. Material removed from the turnouts may be placed in a truck and removed from the area. While cleaning out the turnouts, in an effort to improve storm water quality, wherever possible, a settling pool will be excavated to allow settling of sediments and fines from runoff and point source discharges eliminated. Upon completion of the excavation of the turnouts and settling pools/detention areas, any disturbed soil within the 100-foot buffer zone shall be seeded and mulched. Any redefining of the turnouts or excavation of the settling pools shall be done only when there is no flow in the turnouts.

Order of Conditions

Spencer Highway Department
Department of Utilities and Facilities
3 Old Meadow Road
Spencer, Massachusetts

D. Resurfacing hard surfaced roads and properties – The Spencer Conservation Commission agent shall be notified one week prior to the commencement of work associated with resurfacing of hard surfaces roads including grind and overlays, overlays, chip seal, and reconstruction. The Spencer Highway Department recognizes that impervious area contributes to the degradation of our natural environment in many ways. Therefore, whenever possible, and in the normal process of the work, the Spencer Highway Department will attempt to reduce the existing area of impervious surface by investigating/implementing roadway narrowing and/or establishing a narrower uniform roadway width necessary to safely pass normally expected traffic loads. No expansion of the existing impervious surface area shall occur within any resource areas or buffer zone without prior separate written approval from the Conservation Commission or its designee.

E. Catch Basin Cleaning – No notification of catch basin cleaning will be provided. Catch basins debris shall be vacuumed out or removed using a clam-shell type bucket on a truck and the contents hauled away. Operators shall make efforts to drain/remove catch basin drippings back into the catch basin being cleaned prior to loading the truck.

F. Replacement of catch basins/culverts – Replacement of a catch basin or culvert in bordering vegetated wetland, or certified vernal pool requires a separate Notice of Intent. Replaced catch basins or culverts must not discharge directly to land under water or onto the bank of a perennial stream without a separate individual Notice of Intent. Work will only be done when there is no flow in the catch basin or culvert and no rain is projected in the immediate forecast (24 hours). The Spencer Conservation Commission shall be notified one week prior to the commencement of work associated with replacement of catch basins or culverts. The applicant shall arrange an on-site meeting with the Conservation Commission's agent to review the site once the erosion controls are installed. Erosion controls shall be maintained and remain in place until all disturbed areas are stabilized. Once stable all silt fence will be removed. Whenever hydraulic machinery is within 40 feet of open water, absorbent materials, as appropriate to the machinery and site circumstances, must be on site for rapid deployment if necessary. All Catch basin replacements shall be 4-foot diameter pre-cast reinforced concrete with 4-foot deep sumps and heavy-duty cast iron frames and grates. Culverts permitted by this Order shall be the same diameter, length and inlet elevation as the existing culvert and, as such, shall not need further approval from the Commission. An adequately sized energy dissipation bowl shall be installed at the discharge to reduce susceptibility to scour. Stockpiled materials shall be placed up gradient of the erosion controls. Any dewatering work will discharge to an upland area with erosion control barriers in place to filter all water before discharging. All excess materials shall be removed from the buffer zone overnight and from the site completely within 48 hours of completion of the work. All disturbed areas within the buffer zone shall be seeded and/or mulched prior to demobilization.

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Spencer Highway Department
Department of Utilities and Facilities
3 Old Meadow Road
Spencer, Massachusetts

G. Road Edging – No notification of road edging will be provided. A front-end loader or similar equipment shall be used to scrape and remove accumulated sands, leaves, and debris from the roadway edges. Removed material must be trucked away or dumped in a nearby, stabilized area outside the buffer zone. Any buffer zone area disturbed during road edging shall be seeded or mulched for stabilization.

H. Street Sweeping - The Spencer Conservation Commission agent shall be notified one week prior to the commencement of work associated with street sweeping. Accumulated sands, leaves, and debris shall be mechanically swept or swept with hand or power brooms, with or without the assistance of water as needed to control dust. Swept material shall be removed in trucks and windrowed at the Spencer Transfer Station filter beds in an area outside the buffer zone.

I. Culvert Cleaning and Maintenance - The Spencer Conservation Commission agent shall be notified 24-hours prior to the commencement of work associated with culvert cleaning and maintenance. Accumulated sands, leaves, brush, and debris shall be removed by hand or with hand tools first. Flushing of a blocked culvert in Bordering Vegetated Wetlands, Land Under Water, or on Bank (of Perennial stream channels) shall be done only after filing a separate Notice of Intent and receipt of an Order of Conditions for that work. The Spencer Highway Department shall make every effort to remove culvert blockages prior to significant storm events to avoid water backup and local flooding. For each blocked culvert holding back a significant volume of water, the method of removing the blockage must prevent scour of the waterway or flooding beyond the top of the banks of the downstream channel.

ANNUAL LIST OF ACTIVITIES

8. Each year, no later than March 1, the Spencer Department of Utilities and Facilities must provide to the Commission a list of all projects to be performed during that year permitted by this Order of Conditions. The list shall include the street names and the street segment affected, specific locations of expected catch basin or culvert replacement, a description of the work or project type, and the sequence of projects with estimated schedule or season(s).
9. The Conservation Commission shall review the list, and within 21 days of receipt of the list respond with full ratification or with a written list of any items the Commission deems not covered by this Order. At that time, Commission shall also provide to the Highway Department a copy of the most recent NHESP published map of Rare Species Estimated and Priority Habits.

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Spencer Highway Department
Department of Utilities and Facilities
3 Old Meadow Road
Spencer, Massachusetts

DEVELOPMENT OF TOOLS

10. By the end of the term of this Order (3 years from the date of issue) the applicant must identify and mark the extent of each resource area and its buffer zone, if any, along the public roads where activity occurs. This information shall be reviewed in the field with the Conservation Commission. Initial marking may be based on MassGIS or USGS maps available. The Conservation Commission may require changes in location of marks in order to more accurately reflect the actual resource boundary as demonstrated by soil or vegetation type in the field. The Commission shall use Massachusetts Department of Environmental Protection (DEP) delineation guidance for the purpose of such demonstration.

Other Ongoing Conditions as listed below are required and are NOT terminated by the issuance of a Certificate of Compliance nor the end of the term of this Order if the Order is Extended.

11. Within 10 years of the date of this Order the Town of Spencer shall improve its GIS capability to develop and print working maps of a scale of 1" = 200 feet or of a more expanded scale. The maps must show the locations and extent of wetlands, rivers, streams, water bodies and rare species habitats and their relationship to the public roads. If such increase in GIS capability proves impractical, the Town of Spencer must obtain and keep current such working maps by other means.

12. The working maps and markings must be maintained and updated as habitats, wetland resources, and roads are re-aligned.

Failure to comply with these orders or the Town of Spencer Wetland By-Law may be deemed reason to modify or revoke this Order of Conditions.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 293-0754
 MassDEP File # _____
 eDEP Transaction # _____
 Spencer
 City/Town

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No
2. The Spencer Conservation Commission hereby finds (check one that applies):
- a. that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw	2. Citation
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Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:
Article 7, Spencer General Bylaw DEPENDS
- | | |
|---------------------------------|-------------|
| 1. Municipal Ordinance or Bylaw | 2. Citation |
|---------------------------------|-------------|

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.
- The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 5 – Order of Conditions
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:
 293-0754
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eDEP Transaction #
 Spencer
 City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

3/23/11

Please indicate the number of members who will sign this form.

1. Date of Issuance

This Order must be signed by a majority of the Conservation Commission.

5
 2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:

[Handwritten signature]

Juritch Lochner

Ernest C. Primes

[Handwritten signature]

Dana George Reed

by hand delivery on

by certified mail, return receipt requested, on

_____ Date

_____ Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.

