

# Estimated Timeline for Coastal Salt Marsh Restoration Permitting in Massachusetts

Last Updated: Spring 2024



On September 19, 2023 the Southeast New England Program (SNEP) at EPA New England hosted a workshop with the following goals and objectives:

1. To identify gaps in information to develop a shared understanding between restoration practitioners and regulators of the multiple permit pathways for salt marsh restoration and existing permitting rules.
2. To identify the types of information required and recommended for inclusion in salt marsh restoration permitting applications.
3. To discuss the concept of risk and uncertainty when designing adaptive management strategies and/or corrective action.
4. To have a clearer idea of where/how regulators and practitioners can work together on salt marsh restoration projects.

To identify continued gaps in information that still exist after the workshop. The desired outcomes of this workshop were:

- Have a better understanding of the regulatory landscape for permitting ecological restoration projects in MA.
- Better understand the concepts of adverse impact, adaptive management, and corrective action; and how to incorporate these principles into permitting applications.
- Benefit from directly engaging with likeminded participants to better understand the existing permitting landscape, determine tangible next steps and opportunities for participants, and suggest ways that participants can further work together to navigate the existing permitting landscape.

A major need identified at the conclusion of this workshop was the creation of a timeline to better outline the estimated time for each potential step involved in the permitting process for salt marsh restoration projects in Massachusetts.

**Methodology:** To create this resource, EPA partnered with MassDEP, MA DER, MA CZM, Mass Audubon, Woods Hole Group, Ridley and Associates, and Rimmer Environmental Consulting to conceptualize the estimated timeline for each potential step in the permitting process for coastal salt marsh restoration projects in Massachusetts.

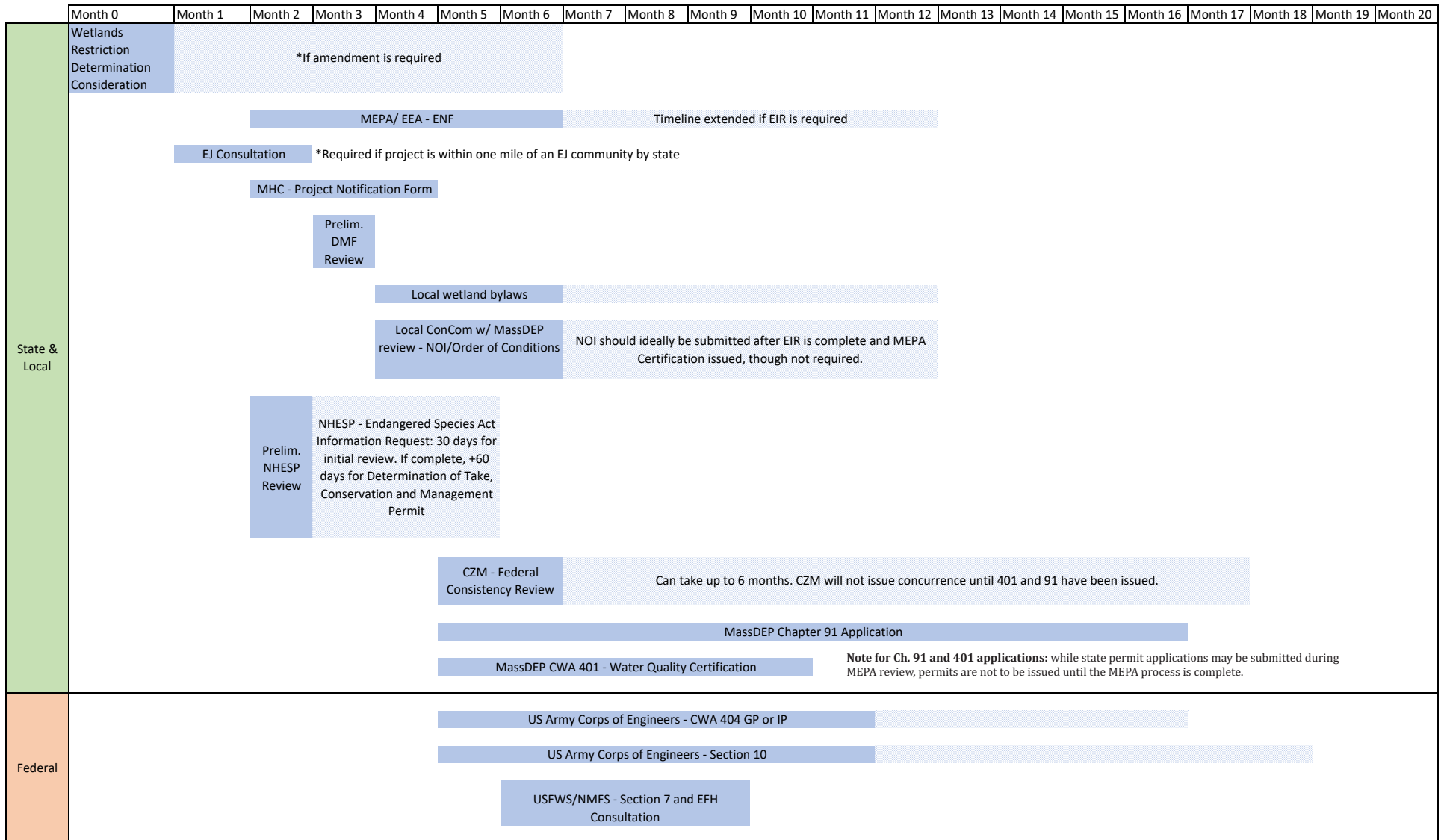
**How to Use This Resource:** Each potential step of the process includes an estimation of how long each step of the permitting process could take. Where permitting steps are more variable, additional time estimates are included as light blue shaded areas.

**Note:** Each restoration project is unique and so permitting processes and timelines can vary. None of the estimates shown are guaranteed. The types of permitting requirements can vary based on the type of project proposed.

For more information, please visit the [SNEP website](#).

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**General Note:** These timelines do not include time to prepare the applications. If grant money is involved, the preparation timelines should be factored in to determine what can get done within the Grant timeframe. Additionally, timelines can vary due to other factors such as contaminated soils, variances, appeals, etc.

**Additional Resource:** Environmental Permitting in Coastal Massachusetts ([2021 MA CZM guidebook](#))

## Reference Materials (Click header for hyperlink to source material)

### [MEPA/EEA](#)

The MEPA process requires state agencies to study the environmental impacts of projects requiring state permitting, financial assistance or land disposition, and to use all feasible measures to avoid, minimize, and mitigate damage to the environment or, to the extent damage to the environment cannot be avoided, to minimize and mitigate damage to the environment to the maximum extent practicable.

### [EJ Consultation](#)

If an environmental justice population is located within the designated geographic area (DGA) of a proposed project, MEPA's mandatory EIR Review 301 CMR 11.03\* is triggered. If project exceeds any air threshold at 301 CMR 11.03(8) OR if the project generates 150 or more new ADT of Diesel Vehicle traffic over a duration of 1 year or more, a determination should be made whether to use a 1-mile or 5-mile DGA for Public Involvement and EJ Impact Analysis.

### [Massachusetts Historical Commission \(MHC\) Project Notification Form](#)

This form is submitted to the MHC to provide a description of the proposed project, as well as the identification of proposed methods that could potentially involve new construction, demolition, damage or repair to existing structures.

### [Natural Heritage & Endangered Species Program \(NHESP\) Review](#)

The Natural Heritage & Endangered Species Program is responsible for the conservation and protection of hundreds of species that are not hunted, fished, trapped, or commercially harvested in the state, as well as the protection of the natural communities that make up their habitats.

### [Massachusetts Division of Marine Fisheries \(DMF\) Review](#)

If you're building in the coastal zone, DMF reviews and provides recommendations to avoid and minimize impacts to the marine fisheries resources and habitats of the Commonwealth.

### [Local ConCom with MassDEP Review](#)

Under the Massachusetts Wetlands Protection Act, conservation commissions process over five thousand applications every year for permits to do work in and near wetlands, flood plains, banks, riverfront areas, beaches, and surface waters. The requirements of the Wetlands Protection Act are set forth in regulations promulgated by the state Department of Environmental Protection. For additional information, please reference the [MassDEP website](#) or the MACC's [Environmental Handbook for Massachusetts Conservation Commissioners](#).

### [CZM Federal Consistency Review](#)

Federal consistency review is required for most projects that: 1) are in or can reasonably be expected to affect a use or resource of the Massachusetts coastal zone, and/or 2) require federal licenses or permits, receive certain federal funds, are a direct action of a federal agency, or are part of outer continental shelf plans for exploration, development, and production.

### [MassDEP Ch. 91 Application](#)

When an applicant seeks authorization through Chapter 91, the Department makes a decision as to whether the applicant's project or use is water-dependent or nonwater-dependent.

### [MassDEP CWA Section 401 Water Quality Certification Request](#)

Under Section 401 of the Clean Water Act (CWA), a federal agency may not issue a permit or license to conduct any activity that may result in any discharge into waters of the United States unless a Section 401 water quality certification is issued, or certification is waived. States and authorized tribes where the discharge would originate are responsible for issuing, waiving, or denying water quality certifications.

**Additional Resource:** <https://www.mass.gov/regulations/314-CMR-9-401-water-quality-certification>

### Wetlands Restrictions Determination (Where Applicable)

Permanent restriction orders have been placed on selected wetlands in over 50 communities under the Inland and Coastal Wetlands Restriction Acts (MGL Chapter 131, Section 40A, and MGL Chapter 130, Section 105). The restriction orders provide added protection for selected wetlands by prohibiting certain activities in advance of any work being proposed. The regulations for these laws are 310 CMR 13.00 (inland) and 310 CMR 12.00 (coastal). These are restrictions placed on the deed and prohibit virtually any alterations. Restoration was not contemplated when this program was instituted. Amending the orders requires public notice and hearings and amending the deed.

### USACE CWA Section 404 General Permit/ Individual Permit

Section 404 of the Clean Water Act requires a permit for the discharge of dredged or fill material into waters of the United States.

### USACE Rivers and Harbors Act Section 10 Permit

Section 10 of the Rivers and Harbors Act of 1899 requires authorization from the Secretary of the Army, acting through the Corps of Engineers, for the construction of any structure in or over any navigable water of the United States.

### U.S. Fish and Wildlife/ National Marine Fisheries Section 7 and EFH Consultation

Under section 7 of the Endangered Species Act, federal agencies must consult with NOAA Fisheries when any action the agency carries out, funds, or authorizes may affect either a species listed as threatened or endangered under the Act, or any critical habitat designated for it.

**Additional Resource:** <https://www.fisheries.noaa.gov/national/habitat-conservation/consultations-essential-fish-habitat>

## Acronyms

<b>ConCom</b>	Conservation Commission	<b>MGL</b>	Massachusetts General Laws
<b>CZM</b>	[Massachusetts Office of] Coastal Zone Management	<b>MHC</b>	Massachusetts Historical Commission
<b>CWA</b>	Clean Water Act	<b>NHESP</b>	National Heritage and Endangered Species Program (MassWildlife)
<b>DMF</b>	[Massachusetts] Division of Marine Fisheries	<b>NMFS</b>	National Marine Fisheries Services [National Oceanic and Atmospheric Administration]
<b>EEA</b>	Executive Office of Energy and Environmental Affairs	<b>NOI</b>	Notice of Intent
<b>EFH</b>	Essential Fish Habitat	<b>RDA</b>	Request for Determination of Applicability
<b>EIR</b>	Environmental Impact Report	<b>USACE</b>	United States Army Corps of Engineers
<b>EJ</b>	Environmental Justice	<b>USFWS</b>	United States Fish and Wildlife Service
<b>ENF</b>	Environmental Notification Form		
<b>GP</b>	General Permit		
<b>IP</b>	Individual Permit		
<b>MassDEP</b>	Massachusetts Department of Environmental Protection		
<b>MEPA</b>	Massachusetts Environmental Policy Act [Office]		