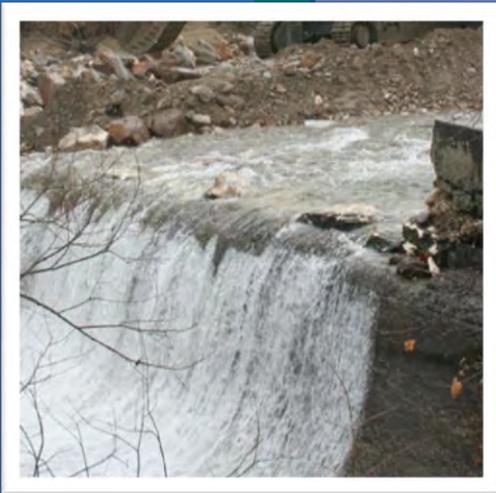


Wetlands Protection Act Regulatory Reform 10-24-2014

- Summary of Statutory Changes
- Summary of Regulatory Changes and Additions
- ER Project Permitting Process



Statutory Changes

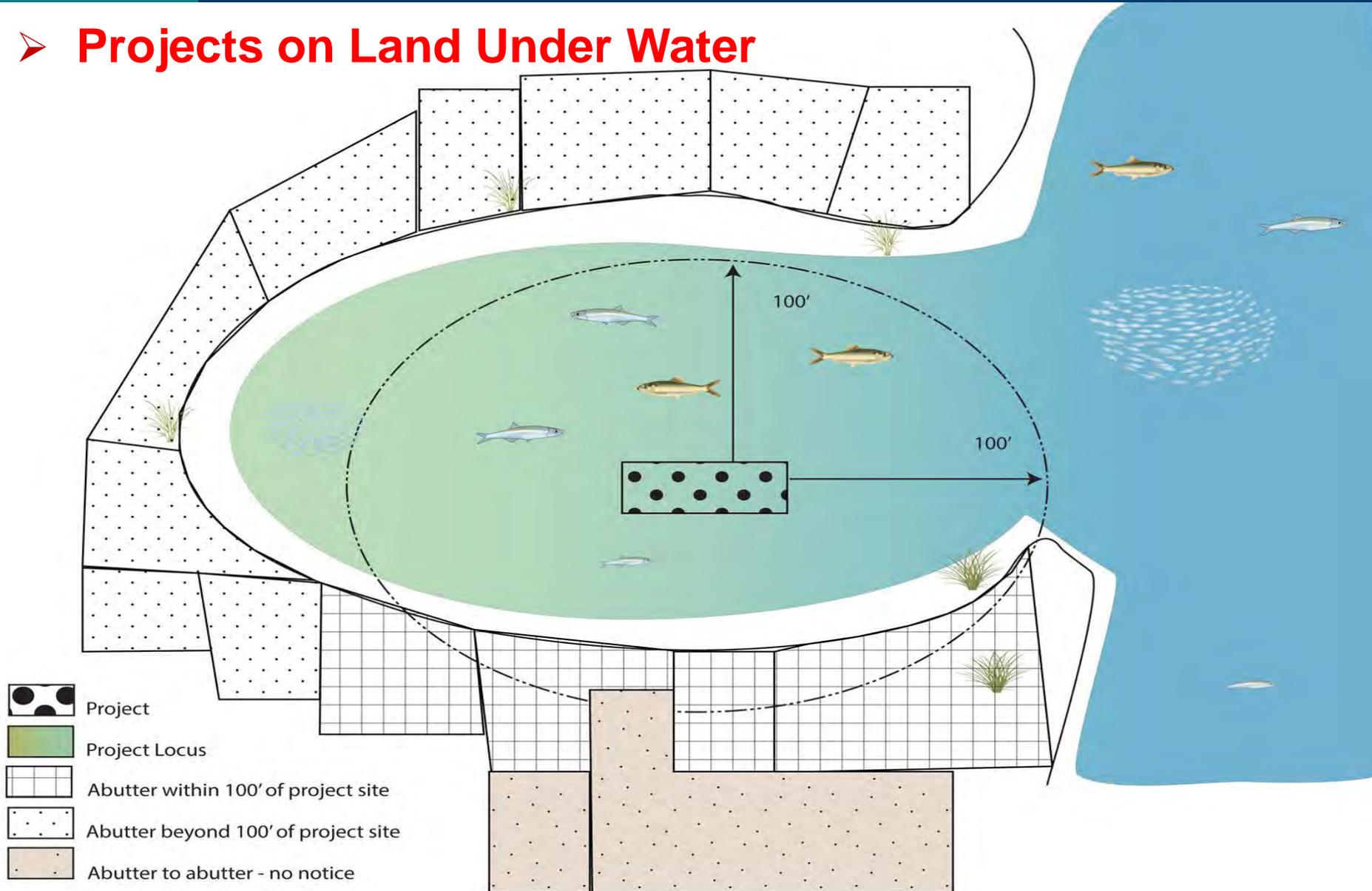
Statutory Changes

Emergency Declaration

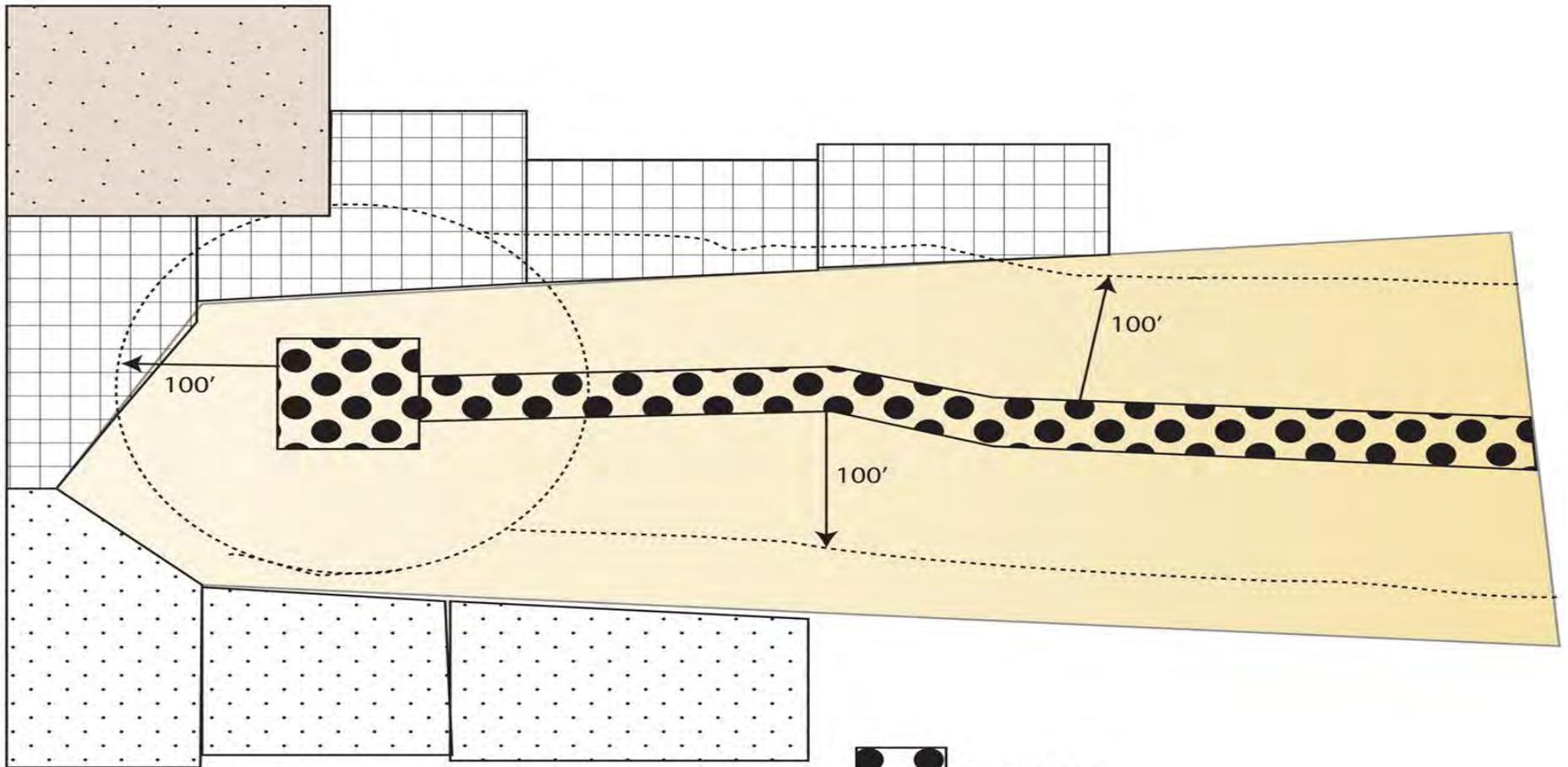
- Electronic Notice to all conservation commissions,
- Specify types of work allowed,
- Identify mitigating measures,
- Specify reporting requirements,
- Limit geographic extent,
- Limit duration.

Abutter Notification

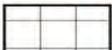
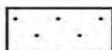
➤ Projects on Land Under Water



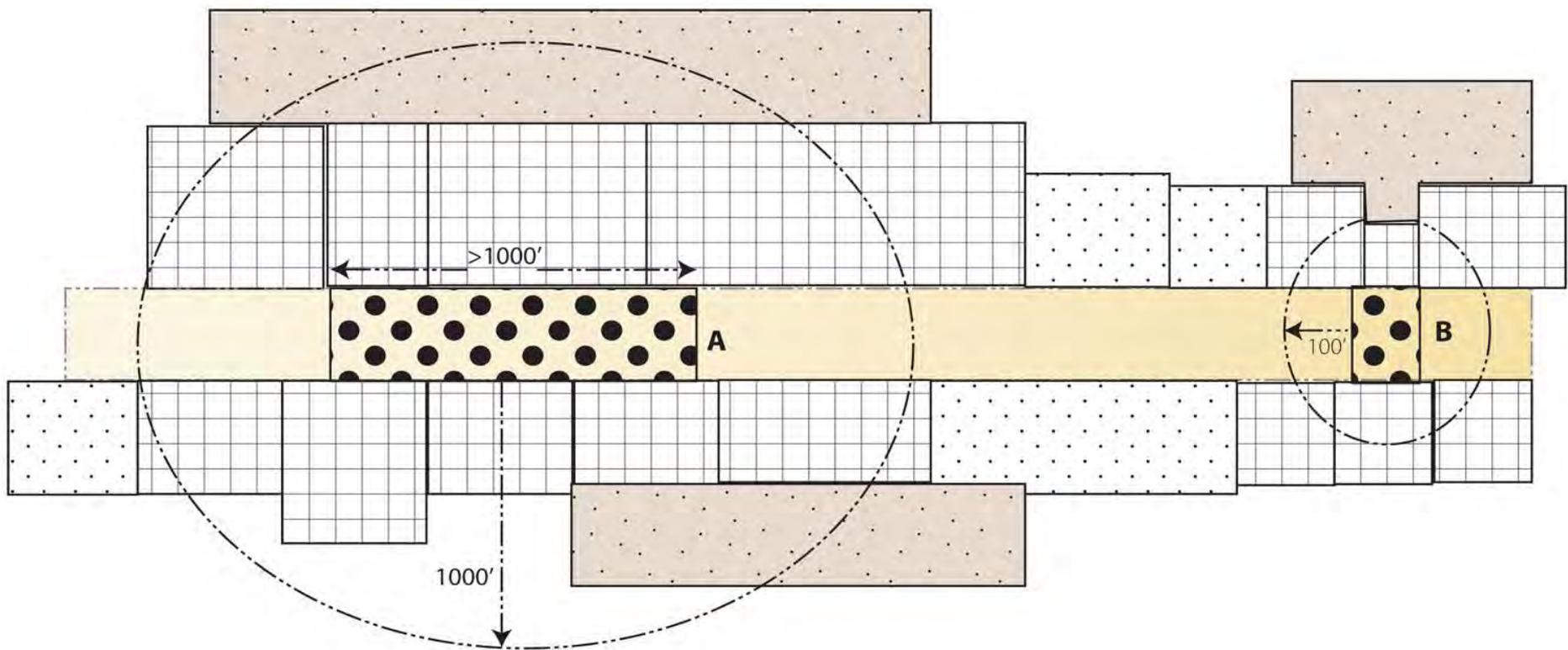
Abutter Notification



➤ **Projects on Lots > 50 Acres**

-  Project Site
-  Project Locus
-  Abutter within 100' of Project Site
-  Abutter beyond 100' of Project Site
-  Abutter to abutter - no notice

Abutter Notification



-  Project Sites
-  Project Locus
-  Abutter within 1000'/100' of Project Site
-  Abutter beyond 1000'/100' of Project Site
-  Project Abutter to abutter - no notice

➤ Linear Shaped Projects

Regulatory Changes and Additions

Definitions

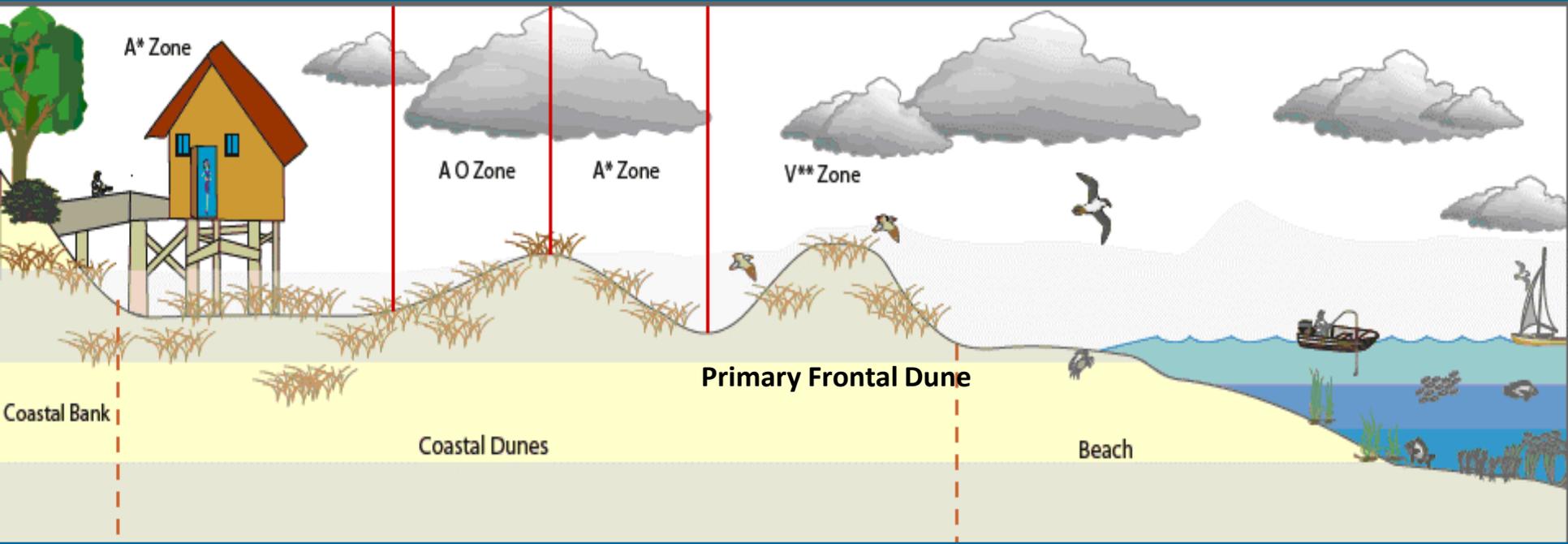
- Aquaculture: Revised to include “municipal shellfish propagation”
- Salt Marsh: Revised to reflect the fact that certain species of plants such as *Phragmites* can occur in freshwater or saltwater environments.

Definitions

- Historic Mill Complex: No Change.
- Man Made Canal: No Change.

Definitions

- Primary Frontal Dune: Adopted text consistent with the provisions of FEMA.
- Velocity Zone or V-Zone / Coastal High Hazard Area
- Special Flood Hazard Area



Definitions

➤ Innovative Technology:

Technology that has not been commercially deployed or is in limited deployment **in Massachusetts**, and includes, but is not limited to, energy technology that obtains energy from the ocean, waterway, or conditions associated with the ocean or waterway, other forms of renewable energy technology.

Renewable Energy Access Limited Project

Purpose:

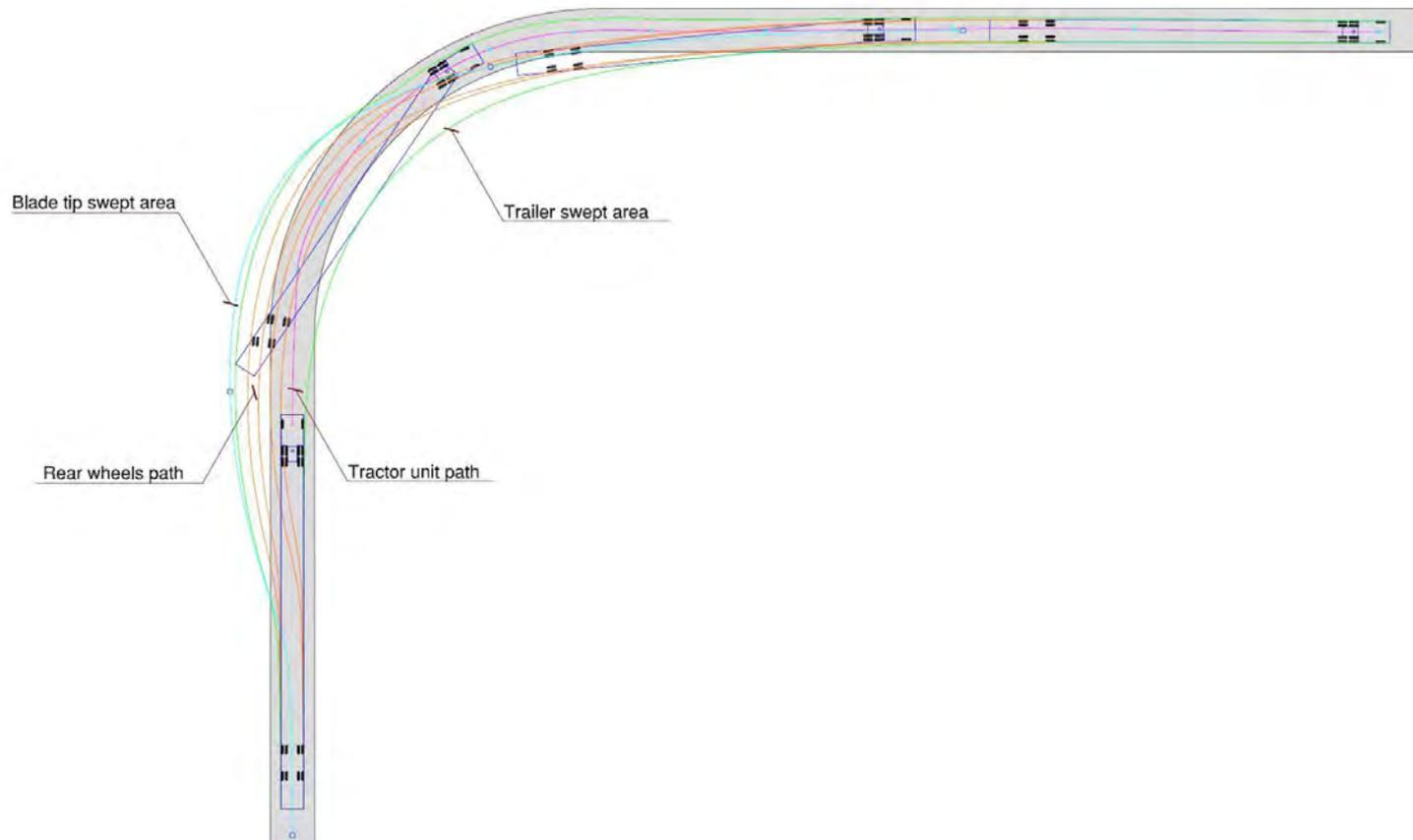
Improve access for renewable energy projects.

May be permitted if designed and constructed in a manner that avoids, minimizes and mitigates adverse impacts to resource areas and complies with the specified conditions, to the maximum extent practical

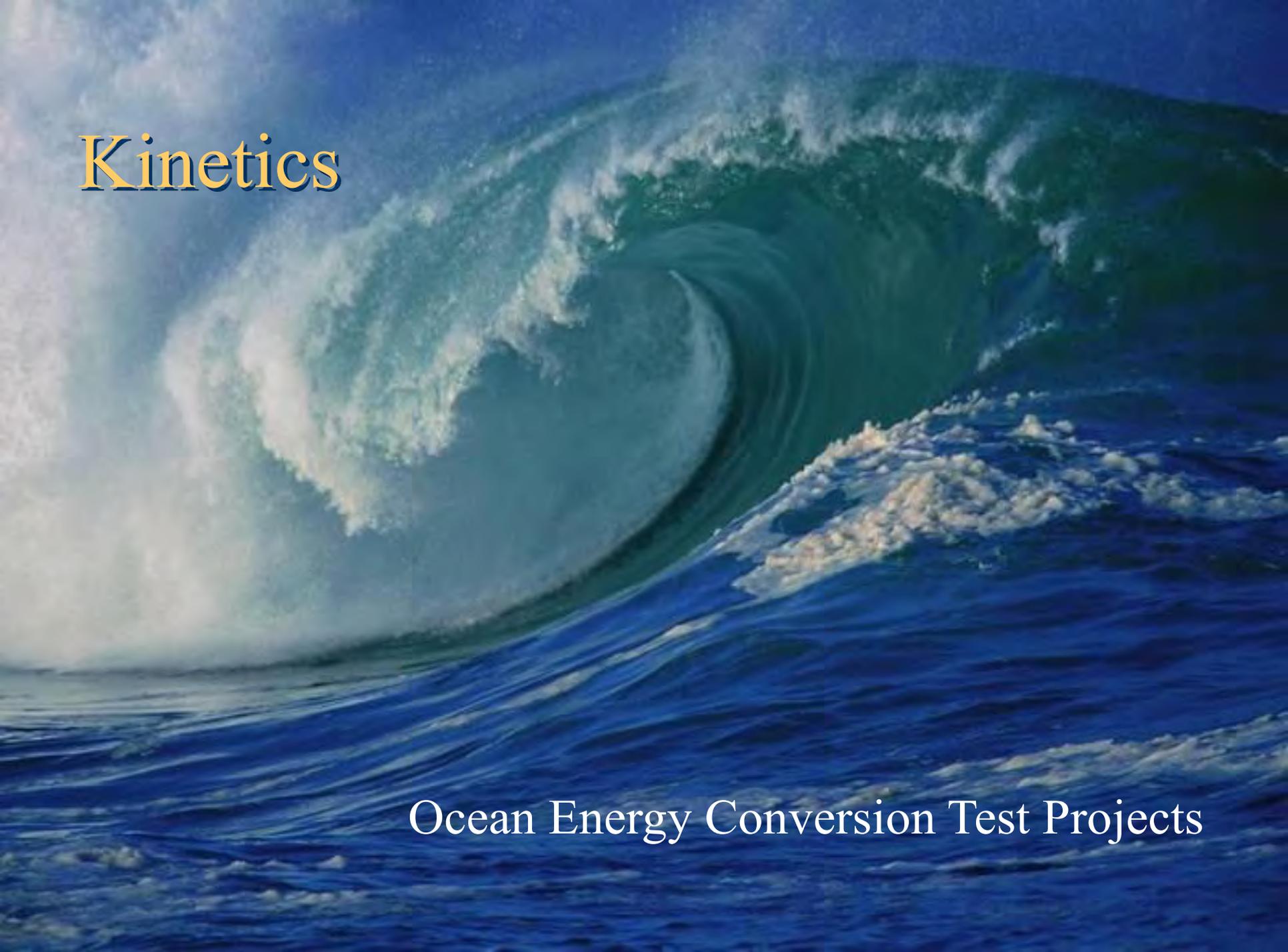


Renewable Energy

Wind Turbine Trailer Turning Radius



Kinetics

A large, curling ocean wave with white foam, set against a blue sky and sea. The wave is the central focus, with its crest curling over. The water is a deep blue, and the sky is a lighter blue. The overall scene is dynamic and powerful.

Ocean Energy Conversion Test Projects

Test Projects



Streamline permits for testing innovative technology. Pelamis Wave Energy Converter

Test Projects

A large, yellow and white autonomous underwater vehicle (AUV) is shown in a large industrial facility, likely a shipyard or testing center. The AUV is suspended by a chain and is tilted upwards, revealing its internal structure and components. The facility has a high ceiling with large windows and a concrete floor. The AUV has a long, cylindrical body with a conical nose and a tail section. The interior of the AUV is white and contains various mechanical and electronic components. The AUV is mounted on a white metal frame that is supported by a crane. The background shows the interior of a large building with a grid of steel beams and large windows. The floor is concrete and has some safety markings. There are some people in the background, but they are not the focus of the image.

Limited to water-dependent projects.
Aquamarine Oyster: Water Power

Test Projects

Monitoring required during the test period to document anticipated project impacts.

Tidal turbines

Helical axis tidal turbine

A large, complex metal structure, identified as a helical axis tidal turbine, is being hoisted by a crane on a barge. The turbine consists of three large, circular, lattice-like frames arranged in a row, supported by a yellow metal frame. The crane is a tall, red lattice structure on the right side of the barge. The scene is set on a body of water under a blue sky with scattered white clouds. In the background, a forested shoreline is visible. A small motorboat with a person is in the water to the left.

➤ Site restoration to pre-test conditions required.

Minor Activities Not Subject to Regulation

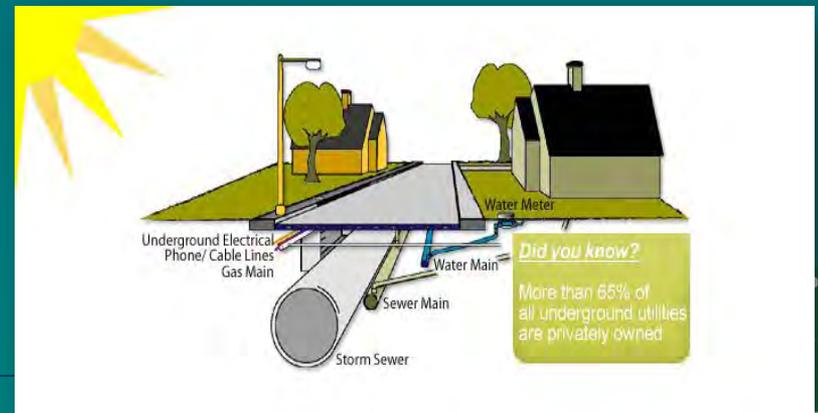
- Installation of directly embedded utility poles provided that all work is conducted within 10 feet of the road or driveway shoulder and is a minimum of 10 feet from the edge of the Bank or BVW and as far away from resource areas as practicable, with no additional tree clearing or substantial grading within the buffer zone;



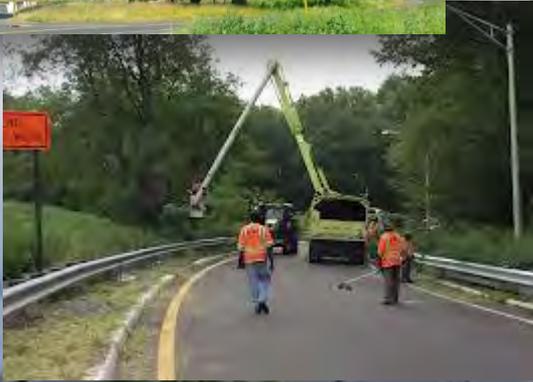
Minor Activities Not Subject to Regulation

Provided they comply with 310 CMR 10.02(2)(b)1, the following minor activities are not subject to regulation:

- Installation of underground utilities (e.g., electric, gas, water) within existing paved or unpaved roadways and private roadways/driveways, provided that all work is conducted within the roadway or driveway and that all trenches are closed at the completion of each workday;



Minor Activities Not Subject to Regulation



Vegetation cutting for road safety maintenance

Minor Activities Not Subject to Regulation

Vegetation cutting for road safety maintenance



- Site Distances at intersections
- Threats to driver safety

Maintenance of Stormwater Structures



No new resource areas created for stormwater systems installed after November 18, 1996

Maintenance of Stormwater Structures



Exempt O&M activities on systems built or improved after November 18, 1996.

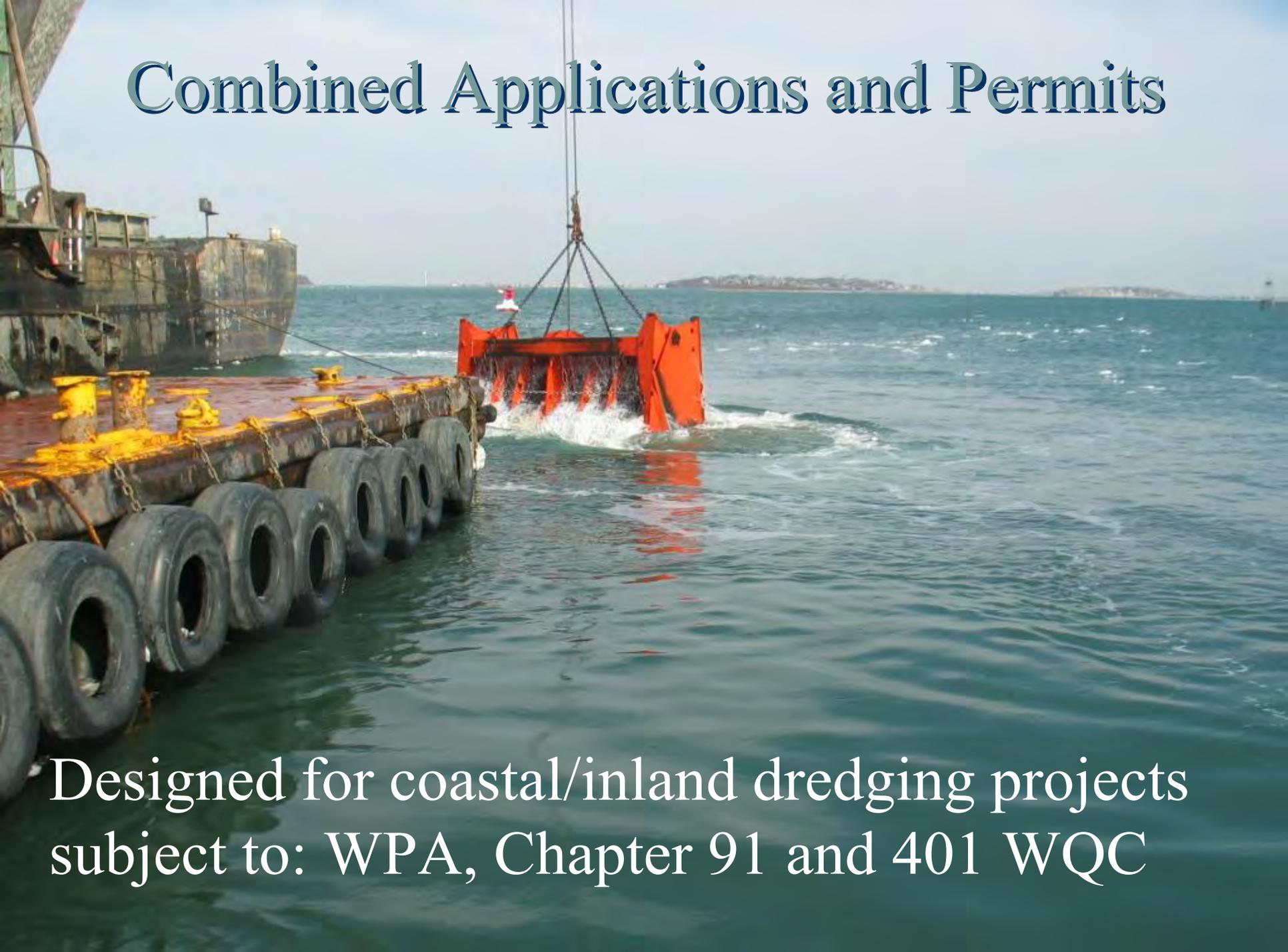
Improvement Dredging in ACECs

An aerial photograph of Pleasant Bay Breach. The image shows a large body of water with a prominent sand spit in the foreground. The water is a mix of green and blue, indicating varying depths and sediment levels. The surrounding land is densely populated with houses and trees. The title 'Improvement Dredging in ACECs' is overlaid at the top in orange text with a blue outline.

Pleasant Bay Breach

Ch.91 now exempts improvement dredging within ACECs for the maintenance or restoration of historic navigation channels

Combined Applications and Permits



Designed for coastal/inland dredging projects
subject to: WPA, Chapter 91 and 401 WQC

Combined Applications and Permits Ch. 91 and WQC

NOI removed from Combined Application

- 97% final OOC issued by Con Com
- Fee structure/processing becomes complex.
- Timing issues between permit processes.
- Ch. 91 now exempts improvement dredging for ER projects.



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection – Wetlands and Waterways Program
**BRP WW 26 Combined Licenses/Permits for Waterways
 & Water Quality Certification**
 Water-Dependent Chapter 91 Waterways License/Permit (310 CMR 9.00)
 401 Dredging, Fill/Excavation Water Quality Certification (314 CMR 9.00)

Transmittal # _____

A. Combined Application Information (check appropriate boxes)

Note: Use this form only if you are applying for more than one component below.

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



Components	Fee	Corresponding Application
Chapter 91 Water-Dependent		
<input type="checkbox"/> Residential with ≤ 4 units	\$215.00	BRP WW01a
<input type="checkbox"/> Other	\$330.00	BRP WW01b
401 Water Quality Certification Dredging		
<input type="checkbox"/> Major > 5000 yd ³	\$495.00	BRP WW07
<input type="checkbox"/> Minor < 5000 yd ³ & > 100 yd ³	\$ 95.00	BRP WW08
401 Water Quality Certification Fill/Excavation		
<input type="checkbox"/> Major > 5000 ft ³	\$495.00	BRP WW10
<input type="checkbox"/> Minor < 500 ft ³	\$ 95.00	BRP WW11
Total combined application fee:		\$ _____

B. Applicant Information

1. Applicant:

Name _____ E-mail Address _____
 Mailing Address _____
 City/Town _____ State _____ Zip Code _____
 Telephone Number _____ Fax Number _____

2. Authorized Agent (if any):

Name _____ E-mail Address _____
 Mailing Address _____
 City/Town _____ State _____ Zip Code _____
 Telephone Number _____ Fax Number _____



Stream Crossing Standards (SCS)

- Standards apply to:

 - Restoration 310 CMR 10.11 to 310 CMR 10.14;

 - Inland/coastal Limited Projects 310 CMR 10.24/10.53

 - Bank 310 CMR 10.54

 - Land Under Water 310 CMR 10.56

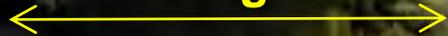
- New crossings must meet the SCS fully

- Replacement crossings: meet SCS to the maximum extent practicable

Stream Crossing Standards (SCS)

Openess Ratio > 0.82

Length



width \geq 1.2 times bankfull width



Stream gradient
consistent

culvert bed matches
stream bed

Ecological Restoration

Ecological Restoration Project Types



Ecological Restoration Project Types



Dam Removal Sackett Brook, Pittsfield

Ecological Restoration Project Types

A scenic view of a stream flowing through a wooded area. In the foreground, a large, textured tree trunk is visible on the left. The stream flows from the background towards the right, with some fallen branches and debris in the water. In the distance, a dam structure is visible, partially obscured by trees. The sky is blue with some clouds, and the overall scene is a natural, wooded landscape.

Dam Removal Sackett Brook, Pittsfield

Ecological Restoration Project Types

A scenic view of a stream flowing through a lush forest. The stream is bordered by mossy rocks and dense green vegetation. A concrete bridge with a large arch spans the stream in the background.

Freshwater Stream Crossing

Ecological Restoration Project Types



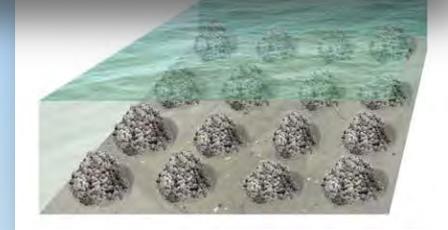
Stream Daylighting

Ecological Restoration Project Types



**Culvert Replacement to
Eliminate Tidal Restrictions.**

Shellfish Habitat Restoration



Ecological Restoration Project Types

Ecological Restoration Project Types

A photograph of a stream in a wooded area. The stream flows from a culvert in the background through a series of stone structures and logs, creating rapids. The water is white with foam. The surrounding area is covered in rocks, moss, and fallen branches. A person is visible in the background near the culvert.

**Fish Passage and
Rare Species Habitat Restoration**

New Regulatory Additions for Ecological Restoration

- Definitions: 310 CMR 10.04
- Permitting Process: 310 CMR 10.11 thru 310 CMR 10.14
- Coastal/Inland Limited Projects: 310 CMR 10.24(8) and 310 CMR 10.53(4)

Ecological “Restoration OOC”

Advantages for Applicant and Con Coms

- Faster & more predictable permitting process.
- Identifies key issues for review.
- All necessary information is provided up front.
- No WQC is required unless project involves dredging.

Ecological “Restoration OOC”

Advantages for Applicant and Con Coms

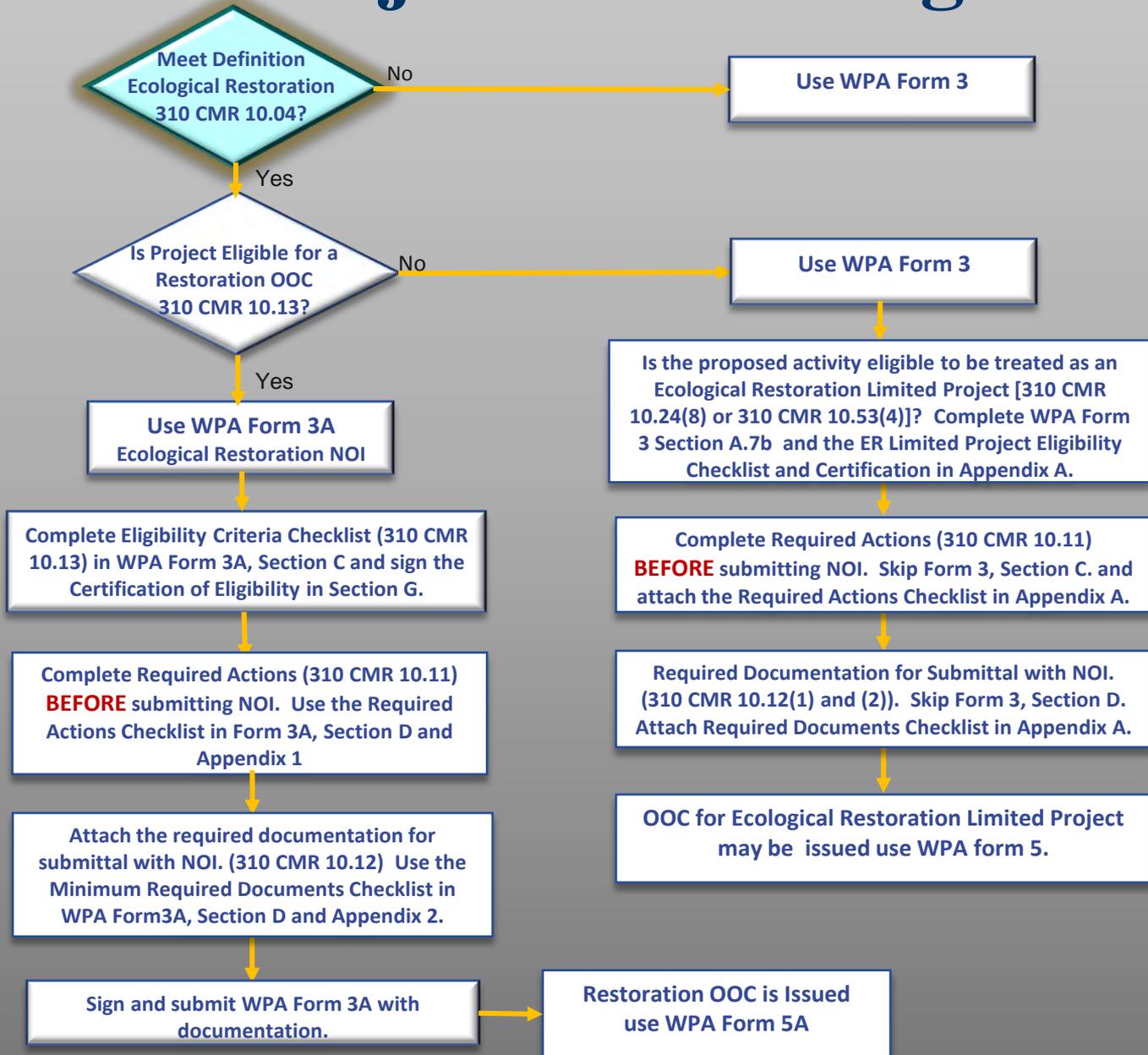
- ER projects eligible for General Permit are exempt from MEPA review.
- ER limited projects – No changes to MEPA requirements.

Ecological “Restoration OOC”

Advantages for Applicant and Con Coms

- Exempt from Wildlife Habitat Evaluation.
- ER projects may result in the temporary or permanent loss or conversion of one resource area to another when the loss is necessary to achieve the project’s ecological restoration goals.

Restoration Project Permitting Process

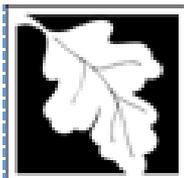


Is Project an Ecological Restoration?



A project whose primary purpose is to restore or otherwise improve the natural capacity of a Resource Area(s) to protect and sustain the interests identified in M.G.L. c. 131, § 40, when such interests have been degraded or destroyed by anthropogenic influences. (310 CMR 10.04)

Use WPA Form 3 – Notice of Intent Project Does Not Meet Definition of Ecological Restoration



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

Important:

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



Note:

Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

A. General Information

1. Project Location (Note: electronic filers will click on button to locate project site):

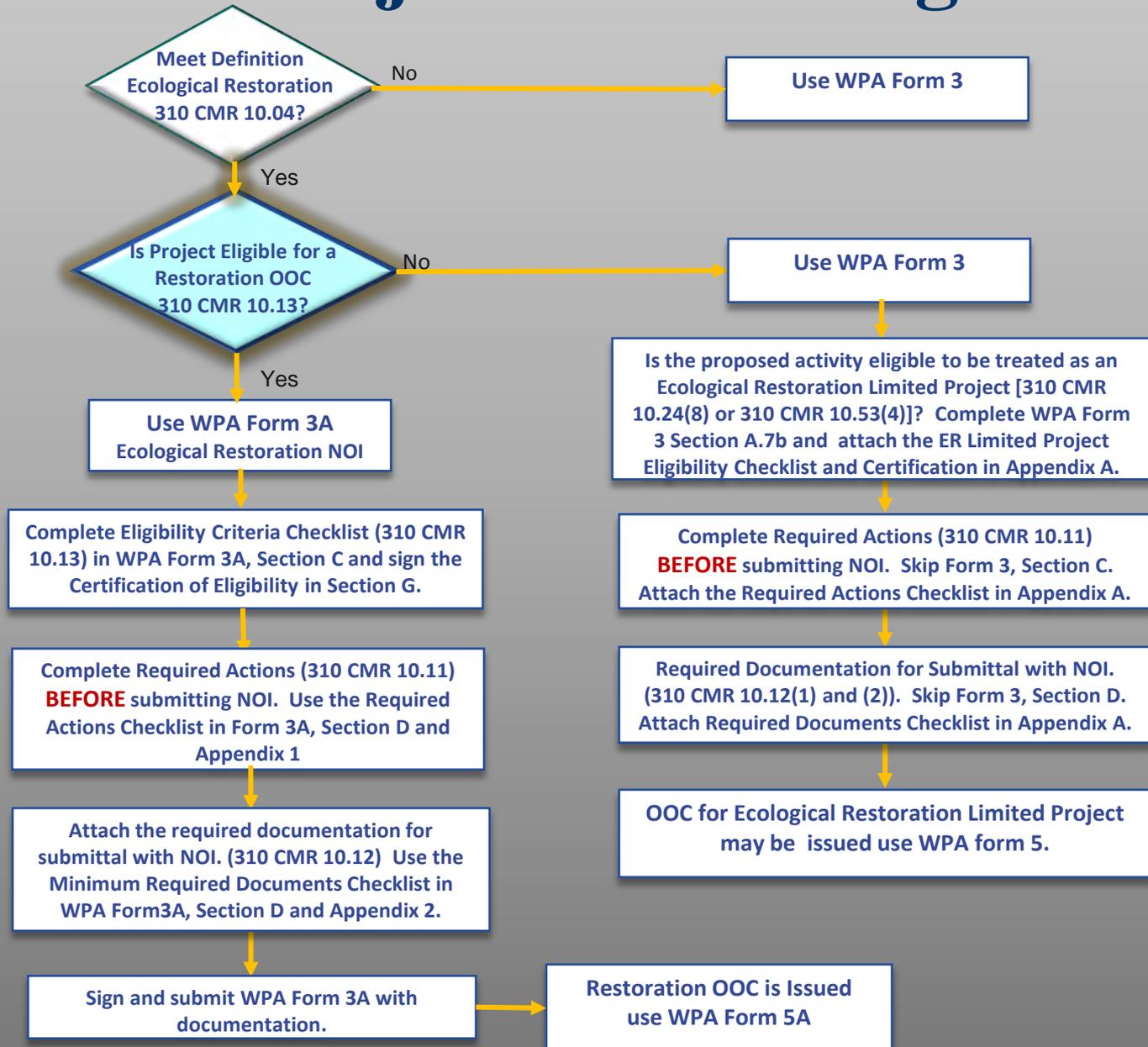
<input type="text"/>	<input type="text"/>	<input type="text"/>
a. Street Address	b. City/Town	c. Zip Code
Latitude and Longitude:		
<input type="text"/>	<input type="text"/>	<input type="text"/>
f. Assessor's Map/Plot Number	g. Parcel /Lot Number	

2. Applicant:

<input type="text"/>	<input type="text"/>	
a. First Name	b. Last Name	
<input type="text"/>		
c. Organization		
<input type="text"/>		
d. Street Address		
<input type="text"/>	<input type="text"/>	<input type="text"/>
e. City/Town	f. State	g. Zip Code
<input type="text"/>	<input type="text"/>	<input type="text"/>
h. Phone Number	i. Fax Number	j. Email Address

3. Property owner (required if different from applicant): Check if more than one owner

Restoration Project Permitting Process



Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

- Project meets the definition in 310 CMR 10.04.

Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))



- Furthers at least one of the interests of the Act.

Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

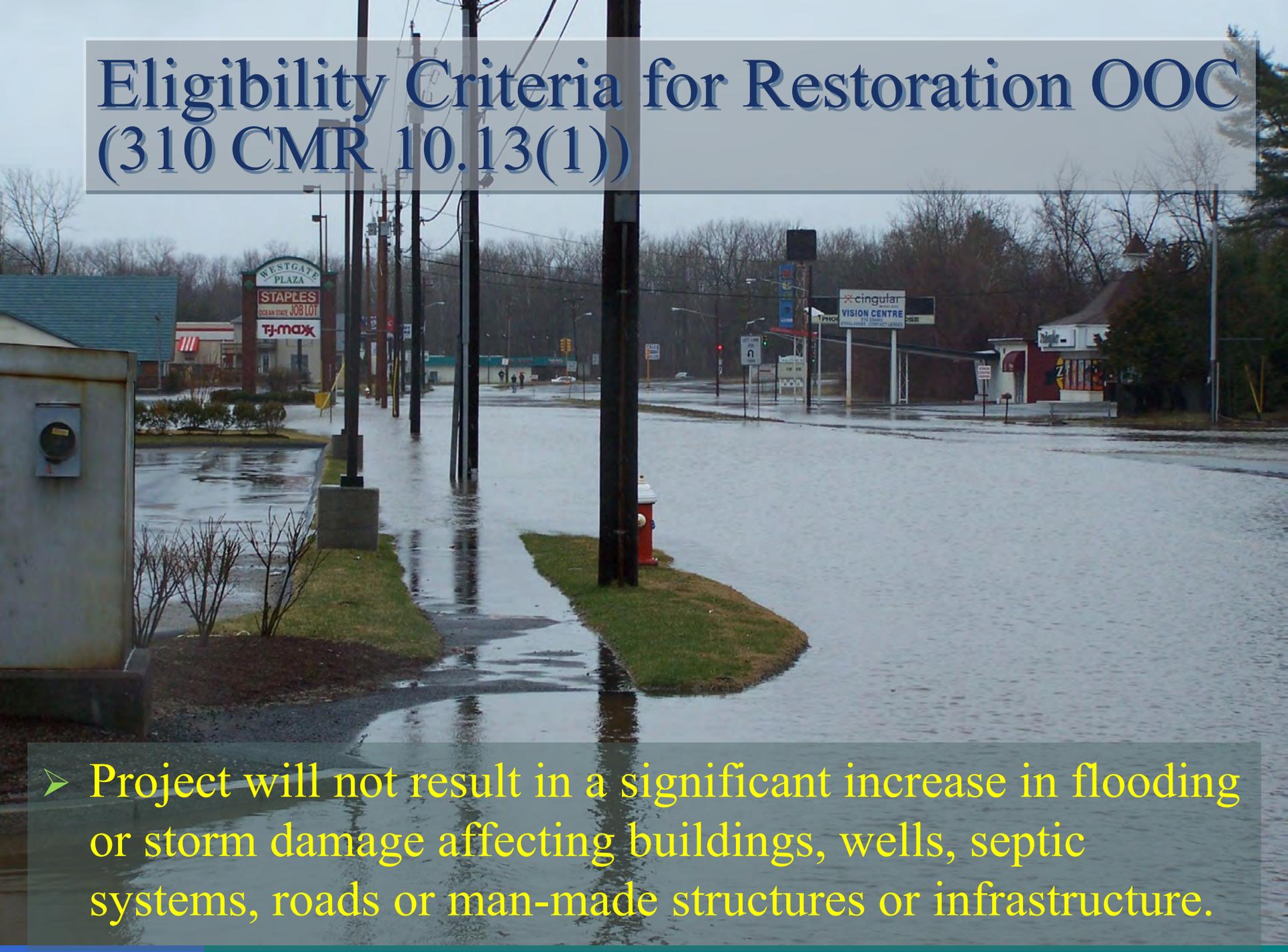


To maximum extent practicable

- Avoid and minimize adverse impacts to Resource Areas and the interests of Act,
- Uses erosion and siltation control BMPs to minimize construction impacts,

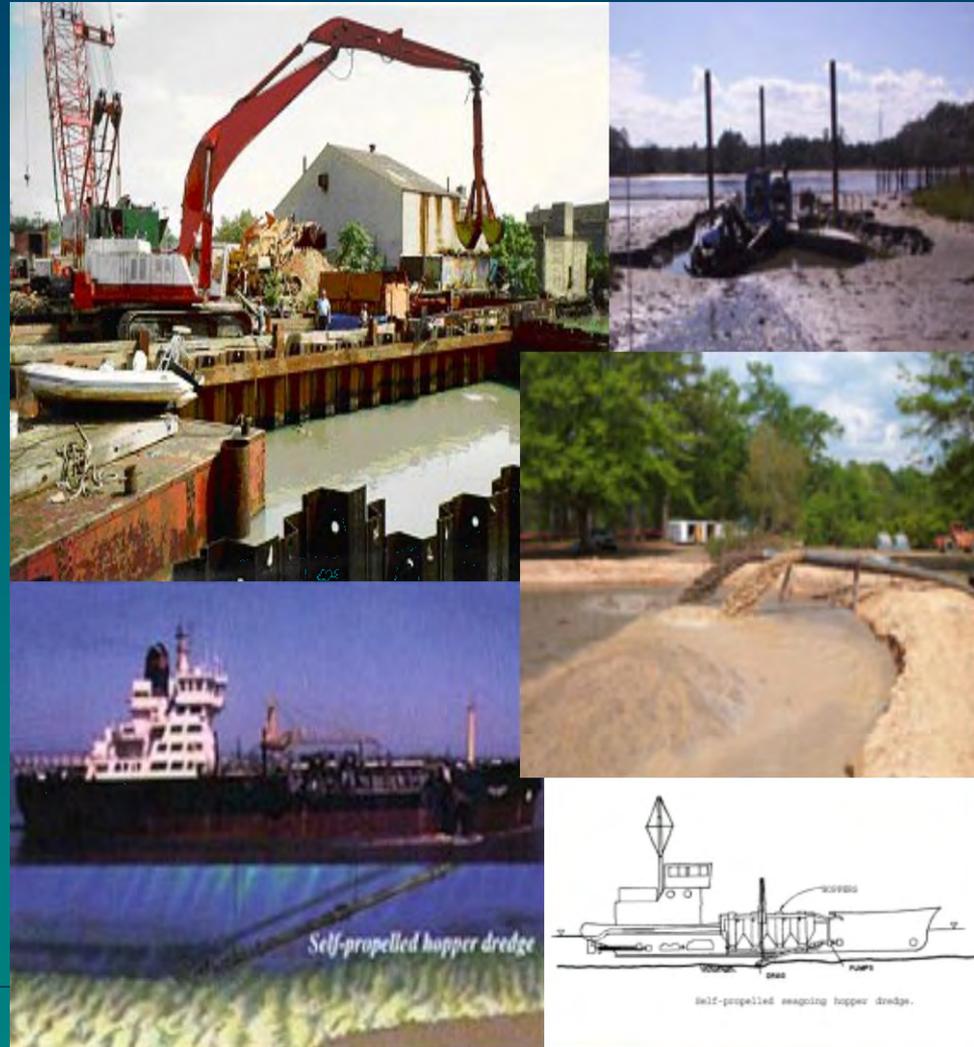


Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

- 
- Project will not result in a significant increase in flooding or storm damage affecting buildings, wells, septic systems, roads or man-made structures or infrastructure.

Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

- NOI includes a 401 WQC (314 CMR 9.00) if the project involves dredging of 100 cubic yards of sediment or more or dredging in an ORW,



Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

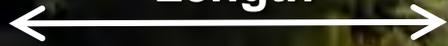


- Project will not substantially reduce the capacity of a resource area to serve habitat functions if carried out according to TOY restrictions /conditions from DMF for coastal and DFW for inland waters.

Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

Openess Ratio > 0.82

Length



width ≥ 1.2 times bankfull width



- Freshwater Stream Crossings are designed to comply with SCS 310 CMR 10.53(8).

Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

A photograph of a concrete tidal crossing structure. The structure is a wide, low concrete wall with a central opening. The water is murky and brown. The approach to the structure is reinforced with large grey rocks. In the background, there is a dirt embankment with an excavator and some construction equipment. An orange tarp is visible on the right side of the structure.

➤ Tidal Crossings are designed to eliminate tidal restrictions to MEP 310 CMR 10.24(10).

An aerial photograph of a coastal town. A river or stream flows through the town, with several bridges crossing it. The town is built on a peninsula or a narrow strip of land, with houses and buildings visible. The ocean is in the foreground, with waves breaking on a sandy beach. The sky is clear and blue.

Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

- No armoring of a Coastal Dune or Barrier Beach.
- No discharge of dredged or fill material to a certified vernal pool,
- No point source discharge to ORWs,

Eligibility Criteria for Restoration OOC (310 CMR 10.13(1))

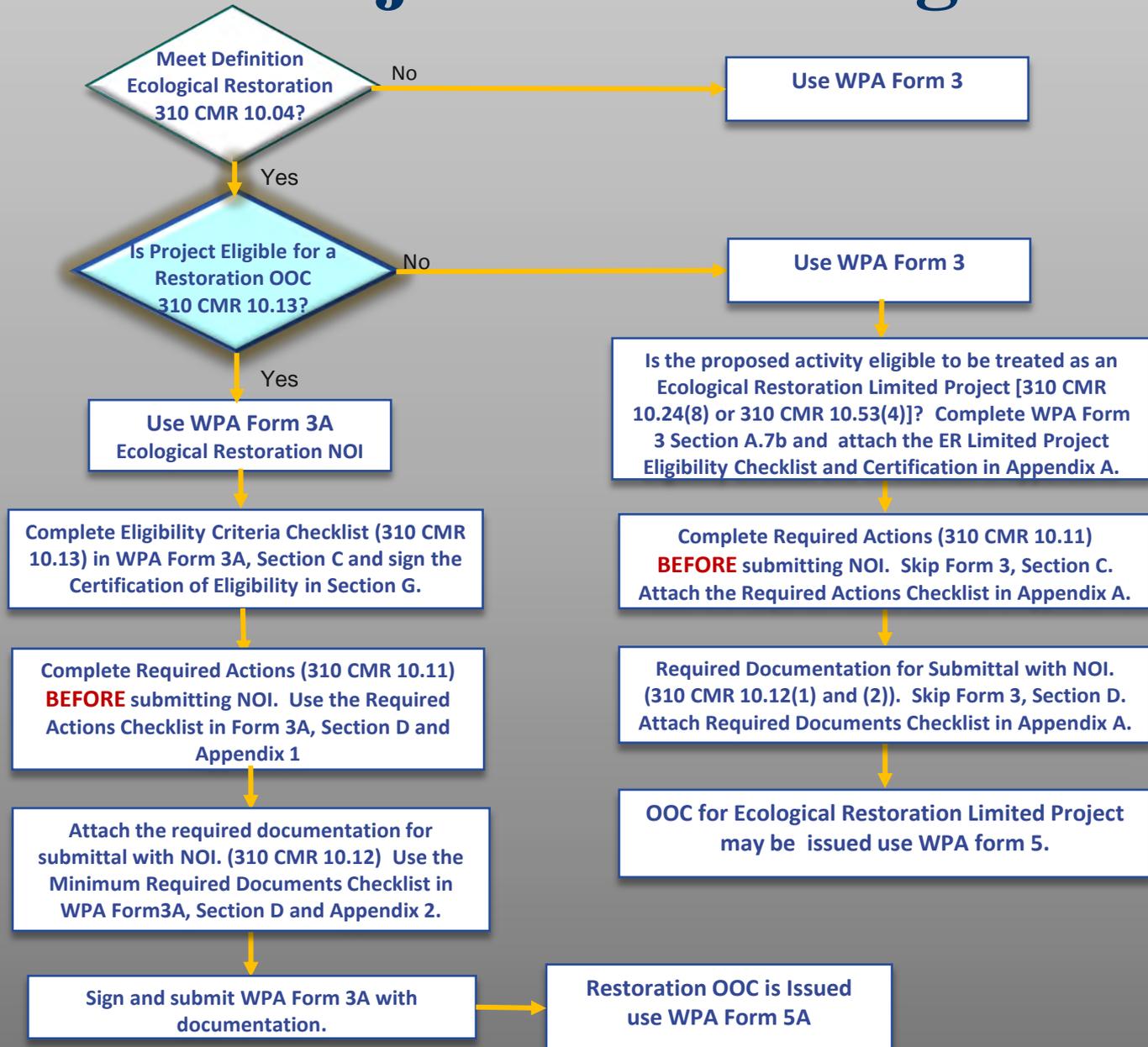
NHESP Review

- If project is within rare species habitat - a written Determination from NHESP that project will not result in a “take”.
- Determination identifies Rare Species and recommends appropriate changes or conditions to insure no short or long term adverse effects or
- Project is carried out in accordance with Habitat Management Plan OR Conservation and Management Permit approved by NHESP.

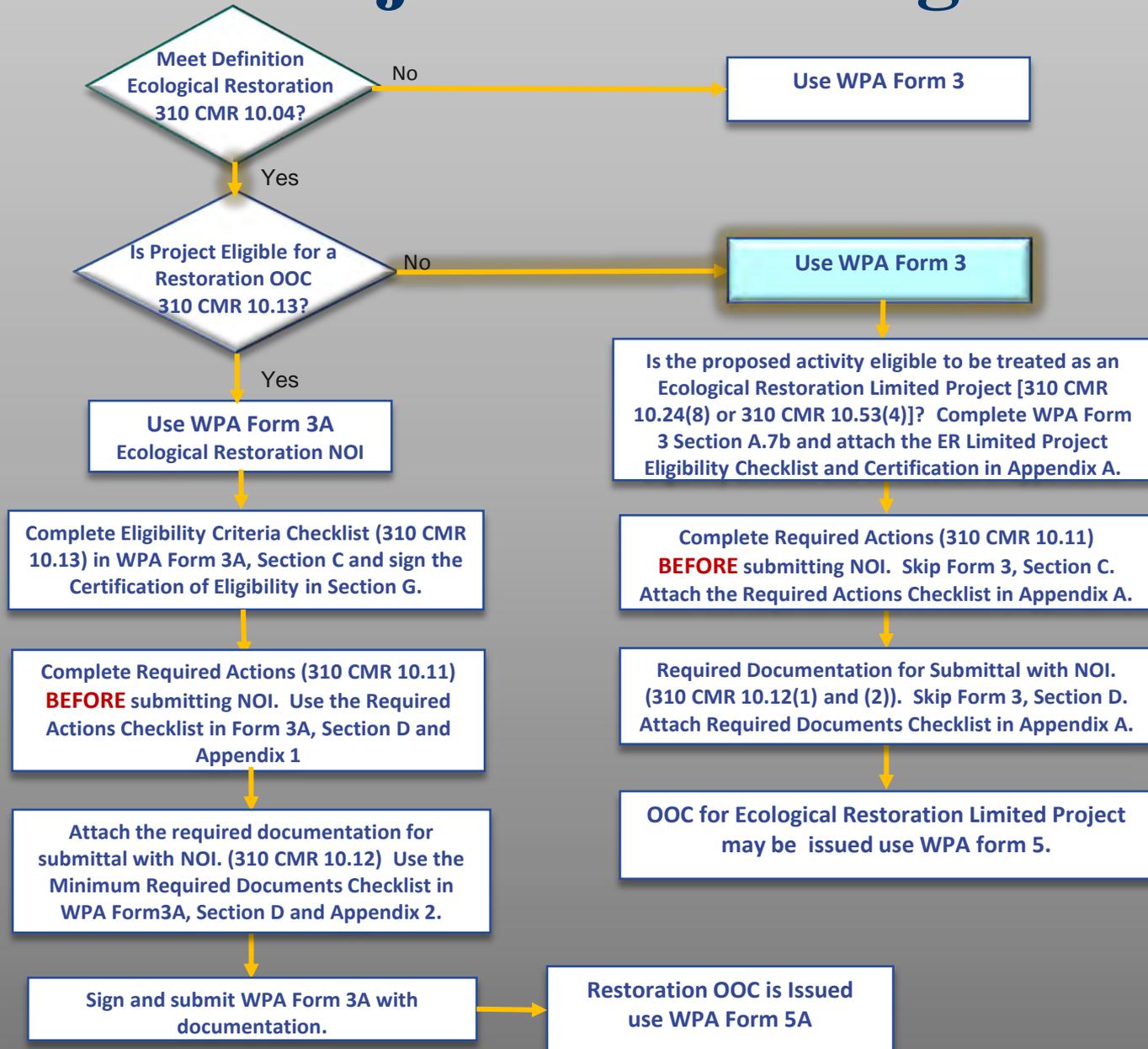
*Estimated Habitat Map of State-Listed Rare Wetlands Wildlife
Natural Heritage and Endangered Species Program (321 CMR 10.12).*



Restoration Project Permitting Process



Restoration Project Permitting Process



Use WPA Form 3 – Notice of Intent

Project Does Not Meet Eligibility Criteria for Restoration OOC



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

Important:
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Note:
Before completing this form consult your local Conservation Commission regarding any municipal bylaw or ordinance.

A. General Information

1. Project Location (Note: electronic filers will click on button to locate project site):

a. Street Address

b. City/Town

c. Zip Code

Latitude and Longitude:

d. Latitude

e. Longitude

f. Assessor's Map/Plot Number

g. Parcel /Lot Number

2. Applicant:

a. First Name

b. Last Name

c. Organization

d. Street Address

e. City/Town

f. State

g. Zip Code

h. Phone Number

i. Fax Number

j. Email Address

Is Project an Ecological Restoration Limited Project?

Definition (310 CMR 10.04)

Ecological Restoration Limited Project is an Ecological Restoration Project that meets the eligibility criteria set forth in 310 CMR 10.24(8) or 310 CMR 10.53(4).



Ecological Restoration General Eligibility Criteria

Restoration OOC 310 CMR 10.13(1)	Inland ERLP	Coastal ERLP
	310 CMR 10.53(4)(a)	310 CMR 10.24(8)(a)
(a) The project is an Ecological Restoration Project as defined in 310 CMR 10.04, is a project type listed in 310 CMR 10.13(2) through (7), and the applicant has submitted a Notice of Intent that meets all applicable requirements of 310 CMR 10.12.	✓	✓
(b) The project will further at least one of the interests identified in M.G.L. c. 131, § 40		
The project will have no short or long-term adverse effect on specified habitat sites of Rare Species located within the Resource Areas affected by the project or will be carried out in accordance with a habitat management plan that has been approved in writing by the Natural Heritage and Endangered Species Program and submitted with the NOI.	✓	✓
(d) To the maximum extent practicable, the project will:		
1. Avoid adverse impacts to Resource Areas and the interests identified in M.G.L. c. 131, § 40, that can be avoided without impeding the achievement of the project's ecological restoration goals;		
2. Minimize adverse impacts to Resource Areas and the interests identified in M.G.L. c. 131, § 40, that are necessary to the achievement of the project's ecological restoration goals; and		
3. Utilize best management practices such as erosion and siltation controls and proper construction sequencing to prevent and minimize adverse construction impacts to Resource Areas and the interests identified in M.G.L. c. 131, § 40		
(e) The project will not have significant adverse effects on the interests of flood control and storm damage prevention in relation to the built environment (i.e., the project will not result in a significant increase in flooding or storm damage affecting buildings, wells, septic systems, roads or other human-made structures or infrastructure).		
(f) If the project will involve the dredging of 100 cubic yards of sediment or more or dredging of any amount in an Outstanding Resource Water, the Notice of Intent includes a Water Quality Certification issued by the Department in accordance with 314 CMR9.00: 401 Water Quality Certification for Discharge of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters of the United States Within the Commonwealth.	✓	✓
(g) The project will not substantially reduce the capacity of a Resource Area to serve the habitat functions identified in 310 CMR 10.60(2). A project will be presumed to meet this eligibility criteria if the project will be carried out in accordance with any TOY restrictions or other conditions recommended by the DMF for coastal waters, and by DFW for inland waters in accordance with 310 CMR 10.11(3) through (5). An Ecological Restoration Project that meets the requirements of 310 CMR 10.12(1) and (2) is exempt from the requirement to perform a wildlife habitat evaluation in accordance with 310 CMR 10.60.	✓	✓
(h) If the Ecological Restoration Project involves work on a stream crossing, the stream crossing has been designed in accordance with 310 CMR 10.24(10) for work in coastal resource areas and 310 CMR 10.53(8) for work in inland resource areas, as applicable.		
(i) The Ecological Restoration Project will not result in a discharge of dredged or fill material within 400 feet of the high water mark of a Class A surface water (exclusive of its tributaries) unless the project is conducted by a public water system under 310 CMR 22.00: Drinking Water or a public agency or authority for the maintenance or repair of existing public roads or railways in accordance with 314 CMR 4.06(1)(d)1.		
(j) The Ecological Restoration Project will not result in a discharge of dredged or fill material to a vernal pool certified by the Division of Fisheries and Wildlife.		
(k) The Ecological Restoration Project will not result in a point source discharge to an Outstanding Resource Water.		
(l) The Ecological Restoration Project will not involve the armoring of a Coastal Dune or Barrier Beach.		
	The project complies with all applicable provisions of 310 CMR 10.53(1), (2), (7), (8).	The project complies with all applicable provisions of 310 CMR 10.24(1) through (6), (9) and (10).

Is Project an ER Limited Project? *310 CMR 10.24(8) or 310 CMR 10.53(4)*

1. Project meets definition: 310 CMR 10.04
2. NHESP – Project is within estimated habitat:
 - Preliminary written determination from NHESP regarding adverse effects on specified habitat sites of Rare Species; or
 - The project will be carried out in accordance with a habitat management plan that has been approved in writing by NHESP.

Is Project an ER Limited Project?

310 CMR 10.24(8) or 310 CMR 10.53(4)

3. Project is presumed not to reduce capacity of Resource Area to serve wildlife habitat functions if carried out according to TOY restrictions and/or conditions recommended by DMF for coastal waters and DFW for inland waters;

Is Project an ER Limited Project? *310 CMR 10.24(8) or 310 CMR 10.53(4)*

4. If project involves dredging >100 cubic yards of sediment or dredging of any amount in an ORW, 401 WQC is required.
5. The project complies with all other applicable limited project provisions of 310 CMR 10.24 or 310 CMR 10.53.

WPA Form 3 – Notice of Intent

Project Is an Ecological Restoration Limited Project
310 CMR 10.24(8), 310 CMR 10.53(4) Complete Section A.7b

9. Other

7b. Is any portion of the proposed activity eligible to be treated as a limited project (including Ecological Restoration Limited Project) subject to 310 CMR 10.24 (coastal) or 310 CMR 10.53 (inland)?

1. Yes No

If yes, describe which limited project applies to this project. (See 310 CMR 10.24 and 10.53 for a complete list and description of limited project types)

2. Limited Project Type

If the proposed activity is eligible to be treated as an Ecological Restoration Limited Project (310 CMR 10.24(8), 310 CMR 10.53(4)), complete and attach Appendix A: Ecological Restoration Limited Project Checklist and Signed Certification.

8. Property recorded at the Registry of Deeds for:



ER Limited Project Checklists

WPA Form 3, Appendix A

Eligibility Criteria Checklist

- Regulatory Features of all ER Limited Projects
- Coastal
 1. General
 2. Additional Project Specific
- Inland
 1. General
 2. Additional Project Specific

ER Limited Project Checklists

310 CMR 10.24(8) or 310 CMR 10.53(4)

Complete and Attach Eligibility Checklist in WPA Form 3, Appendix A



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent Appendix A: Ecological Restoration Limited Project Checklists

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

Ecological Restoration Limited Project Eligibility Checklist

This Ecological Restoration Limited Project Eligibility Checklist guides the applicant in determining if their project is eligible to file as an Inland or Coastal Ecological Restoration Limited Project (310 CMR 10.53(4) or 310 CMR 10.24(8) respectively). These criteria must be met when submitting the Ecological Restoration Limited Project Notice of Intent to ensure that the restoration and improvement of the natural capacity of a Resource Area(s) to protect and sustain the interests identified in the WPA is necessary to achieve the project's ecological restoration goals.

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



Regulatory Features of All Coastal and Inland Ecological Restoration Limited Projects

- (a) May result in the temporary or permanent loss of/or conversion of Resource Area: An Ecological Restoration Limited Project that meets the requirements of 310 CMR 10.24(8) may result in the temporary or permanent loss of Resource Areas and/or the conversion of one Resource Area to another when such loss is necessary to the achievement of the project's ecological restoration goals.
- (b) Exemption from wildlife habitat evaluation: A NOI for an Ecological Restoration Limited Project that meets the minimum requirements for Ecological Restoration Projects and for a MassDEP Combined Application outlined in 310 CMR 10.12(1) and (2) is exempt from providing a wildlife habitat (310 CMR

ER Limited Project Checklists

WPA Form 3, Appendix A

Required Actions Checklist - Replaces Section C

- Publish notice in Environmental Monitor,
- NHESP – If project is within Estimated Habitat,
 - ✓ written preliminary determination,
 - ✓ Habitat Management Plan approved by NHESP

ER Limited Project Checklists

WPA Form 3, Appendix A

Required Actions Checklist - Replaces Section C

- DMF – If project is within coastal waters with restricted TOY a written determination as to whether project needs TOY restriction and recommended conditions.
- DFW – If project is within diadromous fish run; a written determination as to whether design and operation plans are compatible with fish passage requirements of fish run.
- 401 WQC for dredging projects.

Ecological Restoration Limited Project Required Actions Checklist (310 CMR 10.11)

Skip Section C and

Complete and Attach Required Actions Checklist in Form 3, Appendix A.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent Appendix A: Ecological Restoration Limited Project Checklists

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

Required Actions - 310 CMR 10.11.

Complete the Required Actions before submitting a Notice of Intent Application for an Ecological Restoration Project and submit a completed copy of this Checklist with the Notice of Intent.

- Environmental Monitor /Massachusetts Environmental Policy Act (MEPA)
<http://www.mass.gov/eea/agencies/mepa/submitting-notices-to-the-environmental-monitor.html>
- Submit written notification at least 14 days prior to the filing of a Notice of Intent (NOI) to the Environmental Monitor for publication. A copy of the written notification is attached and provides at minimum:
 - A brief description of the proposed project.
 - The anticipated NOI submission date to the conservation commission.
 - The name and address of the conservation commission that will review the NOI.
- Specific details as to where copies of the NOI may be examined or acquired and where to obtain the date, time, and location of the public hearing.

ER Limited Project Checklists

WPA Form 3, Appendix A

Minimum Required Documents Checklist -
Replaces Section D,

Eligibility Certification - Section G.

Ecological Restoration Limited Project Required Documents Checklist (310 CMR 10.12)

Skip Section D and

Complete Minimum Required Documents Checklist Form 3, Appendix A



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

WPA Form 3 – Notice of Intent Appendix A: Ecological Restoration Limited Project Checklists

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Ecological Restoration Notice of Intent (WPA 3a) - Required Actions (310 CMR 10.11) (cont.)

Areas of Critical Environmental Concern (ACECs)

Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?

Yes No

If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP Website for ACEC locations).

Ecological Restoration Notice of Intent (WPA 3a) - Minimum Required Documents (310 CMR 10.12)

Complete the Required Documents Checklist below and provide supporting materials before submitting a Notice of Intent Application for an Ecological Restoration Project.

This Notice of Intent meets all applicable requirements outlined in for Ecological Restoration Projects in 310 CMR 10.12. Use the checklist below to insure that all documentation is included with the NOI.

At a minimum, a Notice of Intent for an Ecological Restoration Project shall include the following:



Certify That ER Limited Project Meets the Eligibility Criteria

Sign the ER Limited Project Certification in WPA Form 3, Appendix A



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 3 – Notice of Intent Appendix A: Ecological Restoration Limited Project Checklists

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

Provided by MassDEP:

MassDEP File Number

Document Transaction Number

City/Town

Certification that the Ecological Restoration Project Meets the Eligibility Criteria

I hereby certify under penalties of perjury that the Ecological Restoration Project Notice of Intent application does not meet the Eligibility criteria for an Ecological Restoration Order of Conditions set forth in 310 CMR 10.13, but does meet the Eligibility Criteria for a Ecological Restoration Limited Project set forth in 10.24(8) or 10.53(4) whichever is applicable. I certify that I am familiar with the information contained in the application, and that to the best of my knowledge and belief such information is true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities.

Signature of Applicant or Authorized Agent

Printed Name of Applicant or Authorized Agent

Date

The certification must be signed by the applicant; however, it may be signed by a duly authorized agent (named in Item 2) if this form is accompanied by a statement by the applicant designating the agent and agreeing to furnish upon request, supplemental information in support of the application.

MassDEP



ER Limited Project OOC

Projects that meet the eligibility criteria set forth in 310 CMR 10.24(8) or 310 CMR 10.53(4) may be permitted as an ecological restoration limited project. (Use WPA Form 5)



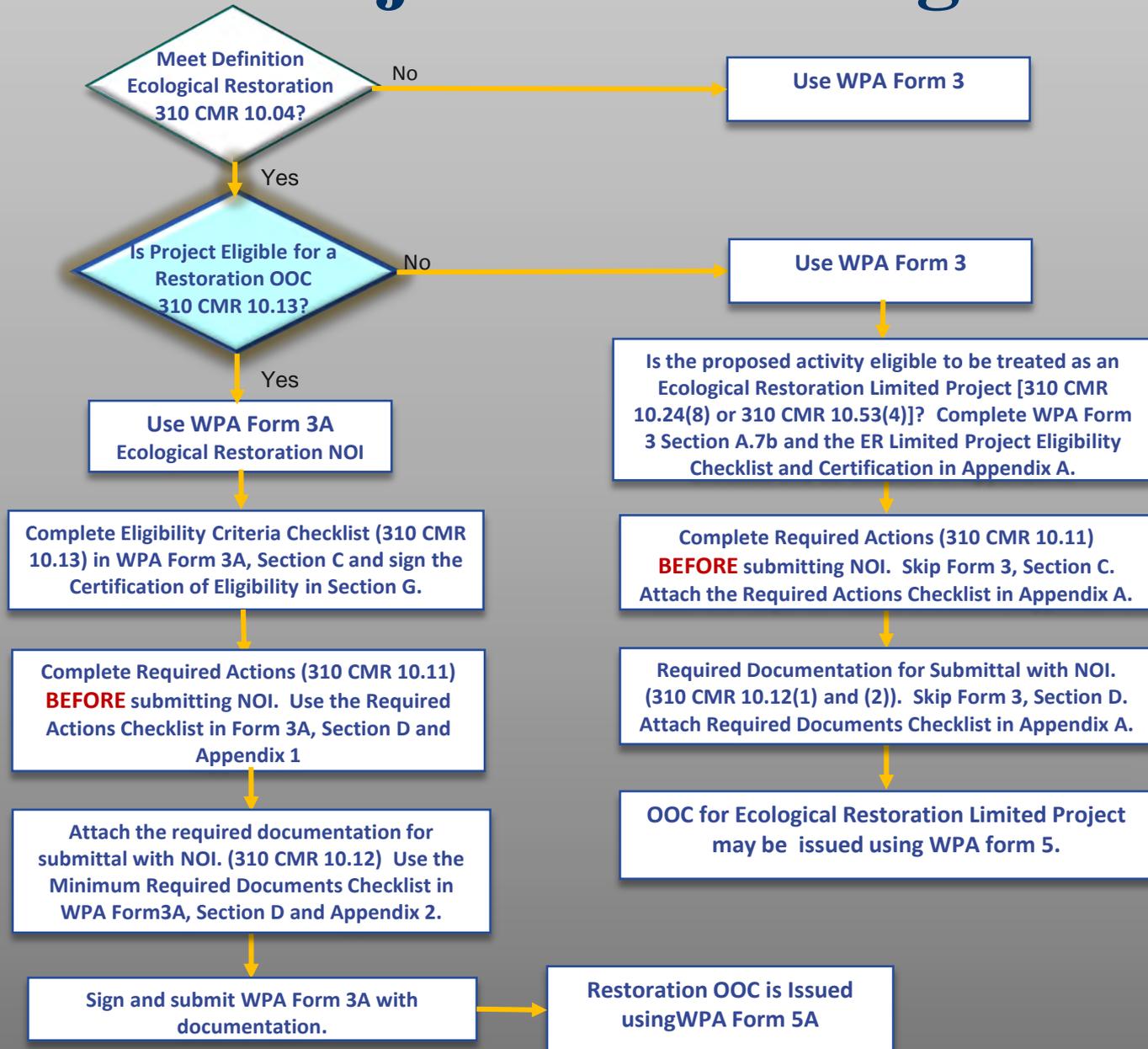
Ecological Restoration Limited Project OOC

Use WPA Form 5 – Order of Conditions

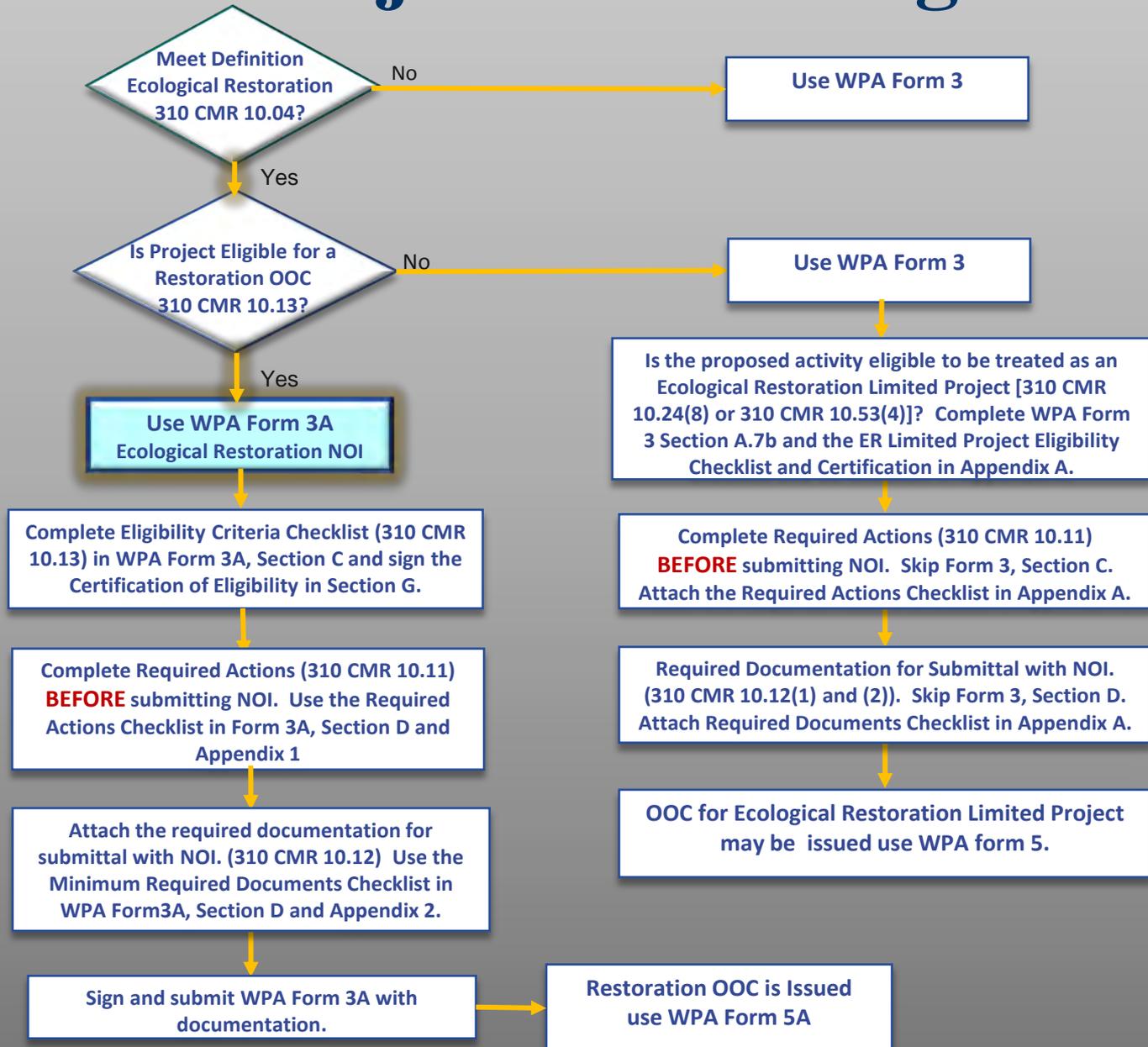
	Massachusetts Department of Environmental Protection Bureau of Resource Protection - Wetlands WPA Form 5 – Order of Conditions Massachusetts Wetlands Protection Act M.G.L. c. 131, §40	Provided by MassDEP: MassDEP File # _____ eDEP Transaction # _____ City/Town _____	
	A. General Information		
<p>Please note: this form has been modified with added space to accommodate the Registry of Deeds Requirements</p> <p>Important: When filling out forms on the computer, use only the tab key to move your cursor – do not use the return key.</p> <p> </p>	1. From: _____ Conservation Commission		
	2. This issuance is for (check one): <input type="checkbox"/> a. Order of Conditions <input type="checkbox"/> b. Amended Order of Conditions		
	3. To: Applicant:		
	a. First Name _____ b. Last Name _____ c. Organization _____ d. Mailing Address _____ e. City/Town _____ f. State _____ g. Zip Code _____		
	4. Property Owner (if different from applicant):		
	a. First Name _____ b. Last Name _____ c. Organization _____ d. Mailing Address _____ e. City/Town _____ f. State _____ g. Zip Code _____		
	5. Project Location:		
	a. Street Address _____ b. City/Town _____ c. Assessor's Map/Plat Number _____ d. Parcel/Lot Number _____ Latitude and Longitude, if known: _____ d. Latitude _____ e. Longitude _____		



Restoration Project Permitting Process



Restoration Project Permitting Process



Project is Eligible for Restoration OCC

Use WPA Form 3A - NOI for Ecological Restoration Projects

	<p>Massachusetts Department of Environmental Protection Bureau of Resource Protection – Wetlands Program</p> <p>WPA Form 3A - Notice of Intent for an Ecological Restoration Project</p>	<p>_____ MassDEP File Number</p> <p>_____ City or Town</p>
<p>Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.</p>  	<p>Project Type</p> <p>Check the Ecological Restoration type that applies:</p> <p><input type="checkbox"/> 1. Dam Removal</p> <p><input type="checkbox"/> 2. Freshwater Stream Crossing Repair and Replacement</p> <p><input type="checkbox"/> 3. Stream Daylighting</p> <p><input type="checkbox"/> 4. Tidal Restoration</p> <p><input type="checkbox"/> 5. Rare Species Habitat Restoration</p> <p><input type="checkbox"/> 6. Restoring Fish Passageways</p>	
	<p>Eligibility Criteria:</p> <p><input type="checkbox"/> I am applying for a Restoration Order of Conditions and meet the General Eligibility Criteria [310 CMR 10.13(1)] as described in Section C1 and the Additional Eligibility Criteria for this Ecological Restoration Project type [310 CMR 10.13(2) through (7)] as described in Section C2.</p>	

Project is Eligible for Restoration OCC

Complete NOI, Section C

Ecological Restoration Project Description



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program

WPA Form 3A - Notice of Intent for an Ecological Restoration Project

MassDEP File Number

City or Town

significant increase in flooding or storm damage affecting buildings, wells, septic systems, roads or other man-made structures or infrastructure) and documentation on how this is achieved.

C. Ecological Restoration Project Description (cont.)

- If the Project involves the dredging of 100 cubic yards of sediment or more or dredging in an ORW, a 401 Water Quality Certification is required and attached. Requires a 401 Water Quality Certification.
- The Project will not substantially reduce the capacity of a Resource Area to serve the wildlife habitat functions identified in 310 CMR 10.60(2). A project will be **presumed** to meet this eligibility criteria if the NOI will be carried out in accordance with any Time of Year (TOY) restrictions or other conditions recommended by the DMF for coastal waters, and by the DFW for inland waters in accordance with 310 CMR 10.11(3), (4) and (5). A NOI for an Ecological Restoration Project that meets the requirements of 310 CMR 10.12(1) and (2) *is exempt from performing a wildlife habitat evaluation.*
- If the project involves work on a **stream crossing**, the stream crossing has been designed in accordance with 310 CMR 10.24(10) for work in coastal resource areas and 310 CMR 10.53(8) for work in inland resource areas, as applicable. See additional requirements below for Freshwater Stream Crossing Repair and Replacement Projects.
- The project will not result in a discharge of dredged or fill material within 400 feet of the high water mark of a Class A surface water (exclusive of its tributaries) unless the project is conducted by a public water system under 310 CMR 22.00 or a public agency or authority for the



Project is Eligible for Restoration OCC

Sign the Certification of Eligibility for Ecological Restoration Project NOI in WPA Form 3A, Section G



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program

WPA Form 3A - Notice of Intent for an Ecological Restoration Project

MassDEP File Number

City or Town

G. Signatures and Submittal Requirements

Certification of Ecological Restoration Project Notice of Intent

I hereby certify under penalties of perjury that the **Ecological Restoration Project Notice of Intent application meets the Eligibility Criteria set forth in 310 CMR 10.13**. I also certify that I am familiar with the information contained in this Notice of Intent application and that the accompanying plans, documents, and supporting data are to the best of my knowledge and belief true, complete, and accurate. I further certify that I possess the authority to undertake the proposed activities.

I understand that the Conservation Commission will place notification of this Notice in a local newspaper at the expense of the applicant in accordance with the wetlands regulations, 310 CMR 10.05(5)(a).

I further certify under penalties of perjury that all abutters were notified of this application, pursuant to the requirements of M.G.L. c. 131, § 40. Notice must be made by Certificate of Mailing or in writing by hand delivery or certified mail (return receipt requested) to all abutters within 100 feet of the property line of the project location.

MassDEP



Ecological Restoration NOI Submittal

Complete Required Actions *Before* Submitting NOI (310 CMR 10.11) See WPA Form 3A, Section D and Appendix 1

	Massachusetts Department of Environmental Protection Bureau of Resource Protection – Wetlands Program	MassDEP File Number
	WPA Form 3A - Notice of Intent for an Ecological Restoration Project	City or Town
D. Other Applicable Standards and Requirements (cont.)		
<input type="checkbox"/> This project has received a final written determination from the Natural Heritage and Endangered Species, a copy of that determination is attached and we will comply with all requirements of that final determination.		
<input type="checkbox"/> This project will comply with NHESP's Habitat Management Plan under 310 CMR 10.13(6)(b).		
1. For coastal projects only, is any portion of the proposed project located below the mean high water line or in a fish run?		
a. <input type="checkbox"/> Not applicable – project is in inland resource area only		
b. <input type="checkbox"/> Yes <input type="checkbox"/> No If yes, include proof of mailing or hand delivery of NOI to either:		
Division of Marine Fisheries - Southeast Marine Fisheries Station Attn: Environmental Reviewer 1213 Purchase Street – 3rd Floor New Bedford, MA 02740-6694	North Shore - Hull to New Hampshire: Division of Marine Fisheries - North Shore Office Attn: Environmental Reviewer 30 Emerson Avenue Gloucester, MA 01930	
2. Is any portion of the proposed project within an Area of Critical Environmental Concern (ACEC)?		
a. <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, provide name of ACEC (see instructions to WPA Form 3 or MassDEP website for ACEC locations).		
b. ACEC		
3. Is any portion of the proposed project within an area designated as an Outstanding Resource Water (ORW) as designated in the Massachusetts Surface Water Quality Standards, 314 CMR 4.00?		
a. <input type="checkbox"/> Yes <input type="checkbox"/> No		
4. Is any portion of the site subject to a Wetlands Restriction Order under the Inland Wetlands Restriction Act (M.G.L. c. 131, § 40A) or the Coastal Wetlands Restriction Act (M.G.L. c. 130, § 105)?		
a. <input type="checkbox"/> Yes <input type="checkbox"/> No		
5. Is this project subject to provisions of the MassDEP Stormwater Management Standards?		
a. <input type="checkbox"/> Yes <input type="checkbox"/> No		
If yes, attach a copy of the Stormwater Report as required by the Stormwater Management Standards per 310 CMR 10.05(6)(k)-(q) and check it:		
<input type="checkbox"/> Proprietary BMPs are included in the Stormwater Management System.		
6. <input type="checkbox"/> If the Ecological Restoration Project involves the construction, repair, replacement or expansion of infrastructure, an operation and maintenance plan has been submitted to ensure that the infrastructure will continue to function as designed.		

	Massachusetts Department of Environmental Protection Bureau of Resource Protection – Wetlands Program	MassDEP File Number
	WPA Form 3A - Notice of Intent for an Ecological Restoration Project	City or Town
timely manner may result in dismissal of the Notice of Intent.		
Appendix 1: Ecological Restoration Notice of Intent (WPA 3a) - Required Actions (310 CMR 10.11)		
Complete the Required Actions <u>before</u> submitting a Notice of Intent Application for an Ecological Restoration Project and submit a completed copy of this Checklist with the Notice of Intent.		
<input type="checkbox"/> Environmental Monitor /Massachusetts Environmental Policy Act (MEPA) http://www.mass.gov/eea/agencies/mepa/submitting-notice-to-the-environmental-monitor.html		
<input type="checkbox"/> Submit written notification at least 14 days prior to the filing of a Notice of Intent (NOI) to the Environmental Monitor for publication. A copy of the written notification is attached and provides at minimum:		
<input type="checkbox"/> A brief description of the proposed project.		
<input type="checkbox"/> The anticipated NOI submission date to the conservation commission.		
<input type="checkbox"/> The name and address of the conservation commission that will review the NOI.		
<input type="checkbox"/> Specific details as to where copies of the NOI may be examined or acquired and where to obtain the date, time, and location of the public hearing.		
<input type="checkbox"/> Massachusetts Endangered Species Act (MESA) /Wetlands Protection Act Review		
<input type="checkbox"/> Preliminary Massachusetts Endangered Species Act Review from the Natural Heritage and Endangered Species Program (NHESP) has been met and the written determination is attached.		
<input type="checkbox"/> Supplemental Information for Endangered Species Review has been submitted.		
1. <input type="checkbox"/> Percentage/acreage of property to be altered:		
a. Within Wetland Resource Area	Percentage/acreage	
b. Outside Wetland Resource Area	Percentage/acreage	
2. <input type="checkbox"/> Assessor's Map or right-of-way plan of site		
3. <input type="checkbox"/> Project plans for entire project site, including wetland resource areas and areas outside of wetlands jurisdiction, showing existing and proposed conditions, existing and proposed tree/vegetation clearing line, and clearly demarcated limits of work.		
4. <input type="checkbox"/> Project description (including description of impacts outside of wetland resource area & buffer zone)		
5. <input type="checkbox"/> Photographs representative of the site		
6. <input type="checkbox"/> MESA filing fee (fee information available at http://www.mass.gov/dfwele/dfw/nhosp/regulatory_review/mesa/mesa_fee_schedule.htm)		

Actions Required to be Completed **BEFORE** Submitting NOI (310 CMR 10.11) Form 3A, Section D and Appendix 1

Required Actions

- Publish Notice in the Environmental Monitor
- NHESP – as appropriate if project is within Estimated Habitat
 - ❖ written determination,
 - ❖ Conservation and Management Permit,
 - ❖ Habitat Management Plan,

Actions Required to be Completed **BEFORE** Submitting NOI (310 CMR 10.11) Form 3A, Section D and Appendix 1

Required Actions

- DMF written determination as to Time of Year restrictions or other conditions for projects in coastal waters with TOY restrictions.
- DFW written determination - Diadromous fish runs.
- 401 WQC if dredge >100 c.y. or dredging any amount in an ORW.

Minimum Required Documents for NOI Submittal (310 CMR 10.12)

Form 3A Section E and Appendix 2



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program

WPA Form 3A - Notice of Intent for an Ecological Restoration Project

MassDEP File Number

City or Town

Proprietary BMPs are included in the Stormwater Management System.

D. Other Applicable Standards and Requirements (cont.)

6. If the Ecological Restoration Project involves the construction, repair, replacement or expansion of infrastructure, an operation and maintenance plan has been submitted to ensure that the infrastructure will continue to function as designed.
7. The project involves the dredging of 100 cubic yards or more of sediment, or dredging of any amount in an Outstanding Resource Water, and a Water Quality Certification issued by the Department pursuant to 314 CMR 9.00 is attached.
8. The Ecological Restoration Project involves work on a stream crossing. Sufficient information has been provided to demonstrate that the design meets the requirements in 310 CMR 10.24(10) for work in coastal resources, and 310 CMR 10.53 (8) for work in an inland resource area.

E. Additional Information

Check each box for required documents that are attached to this Notice of Intent (NOI). See instructions for details.

1. Maps and Plans identifying the location of proposed activities relative to the boundaries of each affected resource area (<http://www.mass.gov/en/research-and-tech/it-serv-and-support/application-serv/office-of-geographic-information-massgis/datalayers/nwi.html>)
2. List the titles and dates for all plans and other materials submitted with this NOI.
- | | |
|--------------------------------------|--------------------------|
| 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 |
3. Attach proof of Natural Heritage and Endangered Species Program written determination, if needed.
4. Attach proof of mailing for Massachusetts Division of Marine Fisheries Time of Year written determination, if needed.
5. Attach NOI Wetland Fee Transmittal Form.
6. Attach Stormwater Report, if needed.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection – Wetlands Program

WPA Form 3A - Notice of Intent for an Ecological Restoration Project

MassDEP File Number

City or Town

Appendix 2: Ecological Restoration Notice of Intent (WPA 3a) - Minimum Required Documents (310 CMR 10.12)

Complete the Required Documents Checklist below and provide supporting materials before submitting a Notice of Intent Application for an Ecological Restoration Project.

This Notice of Intent meets all applicable requirements outlined in for Ecological Restoration Projects in 310 CMR 10.12. Use the checklist below to insure that all documentation is included with the NOI.

At a minimum, a Notice of Intent for an Ecological Restoration Project shall include the following:

- Description of the project's ecological restoration goals;
- The location of the Ecological Restoration Project;
- Description of the construction sequence for completing the project;
- A map of the Areas Subject to Protection Under M.G.L. c. 131, § 40, that will be temporarily or permanently altered by the project or include habitat for Rare Species, Habitat of Potential Regional and Statewide Importance, eel grass beds, or Shellfish Suitability Areas.
- The method for BVW and other resource area boundary delineations (MassDEP BVW Field Data Form(s), Determination of Applicability, Order of Resource Area Delineation, etc.) is attached with documentation methodology.
- List the titles and dates for all plans and other materials submitted with this NOI.
- | | |
|--------------------------------------|--------------------------|
| 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 |
- If there is more than one property owner, attach a list of these property owners not listed on this form.
- Attach NOI Wetland Fee Transmittal Form.
- An evaluation of any flood impacts that may affect the built environment, including without limitation, buildings, wells, septic systems, roads or other man-made structures or infrastructure as well as any proposed flood impact mitigation measures;
- A plan for invasive species prevention and control;

Minimum Required Documents for NOI Submittal (310 CMR 10.12)

Form 3A Section E and Appendix 2

Required Documents

- ER Goals,
- ER Project location,
- Construction sequencing,
- Maps,
- Flood impact study for built environment.

Minimum Required Documents for NOI Submittal (310 CMR 10.12)

Form 3A Section E and Appendix 2

Required Documents

- Plan for controlling invasive species.
- NHESP written determinations.
- TOY restrictions or conditions.
- Proof that notice was published in Environmental Monitor.
- Eligibility criteria certification.
- O&M for infrastructure.

Minimum Required Documents for NOI Submittal (310 CMR 10.12)

Form 3A Section E and Appendix 2

Required Documents

- 401 WQC if needed.
- Info to show a stream crossing design meets requirements of 310 CMR 10.24(10) for coastal or 10.53(8) for inland resource areas.
- Stream crossing baseline documentation.

NOI Submittal for ER Projects

Wildlife Habitat evaluation (310 CMR 10.12(3))

- Exempt if meets 310 CMR 10.12(1) and (2)

Restoration Order of Conditions

310 CMR 10.14, WPA Form 5A

*Ecological restoration projects that meet the eligibility requirements in 310 CMR 10.13 shall be issued a Restoration OOC. (Use **new** WPA Form 5A, Restoration OOC)*

Restoration Order of Conditions

310 CMR 10.14, WPA Form 5A

	Massachusetts Department of Environmental Protection Bureau of Resource Protection - Wetlands WPA Form 5a – Restoration Order of Conditions Massachusetts Wetlands Protection Act M.G.L. c. 131, §40	Provided by MassDEP: MassDEP File # _____ eDEP Transaction # _____ City/Town _____
	A. General Information	
<p><small>Please note: this form has been modified with added space to accommodate the Registry of Deeds Requirements</small></p> <p><small>Important: When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.</small></p> <p><input checked="" type="checkbox"/> No <input type="checkbox"/> Yes</p> <p><input type="checkbox"/> Later</p>	1. From: _____ Conservation Commission	
	2. This issuance is for (check one): <input type="checkbox"/> a. Order of Conditions <input type="checkbox"/> b. Amended Order of Conditions	
	3. To: Applicant:	
	a. First Name _____	b. Last Name _____
	c. Organization _____	
d. Mailing Address _____		
e. City/Town _____	f. State _____	g. Zip Code _____
4. Property Owner (if different from applicant):		
a. First Name _____	b. Last Name _____	
c. Organization _____		
d. Mailing Address _____		
e. City/Town _____	f. State _____	g. Zip Code _____
5. Project Location:		
a. Street Address _____	b. City/Town _____	
c. Assessor's Map/Plat Number _____	d. Parcel/Lot Number _____	



Restoration Order of Conditions

310 CMR 10.14, WPA Form 5A

- Approvals and Denials are based solely on the ability of the project to meet all Eligibility Criteria in 310 CMR 10.13(1) through (7).

Approved subject to:	
<input type="checkbox"/>	The following conditions which are necessary in accordance with the Ecological Restoration eligibility criteria 310 CMR 10.13 (1) through (7) and performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Ecological Restoration Notice of Intent referenced above, the following General Conditions and Special Conditions attached to this Restoration Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Ecological Restoration Notice of Intent, these conditions shall control.
Denied because:	
<input type="checkbox"/>	The proposed work does not meet the eligibility criteria in 310 CMR 10.13(1) through (7). Therefore, work on this project may not go forward unless and until a new Notice of Intent (WPA Form 3 or 3A) is submitted and a Final Order of Conditions (WPA Form 5 or 5A) has been issued. The Commission has determined that following the eligibility criteria have NOT been met.

Restoration Order of Conditions

310 CMR 10.14, WPA Form 5A

- ROCC General Conditions 1-23 under WPA include Stormwater.

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 Restoration Order of Conditions (Restoration Order).
2. The Restoration 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.

23. The work associated with this Order (the "Project")

- (1) applies and is subject to the Massachusetts Stormwater Standards
(2) does not apply and is NOT 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.



Restoration Order of Conditions

310 CMR 10.14, WPA Form 5A

- Special Conditions for each ER project type.

	Massachusetts Department of Environmental Protection Bureau of Resource Protection - Wetlands WPA Form 5a – Restoration Order of Conditions Massachusetts Wetlands Protection Act M.G.L. c. 131, §40	Provided by MassDEP: <input type="text"/> MassDEP File # <input type="text"/> eDEP Transaction # <input type="text"/> City/Town <input type="text"/>
	C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)	
Special Conditions for Ecological Restoration Projects:		
<input type="checkbox"/> Dam Removal		
This project involves dam removal and the following special conditions shall apply in addition to the general conditions set forth in 310 CMR 10.14(1):		
a) An as-built plan and a written statement from a registered professional engineer or other environmental professional expert in ecological restoration certifying substantial compliance with the design plan and construction specifications approved in the Restoration Order of Conditions shall be submitted to the Issuing Authority within 90 days of completion of the dam removal.		
b) The applicant shall monitor the dam removal site during the first two years following completion of the dam removal. Said monitoring shall include a topographic survey of the longitudinal profile and stream cross-sections from downstream of the former dam through the upstream end of the former impoundment. The survey reference point shall comprise a permanent marker or recoverable survey point with known coordinates, such as a fixed point shown on the as-built plan, an existing bench mark, or a new benchmark. That marker should be identified or referenced on the plans and on the as-built plans. The applicant shall establish at least two photo-points for pre- and post-restoration monitoring at the dam removal site. At least one photo-point location shall be chosen to document a view of the dam pre-restoration and to document the same site after the dam is removed. A second location shall be chosen to document a view of the impoundment pre- and post-restoration. Photos shall be taken for two years after the dam removal is completed.		



Restoration Order of Conditions

310 CMR 10.14, WPA Form 5A

- No provisions for Conservation Commissions to issue/ attach additional conditions under WPA.
- Provisions for Local Bylaw decisions are included in Form 5A.

D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? Yes No

2. The 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

Superseding Restoration OOC

Request for Departmental Action (310 CMR 10.05(7))

Appeal of Restoration OOC (310 CMR 10.05(7))

- ✓ “When the Order is a Restoration Order of Conditions, *the basis of the request is limited to claim(s) that the applicant did not comply with one or more of the applicable procedural requirements of 310 CMR 10.05 and/or the conservation commission issued the General Order of Conditions in contravention of one or more of the applicable eligibility criteria.* The request for Department action shall specifically identify any procedural requirements and eligibility criteria that the person requesting Department action alleges have not been met.



Ecological Restoration Forms

<http://www.mass.gov/eea/agencies/massdep/water/approvals/wetlands-and-waterways-forms.html>