FEASIBILITY OF PERMIT STREAMLINING AND RECOMMENDATIONS FOR NEW MULTI-AGENCY REVIEW AND APPROVAL

External Stakeholders
Team Meeting #1

February 27, 2025



AGENDA

- Tasks Completed
- Tasks Underway
- What are We Looking to Do Today
- Working Session: 8 Categories of the Permitting Process
 - Identification of Permitting Impediments, Challenges, Delays, Clarification Needs
 - Suggestions to Clarify/Streamline per Category
- Ideas for Permit Streamlining
 - Short and Long-Term Goals
- Next Meeting Case Study Review
 - Send in Project Examples





Tasks Completed to Date

Task 4 of 8: REVIEW AND ANALYZE EXISTING PERMITTING PROCESS AND REQUIREMENTS

- Reviewed Inconsistencies in Regulations
- Obstacles for Streamlining
- Review the Following Topics:

Resource Areas

Thresholds

Exemptions

Permitting Process

Schedules and Review Timelines

Agency Actions

Submittal and Notification Requirements







Status – Initial Analysis Completed

What We've Completed to Date

- Prepared a large matrix of all the regulations
- Definitions, Exemptions, Timeline, Resource Area Terminology Tables
- Flow Charts
- Met with Internal DEP/EEA Streamlining Group

Conducted Analysis of the Compiled Matrix, Tables, Flow Charts

• Identified Overlaps, Inconsistencies, Areas for Improvement

Developed Themes, Big Picture Items

Started Developing Goals for Streamlining





Tasks Currently Working On

- Task 5 Other States Streamlining Review
 - 2 Main Types of Streamlining in Other States
 - 1. Major Updates to Regulations
 - 2. Timeline Expediting (Issue permits in Specific Timeframe)
- Tasks 6 and 7 Develop Detailed Short and Long-Term Ideas/Goals for Streamlining
 - Across multiple agencies
 - Task 7.3: Alternative, simplified pathways for application review and/or submittal for Waterways approvals that promote climate resiliency and ecological restoration
- Future: Task 8 Technology Review





What Are We Looking To Do Today?

- What are some Impediments/Challenges to Permitting
- Where can Improvements be made?
- Delve into 8 Categories of Permitting
- Regulations Included:
 - ✓ WPA
- ✓ MESA

✓ WQC

✓ CZM

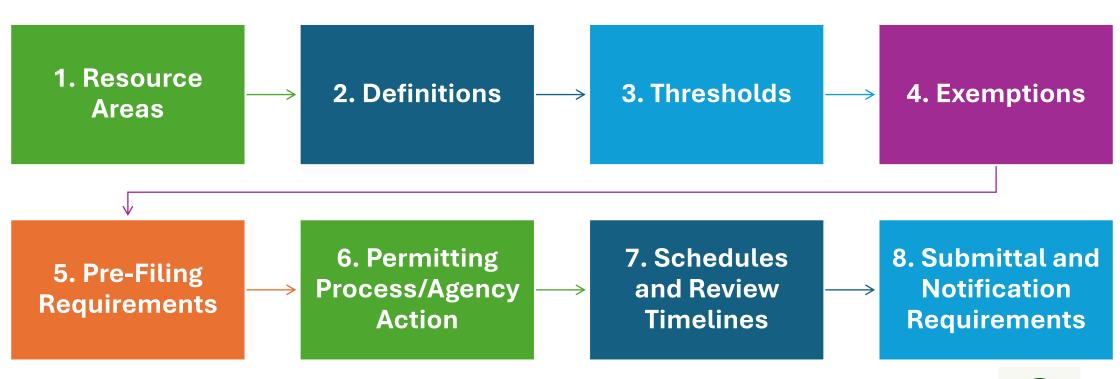
✓ MEPA

- ✓ DMF
- ✓ CHAPTER 91





8 Categories of the Permitting Process – Breakout to Review for Potential Streamlining







Expediting the Permitting Process – Let's Starting Thinking About it

- Common Requirements Already Known That Can't Change
 - Public Notification, Application Form and Narrative, Resource Area Delineation/Description, Proposed Plan with impact
- Specific Things Each Agency/Permit Needs
- Things that Can be Done **Easily** to Make Requirements Consistent and Concise
 - How do we standardize, consolidate with minimal regulation changes?
- Let's Discuss Some of the Challenges to the Permitting Process
- Then Identify Short-Term, Easy Goals to Clarify and Consolidate





#1 - Establishing Jurisdiction Resource Areas and Boundaries

What Are Some Impediments to Clear, Concise Jurisdictional Area/Resource Area Definitions

- Coastal & Inland Areas Many Different Definitions See Next Slide
- River/Stream how does it need to be defined? River, Stream, Creek, Brook, Surface Water, Waterways
- Those below MHW (WQC, Chapter 91)
- Upland Jurisdictional Areas e.g BLSF, Isolated Land Subject to Flooding, Riverfront Area, Buffer Zones (WPA)

Boundaries – Which do you use?

How are these depicted on a common plan set or map?

What are some challenges you've experienced with determining Jurisdiction?







Land under Coastal Water Land Under Estuaries Land under the Ocean Land under Ponds Anadromous/Catadro mous ("Fish Run") Land under Rivers Land under Creeks Coastal Zone Coastal Zone Mapped on the Coastal Atlas (identified by DMF) Within the Rise and Fall of the Tide and the Marine Limits Mapped on the Coastal Atlas (identified by DMF) Within the Rise and Fall of the Tide and the Marine Limits Designated Port Areas Coastal Dunes Coastal Dunes Coastal Dunes Coastal Banks Land under Salt Ponds Land under Salt Pond Mean High Water Line	·
Coastal Waters Coastal Waters Within the Rise and Fall of the Tide and the Marine Limits Within the rise and fall of the tide and the marine limits Designated Port Areas Coastal Dunes Dune Does not use water line reference	/ Guide)
Coastal Waters Waterbody Within the Rise and Fall of the Tide and the Marine Limits Within the rise and fall of the tide and the marine limits Designated Port Areas Coastal Dunes Dune Does not use water line reference	
Designated Port Areas Coastal Dune Does not use water line reference	
Coastal Dunes Dune Does not use water line reference	
Land under Salt Ponds Land under Salt Pond Mean High Water Line	
Land Under Ocean Land under Ocean Mean Low Water Line	
Ocean Sanctuary Ocean Areas defined in M.G.L. c. 132A, § 13 and 302 CMR 5.00: Ocean S	Sanctuaries.
Rocky Intertidal Shores Shore Mean High Water Line Mean Low Water Line	
Coastal Wetland Salt Marshes Salt Meadow Highest High Tide Line (Highest Spring Tide) Salt Marsh	
Submerged Lands Coastal Beach Tidelands Filled Tidelands Flowed Tidelands High Water Mark	
Waterways Atlantic Ocean within the Commonwealth High Water Mark	
Shoreline Shore High Water Mark	

	Resource Areas	Resource Area Types	Boundary						
	WOTUS	WOTUS	High Water Mark						
ے	Surface Waters	Surface Waters	Mean High Tide Line						
Both	Base Flood Elevation	Coastal High Hazard Area Velocity Zone Floodway	Mapped by FEMA						
	Waterway	Navigable River Navigable Stream Non-Tidal Rivers	High Water Mark						
	Shoreline	Great Pond	Historic High Water Mark Historic Low Water Mark Natural High Water Mark Natural Low Water Mark						
Inland	Inland Waters	Inland Waters	Ordinary High Water Line						
	Bank	Naturally Occurring Banks and Beaches	Mean Annual Flood Level Mean Annual Low Flow Level						
	Bordering Vegetated Wetlands	Wet Meadows Marshes Swamps Bogs	Does not use water line reference						
	Land Subject to Flooding (Bordering and Isolated Areas)	Floodplain Floodway Waterway Waterbody	Mapped by FEMA						
	Land under Water Bodies and Waterways	Creek River Stream Pond Lake	Mean Annual Low Water Level						
	Riverfront Area	River Stream	Mean Annual High Water Line						

Color Coding
WPA - 310 CMR 10.00
Ch 91 - 310 CMR 20.00
CZM - 301 CMR 20.00
DMF - 322 CMR
WQC - 314 CMR 9.00
ACEC - 301 CMR 12.00
MESA - 321 CMR 10.00
MEPA - 301 CMR 11.00

Establishing Jurisdiction - What Resource Areas and Boundaries?

Various Coastal & Inland Resource Areas Terms and Definitions Vary Between Statutes, Regulations, & Programs

#1 - Resource Areas and Jurisdictional Boundaries Clarifications and Streamlining Suggestions

- Consistency in resource area terminology, definitions, and boundary limits
- Clearly define which jurisdictional boundaries need to be shown on a common plan
- Clarification on those boundaries that need field delineation and those that can be obtained from public documentation/mapping
- What else?



#2 - Definitions What are Some Problematic/Confusing Definitions?

Are there Specific Definitions that Need Clarification?

- A few Definitions that could be Problematic:
 - Restoration
 - Resilience
 - Green Infrastructure/Nature Based Solutions
 - Impact
 - Replacement Project (MEPA)
 - Culverts/Bridge
 - Maintenance
 - Significant
 - What else?





#2 - Definitions Clarifications and Streamlining Suggestions

- Clear, concise definitions that match across regulations.
- What else?





#3 - Permitting Thresholds What are some Challenges?

- How to quantify Project impacts?
 - Impact defined as or quantified by "alteration, affect, effects, damage, dredge, fill, loss"
 - How is "Maintenance" defined in each permit program/regulation?
- Thresholds Which impact type do you use?
 - How to quantify impacts under each regulatory threshold in the same resource area? (e.g. "loss of," "dredge of" or "discharge of fill within" wetlands)
 - Subjective quantification of "substantial," "significant," or "adverse"?
- Regulatory specific thresholds (such as MEPA, WQC, etc) Have you come across Threshold related challenges?



#3 - Permitting Thresholds Clarifications and Streamlining Suggestions

- Consolidate similar impact types into single reporting category
- Align and clearly define "substantial," "significant," and other qualifying terms
- What else?



#4 - Exemptions Challenges or Clarification Needed?

Project Specific Exemptions

- <u>Utility Projects</u>
 - Utility Maintenance under WPA 310 CMR 10.02(2)(a)2
 - Maintenance/Replacement under MEPA Not well defined
 - Based on the term "significant"
 - MESA exemptions (need approved O&M plan or within 10 feet of road)
- Ecological Restoration Projects
 - Many Regulations do not have exemptions for ecological restoration
 - MEPA Exemption for Ecological Restoration requires review and not likely for larger restoration projects
 - Chapter 91 Culvert Replacements (only inland, not enlarging), "removals of structures" with conditions
 - Limited Project provisions

Other Exemption Considerations

- Exemptions are not consistent across Regulations
- Maintenance Exemptions
 - Term "Maintenance" is broadly defined differently across the regulations
- For Chapter 91 "exemption" does not necessarily mean work can move forward, typically require confirmation and approval
- If in the coastal environment, exemptions typically do not apply
- Activity itself may be exempt. However, the associated BMPs (i.e. construction matting) may not be and could then trigger significant permitting.



#4 - Exemptions Clarifications and Streamlining Suggestions

- Clear, aligned Exemptions consistent across regulations in both inland and coastal environments
- Can Ecological Restoration Projects (in inland and coastal environments) such as simple culvert replacements that meet stream crossing guidelines be exempt?
- · What else?





#5 - Pre-Filing Requirements Challenges?

Some Example Pre-Filing Requirements

- WPA Requires pre-filing reviews and activities before filing/hearing: WHEs, DMF review (coastal), NHESP approval if in Estimated Habitat, abutter notifications, DCR Dam Safety Review (if a dam)
- MEPA Requires EJ Outreach 45-90 days prior to filing
- Environmental Monitor and Newspaper public notices different timelines and requirements, triggers
- MESA Habitat Management Plans (coastal), evaluations, surveys
- WQC Dredging Hydrologic Modeling, Sediment and Grain Size Analysis
- "Other Reviews": MHC, DCR Watershed Protection Act, etc.
- Pre-Application Meetings Required or Recommended





#5 - Pre-Filing Requirements Clarifications and Streamlining Suggestions

- 1 Pre-Application Meeting with all agencies
- Clear consistent requirements and timelines to complete (such as 1 Environmental Monitor Post and Newspaper Public Notice)
- Ensuring Proper and Adequate Outreach (MEPA – EJ)
- What else?



#6 - Permitting Process/Agency Action What are Some Challenges?

Alignment of Stakeholder/Agency Review

- Varying Scope of Jurisdiction
- Consultations and Reviews (e.g. MESA vs Federal ESA, CZM under MEPA/CH. 91 or Section) 404)
- Timing of materials submittal When to develop "100% Design"

Public Involvement Process

- How to align WPA Municipal Review in Public Hearing with other, State-driven Permitting Processes?
- MEPA EJ Outreach and Public Comments

Other Challenges?

- Applicant is often left out of the permit condition review process.
- Multiple requests for additional information/design changes from different agencies.





Permitting Processes: Existing Streamlining Available

Regulatory Program	Description	Benefits	Concerns					
DEP Fast Track Permitting	Allows certain types of qualifying projects (including those that will promote renewable energy) to have negotiated permitting schedules and fees for DEP permits and regulatory reviews. The applicant is required to pay for DEP's time, but only if DEP meets its commitments on time.	 Single point of contact at DEP Covers all DEP permits Negotiated schedule can reduce administrative review time DEP has incentive to meet negotiated timelines 	 DEP program oversubscribed DEP lacks sufficient resources to meet demand Negotiating a Fast Track agreement can take several months Only addresses DEP's role – it is not a complete solution Permits still require separate applications and processes Due to resource constraints, DEP cannot meet deadlines and requests extensions that applicants are unlikely to deny for a variety of reasons 					
MEPA Alternative Review Procedures	MEPA contains a number of alternative review procedures that could expedite the MEPA process including: EIR Waivers, Single EIR, Special Review Procedures	 An EIR waiver can save several months of review A Single EIR can save 3-4 months Special Review Procedures can be designed to minimize review times 	 EIR waivers are rarely granted Single EIR waivers are more routinely granted, but still result in a 6-9 month MEPA process Special Review Procedures are rarely invoked and can take substantial time to develop and execute 					
DEP Combined Applications/ Permits	DEP's regulations allow applicants that require multiple authorizations (e.g. a Chapter 91 license/permit and a WQC) to file a combined application and receive a combined permit	 Relieves some of the burden of multiple permit applications 	 In practice, Combined Applications do not tend to save time since it does not reduce the timeframe for the long-lead permit (usually the Chapter 91 license/permit) 					
Joint MEPA EIR/Chapter 91 Application	DEP's Chapter 91 regulations allow for a consolidated process that utilizes the EIR to provide the information necessary for a Chapter 91 license application	Relieves some of the burden of multiple permit applications	Does not alter the sequencing issues with MEPA and Chapter 91 – the Chapter 91 process follows MEPA and the timelines					

^{*}Source - Research conducted as part of the Infrastructure Green Energy Streamlining

#6 - Permitting Process/ **Agency Action** Clarifications and Streamlining Suggestions

- Comprehensive Agency Review Process
- Comprehensive Public Involvement/ Notification **Process**
- Are there elements of the existing streamlining methods that work (or really don't work)
- Standardize permit conditions (with special conditions as needed) and mitigation requirements
 - Develop automatic conditions if exceed specific conditions. For example – TOY restrictions if in rare species habitat or cold-water fisheries.
- Allow applicant to review permit conditions before it is signed and issued (provide a timeline for comments/edits)
- What else?





#7 - Schedules and Timelines What are Some Challenges?

Timeline Analysis Comparison									
Permit/Certificate/Review	Experience	Regulation	310 CMR 4.00/"Schedule"						
MEPA EENF	37	37	Not identified						
MEPA SEIR	180	37	Not identified						
401 WQC/Ch. 91 Combined (WW26)	180	Regulation text: see 310 CMR 4.00	372						
CH. 91 Water Dependent Use (WW26 License)	360	195*	372						
MESA Consultation and Checklist	95	120	Not identified						
CZM Consistency Review	30	210	Not identified						
DMF	30	Not identified	Not identified						
WPA NOI	60	63**	63						

Permit Sequencing

- Permitting tends to be on a linear path, with little opportunity for overlap.
 - Ex: State permits cannot be issued prior to Final MEPA certificate
 - Ex: Order of Conditions if obtained too early, risk of needing to amend to include changes in design or mitigation. Also, risk of permit expirations.

Timeline Reviews Inconsistent

- Not consistent between 3 different documents (Regulations, 310 CMR 4.00 and "Schedule") and applicant experience
- Coastal Projects tend to have longer review periods

Multiple Pre-filing meetings

- Not always required and often held at different points in the process (permit dependent)
- Pre-filing reviewers/personnel not always consistent through project duration







#7 - Review Timelines Delays - Why?

What is your experience with agency review timelines

- What did you find were the reasons for delays?
- Let's Discuss





#7 - Schedules and Timelines Clarifications and Streamlining Suggestions

- Clear, defined review timelines detailed in one location that are followed by agencies
- Allow for overlapping reviews to avoid multiple and redundant reviews and appeals
- Hold one pre-filing meeting with all Regulators
- Maintain the same project reviewers as those engaged in the pre-filing meetings (if possible)
- Inter-agency cooperation between project reviewers (appointed during pre-filing coordination)
- Create expedited review eligibility/support for simple projects (e.g. transportation/utilities using approved BMPs, Simplified Procedures under Chapter 91, Ecological Restoration Projects). Consider an expedited appeal process.
- What else?
- What can we do to meet these goals?
 - Staff procurement?





Permitting/Submittal Redundancies

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	Federal									State	9				Local					
Agency and Community Outreach/Pre-App Consults	٧		٧	٧	٧	٧	٧	٧		٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	
Air Quality						٧	٧						٧							
Alternatives Analysis						٧	٧	٧												
Areas of Critical Environmental Concern			٧	٧		٧		٧												
Coastal Zone Management		٧	٧	٧		٧								٧						
Climate Change Adaptation and Resiliency						٧	٧							٧		٧			٧	
Consistency with Local Planning						٧	٧	٧						٧	٧			٧	٧	
Construction Access		٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧							٧	
Construction Schedule & Sequence		٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧		٧	٧	٧		٧	٧	
Construction Work Hours							٧									٧		٧	٧	
Environmental Justice Populations						٧	٧						٧			٧				
Established Best Management Practices	٧	٧	٧	٧	٧			٧	٧	٧	٧	٧	٧	٧	٧			٧		
Existing Conditions	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	
Greenhouse Gas Analysis						٧														
Historic and Archeological Resources			٧	٧	٧	٧	٧		٧		٧			٧						
Minimization of Project Impacts	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	
Mitigation Measures	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	
Noise	٧				٧	٧	٧		٧							٧		٧	٧	
Project Purpose and Need	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧		٧	٧	
Public Hearing/Comment Period	٧		٧	٧		٧	٧	٧					٧	٧	٧	٧	٧	٧	٧	
Public Lands and Article 97			٧	٧		٧	٧				٧					٧		٧	٧	
Public Notice	٧		٧	٧		٧	٧	٧					٧	٧	٧	٧	٧	٧	٧	
Public Shade Trees						٧	٧									٧	٧		٧	
Regulatory Compliance	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	٧	
Safety and Public Health Considerations						٧	٧					٧				٧		٧	٧	
Solid and Hazardous Waste						٧	V	٧						٧					٧	
Stormwater		V	٧			٧	П	٧			٧			٧	٧				٧	
Traffic and Transportation						٧	٧					٧				٧		٧	٧	
Visual Impact Assessment					٧	٧	٧		٧					٧		٧		٧		
Watercourse Waterways and Tidelands			٧	٧		٧	V	٧						٧	٧					
Wetland Delineation Methodology			٧			٧	V	٧							V					
Wetland Impacts & Mitigation			٧			٧	V	٧							٧					
Wildlife Habitat Assessment and Mitigation	٧					٧	٧	٧		٧					٧					

#8 – Submittal Requirements Different Forms for Each Permit Application

Different Application forms with specific requirements (i.e. WPA Form, ENF Form WW 26, MESA Project Checklist, etc.)

- Site/Work info
- Owner Permission: Abutter notifications
- Fee Form
- Impacts, For Example:
 - o Proposed alteration and proposed replacement; SF of temporary and permanent alteration to Resource Areas
 - Buffer Zone and Riverfront Area (WPA)
 - Dredge Area in SF and CY (WQC/CH 91)
 - Loss from Fill/Excavation (WQC/CH 91)
 - Grain Size Analysis, Sediment Sampling info (WQC)
 - Total site disturbance, Total site acreage (MESA)

MEPA's form is quite large and includes information on many non-wetland/water resource items (i.e. Air Quality, Climate Change, Transportation, EJ etc.)

BSC GROUP

Do you have any specific concerns or challenges with the forms for the various applications?

#8 – Submittal Requirements - Forms Clarifications and Streamlining Suggestions

 What are Some Clarifications and Suggestions for Streamlining Specific to Application Forms

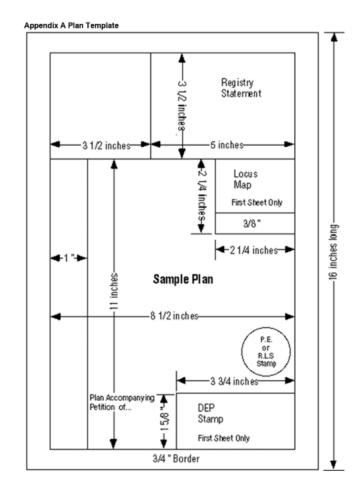
Let's Discuss



#8 – Submittal Requirements Plan Requirements for Each Application

What Plans and Plan Requirements to be Submitted?

- Site/Work info
- Locus Plan
- Plan Showing Resource Areas, Boundaries and Impacts
- Stormwater Management Plan (WPA, WQC)
- Assessor's Map (MESA)
- Plan Size?
- Dredge and Disposal Operation Plan (WQC)



CHAPTER 91 PLAN TEMPLATE



#8 – Submittal Requirements – Plan Sets Clarifications and Streamlining Suggestions

- What Items that can be clarified for plan sets?
- What are some clarifications and suggestions for Streamlining Specific to Plans and Plan sets?
- Let's Discuss.



#8 – Submittal Requirements Different Project Narrative Requirements and Other Information Needed

Project Narrative Requirements

- Different agencies have different requirements for narrative.
 - Thresholds, existing conditions, proposed conditions, assessment of environmental impacts often needs to be provided
 - WQC/Chapter 91 narratives tend to be more robust and describe the entire project. Where as NOIs – focus on jurisdictional work only, less descriptive.
 - MEPA: Need to include details on Environmental Health, Climate Change, EJ, etc. – not required in other regulations
 - Alternative Analysis
 - Avoidance and Minimization and/or Mitigation Plans
 - Potential to impact docks, piers, boat ramps;
 Structures; Potential to impact water supplies (private, agricultural, or surface water withdrawals) (CH 91)
 - Public Health, EJ, Climate Change (RMAT), etc. impacts (MEPA)
 - ACEC, Article 97 (MEPA)

Other information to provide

- WPA WHEs (not for coastal resource areas)
- MESA Plant and Animal observations, Survey Reports, Habitat Evaluations, Habitat Management Plan
- WQC (dredging) Sediment and Grain Size Analysis
- Evidence of Pre-Filing Meeting (WQC, MEPA, others)
- Evidence of Public Notice (Chapter 91, MEPA, etc)



7 – Submittal Requirements Narratives – Clarification and Streamlining Suggestions

- What Items that can be clarified for narratives?
- What are some clarifications and suggestions for Streamlining Specific to application narratives?

Let's Discuss.

#8 - Submittal Requirements Streamlining Suggestions

- Clear, concise Checklists for application package narrative, figures, plans, abutter notification, etc.
- Plans:
 - One plan set that meets all the requirements for the Regulations. Includes the required boundary and jurisdictional limits with a common scale, datum, size
 - Checklist for plan sheets needed such as dredge and disposal operation plan, EJ
- Single Public Notification
 - Can online portal help publish to the *Environmental Monitor* in the correct format?
- Applicant submits a single application into an online Portal "form" that incorporates all the necessary information for each regulation
- One submittal mechanism for the One application One Online Portal
 - Communication and/or clear digital tracking of Review Status within portal/platform
 - Remains "open" for submittal of supplemental information
 - Applicant may receive permit issuances through online portal
 - Can the online portal schedule a public hearing?
- What else?



Group Discussion - Ideas for Streamlining



Quick and Easy Solutions

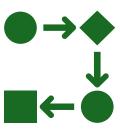
Ecological Restoration Project – Its own streamline process

Checklists

Streamline Timeline Reviews

Joint Pre-Filing/Project Planning Meetings

What else?



Longer, Complex Solutions

Comprehensive, multi-agency review process

Single portal/platform to digitally upload application materials

What else?





Specific Project Case Studies and Examples of Delays

- Use Form/Template (To be provided)
- Send it in 1 week Due March 7th
- Next Meeting Discussion March 26th



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Rebecca L. Tepper Secretary

Commissioner

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Governor

Permit Streamlining – Project Feedback

The Executive Office of Environmental Affairs (EEA) and MassDEP seek your feedback to assist with the goals of permit streamlining. Have you had an experience where a wetlands or water permit took longer than expected to obtain, or have you had other difficulties during permit application review? We would like to hear about your experience. Please complete the information below and send to lisa.rhodes@mass.gov. Thank you very much.

Information below and send to <u>lisa.rhodes@mass.gov</u>. Thank you very project Name:

Project Town:

Project Proponent:

Regulation Requiring Permit:

Permit File or Transaction number:

Date Filed:

Date Permit Issued:

Short description of delay or problem experienced – Please be as specific as possible about what you believe to be the cause of the delay:

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Name and Contact info (if desired):

We appreciate your time to complete this form, Thank You!