



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Maura T. Healey
Governor

Kimberley Driscoll
Lieutenant Governor

Division of Water Pollution Control

Rebecca L. Tepper
Secretary

Bonnie Heiple
Commissioner

NOTICE OF PUBLIC HEARING

This Public Hearing Notice is available in alternative languages (Español -- Tiếng Việt -- Chinese -- Kreyòl Ayisyen -- Português -- Khmer) on MassDEP's website at: <https://www.mass.gov/service-details/massdep-public-hearings-comment-opportunities>

Notice is hereby given that the Department of Environmental Protection (MassDEP), under its authority pursuant to M.G.L. c. 131, § 40, is proposing amendments to its regulations at 310 CMR 10.00, *Wetlands Protection*, and under its authority pursuant to M.G.L. c. 21, §§ 26 - 53, is proposing amendments to its regulations at 314 CMR 9.00: *401 Water Quality Certification for Discharges of Dredged or Fill Material, Dredging, and Dredged Material Disposal in Waters of the United States Within the Commonwealth*. MassDEP is proposing these amendments to accomplish key climate resilience and environmental goals including updates related to precipitation estimates and stormwater management, and new provisions for Land Subject to Coastal Storm Flowage (LSCSF).

The proposed regulatory text and a notice to reviewers are available with a copy of this Public Hearing Notice on MassDEP's website at: <https://www.mass.gov/service-details/massdep-public-hearings-comment-opportunities>

MassDEP will hold three virtual public hearings under the provisions of M.G.L. c. 30A on the following dates to receive comments on the proposed changes. The hearings will be conducted virtually via Zoom and **advance registration is required**. After registering, you will receive a confirmation email with the information needed to join the meeting from your computer, tablet, or smartphone or to dial in using your phone.

Wednesday, January 31, 2024 at 1:00 PM

Please use this link to register in advance for this hearing:

https://us06web.zoom.us/meeting/register/tZMvcuirqDwvGdRitloQan70koiTgaA_Pt9

Wednesday, January 31, 2024 at 6:00 PM

Please use this link to register in advance for this hearing:

<https://us06web.zoom.us/meeting/register/tZYkduuqpjovHdAzJ539pqn-lQalZ9izohxA>

Thursday, February 1, 2024 at 1:00 PM

Please use this link to register in advance for this hearing:

https://us06web.zoom.us/meeting/register/tZwodOyhpzgsEtR570Cs_gN9GvnyvvNLsfpw

This information is available in alternate format. Please contact Melixza Esenyie at 617-626-1282.
TTY# MassRelay Service 1-800-439-2370
MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

Testimony may be presented orally at the public hearing. Written comments will be accepted through 5:00pm on **March 1, 2024**. The Department encourages electronic submission by email to dep.wetlands@mass.gov and must include *Wetlands-401 Resilience Comments* in the subject line. In lieu of electronic submittal, paper comments may be mailed to Lisa Rhodes, Attn: *Wetlands-401 Resilience Comments*, MassDEP – BWR, 100 Cambridge Street, Suite 900, Boston, MA 02114.

For special accommodations for these hearings, please call the MassDEP Diversity Office at 617-292-5751. TTY# MassRelay Service 1-800-439-2370. This information is available in alternate format upon request. MassDEP provides language access interpreter/translation services to limited English proficient individuals free of charge. If you need an interpreter to participate in this meeting, translation services can be found at the following link: <https://www.mass.gov/info-details/massdep-language-translation-assistance>.

By Order of the Department of Environmental Protection
Bonnie Heiple, Commissioner

Small Business Impact Statement

(As required by M.G.L. c. 30A §§ 2, 3 & 5)

CMR No: 314 CMR 9.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 500 (estimated number of businesses proposing work in resource areas annually).

Select Yes or No and Briefly Explain

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to create, file, or issue additional reports? No, the proposed amendments do not increase the number of reports.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No, the proposed amendments do not require additional recordkeeping procedures.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No, the proposed amendments do not require additional administrative oversight.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to hire additional employees in order to comply with the proposed regulation? No, the proposed amendments will not require hiring additional employees.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does compliance with the regulation require small businesses to hire other professionals (e.g. a lawyer, accountant, engineer, etc.)? The hiring of additional professionals to ensure compliance is not expected.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to purchase a product or make any other capital investments in order to comply with the regulation? No, the proposed amendments do not require the purchase of products or specific capital investments.
Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Are performance standards more appropriate than design/operational standards to accomplish the regulatory objective? (Performance standards express requirements in terms of outcomes, giving the regulated party flexibility to achieve regulatory objectives and design/operational standards specify exactly what actions regulated parties must take.) The proposed regulations include flexibility to achieve objectives by relying extensively on performance standards for stormwater design and the conditioning of activities in Land Subject to Coastal Storm Flowage (LSCSF).
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No. The stormwater standards of the wetlands regulations are proposed to align with the EPA MS4 General Permit to the extent possible. The Massachusetts State Building Code contains standards for building materials and construction, which do not duplicate or conflict with the proposed LSCSF regulations governing siting and performance standards to protect resource areas.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to cooperate with audits, inspections or other regulatory enforcement activities? The proposed regulations do not add any new requirements in this regard. MassDEP has always had the ability to perform inspections to ensure compliance with permit conditions and may conduct enforcement as needed.

Yes <input type="checkbox"/>	<u>No</u> <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No. The proposed regulations do not require provision of educational services.
Yes <input type="checkbox"/>	<u>No</u> <input checked="" type="checkbox"/>	Is the regulation likely to <i>deter</i> the formation of small businesses in Massachusetts? No. The proposed regulations are not likely to deter the formation of small businesses.
Yes <input type="checkbox"/>	<u>No</u> <input checked="" type="checkbox"/>	Is the regulation likely to <i>encourage</i> the formation of small businesses in Massachusetts? No. The proposed regulations are not likely to encourage the formation of small businesses.
Yes <input type="checkbox"/>	<u>No</u> <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? No, the proposed regulations do not provide less stringent compliance and reporting requirements for small businesses.
Yes <input type="checkbox"/>	<u>No</u> <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? No, the proposed regulations do not establish less stringent schedules or deadlines for small businesses.
Yes <input type="checkbox"/>	<u>No</u> <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? No, the proposed regulations do not consolidate or simplify requirements for small businesses.
Yes <input checked="" type="checkbox"/>	<u>No</u> <input type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? The regulations are written as performance standards. For projects proposed in wetland resource areas, the use of performance standards has proven to work best for applicants, including small businesses. Conservation commissions and MassDEP have found the use of performance standards to be efficient and effective for program implementation.
Yes <input type="checkbox"/>	<u>No</u> <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? MassDEP's proposal does not include alternative methods to minimize impacts to small businesses. However, all affected businesses could benefit from the potential cost-savings achieved through the implementation of environmentally sensitive site design. Also, businesses will benefit from reduced costs due to reduction in costs associated with water pollution, flooding, and storm damage.