



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Waterways Regulations: Revised Notice of Extension of Comment Period

A Public Hearing Notice was published in the Massachusetts Register by the Massachusetts Secretary of State on December 22, 2023. Through this revised Notice, MassDEP is providing an extension of the comment period until 5 p.m. on April 30, 2024

This Revised Notice of Public Hearings with Extension of Written Comment Period 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 Massachusetts Department of Environmental Protection (MassDEP), under its authority pursuant to M.G.L. c. 91, § 18, is proposing regulatory amendments to 310 CMR 9.00 *The Massachusetts Waterways Regulation*. These amendments would require license and permit applications filed pursuant to M.G.L. c. 91 and 310 CMR 9.00 to consider the effects of climate change in certain respects. The proposed revisions are consistent with proposed revisions to the Massachusetts Wetland Regulations at 310 CMR 10.00.

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>

Public Comments and Hearings

MassDEP conducted two public information sessions and two public hearings in January 2024. The presentation materials and recordings are available on MassDEP's website and YouTube channel at <https://www.mass.gov/regulations/310-CMR-900-the-massachusetts-waterways-regulation#proposed-amendments-public-comment>

Extension of Comment Period and Additional Office Hours Sessions:

The comment period has been extended until 5:00 p.m. on April 30, 2024.

MassDEP will conduct three additional Office Hours Sessions:

These sessions are an opportunity for question and answer on the proposed regulations; stakeholders are encouraged to submit questions in advance. For additional information about the Office Hours Sessions, please visit: <https://www.mass.gov/regulations/310-CMR-900-the-massachusetts-waterways-regulation#proposed-amendments-public-comment>

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

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- Monday February 26, 2024 at 1:00 p.m. (remote only) Please use this link to register in advance: <https://us06web.zoom.us/meeting/register/tZluduiprjliEt1XdE4I7BoTioyGlijDeNuyu>
- Thursday March 14, 2024 at 1:30 p.m. (remote only) Please use this link to register in advance: <https://us06web.zoom.us/meeting/register/tZYkcuutqTlpHN17Mi2IDNlkh5m0e18NGZiR>
- Wednesday April 3, 2024 at 1:30 p.m. (remote only) Please use this link to register in advance: <https://us06web.zoom.us/meeting/register/tZwtf-urrTgsH9R7AbCjaHaVDDate53XGEg6>

Written comments will be accepted through 5:00pm on **April 30, 2024**. The Department encourages electronic submission by email to dep.waterways@mass.gov and must include *Waterways Resilience Comments* in the subject line. In lieu of electronic submittal, paper comments may be mailed to Daniel Padien, Attn: *Waterways 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: 310 CMR 9.00

Estimate of the Number of Small Businesses Impacted by the Regulation: 1,800 – 3,500

There is no authoritative dataset from which to determine the number of small businesses within geographic areas subject to 310 CMR 9.00. Furthermore, the number of such small businesses fluctuates greatly from year to year and seasonally, particularly in coastal communities. Many, if not all, small businesses subject 310 CMR 9.00 seeking new or amended Waterways Licenses to modify structures in jurisdictional areas will be affected by these revisions in some way through requiring applicants/licensees to consider the potential effects of sea level rise at time of licensure. See more detailed descriptions of potential impacts below.

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 additional reports will be required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to implement additional recordkeeping procedures? No additional recordkeeping will be required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Will small businesses have to provide additional administrative oversight? No additional administrative oversight will be required.
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 additional employees should be necessary under the draft regulations.
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.)? No additional professional employees should be required under the draft regulations.
Yes <input checked="" type="checkbox"/>	No <input 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? Small businesses may need to make investments to protect their properties from flooding and storm damage, but these proposed regulations should not increase those costs, and likely will reduce costs.
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 are performance standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Do any other regulations duplicate or conflict with the proposed regulation? No other regulations duplicate or conflict with the draft regulation.
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 amendments do not add any additional requirements as to inspection or enforcement.

Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation require small businesses to provide educational services to keep up to date with regulatory requirements? No educational services will be required.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to deter the formation of small businesses in Massachusetts? The proposed regulation will have no effect on the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Is the regulation likely to encourage the formation of small businesses in Massachusetts? The proposed regulation will have no effect on the formation of small businesses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation provide for less stringent compliance or reporting requirements for small businesses? The proposed regulation does not contain reporting requirements.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Does the regulation establish less stringent schedules or deadlines for compliance or reporting requirements for small businesses? The proposed regulations do not contain schedules for compliance or reporting, with the exception of license renewal which are determined by the terms of existing licenses.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Did the agency consolidate or simplify compliance or reporting requirements for small businesses? The proposed regulations do not contain compliance or reporting requirements. The proposed performance standards are simple and straightforward.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Can performance standards for small businesses replace design or operational standards without hindering delivery of the regulatory objective? The proposed regulations contain performance standards.
Yes <input type="checkbox"/>	No <input checked="" type="checkbox"/>	Are there alternative regulatory methods that would minimize the adverse impact on small businesses? The proposed amendments will not adversely impact small businesses.