



Floating Solar Photovoltaic Projects

Frequently Asked Questions – FAQs: Waterways Program (Chapter 91)

Answers to questions related to floating solar projects for applicants and the public.

Is electric power generation by photovoltaic cells, installed via floating solar arrays, regulated as a water-dependent use or a non-water dependent use under Chapter 91?

Electric power generation from floating solar panels is regulated as a nonwater-dependent use because power generation from photovoltaic cells does not require direct access to or location in tidal or inland waters, and therefore can be located away from said waters (310 CMR 9.12(2)). Furthermore, floating solar panels do not meet the standards for Accessory Uses (310 CMR 9.12(2) and 310 CMR 9.12(3)). Uses not determined to be either water dependent or accessory to a water dependent use are deemed nonwater-dependent pursuant to 310 CMR 9.12(4).

May floating solar arrays be licensed under Chapter 91 on Great Ponds of the Commonwealth?

No. As stated above, power generation via photovoltaic cells is a nonwater dependent use that does not require direct access to the waters of a Great Pond. Nonwater dependent uses are not eligible for licensing on the waters of a Great Pond because they do not comply with the *Categorical Restrictions on Fill and Structures* for Great Ponds established by 310 CMR 9.32(1)(c).

Are solar arrays, floating or otherwise, regulated as an Infrastructure Facility under 310 CMR 9.02?

Yes. Solar panels meet the definition at 310 CMR 9.02 of “Infrastructure Facility” because they are facilities which produce, deliver, or otherwise provide electricity.

Can floating solar array installation be licensed on a Great Pond as a nonwater-dependent Infrastructure Facility (310 CMR 9.55)?

No. While floating solar panels are a nonwater-dependent infrastructure facility as defined at 310 CMR 9.02, as stated above, the installation of such panels on a Great Pond would not meet the standards at 310 CMR 9.32(1)(c) – *Categorical Restrictions on Fill and Structures* and could not be licensed.

May floating solar arrays be authorized through an Annual Permit under M.G.L. Chapter 91, Section 10A in flowed tidelands?

No. Regardless of whether floating solar arrays are attached to a bottom-anchored float(s), such structures do not meet the requirements to obtain a Section 10A Permit because such permits are limited to “...placement on a temporary basis of moorings, floats or rafts held by bottom-anchor, and ramps associated therewith...” (310 CMR 9.07). Section 10A further stipulates: “For the purpose of this section, temporary shall mean for no longer than to the end of any given calendar year.”

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Do floating solar arrays qualify for a simplified waterways license?

No. The Simplified License provisions (310 CMR 9.10) only apply to projects consisting entirely of a dock, pier, seawall, bulkhead, or other small-scale structure that is accessory to a residential use or serves as a noncommercial community docking facility.

Do floating solar arrays qualify for a general license certification?

No. General License Certifications (310 CMR 9.29) are limited to noncommercial, small-scale, water-dependent structures accessory to a residential use.

Whom should I contact if I have further questions about floating solar projects and Chapter 91 Waterways?

Please send inquiries to the Waterways Program at DEP.Waterways@mass.gov.