

MassDEP Chapter 91: Resiliency Regulatory Updates Stakeholder Forum February 9, 2022



Massachusetts Department of
Environmental Protection

Massachusetts Department of Environmental Protection
Waterways Program

Overview

- Resilience Challenges in Chapter 91 Jurisdiction
- Stakeholder and Interagency Discussions Over the Years
- MassDEP Preparing Resiliency Regulatory Updates
 - Wetlands/401WQC
 - Stormwater, increased precipitation, LSCSF, nature-based solutions, etc.
 - Chapter 91
 - Stakeholder input on near-term regulatory updates under consideration and longer-term issues for potential future updates
 - Draft Regs for Review / Public Comment – Spring 2022
 - Final Regs – Fall 2022

Panelists / Stakeholders

Panelists: Representatives from

- State Agencies
- Municipalities / MMA
- Regulated Community
- Non-Governmental Organizations
- Subject Matter / Technical Experts

Open to the Public and Other Interested Parties

Meeting Format / Agenda

20 minutes – DEP Presentation

70 minutes – Near-Term Considerations

- Panel Discussion

- Questions / Comments

10 minutes – Break

30 minutes – Public Discussion / Comments

15 minutes – Longer-Term Considerations

5 minutes – Wrap-up

Near-Term Amendments / Overview

- Engineering and Construction Standards – 9.37
- Building Height Provisions – 9.51
- Expiration and Renewal – 9.25
- Simplified Licenses – 9.10
- Extended Term Licenses – 9.15
- Minor Project Modification – 9.22
- Definitions (Coastal High Hazard) – 9.02

Engineering and Construction Standards

310 CMR 9.37 - Update Reference to Sea Level Rise

Existing regulation

- Historic Sea Level Rise

Proposed amendments

- Reference projected sea level rise (municipal or state government)
- Construction in floodplain - rely on building code

Building Height

310 CMR 9.51 - Modify Height Provisions

Existing Regulation:

- Building height defined by local zoning

Proposed Amendment:

- Facilitate building Systems relocation above ground floor

Expiration and Renewal

310 CMR 9.25 – Clarification SLR / License Renewal

Proposed Clarification

- License renewals must consider projected sea level rise

Simplified Licenses

310 CMR 9.10 – Modifications to Address SLR

Existing Regulation:

- Modifications subject to license terms and structural alteration provisions

Proposed Amendment:

- Allow modifications in response to SLR

Extended Term Licenses

310 CMR 9.15 – Clarify Requirements for Extended Terms

Existing Regulation:

- DEP may consider “other relevant factors” for extended terms

Proposed Amendment:

- License terms exceeding 30 years must consider projected sea level rise.

Minor Modifications

310 CMR 9.22 – Facilitate Building System Relocation

Existing Regulation:

- Limited to insignificant change in use / structural alterations

Proposed Amendment:

- When relocation of building systems includes newly available spaces on the ground floor, consider minor project modification to allow for reprogramming of freed-up space.

Definitions

310 CMR 9.02 – Improve Definition Consistency

- Replace: “Coastal High Hazard” with “Velocity Zone” for consistency with Wetland Regulations



Panel Discussion: Comments and Questions

Public Comments and Questions



Next Steps

- Additional Comments – Feb. 25

- Electronic submittal preferred

- DEP.Waterways@mass.gov; Subject Line: Chapter 91 / Resiliency

- Hard copy if needed to: MassDEP Waterways Program, Attn: Chapter 91/Resiliency 1 Winter Street, 5th Floor Boston, MA 02108

- Additional Information

- DEP Website: [C. 91 Resilience Stakeholder Outreach](#)

- Draft Regulations for Review/Public Comment - Spring