

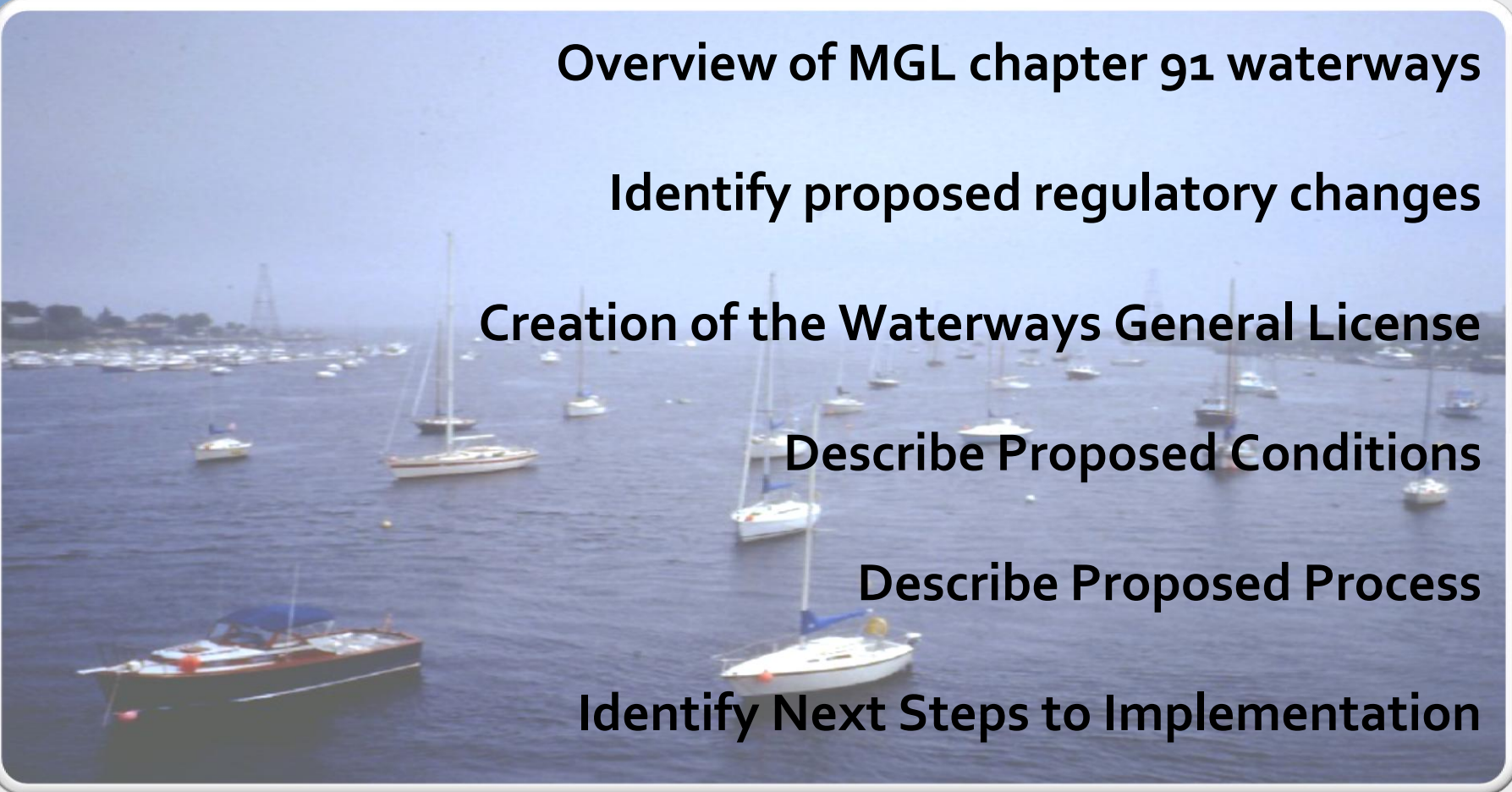


General Waterways License for Residential Docks

MACC Annual Meeting
March 1, 2014



Massachusetts Department of
Environmental Protection

An aerial photograph of a harbor filled with numerous sailboats of various sizes. The water is a deep blue, and the sky is a pale, hazy blue. In the background, a distant shoreline with some buildings and a tall tower is visible.

Overview of MGL chapter 91 waterways

Identify proposed regulatory changes

Creation of the Waterways General License

Describe Proposed Conditions

Describe Proposed Process

Identify Next Steps to Implementation

Topics Covered



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Chapter 91 Overview

- Formerly established in 1866
- Rooted in the Public Trust Doctrine
 - Codified in colonial ordinances of 1641-47
 - Public Has Fundamental Rights in Natural Resources such as the air, the sea, and the shore.
 - The state, as trustee of the public's rights, has a duty to preserve these resources and the public's right to use them.
- Regulations protect and promote public's interests in tidelands, great ponds, and navigable rivers & streams, Set application procedures and performance standards

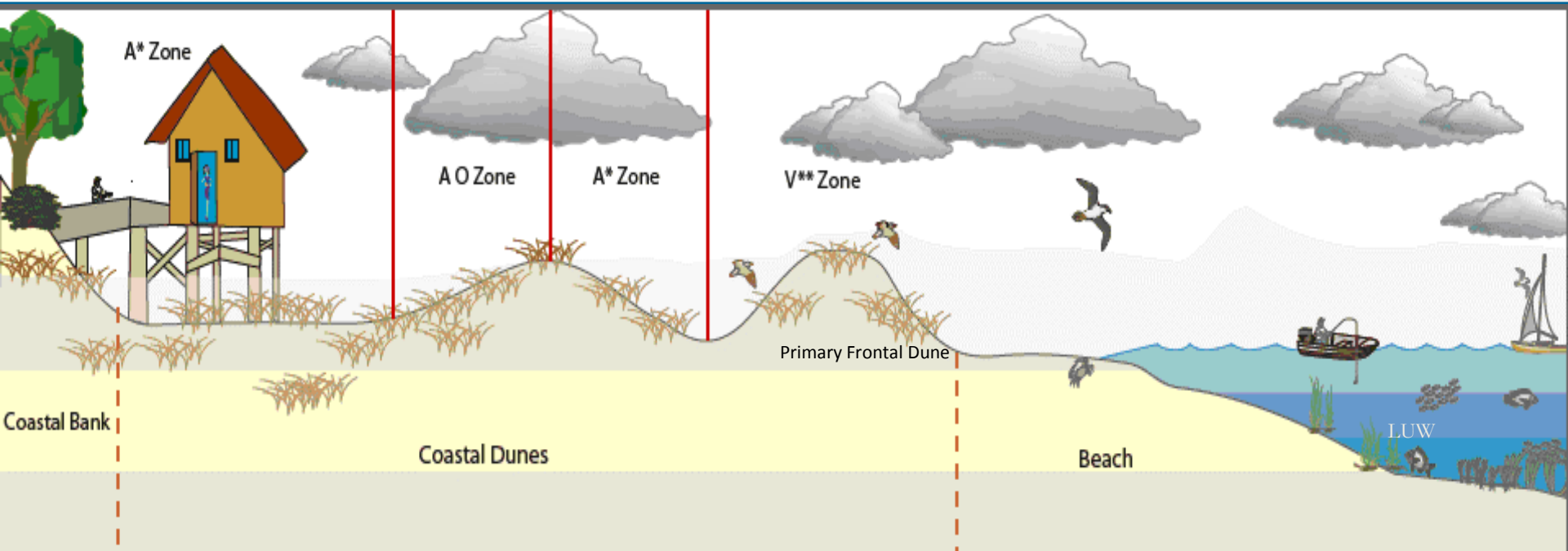
C91 Geographic Jurisdiction

- Flowed Tidelands
 - Seaward of Mean High Water
- Filled Tidelands
 - Seaward of the Historic High Water
- Great Ponds
 - Natural State is 10+ Acres
 - List available online www.mass.gov/dep/water/resources/grtpond.htm
- Navigable Rivers and Streams
 - Navigable by any vessel any time of year

- 310 CMR 9.04

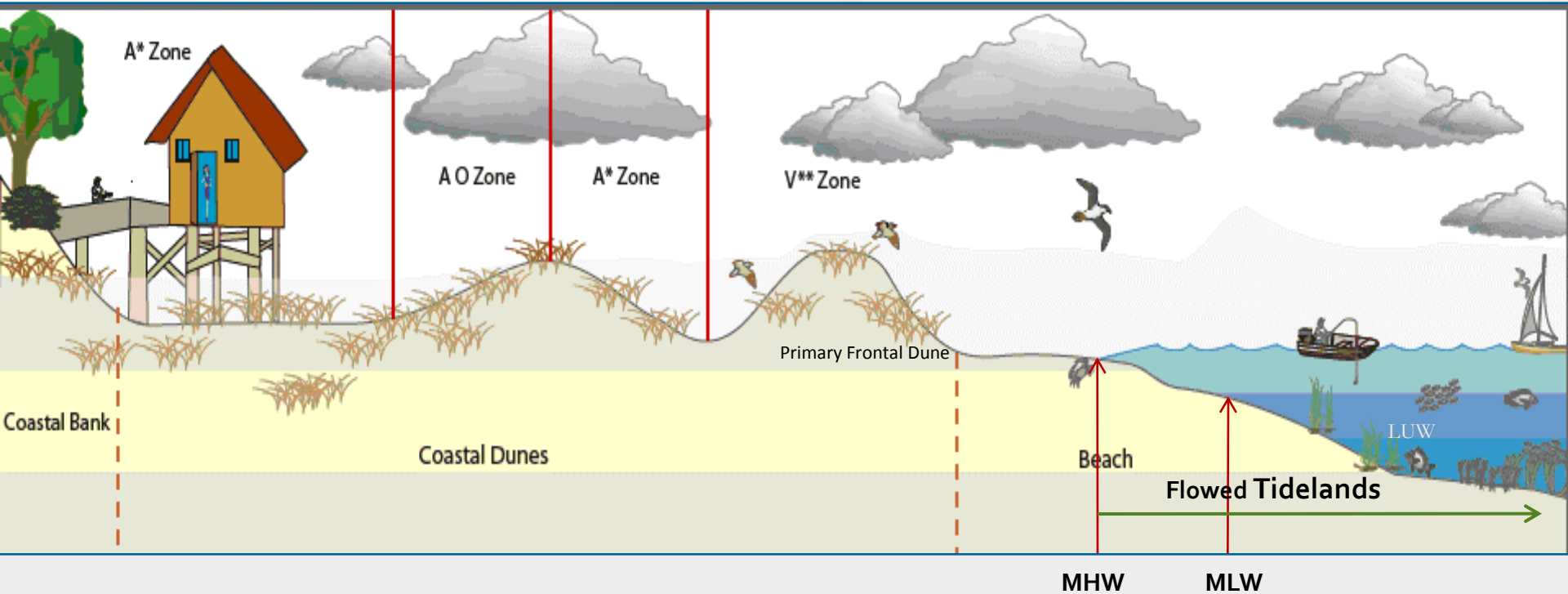


Overlapping Coastal Jurisdictions of Resource Areas Under WPA and c. 91



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Overlapping Coastal Jurisdictions of Resource Areas Under WPA and c. 91



Waterways – Regulation Changes

- Streamline application review timeline for
 - Large projects subject to MEPA, allows earlier start for c. 91 review [- 310 CMR 9.11(2)(b)(4)]
 - Short term test of innovative technologies [- 310 CMR 9.30]
 - Combined Permit for Water Quality Certification:c91:Wetlands
[- 310 CMR 9.02, 9.11]
 - Maintenance dredge for navigation in ACEC allowed w/condition
[- 310 CMR 9.40(1)(b)]
- General License for small docks and piers
 - Eligibility criteria for inland and coastal docks
 - Certification process created for coverage

Overview of General License and Individual Certification



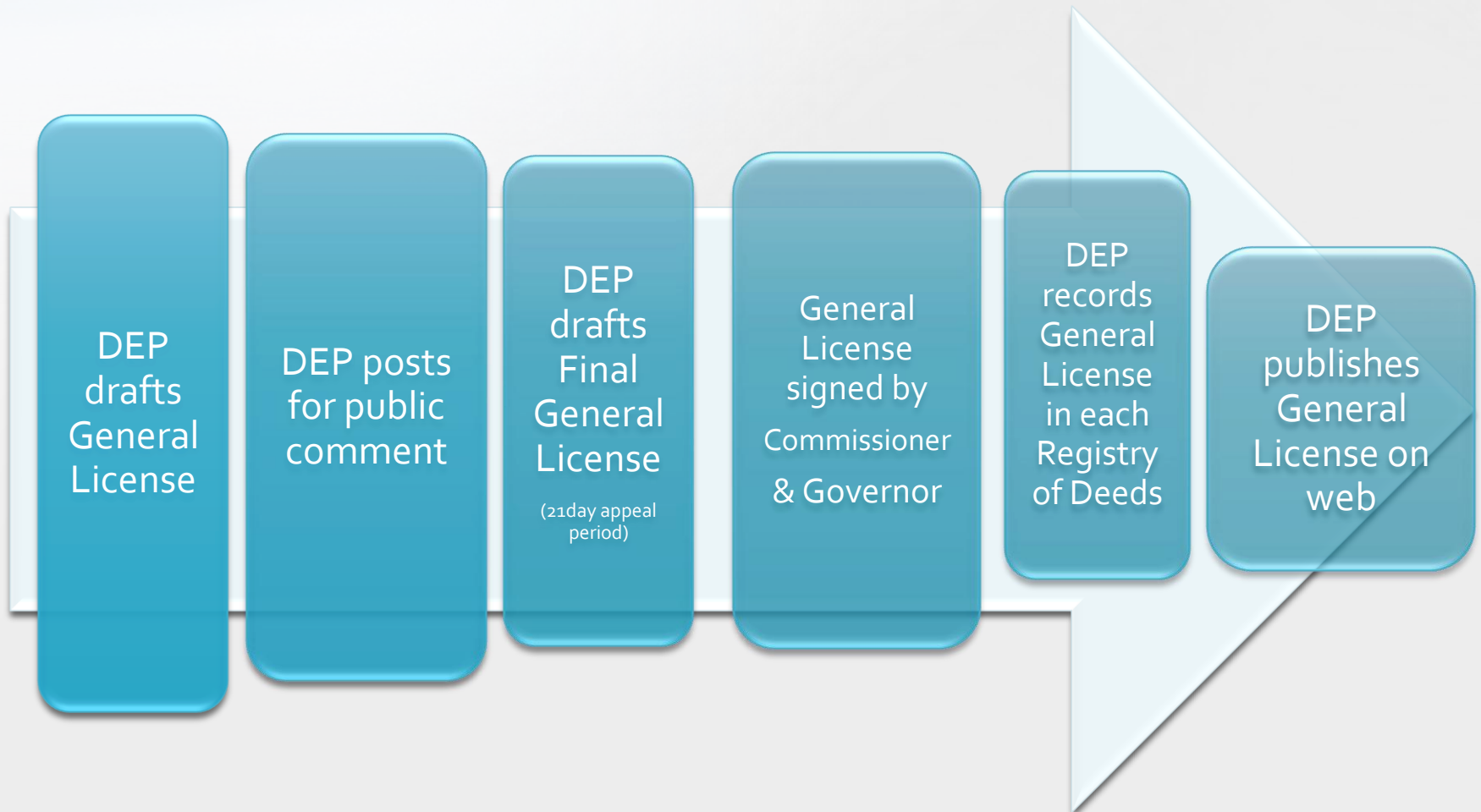
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General License Created by Legislation Vetted Through a Public Process

- Legislature amended M.G.L. Chapter 91 with new section 18C in 2011
- Stakeholder meetings winter 2012/2013; Public Comment Spring 2013
- Allows MassDEP to create a General License
- For non-commercial, water-dependent, small scale docks, piers and similar structures
- New Certification Procedure
- Eliminates state review and Governor signature of individual projects
- Requires MassDEP perform annual audits for compliance



General License Process



Eligibility Criteria

- Not located in Area of Critical Environmental Concern or DPA
- No roofed structures
- No filling or dredging

- Non-commercial
- Water-dependent use
- Accessory to residential property
- Pile-supported structure, ramp, floats
- 1 structure/property



General License Conditions – all projects

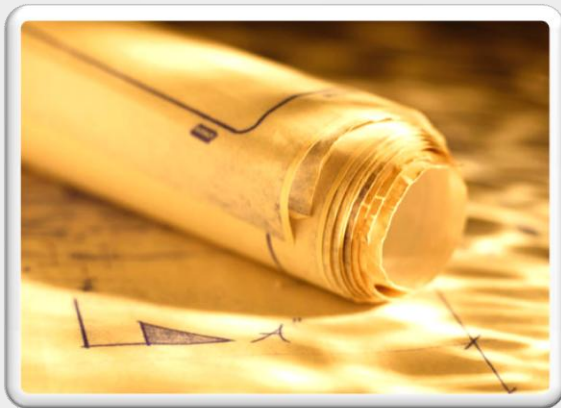
- Allow public access along the shore over, under or around structure
- Do not significantly interfere with littoral or riparian property owners' rights to access and egress their property from the waterway.
- Wherever feasible, all structures shall be placed perpendicular to the shoreline.
- Minimum length needed for safe berthing
 - Water depth minimum <18" or, if shellfish, <30"
 - No more than 25% of the width of water body



General License Conditions

INLAND STRUCTURES

- Seasonal, removed annually
- No larger than 300 square feet
- Pile supported structure < 5' wide
- Property line setback <15'
- Hand drawn plans accepted
- 15-year term

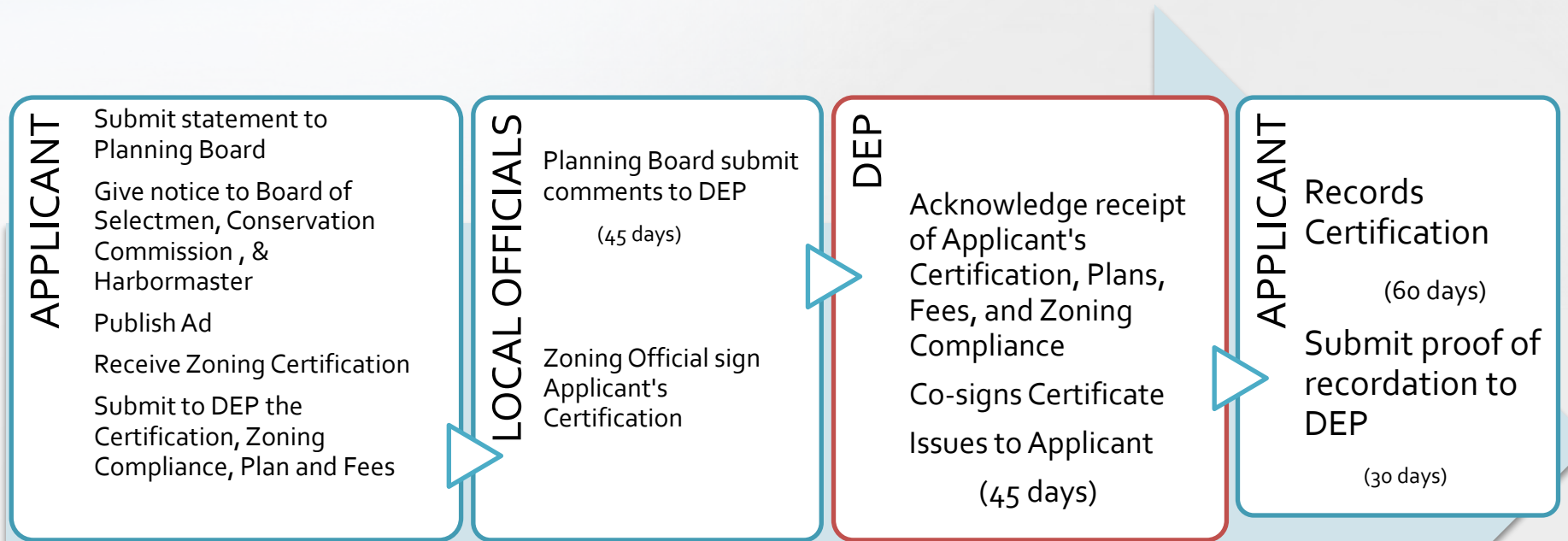


COASTAL STRUCTURES

- Permanent structure allowed
- No larger than 600 square feet
- Pile supported structure < 5' wide
- Property line setback <25'
- Professionally drawn plans
- 30-year term



Certification Process

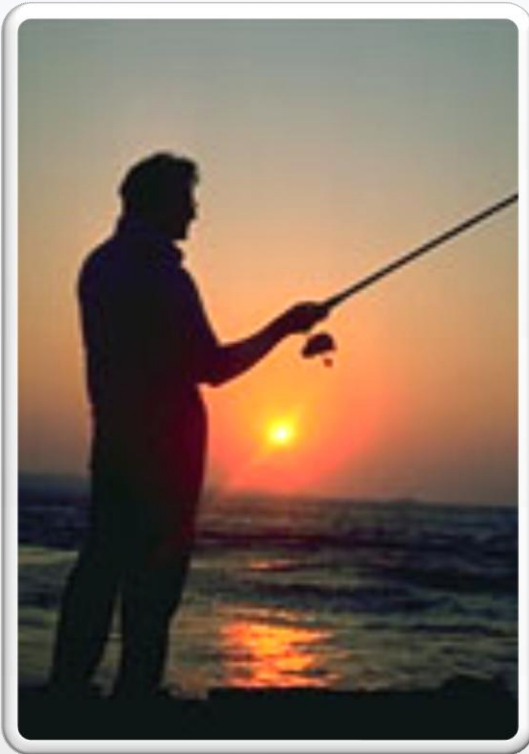


Next Steps

- Promulgate final regulations expected 1st Quarter 2014
- Public Comment on draft General License 2nd Quarter 2014
- Finalize General License by Governor's Signature 2014
 - Record General License in Each Registry of Deeds
 - Post General License on MassDEP website
- Make Certification Process Available through outreach 2014



Thanks for coming!



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