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September 23, 2026

via email: dep.waterways@mass.gov

Waterways Chief Daniel Padien

Attn: Waterways Streamline Comments, MassDEP-BWR,

100 Cambridge Street, Suite 900

Boston, MA 02114

Re: 310 CMR 9.00 Waterways (Chapter 91) MEPA and NOI Amendments (2026)

Dear Chief Padien,

Thank you for the opportunity to comment on the proposed 310 CMR 9.00 Waterways (Chapter 91) MEPA and NOI Amendments (2026).

Boston Harbor Now's mission is to ensure that Boston Harbor, its waterfront, and its islands are accessible and inclusive, and that these special places are properly adapted to the risks of climate change. We advocate for climate resiliency measures that contribute to district-scale flood protection and improve ecosystem services, as well as waterfront activation that welcomes everyone, especially those who have been historically underserved. We accomplish our goals through a variety of initiatives including through our role leading the Stone Living Lab in collaboration with UMass Boston, our Harborwalk 2.0 initiative to create a vibrant, welcoming, and resilient coastline along Boston's waterfront, and through our participation on the Boston Harbor Islands Partnership as a steward of the Boston Harbor Islands National and State Park.

We support the proposed changes to the Waterways Act regulations, aka Chapter 91, 310 CMR 9.00. These proposed streamlining regulations are particularly important for waterfront redevelopment and restoration projects. Allowing concurrent review of a project under Chapter 91 and the Massachusetts Environmental Policy Act (MEPA) and flexibility in timing of applications under the Wetlands Protection Act are sensible regulatory reforms that will save both applicants and regulatory agencies time and money. We also encourage DEP to continue further regulatory streamlining for restoration projects and more frequent use of existing regulations to issue letters affirming no need for a Chapter 91 license or permit for projects removing old, obsolete fill, structures, or water control devices where the work will not create new impacts on public access or navigation.

The proposed changes will:



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- Allow an application for a Chapter 91 license or permit to be filed while MEPA review is underway. This is consistent with other state permitting processes allowing concurrent review. This helps coordinate review across all applicable regulatory programs, to identify and resolve any inconsistencies or conflicts between different regulatory programs. A final Chapter 91 permit or license still will only be issued after MEPA review, if applicable, is complete.
- Clarify language regarding completion of the MEPA process, which sometimes is in a form other than a MEPA Certificate verifying the adequacy of a Final Environmental Impact Report (EIR), e.g. a MEPA decision stating no EIR is required.
- Allow a Chapter 91 application to be filed before a Notice of Intent is filed under the Wetlands Protection Act. For some projects, obtaining the Chapter 91 approval may be complex and require project modifications and conditions that the applicant will need to know about before applying for the local wetlands permit. This change provides regulatory flexibility and efficiency.

We recommend breaking up 9.11(4) to facilitate tracking the required information as follows:

- (a) a list of state environmental regulatory programs with which the project must comply, in accordance with the applicable provisions of 310 CMR 9.33;
- (b) a copy of the Notice of Intent, if the project is subject to M.G.L. c. 131, § 40 and 310 CMR 10.00: Wetlands Protection (which copy may be provided as part of a Combined Application), or, if the Notice of Intent has not yet been filed, a satisfactory explanation of why it is appropriate to postpone its submission to a later date, provided that such date is prior to license or permit issuance; and
- (c) a copy of any state and local approvals which must be obtained, and have been obtained, by the project as specified in 310 CMR 9.11(3)(c)3.

We would also like to take this opportunity to comment more generally on DEP's efforts to streamline wetlands and waterways regulations for restoration projects. As you know, many agencies, municipalities and organizations are working on restoring coastal and inland wetlands impacted by a long history of ditching, filling, and hydrologic alterations. Healthy wetlands are vitally important for fish and wildlife habitat, clean water and water supplies, flood protection, and climate resilience. The scope of need is extensive, including thousands of obsolete dams and inadequate culverts and thousands of acres of salt marshes and former cranberry bogs.

Boston Harbor Now appreciates the progress that is being made. We encourage DEP to continue to work to speed up restoration and reduce permitting costs and timelines so that the pace of work can meet the scope of need and funding for these projects can be

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utilized efficiently. Specifically under the Chapter 91 program, we encourage you to process many of the restoration projects that remove obsolete dams, fill, and water control structures through letters confirming that no license or permit is needed, pursuant to 310 CMR 9.05(3) Activities Not Requiring a License or Permit.

- 9.05(3)(k) removal of fill or structures in accordance with the provisions of 310 CMR 9.08 [Enforcement] or 310 CMR 9.27 [Removal of Previously Licensed Structure], or
- 9.05(3)(m) Demolition or removal of any unauthorized structures or fill in order to facilitate water-dependent use, provided prior written approval is obtained from the Department, which, at the discretion of the Department may include prior notice and comment.

Wetland restoration is a water-dependent use. These projects do not create, and often remove, impediments to public access or navigation.

Thank you for your consideration.

Sincerely,

Kathy Abbott
President & CEO