

AIR POLLUTION CONTROL COMMISSION PUBLIC HEARING



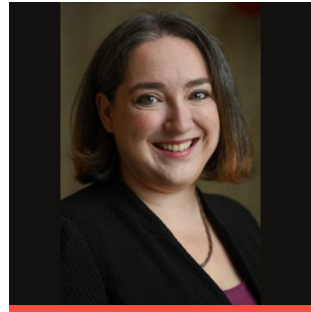
December 20, 2023

This public hearing will include opportunity for public comment. During public comment periods, members of the public may submit any comments or questions by “raising their hand” or by typing in the chat box.

AIR POLLUTION CONTROL COMMISSION



Nick Gove
*Transportation
Department*



Alison Brizius
*Environment
Department*



Russell Preston
Commissioner At-Large



Eric Burkman
Commissioner At-Large



Paul Chan
Commissioner At-Large

CITY OF BOSTON STAFF



Kat Eshel

*Environment
Department*



Alyssa Farkas

*Environment
Department*



Hannah Payne

*Environment
Department*



Diana Vasquez

*Environment
Department*



**Aladdine
Joroff**

*Environment
Department*

Public Meeting

The background of the slide is a dark blue aerial wireframe illustration of a city, showing the outlines of numerous buildings and streets. The perspective is from a high angle, looking down on the city grid.

Building Emissions Reduction and Disclosure Ordinance (BERDO)

Discussion & Potential Vote to Adopt Regulations and Policies

Regulations development process

Phase 1

- **Adopted in March 2022**
- *Reporting and data verification requirements*

Phase 2

Phase 2a (adopted in Dec 2022)

- *Review Board*
- *Blended emissions standards, designating tenant as owner, and other clarifying regulations*

Phase 2b (adopted in Jan 2023)

- *Renewable energy purchases*
- *Emissions factors*

Phase 3

- *Building portfolios*
(adopted in Sep 2023)
- *Individual compliance schedules*
(adopted in Sep 2023)
- *Hardship Compliance Plans*
- *Equitable Emissions Investment Fund*
- *Fines and enforcement*
- *Additional regulations as needed*

Phase 3 Community Engagement

COMMUNITY ADVISORY GROUP

Series of monthly meetings with community partners representing environmental justice communities and residents of BERDO buildings.

INVITE ONLY

11 meetings + office hours

COMMUNITY CONVERSATIONS

Series of meetings with Boston residents from EJ communities and BERDO buildings (one meeting hosted by the City, five hosted by CAG members).

SCHEDULED W/ PARTNERS AND RESIDENTS AS NEEDED

6 meetings

TECHNICAL WORKING SESSIONS

Public meetings on Zoom to discuss technical regulatory topics.

PUBLIC W/ EXPERTS INVITED

4 sessions

FOCUS GROUPS

Ad hoc meetings to discuss specific topics with different implementing partners.

SCHEDULED W/ PARTNERS AS NEEDED

11 meetings

REVIEW BOARD HEARINGS

Semi-monthly hearings to provide regular updates on the regulations process and receive public feedback.

PUBLIC

11 hearings

APCC HEARINGS

Monthly hearings to provide regular updates on the regulations process and receive public feedback.

PUBLIC

7 hearings

Phase 3 Public Comment Process

Eight total comment periods on Phase 3 draft language.

Informal Comment Periods

1. Building Portfolios and Individual Compliance Schedules - *closed on June 16*
2. Hardship Compliance Plans and the Equitable Emissions Investment Fund - *closed on September 15*
3. Fines & Enforcement - *closed on November 9*

Formal Comment Periods

1. Building Portfolios¹ and Individual Compliance Schedules¹ - *closed on August 11*
2. Building Portfolios² and Individual Compliance Schedules² - *closed on September 15*
3. Hardship Compliance Plans¹ and the Equitable Emissions Investment Fund¹ - *closed on October 20*
4. Hardship Compliance Plans² - *closed on November 9*
5. Hardship Compliance Plans³, the Equitable Emissions Investment Fund², Fines & Enforcement¹, and other clarifying topics¹ - *closed on December 13*

¹First formal comment period; ²Second formal comment period; ³Third formal comment period.

Feedback received during public comment period

Formal public comment periods ended on Wednesday, December 13, 2023 at 5:00 p.m.

We received comments from the following institutions and organizations during the last public comment period on Building Portfolios and Individual Compliance Schedules:

- A Better City
- Action for Equity
- Alternatives for Community & Environment
- Conference of Boston Teaching Hospitals, Longwood Collective & Longwood Medical Energy Collaborative
- Greater Boston Real Estate Board (GBREB)
- Gabrielle Brewer, Boston University

Main themes in last public comment period

Hardship Compliance Plans (HCP)

- Clarify language on eligible hardships, including relating to Building Portfolios
- Expand contractual circumstance and characteristics to allow for long-term contracts and leases signed up until January 1, 2024.
- Expand financial circumstances and characteristics that could create a hardship
- Expand technical circumstances and characteristics related to lack of sufficient electric infrastructure
- Expand short-term HCP to at least 7 years
- Create special HCP application form for hospitals
- Clarify language regarding content of HCP application to minimize burdens to Building owners
- Convene hospitals working group before finalizing HCP regulations
- Add guardrails for consultant review payments
- Clarify language regarding appeals
- Provide list of qualified professionals that may provide services related to HCP

Main themes in last public comment period

Equitable Emissions Investment Fund

- Consider requiring ACP payments for non-compliance with emissions reductions from funded projects.
- Consider adding evaluation process, evaluation metrics and definitions of success for funded projects.

Fines and enforcement

- Clarify timeline for Review Board to reconsider decision after an appeal.
- Clarify timeline to dispute notice of violation by setting written request to the Review Board.

General

- Request for additional accessible education and outreach to residents of BERDO buildings and general public.
- Support for Review Board to hold annual meeting focused on tenant issues.
- Support for Review Board to recommend regulations changes in the future.
- Requests for Environment Department to coordinate and collaborate with other City of Boston departments and the Commonwealth of Massachusetts to align climate and housing programs.
- Requests for additional flexibility due to current real estate market trends.

Hardship Compliance Plans:

Revised draft language



Revisions to draft language

Sections with revisions are marked in *red*

Draft regulations

XIII. Hardship Compliance Plans

- a. Types of HCP
- b. Circumstance and characteristics [...]**
- c. Eligibility for HCP**
- d. Types of relief for HCP
- e. Applications for HCP**
- f. Consultant Review**
- g. Conditions of approval for HCP
- h. Process for HCP Applications**
- i. Modifications of approved HCP**
- j. Periodic review of long-term HCP
- k. Termination of HCP

Draft policy

11. Hardship Compliance Plans

Revisions to draft language

XIII. Hardship Compliance Plans

b. Circumstance and characteristics [...]

- Clarified language by removing word “**unusual**” to describe circumstances and characteristics that may create hardship.
- Clarified that Section XIII.b.iv. Refers to “Other **unusual** circumstances or characteristics”.

c. Eligibility for HCP

- Clarified language by removing word “**unusual**” to describe circumstances and characteristics that may create hardship.

e. Applications for HCP

- Clarified language by removing word “**unusual**” to describe circumstances and characteristics that may create hardship.
- Clarified that Section XIII.e.i. refers to “a **brief narrative description** of how the Owner has used, plans to use, and/or **considered** the use of all the compliance mechanisms and flexibility measures authorized by the Ordinance [...]”.
- Clarified that Section XIII.e.v. refers to “a **brief narrative description** of significant Emissions reduction efforts [...]”.

Revisions to draft language

f. Consultant Review

- Clarified that “The Review Board shall determine the scope of the consultant review in consultation with the applicant”.
- Added that “The Review Board shall develop, and may periodically update, guidance regarding limits on payments that may be requested from applicants for the purpose of securing outside consultants.”.

h. Process for HCP Applications

- Clarified that timeline in Section XIII.h. applies to Review Board’s decisions to approve with standard conditions, approve with special conditions, or deny an application or **modification to an approved HCP** (*this includes any modifications resulting from the periodic review of long-term HCP*),

i. Modifications of approved HCP

- Clarified that the Review Board’s decisions on modifications include any vote to “to approve with standard conditions, approve with special conditions, or deny a requested modification”.
- Clarified language regarding new buildings and Portfolios: “Newly constructed Buildings, and new Buildings that begin **zoning review** or apply for a building permit after approval of a long-term HCP, may not be added to a **Building Portfolio** with a HCP”. (*Previously referenced Article 80*)

General changes

- Corrected typos and capitalized terms that are defined in Ordinance to provide consistency.

Equitable Emissions Investment Fund

Revised draft language



Revisions to draft language

Sections with revisions are marked in **red**



Draft regulations

XVII. Equitable Emissions Investment Fund

- a. Eligibility for funding**
- b. Application process**
- c. Funding decisions**
- d. Conditions for expenditure**

General changes

- Revisions to capitalize terms that are defined in Ordinance to provide consistency.

XVII. Equitable Emissions Investment Fund

a. Eligibility for funding

- Clarified that “Any Building Owner or resident located in the City of Boston, or entity acting on ~~their~~ behalf **of Boston buildings**, is eligible to receive funding from the Fund to evaluate, design, implement, support and/or administer projects that produce direct Emissions reductions from Energy use in buildings located in the City of Boston.”

Fines and enforcement

Revised draft language



Revisions to draft language

Sections with revisions are marked in *red*

Draft regulations

XVIII. Enforcement and penalties

- a. Appeals for Review Board decisions**
- b. Notice and appeals of violations**
- c. Penalties**
- d. Notice and appeals of penalties and fines for failure to comply**
- e. Notice of appeal hearings**

Revisions to draft language

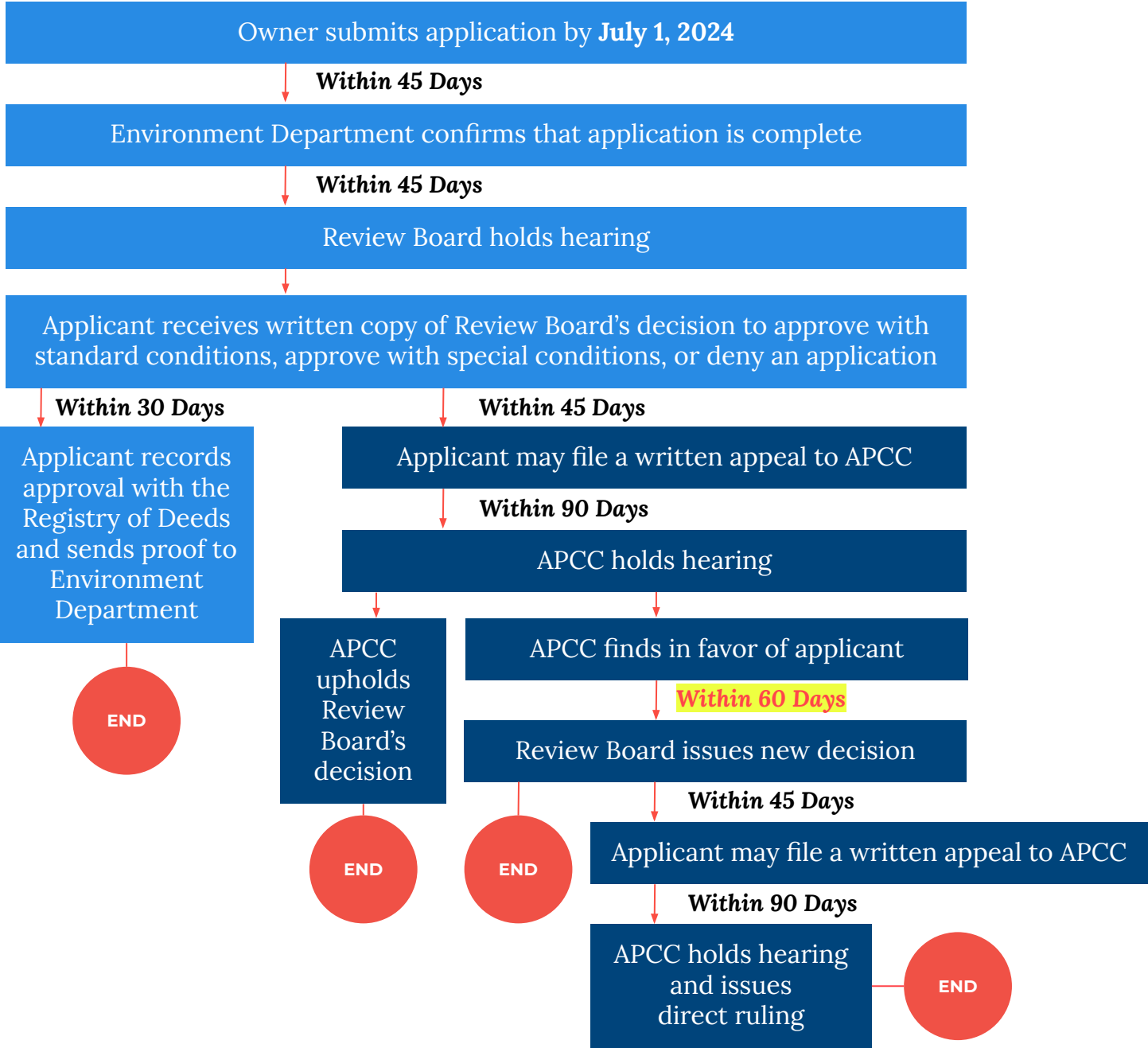
XVIII. Enforcement and penalties

a. Appeals for Review Board decisions

- Clarified that, after the APCC returns a decision to the Review Board, **the Review Board shall issue its revised decision within sixty (60) Days** of the Commission's remand of an appeal.
- Clarified that an appeal shall not stay a Building Owner's compliance obligations, including as required by Section.XIII.h.viii. (i.e., appeals of Hardship Compliance Plans)

We are developing graphics and accessible materials of various processes

Timeline for HCP applications for eligible hardship(s) starting in 2025



Other Regulations Topics

Revised draft language



Revisions to draft language

IV. Reporting Process

j. Requesting Alternative Reporting Dates

- Now that the Review Board is seated, clarify that, as indicated in the Ordinance, the Review Board has the authority to develop a procedure to establish alternative reporting dates.
- “The ~~Review Board Commission~~ may grant a request for an alternative reporting date and/or third-party verification deadline for a period not to exceed six months.”

General changes

- Revisions to capitalize terms that are defined in Ordinance to provide consistency.
- Updates to internal references and corrected references to policies or guidance
- Revisions to make language consistent (e.g. compliance year)
- Minor text edits to increase clarity

Non-regulatory updates & next steps



Proposed next steps

In 2024, the BERDO team will work to:

- Revise the **Hardship Compliance Plan application** based on feedback and ongoing discussions.
- Release **application forms** for flexibility measures and the Equitable Emissions Investment Fund.
- Release **BERDO Environmental Justice Map** to support applications for Building Portfolios.
- Release **Request for Information (RFI) for qualified third-parties** to support HCP applications and other decarbonization planning processes.
- Procure contractor to provide Review Board with **technical on-call support** for common technical issues related to building decarbonization for 2024.
- Prepare and release **accessible materials** explaining e.g. BERDO basis, compliance mechanisms, flexibility measures, tenant rights, etc.
- Conduct **targeted outreach** for Building Owners, prioritize those who are likely to not meet their 2025 Emissions standards.
- Procure contractors to support eligible, under-resourced Building Owners for **reporting** and to **plan pathways to net-zero emissions**.
- Conduct additional **outreach and education efforts** on emissions reduction strategies and BERDO compliance.

Common frameworks for HCP applications

- We welcome Owners who share common sector-based circumstances and characteristics that may create hardship to work together to develop **common frameworks for HCP applications**.
- Owners may work together to prepare standard descriptions of common sector-based circumstances and characteristics that may create hardship, standard descriptions of common sector-based eligible hardships, standard types of relief, or standard proposed conditions of approval.
 - *Example: A shared description of international requirements for displaying artwork at museums.*
- Each Owner is **still required to submit their own application**, however, by preparing these common elements together, Owners will be able to streamline their application process.
- Staff will host workshops to support sectors in developing common frameworks.
- In process of launching Healthcare and Real Estate working groups. These working groups will assist in convening sector to develop common frameworks and to provide sectoral-specific guidance to Review Board.

Application forms for Equitable Emissions Investment Fund

- The BERDO team will develop application forms for the Equitable Emissions Investment.
 - Form will provide applicants the opportunity to include **letters of support from tenants** of their building (if applicable, not required)
 - Form will provide applicants the opportunity to propose **metrics of success** for the proposed project. *

* **The Review Board may integrate metrics of success as part of reporting conditions.**

Proposed next steps

- BERDO team asks the APCC to open a **vote to adopt the revised regulations and policies**, including Hardship Compliance Plans, Equitable Emissions Investment Fund, Fines and enforcement, and other clarifying regulations.

The background of the slide is a dark blue aerial wireframe map of a city, showing the outlines of buildings, streets, and parks. The lines are white and light blue, creating a technical, architectural feel.

Commission Q&A

Commissioners may discuss and ask staff questions.

The background of the slide is a dark blue wireframe illustration of a city skyline, viewed from an elevated perspective. The buildings are represented by white and light blue lines, creating a complex, geometric pattern of rectangles and squares. The overall aesthetic is modern and architectural.

Public Q&A

The public may discuss and ask staff questions.

The background of the slide is a dark blue aerial wireframe map of a city, showing building footprints, streets, and parks in a light blue color. A semi-transparent dark blue horizontal band is overlaid across the middle of the image, containing the main text.

Commission Motion & Vote

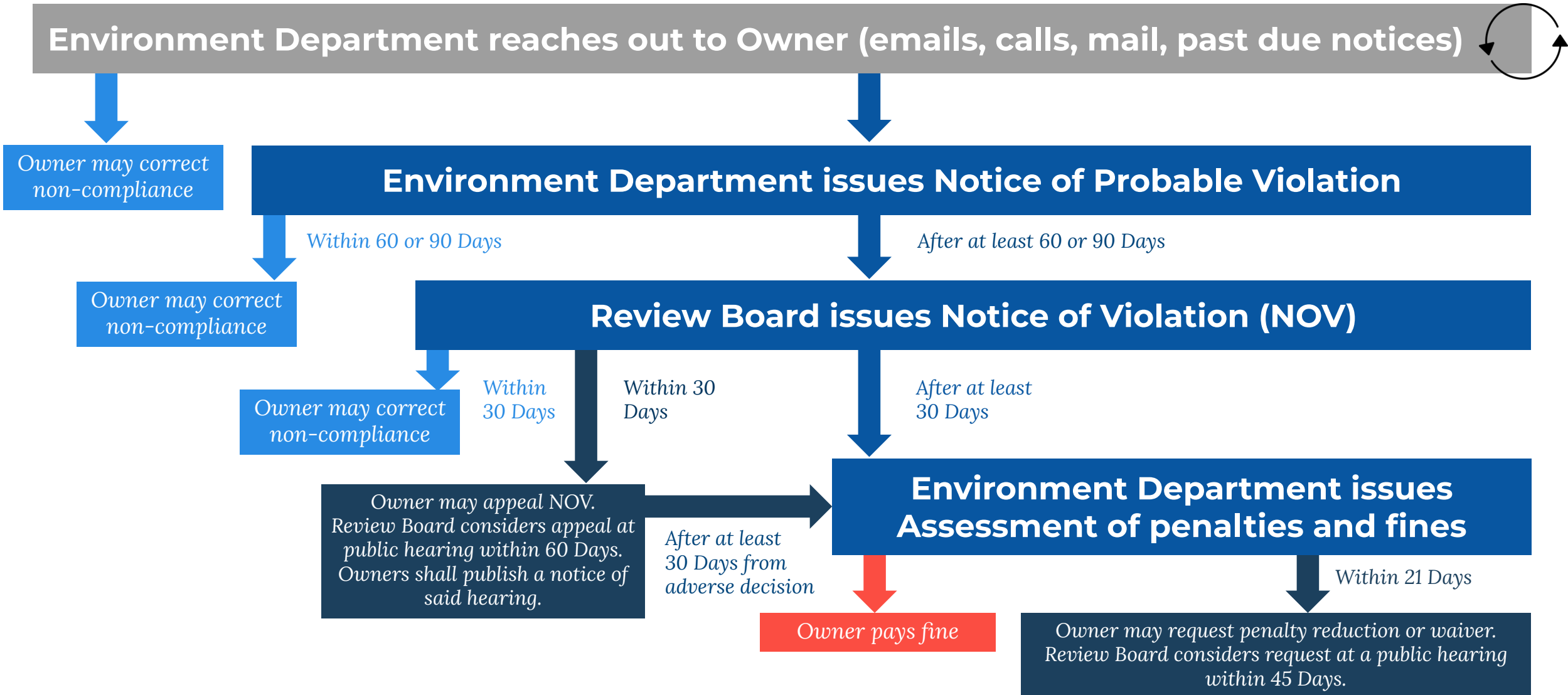
Adopt draft regulation and policies for Phase 3

Adjourn

Thank you for your participation!



Summary of enforcement process



Appeals for Review Board decisions on flexibility mechanisms

