



Are you on board?

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March 10, 2021

Via email: MEPA-regs@mass.gov

Kathleen Theoharides, Secretary
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Attn: MEPA Office

Re: Proposed MEPA Interim Protocols
Climate Change Adaptation and Resilience and Environmental Justice

Dear Secretary Theoharides,

On behalf of Boston Harbor Now, thank you for the opportunity to comment on the Massachusetts Environmental Policy Act (MEPA) Unit's two draft Interim Protocols concerning climate change adaptation and resiliency and environmental justice.

Boston Harbor Now exists to protect equitable access to the Boston Harbor waterfront as well as to promote increased resilience in the face of climate change and sea level rise. Because this is our reason for being, it should come as no surprise that we see the inclusion of these two protocols as critical additions to the MEPA analysis that projects undergo. Our specific comments with respect to each protocol follow.

Draft Interim Protocol on Climate Change Adaptation and Resiliency

This Interim Protocol encourages projects to utilize the best available climate science data and projections for Massachusetts in evaluating risks and impacts associated with sea level rise; the amount, frequency, and timing of precipitation; and increases in average temperature including frequency of extreme temperature events.

The Protocol specifically requires that all new proponents filing with the MEPA Office complete an addendum designed to assist in the evaluation of a project's climate risks and adaptation strategies. The addendum includes questions about the project's impact on impervious surface

area, considers whether or not the site has a history of flooding, and asks proponents to evaluate flood risk based on the anticipated life of the project. Importantly, it also requires proponents to explain any measures taken to adapt to climate change, including the use of flood barriers, living shorelines, increased tree canopy, etc. Boston Harbor Now supports requiring all project proponents to file such an evaluation to assure that proponents fully assess the climate risks and to identify climate and resiliency strategies earlier rather than later in the project development design process. We also support the evaluation of nature-based solutions, as an alternative to traditional gray infrastructure, as part of this analysis.

Further, Boston Harbor Now is a partner in the Stone Living Lab, a research and educational initiative within the Boston Harbor Islands National and State Park focused on testing innovative, adaptive, nature-based solutions to climate adaptation, coastal resiliency, and ecological restoration with an overriding commitment to equity and environmental justice (www.stonelivinglab.org). Other partners in this effort include the National Park Service, the Massachusetts Department of Conservation and Recreation, the City of Boston, UMass/Boston School for the Environment, and the James M. and Cathleen D. Stone Foundation. We anticipate that some of the research that emerges from the lab's work will inform the resilience efforts of coastal projects in the future, as well as provide information to public agencies on which to base further regulatory change. We look forward to working with you as that research proceeds.

Draft MEPA Interim Protocol for Environmental Justice Outreach

We are also generally supportive of this interim protocol which requires a pre-filing meeting with the MEPA Office to determine an appropriate outreach strategy for projects located within Environmental Justice (EJ) communities as designated by the Commonwealth. Such strategies include conducting targeted outreach to local EJ groups and, in some cases, offering translation and interpretation services in languages spoken by a significant portion of the population.

These enhanced outreach strategies are certainly necessary and welcome in order to create the conditions where the public can fully participate in shaping projects in their neighborhoods. We believe, however, that the input provided by members of these groups should be given additional weight in decision making. It is not sufficient to have informed these groups of the projects parameters; their feedback must be used to shape the project as well.

We further believe that more is required to evaluate projects in EJ populations. In addition to an inability to participate in public processes, EJ populations frequently suffer from the cumulative impacts of multiple projects being located within their neighborhoods. Each individual project contributes to the environmental and public health burden on these neighborhoods, but rarely, if ever, are all of those burdens evaluated together. We encourage the MEPA Office to go further in protecting Environmental Justice populations and require proponents to list and evaluate the cumulative impacts of other uses located within the same geography as the project under consideration. In this way, EJ populations can be protected in a substantive as well as a procedural way.

This request is consistent with the Governor's position on Environmental Justice as reflected in his letter to the Legislature regarding the Bill creating a next-generation road map for Massachusetts climate policy that is currently being negotiated. That letter states:

First, as environmental justice populations are particularly vulnerable to the impacts of climate change, I am including these impacts in the bill's definition of "environmental

burden.” Second, while I approve of the changes to environmental review in the bill as enacted, I propose adding language that will require the Department of Environmental Protection to conduct cumulative impact analysis as a condition of issuing certain permits. Environmental justice populations have historically borne more than their fair share of pollution, particularly air pollution. Recognition of those facts should not be limited to environmental review and instead should be incorporated into permitting decisions directly. Senate No. 13, 2/7/21 (Senate Docket No. 788).

Thank you for your consideration of these comments. We look forward to continuing to be involved in the regulatory review process as more permanent changes are considered.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Toffler', with a stylized flourish at the end.

Aaron Toffler
Director of Policy
Boston Harbor Now