



March 31, 2021

Tori Kim, Director
MEPA Office
100 Cambridge St., Suite 900
Boston, MA 02114

Submitted electronically to MEPA-regs@mass.gov

Subject: **MEPA Regulatory Review**

Dear Ms. Kim and MEPA staff,

I am submitting comments on the MEPA regulations on behalf of the Connecticut River Conservancy (CRC). CRC is a nonprofit citizen group that was established in 1952 as the Connecticut River Watershed Council, Inc. to advocate for the protection, restoration, and sustainable use of the Connecticut River and its four-state watershed. We have submitted many comments over the years to the MEPA office on projects throughout the watershed, and are pleased to have the opportunity to share some thoughts as MEPA considers regulatory changes. Below are our thoughts at this time.

301 CMR 11.03 (1) Land

The MEPA office refer to the results in the technical studies that were generated for the Sustainable Water Management Initiative (SWMI), and consider whether the land alteration and creation of impervious surface thresholds should be altered. See <https://www.mass.gov/guides/sustainable-water-management-initiative-swmi-technical-resources#-u.s.-geological-survey-reports-&-data->. The creation of impervious surfaces, particularly when converted from forest land, should be minimized and mitigated to the maximum extent because of the cumulative effects on hydrology, among other impacts.

Additional thoughts on (1) Land:

- MEPA should consider lower thresholds for new land disturbance or creation of impervious surfaces that will drain to coldwater fisheries.
- Please clarify if large solar facilities are considered “impervious surfaces” or not. There are arguments for and against that, but they certainly create surfaces that change the hydrology of a property.

301 CMR 11.03(2) State-listed Species under M.G.L. c. 131A

We don't support changing the threshold from 2 acres to 5 acres. Review of projects under the Massachusetts Endangered Species Act (MESA) does not have a public review process; this is the only public review phase and the 2-acre threshold should remain in place.

301 CMR 11.03 (4) Water

We question the technical justifications for the mandatory Environmental Impact Report (EIR) thresholds for surface water sources (2.5 million gallons per day or MGD) and groundwater sources (1.5 MGD). Are bigger surface water withdrawals less of an impact on hydrology than groundwater

withdrawals? Why is there such a huge difference between the Environmental Notification Form (ENF) thresholds and the EIR thresholds? Why does the threshold not depend on the source of the water – wouldn't a 1.5 MGD withdrawal on the Connecticut River have a smaller impact than a 1.5 MGD withdrawal on the Manhan River, for example?

301 CMR 11.03 (5) Wastewater

The mandatory EIR triggers for wastewater seem too high and should also be tied to the flow rate/volume of the receiving waterbody (see comments above on water).

301 CMR 11.03 (7) Energy

Electric generating facilities all have large environmental impacts, especially those that require a fuel supply (oil, gas, natural gas, coal, biomass, or waste). The EIR and ENF thresholds are way too high. The MEPA triggers in this category should be lowered by a large amount. The carbon footprint and the land footprint of each type of power should be considered in the analysis and in the triggers. We have seen dam removals and restoration projects have to do an EIR whereas a 45-MW biomass plant does not.


Other thoughts

- CRC appreciates the effort to incorporate more outreach to environmental justice communities. CRC recommends that the MEPA office work with the MA Commission on Indian Affairs to develop outreach methods and protocol for incorporating outreach to tribal and native communities throughout Massachusetts.
- With Massachusetts promoting resilience projects and environmental restoration projects throughout the Commonwealth, all EEA agencies need to develop a way to make it easier to permit these projects. Our experience thus far with these projects has been frustrating. The amount of funding needed and the time it takes to usher projects through permitting is a hurdle that few projects can surmount. This can start with the MEPA office, but doesn't only involve MEPA. For example, if an organization gets funding to do multiple restoration projects on different properties that are owned by separate parties, they should not be subjected to the segmentation provision.
- We have been following the MEPA filings for the DOT winter road salt application over the years. We recommend that the programs to apply herbicide along power lines and railroad lines should have the same kind of MEPA process. It's very hard to find out information about these programs and what is being applied where. The impacts on these activities have never been addressed in a holistic manner.
- CRC participates in hydropower relicensing in our watershed. As part of a hydropower license through the Federal Energy Regulatory Commission, the Massachusetts Department of Environmental Protection has to issue a 401 Water Quality Certificate. Does MEPA have any role in the review of this process? While FERC writes its own Environmental Assessment or Environmental Impact Statement, depending on the size, these documents are prepared at the same time as the state is preparing the 401 WQC and the final document can be released after the 401. In that case, the state has issued a permit prior to the NEPA review. We would appreciate clarification on this from the MEPA office.

Connecticut River Conservancy comments to MEPA
March 31, 2021

CRC appreciates the opportunity to provide comments to the MEPA office. I can be reached at adonlon@ctriver.org or (413) 772-2020 x.205 (this currently forwards to my cell number).

Sincerely,

A handwritten signature in black ink that reads "Andrea F. Donlon". The signature is written in a cursive, flowing style.

Andrea F. Donlon
River Steward