



For a thriving New England

CLF Massachusetts 62 Summer Street  
Boston MA 02110  
P: 617.350.0990  
F: 617.350.4030  
www.clf.org

March 10, 2021

Via Electronic Mail

Tori T. Kim  
Assistant Secretary/MEPA Director  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114  
[tori.kim@state.ma.us](mailto:tori.kim@state.ma.us)  
[MEPA-regs@mass.gov](mailto:MEPA-regs@mass.gov)

Subject: Comments on the Interim Protocol for Environmental Justice Outreach and Interim Protocol for Climate Change Adaptation and Resiliency

Dear Assistant Secretary and Massachusetts Environmental Policy Act (“MEPA”) Director Kim:

On behalf of the Conservation Law Foundation (“CLF”) and its members,<sup>1</sup> we provide our comments regarding the draft MEPA Interim Protocol For Environmental Justice Outreach (the “EJ Interim Protocol”), the Environmental Justice Policy of the Executive Office of Energy and Environmental Affairs dated January 31, 2017 (the “EJ Policy”), and the MEPA Interim Protocol on Climate Change Adaptation and Resiliency (the “Adaptation Interim Protocol”). We thank the MEPA Office for drafting protocols to strengthen the MEPA Office’s environmental justice (“EJ”) and climate adaptation practices.

**I. The EJ Interim Protocol Should Be Strengthened to Require Early and Continuous Community Engagement and Tailored Mitigation Measures.**

There is an opportunity to improve the MEPA process to deepen EEA’s commitment to EJ. Below are recommendations to strengthen the EJ Interim Protocol. As stated in the EJ Policy, EJ is “based on the principle that all people have a right to be protected from environmental hazards and to live in and enjoy a clean and healthful environment regardless of race, color, national

---

<sup>1</sup> CLF is a nonprofit, member-supported, regional environmental organization working to conserve natural resources, protect public health, and promote thriving communities for all in the New England region. CLF protects New England’s environment for the benefit of all people. We use the law, science and the market to create solutions that preserve our natural resources, build healthy communities, and sustain a vibrant economy.

origin, income, or English language proficiency.”<sup>2</sup> It is the “equal protection and meaningful involvement of all people and communities with respect to the development implementation, and enforcement of energy, climate change, and environmental laws, regulations, and policies and the equitable distribution of energy and environmental benefits and burdens.”<sup>3</sup> To achieve this principle, the MEPA Office must ensure that projects subject to environmental review redress past environmental racism and classism. Redressing environmental racism and classism is not looking at each Project in isolation to see whether it will create damage to the environment or create a burden for local residents or workers. Instead, it means looking at a community holistically to determine whether a Project can improve environment, energy, climate, and public health conditions. Strengthening the EJ Interim Protocol is a step in the right direction, though more is necessary through MEPA regulatory amendments to begin to redress environmental injustice.

We offer the following recommendations to strengthen the EJ Interim Protocol. Please see Appendix A with proposed redline edits, which are discussed herein.

- Proponents shall identify EJ populations potentially impacted by a Project within a five mile radius.
- Proponents shall conduct early outreach and engagement prior to filing with MEPA when EJ populations are potentially impacted.
- During MEPA review, EEA and the Proponent should engage with potentially impacted communities, including during the MEPA site visit.
- MEPA Certificates should include mitigation measures that are tailored to EJ populations.

A. Proponents Shall Identify EJ Populations Potentially Impacted by a Project Within Five Miles.

The 2017 EJ Policy requires enhanced analysis of impacts and mitigation for projects that exceed a mandatory environmental impact report (“EIR”) threshold for air, within five miles of an EJ population.<sup>4</sup> Therefore, the Interim Protocol should require Proponent’s to identify EJ populations within a five mile radius of the Project.

The 2017 EJ Policy definition of EJ population requires an update. As a member of the Massachusetts Environmental Justice Table, CLF and our partners have spent more than one year in 2019 and 2020 to develop an updated, data-informed definition of EJ population that narrows the number of census block groups that would be designated as EJ populations from the current number of 72 percent based on the 2017 EJ Policy to 41 percent. We recommend that the definition in the EJ Interim Protocol and 2017 EJ Policy reflect the definition included in Section

---

<sup>2</sup> Massachusetts Executive Office of Energy and Environmental Affairs, *Environmental Justice Policy*, at 3 (2017).

<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 10, Section 17.

56 of *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* (“Roadmap Bill”) and pasted below.<sup>5</sup>

As used herein, “Environmental justice population” shall mean a neighborhood that meets 1 or more of the following criteria: (i) the annual median household income is not more than 65 per cent of the statewide annual median household income; (ii) minorities comprise 40 per cent or more of the population; (iii) 25 per cent or more of households lack English language proficiency; or (iv) minorities comprise 25 per cent or more of the population and the annual median household income of the municipality in which the neighborhood is located does not exceed 150 per cent of the statewide annual median household income; provided, however, that for a neighborhood that does not meet said criteria, but a geographic portion of that neighborhood meets at least 1 criterion, the secretary may designate that geographic portion as an environmental justice population upon the petition of at least 10 residents of the geographic portion of that neighborhood meeting any such criteria; provided further, that the secretary may determine that a neighborhood, including any geographic portion thereof, shall not be designated an environmental justice population upon finding that: (A) the annual median household income of that neighborhood is greater than 125 per cent of the statewide median household income; (B) a majority of persons age 25 and older in that neighborhood have a college education; (C) the neighborhood does not bear an unfair burden of environmental pollution; and (D) the neighborhood has more than limited access to natural resources, including open spaces and water resources, playgrounds and other constructed outdoor recreational facilities and venues.

Following an updated definition of EJ population, EEA should incorporate the definition into the mapping tool referred to in the EJ Interim Protocol. EEA should update its online mapping tool (“EJ Viewer”) prior to issuing a 2022 EJ Policy. CLF would welcome the opportunity to meet with the MEPA Office and GIS staff to discuss updating the EJ Viewer online mapping tool. CLF acknowledges that the MEPA regulations will require amendment to integrate future statutory changes that are likely to be enacted with the passage of the Roadmap Bill.

B. Proponents Shall Conduct Early Outreach and Engagement Prior to Filing With MEPA When EJ Populations are Potentially Impacted.

The EJ Interim Protocol should require early engagement with EJ populations when a Project potentially impacts EJ populations. To conduct engagement in a meaningful way, the Proponent should be required to consult with the MEPA Office at least 60 days prior to filing. The EJ Interim Protocol requires consultation at least 10 days in advance, though 10 days is not sufficient time for the MEPA Office to provide the Proponent with ideas for public engagement and then for the Proponent to conduct that engagement prior

---

<sup>5</sup> *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy*, S.13, <https://malegislature.gov/Bills/192/S13>.<sup>5</sup>

to filing. A 60-day advance notice period will allow time for a Proponent and the MEPA Office to develop an outreach strategy and then to allow time to conduct outreach prior to filing with the MEPA Office.

As part of this outreach strategy, the Proponent shall develop a written Project statement about the facility that includes detailed information about: the Project need; public health, environmental, energy, economic, and climate risks and burdens; and public health, environmental, energy, economic, and climate benefits for communities within two miles of the facility. The Project statement shall include reasonable alternatives. The Project statement shall be shared with the EEA Director of Environmental Justice and posted to a public website. If the Project will potentially impact an EJ population that is designated as limited English proficiency, then the MEPA Office shall provide guidance to the Proponent about the language(s) in which the Proponent should translate the Project statement.

Early engagement between a Proponent and the potentially impacted community prior to filing will likely require more time up front for a Proponent, but it could be an opportunity to improve a project and save time during the remainder of the environmental review. Within 30 days of submitting the Project statement, the Proponent shall invite community-based organizations, local elected officials, the EEA Director of Environmental Justice to a meeting to review the proposed project (“information meeting”). Based on guidance from the MEPA Office, the Proponent shall invite language interpreters, paid for by the Proponent, to ensure that information meeting attendees understand the terms of the project. During the information meeting, the Proponent shall review the Project statement, answer questions, and listen to attendee concerns and ideas. Following an information meeting, the Proponent shall adjust the Project that address community concerns or abandon plans to file with MEPA. The MEPA Office shall ensure that staff is available to support a Proponent during the early engagement period to make connections with potentially impacted EJ populations.

C. During MEPA Review, EEA and the Proponent Should Engage With Potentially Impacted Communities, Including During the MEPA Site Visit.

Community engagement should extend beyond the pre-filing phase. For projects that involve site visits, the MEPA Office and Proponent should work together to ensure residents of potentially impacted EJ populations know about the site visit. Further, the Proponent shall provide simultaneous language interpretation if the Project will potentially impact an EJ population that is designated as a limited English proficient neighborhood. During the site visit, the Proponent shall review the MEPA filing, answer questions, and listen to attendee concerns and ideas.

If site visit attendees raise concerns and/or recommended Project changes, the MEPA Office staff shall ensure they understand the information and address those concerns in the Secretary’s Certificate. The MEPA Office shall consider extending the comment periods beyond the standard 20 or 30 days when a project potentially impacts EJ populations.

D. MEPA Certificates Should Include Mitigation Measures That Are Tailored To EJ Populations.

To the extent that EJ population residents express concerns or ideas about a project, the MEPA Office shall consider how to require project changes and mitigation opportunities. The Secretary's Certificate shall include, when appropriate, specific mitigation requirements that are tailored to the potentially impacted EJ population needs and requests. These mitigation measures should reflect community ideas.

**II. The MEPA Office Should Improve Online Access to Documents.**

As you are aware, the function of the MEPA review process is to “provide meaningful opportunities for public review of potential environmental impacts of certain projects for which certain actions by state agencies are required.”<sup>6</sup> To fulfill this mission, the files on record with MEPA must be made available for public review. The MEPA Office must: (1) make all project filings available online, especially for ongoing and existing projects; and (2) make all project documents easily accessible through a simple project name or EEA No. Search.

MEPA filings can be accessed electronically through the *Environmental Monitor* and the *Environmental Monitor Archives*. Filings made between 2002 and September 9, 2009 are only available in the *Environmental Monitor Archives*, while filings made from September 23, 2009 through the present are available in the *Environmental Monitor*. Filings made prior to 2002 are entirely unavailable through the online portal. Consequently, to access filings related to longstanding projects, one potentially must access and search multiple databases. Additionally, the database system for accessing documents is complex, difficult to navigate, and, importantly, does not allow the public to obtain all project documents through a simple and direct project name or EEA number search. Instead, one must search individual issues of the *Environmental Monitor* or *Environmental Monitor Archives* in an attempt to locate the relevant records. Even then, because the online portals only include records after 2002, any search of the online portal will fail to provide a complete disclosure of all records related to certain projects. This is particularly problematic because members of the public can no longer physically review files at the MEPA office because of the COVID pandemic. Thus, the online portal is the only means by which to obtain these documents, making it more important than ever that these records are publicly available and easily accessible online. Despite this, full and public access to these documents remains elusive.

The process is notably complicated when searching for Certificates issued by MEPA, which is problematic because Certificates contain the Secretary's decision regarding the future conditions of a project. The online portal does not indicate in which issue of the *Environmental Monitor* a Certificate is published; rather, one must undertake a complicated two-step process. First, an individual must determine the date that the Certificate was issued, and, second, search through the two subsequent editions of the *Environmental Monitor* to locate the Certificate. This is an

---

<sup>6</sup> Mass.gov, *Massachusetts Environmental Policy Act Office*, <https://www.mass.gov/orgs/massachusetts-environmental-policy-act-office>.

unnecessarily arcane and complicated process that prevents the public from gaining sufficient access to required disclosures.

### **III. Now is the Time for EEA to Begin Outreach to Update the EJ Policy.**

The EJ Policy was executed on January 31, 2017. It requires the EEA Secretary to review the Policy and, after soliciting input, amend the policy every five years.<sup>7</sup> Thus, a new EJ Policy should be executed on or before January 31, 2022. Now is precisely the time for EEA to solicit input to amend the EJ Policy.

The Executive Order on Environmental Justice requires EEA to review MEPA thresholds that trigger enhanced review.<sup>8</sup> EEA is more than five years beyond the deadline to accomplish this task. Further, the EJ Policy requires updates to EIR thresholds for projects that trigger enhanced review and/or enhanced analysis of impacts and mitigation.<sup>9</sup>

In addition to the Executive Order requirement, the Roadmap Bill will, if enacted, further trigger MEPA updates to require more thorough consideration of EJ issues in MEPA and other environmental review stages. If the Roadmap Bill is enacted, then EEA will need to revise its EJ Interim Protocol, amend the MEPA regulations, and update the EJ Policy. If the Legislature or Governor fail to act on the Roadmap Bill or enact a version of the Roadmap Bill excludes the environmental justice portions to amend MEPA, then EEA still has an obligation to update MEPA thresholds that trigger enhanced review pursuant to the Executive Order on Environmental Justice and EJ Policy. Those of us engaged in negotiating the Executive Order on Environmental Justice discussed with the past administration the need to expand enhanced review beyond the MEPA thresholds for wastewater (301 CMR 11.03(5)), air emissions (11.03(8)), and solid and hazardous waste (11.03(9)).

We urge EEA to commence conversations about the MEPA thresholds update no later than June 30, 2021, should the Roadmap Bill not become law. We encourage EEA to work on the revised MEPA thresholds with the Massachusetts Environmental Justice Table, a statewide coalition of community-based, environmental, Indigenous, and civil rights organizations led by grassroots, community of color-led organizations.

### **IV. CLF Supports the Adaptation Interim Protocol and Recommends Clarifications to the Addendum to the Environmental Notification Form.**

CLF supports the MEPA Office efforts to better integrate climate resilience and adaptation planning into the environmental review process. As the Commonwealth has recognized, the threats and challenges posed by extreme weather and climate change are not only imminent, but

---

<sup>7</sup> Massachusetts Executive Office of Energy and Environmental Affairs, *Environmental Justice Policy*, at 7, 14 (2017).

<sup>8</sup> Exec. Order 552 Mass. Reg. # 1276 (2014).

<sup>9</sup> Massachusetts Executive Office of Energy and Environmental Affairs, *Environmental Justice Policy*, at 10 (2017).

already being experienced by Massachusetts residents. It is critical that the Commonwealth take steps now, to meet current and future climate risks.

We support the proposed information gathering process outlined by the Adaptation Interim Protocol as well as the efforts that EEA has already undergone to develop tools and procedures for risk assessment, evaluation, and adaptation and resilience planning in the Commonwealth. As EEA goes forward in introducing new tools to further integrate its existing risk assessment procedures into practice, we recommend that several points and definitions be clarified so that the process is uniform and clear. Specifically, we have the following notes about the addendum to the Environmental Notification Form (“ENF”) in the Adaptation Interim Protocol (“Addendum”).

A. Impervious Surface and Area-Wide Impacts.

The Addendum asks project proponents to note whether the “project [will] result in a net increase in impervious area.”<sup>10</sup> Project proponents should also be asked to qualitatively describe impervious surface at adjacent sites and the history of increases in impervious for the area. This will allow the review process to address area-specific impacts beyond individual sites. We encourage the Resilient MA team to develop data and evaluation tools to allow project proponents to review impervious surface changes and status for surrounding parcels.<sup>11</sup>

B. Municipal Level Forward-Looking Data.

The Adaptation Interim Protocol allows project proponents to rely on either Massachusetts Coastal Flood Risk Model (“MC-FRM”) as it is available, and if the project is located within the city of Boston, existing BPDA data that is forward looking.<sup>12</sup> If MC-FRM is not available, or if the project is not located within the City of Boston, the Adaptation Interim Protocol instructs the proponent to identify projected mean sea level rise (“SLR”) anticipated for the useful life of the project and the potential of site inundation using the Resilient MA mapping tool. Given that other municipalities may have high-quality forward looking data available, this component of the Addendum should be revised to specify that forward looking data can be used as it is available, if it is the best available data, the MC-FRM is not yet available, and the project is not located within the City of Boston.

C. Project Criticality.

The Addendum asks Proponents to describe the criticality of individual projects on a qualitative scale of low, medium, or high. There are multiple criteria included for determining project criticality, including “the extent of the geographical area and populations affected by loss or inoperability of the project/asset, including whether the project is located within and/or serves an Environmental Justice and/or climate vulnerable population; the length of time the project/asset

---

<sup>10</sup> Adaptation Interim Protocol, p. 3.

<sup>11</sup> For example, the Resilient Massachusetts team could adapt its map:  
<https://resilientma.org/map/>.

<sup>12</sup> Adaptation Interim Protocol, p. 4.

can be inoperable without consequence; and the nature and severity of impacts resulting from loss or inoperability of the project/asset.”

Given the number of factors described here, and that it is unclear whether it is mandatory that each individual criterion be included in a criticality rating, it is likely that information reported by project proponents for this evaluation component will vary considerably. There are clearer questions outlined in RMA’s Draft Project Inputs and Climate Risk Screening Output, which will presumably be integrated into the forthcoming online RMA tool.<sup>13</sup> However, the Adaptation Interim Protocol includes very little of that detail in this document, and largely leaves the description of criticality up to the project proponent, with minimal guidance. We recommend the following changes to the Addendum to clarify this point of evaluation for projects that go through the environmental review process between the enactment of the Adaptation Interim Protocol and the release of the RMA web tool:

- **Provide guidance as to what constitutes a low, medium or high level of criticality.** These are qualitative descriptors, and there are no thresholds, defining matrix or list of criteria for each level included in the draft Adaptation Interim Protocol. The protocol should also clarify how these levels of criticality relate to the criticality thresholds within the state building code.
- **Clarify definition of Environmental Justice and/or climate vulnerable populations.** While the Commonwealth has a codified definition of environmental justice populations,<sup>14</sup> which we recommend updating to be consistent with the Roadmap Bill, the Adaptation Interim Protocol includes “climate vulnerable population.” The Adaptation Interim Protocol notes that climate vulnerable populations are “those who have lower adaptive capacity or higher exposure and sensitivity to climate hazards like flooding or heat stress due to factors such as access to transportation, income level, disability, racial inequity, health status, or age.”<sup>15</sup> However, the corresponding Draft Project Inputs and Climate Risk Screening Output documents references vulnerable population definitions in the SHMCAP.<sup>16</sup> The Adaptation Interim Protocol should provide a more specific definition of the indicated populations. We also encourage the Resilient MA Team to add some of these

---

<sup>13</sup> See Commonwealth of Massachusetts. 2020. Draft Climate Resilient Design Standards and Guidelines. Section 2, p. 10. Accessed 1 March 2021 at <https://www.mass.gov/doc/draft-project-inputs-and-risk-rating-output/download>

<sup>14</sup> See Commonwealth of Massachusetts. Environmental Justice Populations in Massachusetts. Accessed 1 March 2020 at <https://www.mass.gov/info-details/environmental-justice-populations-in-massachusetts>

<sup>15</sup> Adaptation Interim Protocol, p. 5.

<sup>16</sup> See Commonwealth of Massachusetts. 2020. Draft Climate Resilient Design Standards and Guidelines. Section 2, p. 11. Accessed 1 March 2021 at <https://www.mass.gov/doc/draft-project-inputs-and-risk-rating-output/download>.



demographic data to its mapping tool, which currently only includes a layer for environmental justice populations.

- **Add review of unintended consequences of asset failure or emergency conditions.** While the Adaptation Interim Protocol asks project proponents to describe “the nature and severity of impacts resulting from loss or inoperability,” it does not ask proponents to describe any potential unintended consequences of the loss of the asset, or potential dangerous or hazardous emergency scenarios that may emerge under extreme weather conditions.<sup>17</sup> For example, this might include a description of any industrial sites or pollution sources located near the project site.

D. Adaptation Measures.

The Adaptation Interim Protocol asks Proponents to describe measures taken to adapt to climate change.<sup>18</sup> In addition to listing adaptation measures, Proponents should describe what climate risks the adaptation measures intend to address, and any adaptation alternatives considered as part of the planning process. Proponents should be required to address all applicable climate risks including temperature and precipitation changes, not just flooding from sea level rise. The focus of the Adaptation Interim Protocol appears to be on coastal flood risk, but it is just as important to analyze other risks, particularly for projects located inland. We encourage EEA to enumerate the various types of climate risks that Proponents are expected to analyze and disclose and, to the extent the Commonwealth cannot provide a statewide dataset on a particular impact, it should provide external resources or other guidance for Proponents.

Consistent with state policy codified elsewhere, the review process should prioritize, to the maximum extent practicable, adaptation measures that promote the preservation, protection, restoration and enhancement of the Commonwealth’s natural infrastructure through nature-based solutions and account for the existing natural, built, and economic characteristics of the Commonwealth’s most vulnerable areas and human populations. Adaptation measures that include the use of hard-engineered, hardscape, or gray infrastructure features should be allowed only where they are supported by evidence that the measures will not cause or exacerbate negative environmental impacts and that alternative green or green and gray hybrid solutions are not feasible. Finally, Proponents should be required to provide a description of community engagement efforts undertaken in the decision-making process for any proposed adaptation measures.

---

<sup>17</sup> Adaptation Interim Protocol, p. 5.

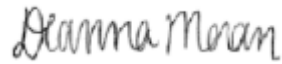
<sup>18</sup> Adaptation Interim Protocol, p. 5.

Thank you for your consideration of these comments. We look forward to working with EEA and the RMAT team as it pursues implementation of environmental justice and adaptation and resilience review processes under MEPA.

Sincerely,



Staci Rubin, Senior Attorney



Deanna Moran, Director of Environmental Planning

APPENDIX A  
Red-lined Edits to MEPA Protocol

MEPA Interim Protocol for Environmental Justice Outreach  
Issuance Date: [TBD], 2021

Background

In 2017, the Executive Office of Energy and Environmental Affairs (EEA) issued a revised Environmental Justice (EJ) Policy (the 2017 EJ Policy). Among other items, the 2017 EJ Policy requires that projects triggering certain MEPA ENF review thresholds provide opportunities for “enhanced public participation” by surrounding EJ neighborhoods,<sup>19</sup> and that projects triggering certain EIR thresholds conduct an “enhanced analysis of impacts and mitigation,” in addition to enhanced public participation.<sup>20</sup> The MEPA thresholds to which these EJ requirements apply are those related to wastewater (301 CMR 11.03(5)), air emissions (11.03(8)), and solid and hazardous waste (11.03(9)).

Starting in 2020, the MEPA Office has embarked on an effort to update its EJ related review protocols, in consultation with the EEA EJ Director and other EEA agencies. This effort will coincide with parallel efforts to update MEPA regulations at 301 CMR 11.00 et seq. While these efforts are ongoing, the MEPA Office is issuing this interim protocol to improve notification and outreach to, and engagement with, EJ neighborhoods by project proponents. The interim protocol shall remain in place until amended, if necessary, to comply with statutory requirements or superseded by a formal MEPA EJ strategy and associated policy or guidance to be developed through a public stakeholder process.

Interim Protocol

Effective [TBD], 2021, all new projects filing with the MEPA Office will be required to identify the location of the project relative to Environmental Justice Populations as depicted on this mapping tool, and include a printout of the project location shown on the mapping tool as an attachment to the Environmental Notification Form (ENF) (or EENF) submittal. The printout shall identify all Environmental Justice Populations within a five mile radius of the project.

If any portion of the project site is located within an “EJ population” as defined in the 2017 EJ Policy, the Proponent is required to consult with the MEPA Office at least ~~1060~~ days prior to filing to determine an appropriate EJ outreach strategy. As part of this outreach strategy, the Proponent shall develop a written Project statement about the facility that includes detailed information about: the Project need; public health, environmental, energy, economic, and climate risks and burdens; public health, environmental, energy, economic, and climate benefits for communities within two miles of the facility. The Project statement shall include reasonable alternatives. The Project statement shall be shared with the EEA Director of Environmental

---

<sup>19</sup> The specific ENF thresholds are 301 CMR 11.03(5)(b)(1)-(2), (5); 301 CMR 11.03(8)(b); and 301 CMR 11.03(9)(b).

<sup>20</sup> The specific EIR thresholds are 301 CMR 11.03(5)(a)(1)-(2), (5); 301 CMR 11.03(8)(a); and 301 CMR 11.03(9)(a).

Justice and posted to a public website. Within 30 days of submitting the Project statement, the Proponent shall invite community-based organizations, local elected officials, the Director of Environmental Justice to a meeting to review the proposed project (information meeting). During the information meeting, the Proponent shall review the Project statement, answer questions, and listen to attendee concerns and ideas. Following an information meeting, the Proponent shall adjust the Project that address community concerns or abandon plans to file with MEPA.

In most cases, such strategy shall include, at a minimum, conducting outreach to local EJ groups and, if “English Isolation” (limited English proficiency) is indicated on the mapping tool as an identifying feature of the EJ population, offering a translated version of the Project statement, to the extent practicable, translation and interpretation services in languages spoken by a significant portion of the population, and interpretation services during information meetings and the MEPA site visit, if requested 48 hours in advance. These language service requirements shall apply to notices, documents, and community meetings that pertain to the proposed project all at the project proponent’s expense. The MEPA Office can provide assistance in identifying the relevant languages for the neighborhood. In lieu of pre-filing consultation, the Proponent may voluntarily conduct EJ outreach prior to filing and include a summary of these outreach activities as part of the ENF/EENF filing so long as the outreach is equal to or exceeds the requirements noted above. Remediation projects will be exempted from this requirement.

In addition to these pre-filing requirements, the MEPA Office will consider the potential need for enhanced outreach to EJ neighborhoods during the course of MEPA review, including during the site visit, for any project that is subject to the requirement to file a mandatory environmental impact report (EIR). This determination will be made on a case by-case basis, in consideration of the project’s proximity to EJ neighborhoods, and its specific impacts. If required, enhanced outreach activities will be specified in the EIR Scope. The Secretary’s Certificate will include mitigation requirements that are tailored to EJ population needs and requests.

This Interim Protocol is intended to supplement, and shall not supersede, the requirements of the 2017 EJ Policy. The 2017 EJ Policy shall remain in effect for all projects to which its requirements apply.