

November 29, 2021

Via Electronic Mail

Tori T. Kim
Assistant Secretary/MEPA Director
Executive Office of Energy and Environmental Affairs
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Subject: Environmental Justice Table Comments on Massachusetts Environmental Policy Act Proposed Regulatory Amendments, 301 CMR 11.00 et. seq

Dear Secretary Theoharides and MEPA Director Tori Kim:

We write as the Massachusetts Environmental Justice Table¹ and allies with comments regarding the Revised MEPA Public Involvement Protocol for Environmental Justice Populations (Public Involvement Protocol) and Protocol for Analysis of Project Impacts on Environmental Justice Populations (Project Impacts Protocol). We are grateful to the MEPA Office staff for dedicating deep resources and attention to updating the MEPA Regulations and guidance to reflect the environmental justice requirements of An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (Roadmap Law).² We recommend that the Protocols be further strengthened to ensure residents of EJ populations have meaningful opportunities to comment on project design, and that Proponents are accountable for incorporating community feedback into project design.

We offer the following recommendations to strengthen the Public Involvement Protocol:

- Add additional MEPA thresholds that trigger engagement with EJ populations within 5 miles of a project;
- Require Proponents to consult with the MEPA office at least 60 days prior to filing, instead of the proposed 45-90 days prior to filing, to determine an appropriate EJ outreach strategy when EJ populations are potentially impacted;
- MEPA Office should ensure that staff is available to support meaningful community engagement during the pre-filing engagement period and the site visit;
- As part of the pre-filing engagement, Proponents should request publication in the Environmental Monitor and send information to Indigenous and Tribal contacts for all projects to allow for early identification of Native burial lands and artifacts, regardless of proximity to EJ populations;

¹ The Massachusetts Environmental Justice Table formed in 2019 to support and influence environmental justice legislation and policy in the Commonwealth. We are a statewide coalition of community-based, environmental, Indigenous, and civil rights organizations led by grassroots, community of color-led organizations.

² St. 2021, c. 8, §§ 56-60, 102A, 102B, 102C.

- Add details about how to define project impacts and effects on EJ populations;
- Require the Proponent to hold an information session where residents of an EJ population raises a concern about a Project;
- MEPA Office should require Proponents to substantively respond to comments during the pre-filing period, alter the project proposal, or abandon the project prior to filing, based on feedback from EJ residents; and
- Add the presumption that absent compelling information to the contrary, any project impacts within one mile of an EJ population will negatively affect such EJ populations.

We offer the following recommendations to strengthen the Project Impacts Protocol:

- Add language requiring a Proponent to respond to concerns raised by residents of EJ populations during the pre-filing engagement;
- Expand language about what type of criteria should be assessed as creating a potential for unfair or inequitable burden; and
- Add language about how to review ecological restoration projects.

For both the Public Involvement and Project Impacts Protocols, the presumption of project impacts guidance should be more detailed, including examples of potential impacts. We recommend that impacts be defined as “changes to human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives, including those effects that occur at the same time and place as the proposed action or alternatives (direct impacts) and may include effects that are later in time or farther removed in distance from the proposed action or alternatives (indirect impacts).” We offer additional language in the redline of the protocol attached here in Appendix A.

Regarding language access, we suggest that the threshold for a population to qualify for interpretation and translation services should be lowered to 3 percent instead of 5 percent. We request that the MEPA Office convene a meeting to further discuss the language access translation threshold.

Finally, we recommend that an EENF/EIR rollover process be created to ensure that EJ populations benefit from ecological restoration projects. Below are detailed recommendations.

I. For the Public Involvement and Project Impacts Protocols, we Support a Pre-Filing Consultation Requirement and Offer Further Recommendations On Appropriate Outreach.

The MEPA Office’s Project Impacts Protocol states that Proponents must identify EJ populations within 1 and 5 miles from a project site and if EJ populations are impacted, must provide advance notification via an electronic “EJ Screening Form” to Community Based Organizations (CBOs) and tribal representatives between 45 and 90 days prior to filing and to conduct outreach to the potentially impacted EJ populations. Instead, to ensure that Proponents conduct engagement in a meaningful way, with support of the MEPA Office, the Proponent should be required to both submit the Environmental Justice Screening Form and *consult with the MEPA*

Office at least 60 days prior to filing, rather than the 45 to 90 days currently prescribed in the Public Involvement Protocol. A 60-day advance notice period will allow time for a Proponent to work closely with the MEPA Office to develop a meaningful outreach strategy and then to conduct outreach prior to filing with the MEPA Office.

A. Pre-Filing Consultation and Outreach Should Be Done For All Projects With Some Exceptions.

We support the Public Involvement Protocol's requirement that Proponents complete the Environmental Justice Screening Form summarizing the proposed project, including specifics on the Project location and the identification of Environmental Justice Populations within one mile of the Project site. The Environmental Justice Screening Form should be submitted to the MEPA Office and published in the Environmental Monitor. In addition, the Proponent should be required to file the Environmental Justice Screening Form with the Aquinnah Wampanoag Tribe, Mashpee Wampanoag Tribe, the Massachusetts Commission on Indian Affairs, the North American Indian Center of Boston and any other Native or Indigenous People contacts to allow for identification of Native burial lands and artifacts.³ Proponents shall provide outreach to Environmental Justice Populations at least 60 Days before filing an Environmental Notification Form, unless subject to a pre-filing exemption as directed by the MEPA Office.

We request that outreach be done to tribal governments and organizations for all projects, regardless of size and regardless of proximity to a designated EJ population. Outreach should be conducted by EEA/DEP through the EJ Director, and should include, but not be limited to: the Massachusetts Commission on Indian Affairs, the North American Indian Center Of Boston (NAICOB), the Wampanoag Tribe of Gayhead Aquinnah, the Mashpee Wampanoag, the Nipmuc Nation, and state historic preservation officers. Early outreach will give indigenous stakeholders time to identify whether there are burial grounds that could be disrupted by a proposed project. If a burial ground could be disrupted, that should trigger either an alternatives analysis or a halt of the project.

For Projects that are within one mile of an EJ Population or five miles of an EJ Population that imposes an air impact, rather than employing thresholds to determine whether a pre-filing consultation and outreach are necessary, we suggest that these requirements should apply to all projects, including those that increase climate resiliency or result in additional recreational or green space, with some narrow exceptions. Those exceptions are for Projects relating to a single family home, a residential building that is owner-occupied with up to four units, curb cuts if not on state highways, and repair or maintenance of culverts or replacement with a similarly sized culvert.

Exempting projects on a greater scale that a Proponent asserts are beneficial at such an early stage in the process, without a thorough assessment of the potential impacts, could perpetuate the same environmental injustices that the EJ provisions of the Roadmap Law were drafted to address. Although such a requirement may seem onerous, it will ensure that unintended

³ See Massachusetts Exec. Order 126, "[Massachusetts Native Americans](#)," (July 8, 1976).

consequences or impacts that the Proponent or MEPA office have not identified can be raised and addressed early, prior to the investment of significant time and resources into the process. This will also ensure that concerns around the cumulative impacts of small projects can be vetted and addressed.

One way to engage residents is by conducting outreach to local elected and appointed officials, community-based organizations, tribes and Indigenous representatives. Engaging early with the local populations allows them the opportunity to comment on the design of a project prior to filing an environmental review. In this regard, Proponents should be required to report to the MEPA Office and the EEA EJ staff for consultation at least 60 days prior to filing. This should provide enough time for EEA staff to recommend an appropriate EJ outreach strategy. Further, as part of the ENF filing, the Proponent should report on its pre-filing outreach.

B. The MEPA Office Should Provide Support for the Project Proponent and Impacted Community Throughout the Consultation Process

The Public Involvement Protocol should require the MEPA Office to provide support both during the early engagement process and the MEPA review process. Prior to filing, Proponents should be required not only to file the Environmental Justice Screening Form, but also to consult with the MEPA Office to develop a community outreach strategy. 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. Ideally, the MEPA Office and Director of EJ at the Executive Office of Energy and Environmental Affairs will offer to facilitate discussions between a Proponent and potentially-impacted residents. The MEPA Office should be responsible for notifying potential EJ stakeholders and community-based organizations on the EEA EJ engagement list. The MEPA Office should also connect the Proponent with the EJ Advisory Council and for projects that impact EJ populations, should share project information with the members of the Massachusetts EJ Table. EEA should decide with the Advisory Council whether to host an additional informational meeting on a potential project.

For projects that involve site visits, the MEPA Office and Proponents should work together to ensure residents of potentially-impacted EJ populations know about the site visit and can participate in the site visit. Site visits are typically offered during a business day. The MEPA Office and Proponent should consider offering site visits at different times, including evenings and weekends, and recording a site visit that is publicly available.

C. The MEPA Office Should Require Proponents to Incorporate Feedback from EJ populations into the Filing.

To ensure that community engagement has a meaningful impact on project design, the Public Involvement Protocol should require the Proponent to respond to comments during the pre-filing period, alter the project proposal, or abandon the project prior to filing, based on feedback from EJ residents.

The EJ Table requests that the Public Involvement Protocol require a Proponent to invite community-based organizations, local elected officials, and the EEA Director of EJ to a meeting to review the proposed project prior to filing (“information session”). The Public Involvement Protocol should also ensure that the Proponent is accountable to respond to community feedback at this stage, including by abandoning plans to file with MEPA, altering plans to take into account the comments, or explaining why it chose to continue with the plans. Following an information session, the Proponent should be required to adjust the project to address community concerns or abandon plans to file with MEPA, or explain why it will not do so.

Similarly, the EJ Table supports the Public Involvement Protocol’s requirements around community engagement during the site visit. However, the Public Involvement Protocol should also require the MEPA Office staff to respond to community concerns raised at this stage. If site visit attendees raise concerns and/or recommended Project changes, the MEPA Office staff should ensure that they understand the information and address those concerns in the Secretary’s Certificate. The MEPA Office should consider extending the comment periods beyond the standard 37 days when a project potentially impacts EJ populations.

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

D. Cumulative Impacts Assessment Procedures Should Be Incorporated into MEPA Guidance

Rather than creating a separate standard, future findings from DEP’s Cumulative Impacts Working Group should be incorporated into MEPA guidance. This will ensure consistency and ease of filing for Proponents and transparency for all stakeholders.

II. The Presumption of Project Impacts Should Include More Details.

We request that the statement that absent compelling information to the contrary, any project impacts within one mile of an EJ population will negatively affect such EJ populations be reinstated in the Public Involvement EJ Protocol. We recommend that the Public Involvement and Project Impacts Protocols state examples of the types of exposures or actions that constitute project impacts, including, but not limited to air emissions from construction or facility operation, water releases and discharges during construction and facility operation, tree removal, land alternation, adding vehicle trips, altering access to public transportation, increasing the presence of police officers, and altering noise exposure. We also support the presumption that any project that will require an unusually large volume of project-related or construction-related diesel trucks or equipment may be regarded as affecting air quality up to 5-mile radius. Unusually large volume should be deemed to include adding more than 25 trips/day or construction equipment that will operate more than 100 hours throughout the lifetime of the project construction. Proponents should discuss how to avoid or mitigate these emissions. We

support the presumption that the Secretary shall retain discretion to reject any documentation and associated ENF/EENF filing as incomplete based on non-compliance with EJ public involvement requirements and may require an extension or repetition of the MEPA review due to such non-compliance.

We further request that the following paragraph in the Public Involvement Protocol regarding the impacts of air quality be reinstated: “For air quality, the MEPA Office will presume that project impacts exceeding MEPA review thresholds for air emissions at 301 CMR 11.03(8)(a)-(b) will affect air quality and negatively affect EJ populations within a 5-mile radius around the project site. In addition, any project that will require an unusually large volume of project or construction related diesel trucks or equipment may be regarded as affecting air quality up to a 5-mile radius depending on the specific routes of travel for the trucks or equipment. The Proponent is encouraged to consult with the MEPA Office prior to filing to ensure accuracy in determining the geographical area over which public involvement requirements will apply. The ENF/EENF shall, in any event, describe any air emissions associated with the project and whether such emissions are anticipated to affect air quality within an area up to 5 miles around the project site.

III. The MEPA Office Should Convene a Meeting With Data Experts to Clarify When Translation and Interpretation Services Will Be Required.

A goal of the Public Involvement Protocol is to ensure that potentially-affected populations are able to meaningfully engage in the public process for the project. Language access is a key component of ensuring meaningful engagement. The Public Involvement Protocol indicates that if limited English proficiency is one of the criteria that triggers an EJ population designation within the one or five-mile radius, then written and oral translation and interpretation services should be provided in all languages spoken by a significant portion of the populations, or at least 5 percent of the census block. We question the dataset to be used, the decision to use data by census block, and a 5 percent trigger. To address these concerns, we request that the MEPA Office, along with the EEA Director of EJ convene a meeting to determine the appropriate threshold. In the interim, we recommend that 3 percent be the threshold rather than 5 percent, which is consistent with practices in the District of Columbia. Pursuant to the D.C. Language Access Act of 2004,⁴ District agencies must provide both oral and written language services in foreign languages that “meet the Act’s threshold of 3 percent or 500 individuals, whichever is fewer, of the LEP populations served or encountered or likely to be served or encountered by a covered entity.”⁵

⁴ D.C. Code §§ 2-1931 to 2-1933 (2021).

⁵ In fact, the text of Language Access Act indicates that the threshold applies only to written translations. *See* D.C. Code § 2-1933(a) (2021). However, the D.C. Office of Human Rights, charged with overseeing the implementation of the Act, clearly notes that the threshold applies to both oral and written language services. *See Language Access FAQs*, D.C. Off. Hum. Rts., at 4.

A. Some datasets contain large margins of error that may affect the reliability of information.

Data regarding limited English proficiency status could be based on decennial census data or American Community Survey data. Though the 2020 census is complete, the results and data are not yet available. While the Decennial Census reflects a broader sample size, the ACS is updated more regularly and therefore will better capture demographic shifts. This may also be an aspect in which it is preferable to err on the side of inclusivity – while ACS data may be less statistically rigorous, they are more likely to capture a more current population. However, the Decennial Census is more statistically rigorous than ACS data and this should be considered as well. Relying on the 2010 census data would ensure lower margins of error compared to the more recent American Community Survey data, though that data is likely outdated and not reflective of current language needs.

According to the most recent 5-year American Community Survey estimates, there are 2,617,597 households in Massachusetts, with a margin of error +/- 4,909. Of these households, 152,845 are limited English speaking households, with a margin of error +/- 2,902. Or, 5.8 percent of households in Massachusetts are limited English speaking with a +/- 0.1 margin of error.⁶ When analyzing the languages spoken, the margins of error are even greater.

Regarding margin of error concerns, an approach of aggregating census tracts will provide a larger sample size which will reduce error. Beyond this, we recommend erring on the side of inclusivity; it would be more detrimental to not provide translation services to people requiring them rather than to provide translated documents that benefit a smaller number of people than intended. We recommend a stakeholder meeting that includes people with GIS and statistical experience to work through these details.

B. Instead of using data based on census block, consider drawing a radius to determine the significant portion of the population that would trigger translated materials.

We recommend that proximity be determined by a radius rather than simply be based on the census tract that the project is in, since a project located on the edge of a census tract could have a significant impact on neighboring tracts which would not otherwise be captured. For each project, we recommend the following steps to determine whether translation services should be provided:

- Draw a radius of 1 or 5 miles around the MEPA project in question.
 - A minimum radius of 1 mile is generally accepted and supported by the literature, and a 5 mile radius could be used for projects with associated air emissions, which may have more of a geographic reach than other impacts. This aligns with the EEA Environmental Justice Policy 2017.
- Determine whether that radius intersects with any environmental justice populations per the EJ Viewer Tool.
 - If yes, determine whether English isolation is a characteristic of any of these block groups.

⁶ The relevant table ID is S1602.

- If yes, draw a 1 or 5 mile buffer using GIS around the site, and for all census tracts* that intersect that buffer, take the sum of the population and then calculate the percentage of the population that speaks each language and identifies as limited English proficiency. Provide translation services for any languages that are spoken by more than a certain percent of the population according to Census data on language spoken at home by ability to speak English (table B16001).
- Additionally, community outreach should be conducted to determine whether translation should be provided for other languages identified in the census reporting but below the X% threshold. It is possible that the census may be underreporting on these languages and therefore outreach is important to ensure that people speaking these languages are not overlooked in the public involvement process.

We recommend that the threshold to trigger language translation and interpretation should be to err on the side of inclusivity, which could only result in providing more translated information to the community rather than failing to accurately inform them. Other considerations include using publicly available data so that the approach of determining which languages require translation is replicable, and aligns with the MA Environmental Justice definition and policy.

C. MEPA should require simultaneous interpretation to allow for 2-way communication, and translation and interpretation services should maintain quality.

The interpretation should be carried out as soon as the event starts, so that Portuguese speakers, for example, understand what someone is saying in English and the English speakers understand what someone is saying in Portuguese. In this light, it is essential to maintain the quality of translation and interpretation services. We recommend an elaboration of a list of translation service agencies which project proponents may use to meet their needs and ensure the accuracy of translations and interpretation for public involvement. Subpar services such as a translator lacking the skills or technical knowledge needed to accurately capture the information impede equity in public participation. We recommend identifying language services providers with the technical knowledge needed to accurately translate technical nuances which influence the public's understanding of proposed activities and therefore its ability to provide feedback.

Also, translation and interpretation requirements should include the need for headsets which can be used for some persons who are hard of hearing. In the same manner, an ASL interpreter should be available for any persons in the audience requiring sign language. Ensuring interpretation and translation quality implies the neutrality of service providers. This means that conflict of interest checks should be performed periodically before they are added as reference.

IV. The Regulations and Guidance Should Be Updated To Include A Process to Ensure that EJ Populations Benefit From Ecological Restoration Projects

The environmental justice components of *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* requires the equitable distribution of energy and environmental

benefits and environmental burdens. St. 2021, c. 8, section 56. The law further requires the Energy and Environmental Affairs Secretary to consider environmental justice principles in making any determination or taking action relating to project review. St. 2021, c. 8, section 60. We want to ensure that environmental justice populations benefit from ecological restoration. We therefore request that the MEPA Regulations and Guidance be updated to require Proponents of ecological restoration projects to conduct community outreach and engagement and ensure that environmental review costs are not prohibitive to allow such projects to be implemented in environmental justice populations and contribute to the equitable distribution of energy and environmental benefits.

A. An EENF/EIR Rollover Process Should Be Created For Ecological Restoration Projects

For ecological restoration projects located in proximity of environmental justice populations, we propose that Proponents file an Expanded Environmental Notification Form (EENF) plus additional components to meet the requirements in the new statute for the EIR in a simple form (e.g., checklist and other documentation required by guidance) as well as draft Section 61 Findings, structured in a way that is less costly to prepare than a typical EIR, and applicable only to Ecological Restoration Projects that can demonstrate that the project will not cause permanent Damage to the Environment and contribute to equitable distribution of energy and environmental benefits. This EENF/EIR rollover process would be structured to require case-by-case review according to the applicable statutory requirements, and some ecological restoration projects may still require the typical full EIR format. This EENF/EIR process results in two separate 37-day comment periods. The first comment period (37-days) allows people to comment on the full package. If the public does not raise concerns, then EEA will re-publish the EENF/EIR in the Environmental Monitor as the EIR for a second comment period (37-days). For Phase II of the regulatory amendments, we are eager to discuss amendments to the thresholds in 301 CMR 11.03, which have the potential to help with ecological restoration projects and other projects affecting environmental justice populations.

We recommend the following changes to the regulations (**Red** text is proposed EEA addition, **Green** text is joint proposal):

- Add / amend definitions:
 - Damage to the Environment. Any destruction, **damage** or impairment (not including insignificant **destruction**, damage or impairment), actual or probable, to any person affecting the ability for that **person or others to live in and enjoy a healthy environment, regardless of race, color, income, class, handicap, gender identify, sexual orientation, national origin, ethnicity or ancestry, religious belief or English language proficiency, or** of the natural resources of the Commonwealth including, but not limited to, air pollution, GHG emissions, water pollution, improper sewage disposal, pesticide pollution, excessive noise, improper operation of dumping grounds, reduction of groundwater levels, impairment of water quality, increases in flooding or storm water flows, impairment and eutrophication of rivers, streams, flood plains, lakes, ponds or other surface or subsurface water resources, destruction of seashores, dunes, marine resources,

underwater archaeological resources, wetlands, open spaces, natural areas, parks, or historic districts or sites.

- Ecological Restoration Project: Any Project whose primary purpose is to restore or otherwise improve the capacity of a Project site to provide and sustain natural ecosystem services including, but not limited to, clean air and water, shade, prevention of flooding, groundwater recharge, fisheries and wildlife habitat, carbon sequestration and storage, and reducing or reversing ongoing Damage to the Environment where natural resources have been degraded or destroyed by anthropogenic influences. Ecological Restoration Project shall not be considered to include any work or activities that result in Damage to the Environment from a Project whose primary purpose is other than restoration or improvement of natural ecosystem services capacity.

We propose that the following text be added to the regulations:

- 301 CMR 11.06(7)(c): Add “For an Ecological Restoration Project, the Secretary may find that a rollover EENF/EIR that completed pre-filing requirements and, if it is located within one mile of an EJ population, was subject to at least one public comment period, meets the requirements of an EIR or, is required to complete additional assessment for MEPA review.”
- 301 CMR 11.06(8): Amend to add text in parentheses: Decision Allowing Single EIR. When issuing a Scope in accordance with 301 CMR 11.06(7), the Secretary shall ordinarily require a draft and final EIR but may allow:
 - “(a)” a single EIR, provided that the Secretary finds that the expanded ENF requesting a single EIR in accordance with 301 CMR 11.05(7):
 - “1.” describes and analyzes all aspects of the Project and all feasible alternatives, regardless of any jurisdictional or other limitation that may apply to the Scope;
 - “2.” provides a detailed baseline in relation to which potential environmental and public health impacts and mitigation measures can be assessed; and
 - “3.” demonstrates that the planning and design of the Project use all feasible means to avoid potential environmental impacts; or
 - “(b) for a Project for which an EIR is required under 301 CMR 11.06(7)(b), an ENF to be reviewed as a final EIR upon publication of notice in the next Environmental Monitor, provided that the Secretary:
 - 1. determines that no substantive issues remain to be addressed and that adequate additional measures were used to improve public participation by any potentially affected Environmental Justice Populations and

- 2. except for an Ecological Restoration Project, finds that the expanded ENF requesting the ENF to be reviewed as a final EIR in accordance with 301 CMR 11.05(7):
 - a. demonstrates that the Project will not negatively affect any Environmental Justice Population,
 - b. cause or contribute to any existing unfair or inequitable Environmental Burden and related public health consequences, or
 - c. result in a disproportionate adverse effect or increased climate change effects on an Environmental Justice Population provided that the ENF requesting the ENF to be reviewed as a final EIR in accordance with 301 CMR 11.05(7) shall present a complete and definitive assessment of the Project and its alternatives, and assessment of its potential environmental and public health impacts and mitigation measures sufficient to allow a Participating Agency to fulfill its obligations in accordance with M.G.L. c. 30, §§ 61, 62K and 301 CMR 11.12(5).”
- 301 CMR 11.07(7): Add “Ecological Restoration EIR. For an Ecological Restoration Project, the Secretary may find that a rollover EENF/EIR that completed pre-filing requirements and, if it is located within one mile of an EJ population, was subject to two 37-day comment periods, meets the requirements of an EIR if it contains the checklist and other documentation required by guidance. As part of the Ecological Restoration EIR, the EENF/EIR shall contain proposed findings in accordance with M.G.L. c. 30, § 61 for each Agency for each Agency Action to be taken on the Project. These Proposed Section 61 Findings shall specify in detail: all feasible measures to be taken by the Proponent or any other Agency or Person to avoid Damage to the Environment, unfair burdens, and related public health impacts in the short-term or, to the extent Damage to the Environment cannot be avoided while achieving the Project’s ecological restoration purpose, to minimize Damage to the Environment, unfair burdens, and related public health impacts to the maximum extent practicable to ensure environmental benefits in the long term. An Agency or Person responsible for funding and implementing measures to minimize unavoidable short-term impacts will ensure that such measures shall be implemented prior to or when appropriate in relation to environmental impacts. The Section 61 Findings shall also incorporate Environmental Justice Principles, where one or more Environmental Justice Populations are affected.”
- 301 CMR 11.08(4): Add a sentence that states: “An Ecological Restoration Project EENF/EIR within one mile of an environmental justice population shall be subject to two 37-day public comment periods.”
- 301 CMR 11.08(8)(e): Add “Ecological Restoration EIR. For an Ecological Restoration Project, the Secretary may find that a combined EENF/EIR that completed pre-filing requirements and, if it is located within one mile of an EJ population, was subject to two

37-day comment periods, meets the requirements of an EIR if it contains the checklist identified in Ecological Restoration Project Guidance. As part of the Ecological Restoration EIR, the EENF/EIR should contain proposed findings in accordance with M.G.L. c. 30, § 61 for each Agency for each Agency Action to be taken on the Project. The Secretary may require the Proponent to file a final EIR.”

We suggest that guidance offered by the MEPA Office on the proposed process state that a combined ecological restoration EENF/EIR have a checklist as follows:

- The ecological restoration project will not reduce or eliminate public access to the resource or any other public amenity without an equivalent replacement.
- Statement of results of assessment of any existing unfair or inequitable environmental burden and related public health consequences impacting
- combined ecological restoration EENF/EIR shall contain:
- Statement that the nature and extent of the proposed project and its environmental and public health impact as result of any development, alteration, and operation of the project constitute an ecological restoration project that will not produce a negative environmental or public health impact;
- Statement that no studies were conducted to evaluate said impacts since pre-filing outreach determined that there is no need for studies to evaluate said impact:
- Statement that the project is using all measures to minimize any anticipated short-term environment and public health damage and that it will have long-term environmental and public health benefits;
- Statement that there are no adverse short-term or long-term environmental and public health consequences that cannot be avoided should the project be undertaken;
- Statement that reasonable alternatives to the proposed project and their environmental consequences were considered and that the project proponent following conversations with potentially impacted communities demonstrates that the project is the best option to achieve ecological restoration.
- Narrative assessment of any existing unfair or inequitable environmental burden and related public health consequences impacting the environmental justice population from any prior or current private, industrial, commercial, state, or municipal operation or project that has damaged the environment.
- Statement that the environmental and public health impact from the proposed project would likely reduce any adverse effects on an environmental justice population;
- Statement that the potential impact or consequence from the proposed project would reduce the effects of climate change on the environmental justice population.

A redline of the Public Involvement Protocol and the Project Impacts Protocol is attached here as Appendix A.

Thank you for the opportunity to serve on the MEPA Office Advisory Committee. Please direct any questions about these comments to Staci Rubin, Conservation Law Foundation at SRubin@clf.org.

Sincerely,

Members of the Environmental Justice Table and Allies:

Airport Impact Incorporated (AIR Inc.) (Ally to the Massachusetts EJ Table)
Alternatives for Community & Environment (ACE) (Member of the Massachusetts EJ Table)
Clean Water Action (Member of the Massachusetts EJ Table)
Coalition for Social Justice (Member of the Massachusetts EJ Table)
Conservation Law Foundation (Member of the Massachusetts EJ Table)
GreenRoots (Member of the Massachusetts EJ Table)
Health Care Without Harm (Member of the Massachusetts EJ Table)
Neighbor to Neighbor (Member of the Massachusetts EJ Table)
North American Indian Center of Boston (Member of the Massachusetts EJ Table)
Unitarian Universalist Mass Action (Member of the Massachusetts EJ Table)
Union of Concerned Scientists (Member of the Massachusetts EJ Table)

APPENDIX A

Red-lined Edits to MEPA Protocol (Recommendations from the EJ Table are in green text)

MEPA Public Involvement Protocol for Environmental Justice Populations
Anticipated Effective Date: January 1, 2022

IMPORTANT: this MEPA Public Involvement Protocol will supersede the transition rules regarding environmental justice populations issued on June 24, 2021. Accordingly, the transition rules shall be RESCINDED on the effective date of this protocol.

Following a public comment period, the MEPA Office anticipates issuing a final protocol to be effective as of January 1, 2022. All new Environmental Notification Forms (ENFs) and Expanded Environmental Notification Forms (EENFs) submitted on or after the effective date must ensure compliance with all aspects of this protocol. Consistent with 301 CMR 11.05(5), the final protocol and corresponding revisions to the ENF form will be published in the Environmental monitor at least ten (10) days prior to the effective date.

Authority and Background

This protocol addresses the new public involvement requirements for projects undergoing MEPA review as set forth in: (i) Section 60 of Chapter 8 of the Acts of 2021, *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy* (the “Climate Roadmap Act” or “the Act”); and (ii) the 2021 update to the Executive Office of Energy and Environmental Affairs (EEA) Environmental Justice Policy (the “2021 EJ Policy”). This protocol accompanies corresponding changes to the Environmental Notification Form (ENF) shown in Attachment A and which will be incorporated into the template ENF to be made available on the MEPA website.

On March 26, 2021, Governor Baker signed into law the Climate Roadmap Act, which includes a new definition of “Environmental Justice [EJ] Population” for purposes of enhancing public involvement and other aspects of the MEPA review process. The new statutory definition of “EJ population” includes four categories of neighborhoods (defined as census block groups) with certain demographic characteristics based on median income level, percentage of residents who are people of color (i.e. minority status), and percentage of residents who lack English language proficiency (LEP). In turn, Section 60 of the Act provides that, “[t]o enable the public to assess the impact of proposed projects that affect their environment, health and safety through the [MEPA] project review process..., the secretary [of EEA] shall provide opportunities for meaningful public involvement” by EJ populations. The Act also gives the Secretary discretion to require additional measures as appropriate for projects that do not require the filing of an ENF.

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 coincides with parallel efforts to update MEPA regulations at 301 CMR 11.00 et seq. The MEPA Office is issuing this *MEPA Public Involvement Protocol for Environmental Justice Populations*

(“MEPA EJ Public Involvement Protocol”) as one component of its overall MEPA Office EJ Strategy to be implemented in 2021. This protocol addresses only the public involvement requirements of the Climate Roadmap Act; other requirements of the Act relative to the content of Environmental Impact Reports (EIRs) will be addressed through separate guidance, to be issued in conjunction with formal regulations promulgated under M.G.L. c. 30A.⁷

On June 24, 2021, EEA updated the 2017 EJ Policy that was previously in effect. The 2021 update (“the 2021 EJ Policy”)⁸, consistent with the 2017 EJ Policy, requires that projects triggering certain MEPA ENF review thresholds provide opportunities for “enhanced public participation” by surrounding EJ neighborhoods,⁹ and that projects triggering certain mandatory EIR thresholds conduct an “enhanced analysis of impacts and mitigation,” in addition to enhanced public participation.¹⁰ 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)). This MEPA EJ Public Involvement Protocol expands on but remains consistent with the requirements of the 2021 EJ Policy. Accordingly, the MEPA EJ Public Involvement Protocol shall define the public involvement requirements for all MEPA projects filed after the effective date.

Protocol

I. Measures to Enhance Public Involvement Prior to Filing ENF/EENF

Section 60 of the Climate Roadmap Act, now codified as M.G.L. c. 30, § 62J, requires that, “[i]f a proposed project affects an environmental justice population,” the Secretary of EEA shall require additional measures to improve public participation by the EJ population. Such measures shall include, as appropriate: “(i) making public notices, environmental notification forms, environmental impact reports, and other key documents related to the secretary’s review and decisions of a project review available in English and any other language spoken by a significant number of the affected environmental justice population; (ii) providing translation services at public meetings for a significant portion of an affected environmental justice population that lacks English proficiency in the project’s designated geographic area; (iii) requiring public meetings be held in accessible locations that are near public transportation; (iv) providing appropriate information about the project review procedure for the proposed project; and (v) where feasible, establishing a local repository for project review documents, notices and decisions.”

Section 60 indicates a broad intent to enhance opportunities for public involvement in reviews of MEPA projects that affect EJ populations. To effectuate this statutory purpose—and to align with the requirement in Section 58 of the Act that ~~any~~ projects that ~~is~~ are “likely to cause Damage to

⁷ Draft regulations addressing the EIR requirement set forth in Section 58 of the Climate Roadmap Act and other topics were issued for public comment on September 17, 2021.

⁸ <https://www.mass.gov/doc/environmental-justice-policy6242021-update/download>

⁹ 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)

¹⁰ The specific EIR thresholds are 301 CMR 11.03(5)(a)(1)-(2), (65); 301 CMR 11.03(8)(a)(1); and 301 CMR 11.03(9)(a).

the Environment” and is located, at a minimum, within 1 mile from an EJ population must submit an EIR to describe impacts on the EJ population—all MEPA projects that are subject to MEPA jurisdiction and meet or exceed any MEPA review threshold in 301 CMR 11.03 must undertake measures to provide public involvement opportunities by EJ populations located within 1 mile of the project site.¹¹ Consistent with [proposed] new 301 CMR 11.05(4)(d), all MEPA projects that are subject to MEPA jurisdiction must undertake measures to provide public involvement opportunities by EJ populations located within 5 miles of the project site,¹² if the project meets or exceeds MEPA review thresholds under 301 CMR 11.03(6)(a)-(b), 301 CMR 11.03(7)(a)-(b), 301 CMR 11.03(8)(a)-(b), or generates 150 or more new average daily trips (adt) of diesel vehicle traffic over a duration of 1 year or more.

To ensure that EJ populations have ample opportunity to meaningfully engage in MEPA project reviews, best practice dictates that Proponents take early steps to provide public involvement opportunities, starting well before the filing of the ENF/EENF with the MEPA Office. Specific strategies for such pre-filing outreach and community engagement are described below. It is important to note that the quality of public involvement efforts will be considered when determining whether to approve a request for expedited review procedures under 301 CMR 11.05(7), once the ENF/EENF is filed. Any project consisting of one single family home shall be exempt from the requirements of Part II, but must comply with Part I.

A. Advance Notification

All MEPA projects ~~subject to the requirements of this Part II~~ must endeavor to provide advance notification of the project ~~by submitting a request for publication in the Environmental Monitor and~~ to community-based organizations (CBOs) and tribes identified by the EEA EJ Director in a reference list (the “EJ Reference List”) for the designated geographical area around the project site. The Proponent is encouraged to supplement this list by conducting its own local research into additional CBOs, tribes or neighborhood leaders who may have an interest in projects undertaken at the project site. The EEA EJ Director and the MEPA Office shall be copied on such notification. The advance notification shall take the form of a completed “Environmental Justice Screening Form,” included as an Addendum hereto, and shall be sent through electronic means at the designated email addresses provided on the EJ Reference List.

While no set time period is prescribed for all projects, advance notification ~~of at least 60 between 45 and 90 days~~ prior to filing the ENF/EENF with the MEPA Office is ~~required strongly recommended~~. For any project that: (i) meets or exceeds mandatory EIR thresholds, or (ii) is subject to “enhanced outreach” requirements under the 2021 EJ Policy., or (iii) will seek to avail itself of expedited review procedures under 301 CMR 11.05(7), advance notification between 45 and 90 days is mandatory, and ~~failure to comply with advance notification will may~~ result in rejection of the ENF/EENF as incomplete under 301 CMR 11.05(1).

To the extent any languages have been identified for the designated geographical area (as described in Part I above) the Environmental Justice Screening Form shall be translated into each

¹¹ The 1-mile radius shall be determined in the manner described in Part I above.

¹² The 5-mile radius shall be determined in the manner described in Part I above.

language identified and attached to the notification sent to each addressee from the EJ Reference List, as well as to the EEA EJ Director and MEPA Office. **The EEA EJ Director and MEPA Office shall provide a list of translators who are familiar with MEPA and the Proponent shall select a translator from that list.** If the list of languages has been modified with or without approval of the EEA EJ Director, as described in Part I, the modified list of languages shall be utilized.

B. Community Outreach and Engagement

In addition to providing advance notification of the project, all MEPA projects that are subject to the requirements of this Part I shall undertake measures to promote public involvement through meaningful community outreach and engagement. The CBOs and tribes listed in the EJ Reference List may serve as a resource in efforts to solicit feedback from EJ populations. The specific forms of outreach and community engagement should be tailored to the specifics of each project and the residents and neighborhoods that characterize the applicable EJ populations surrounding the project site. Best practices in community engagement and consensus building should be consulted, including but not limited to the following:

- https://www.epa.gov/sites/default/files/2015-02/documents/ej_guidance_nepa_ceq1297.pdf
- <https://environment.transportation.org/education/environmental-topics/environmental-justice/>
- https://www.environment.fhwa.dot.gov/env_topics/environmental_justice.aspx

A non-exhaustive list of specific outreach and engagement strategies is included below. The Proponent is encouraged to implement as many of these strategies as is feasible and appropriate for the project. It is important to note that the quality of public involvement will be a central consideration when determining whether to approve a request for expedited review procedures under 301 CMR 11.05(7).

Potential public involvement strategies include:

- (At a minimum) holding a community meeting **either virtually, in person, or a hybrid option offering both in person and virtual options** upon request by anyone contacted through advance notification provided, or upon further dissemination of a written project summary as referenced below
- Wide dissemination of a written project summary (with translation into relevant languages) with basic project details,
- Hosting a project website or making project information available through other similar electronic means
- Ensure outreach to the public is communicated in clear, understandable language and in a user-friendly format
- Engage in creative outreach by making use of pre-existing groups – such as grassroots organizations and high school groups – and natural areas of congregation – like places of worship, libraries, and farmer’s markets – to disseminate information about new projects, as well as traditional locations such as libraries and government offices

- Use of non-English and/or community-specific media outlets to publicize the project, including local public broadcasting stations, specialized newspapers, and community newspapers
- Disseminating information through social media channels
- Organizing town hall meetings or other focused community meetings organized by topic, neighborhood, or interest group
- Holding community meetings during weekend or evening hours, at accessible locations near public transportation, and/or through zoom or other similar web-based service if requested or determined to be more effective for reaching EJ populations. In addition, a “hybrid format” could be considered which allows members of the public to join in-person, on Zoom, or by phone, and makes the content of the meeting available afterwards for those who cannot attend.
- Organizing public education efforts for technical aspects of the project, such as fact sheets with visuals that include a summary of the project and associated technologies and processes, using lay-person language and terms in an effort to ensure the community understands the potential impacts of the project and can provide meaningful input, and holding “science fair” type presentations or teach-ins broken by topics
- Considering door-to-door education efforts through the use of flyers or other canvassing methods
- Identifying specific neighborhoods, residents or other communities surrounding the project site that may be affected and considering targeted outreach and engagement strategies directed at such areas
- Establishing a local information repository that is convenient and accessible for the EJ Population where information related to the project can be obtained.

To the extent written materials are provided, or in-person or remote meetings held, the Proponent must provide written and oral language interpretation in all the languages identified in Part I above, and should make best efforts to provide translation/interpretation in any other languages requested by members of the public to the extent necessary to ensure meaningful engagement by such individuals. The Proponent may require that requests for oral interpretation be made in advance with sufficient time to allow for cancellation of the service by the Proponent without incurring a cancellation fee.

C. Pre-Filing Consultation

Any project that meets or exceeds any mandatory EIR threshold, **projects located within 1 mile of an EJ population that are not subject to “enhanced outreach” under the 2021 EJ Policy**, or any others that seek to avail themselves of expedited review procedures under 301 CMR 11.05(7), are encouraged to schedule a pre-filing consultation meeting with the MEPA Office and the EEA EJ Director to discuss the outreach and community engagement strategies for the project. Any project that falls within any of the categories of projects requiring “enhanced outreach” under the 2021 EJ Policy must schedule a pre-filing consultation, and will be expected to undertake comprehensive measures to involve EJ populations in discussions about the project prior to filing.

In certain circumstances, the MEPA Office, in consultation with the EEA EJ Director, may designate projects as requiring a higher level of pre-filing community engagement, based on the following factors:

- Whether any municipality or census tract surrounding the project site exhibits “vulnerable health criteria” as defined by the Massachusetts Department of Public Health (DPH) EJ Tool,¹³ or the EJ Tool indicates the existence of multiple other sources of pollution affecting the identified EJ populations within the designated geographical area;
- Whether the project’s impacts will directly and adversely affect the identified EJ populations within 1 mile of the project site, and whether any mitigation is considered for such impacts;
- Whether the project’s location is subject to acute climate change risks

If a project is so designated, the MEPA Office will contact the Proponent to request a pre-filing consultation within 320 days of receiving advance notification of the project under Part II.A.

II. Identifying Characteristics of and Likely Effects on EJ Populations

A. Project Location

Effective [], 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 the EEA Environmental Justice Maps viewer (the “EJ Maps Viewer”), and include a printout of the project location shown on the EJ Maps Viewer as an attachment to the Environmental Notification Form (ENF) (or EENF) submittal. The printout shall identify all Environmental Justice Populations within (1) mile and (5) miles of the project, and shall measure the distance from the outer boundaries of the project site.¹⁴ For linear projects along a right of way (ROW) (such as utility and roadway projects), the distance shall be measured from the edge of the ROW in all directions along the entire length of the project.

Proponents shall request publication in the Environmental Monitor and send the information to the Aquinnah Wampanoag Tribe, Mashpee Wampanoag Tribe, the Massachusetts Commission on Indian Affairs, the North American Indian Center of Boston and any other Native or Indigenous People contacts to allow for identification of Native burial lands and artifacts.¹⁵ Contact with tribal governments and organizations is required for all projects, regardless of size and regardless of proximity to a designated EJ population.

B. Characteristics of EJ Populations

In addition to attaching the above printout, the ENF/EENF shall describe the characteristics of the EJ populations within 1 mile and 5 miles of the project site as identified in the EJ Maps

¹³ <https://matracking.ehs.state.ma.us/Environmental-Data/ej-vulnerable-health/environmental-justice.html>

¹⁴ The EJ Maps Viewer allows the user to measure the distance between selected points on the map. However, it does not presently allow for a radius to be drawn around a particular location.

¹⁵ See Massachusetts Exec. Order 126, “[Massachusetts Native Americans](#),” (July 8, 1976).

Viewer (i.e., the census block group identification number and EJ characteristics of “Minority,” “Minority and Income,” etc.).

The ENF/EENF shall also list all languages identified in the “Languages Spoken in Massachusetts” tab of the EJ Maps Viewer as spoken by ~~at least 3~~ 5-percent or more of the EJ population who also identify as not speaking English “very well.” Because language access responsibilities of the Commonwealth under Title VI of the Civil Rights Act of 1964 and Executive Office for Administration and Finance (A&F) Bullet #16 extend beyond the requirements of the Climate Roadmap Act, languages should be identified for the project for each census tract that intersects with all areas within 1 mile and 5 miles of the project site, regardless of whether the areas of intersection contain any designated EJ populations. All identified languages should be used for purposes of providing public involvement opportunities under Part II.

~~Following~~ ~~With~~ the approval of the EEA EJ Director, the Proponent may modify the list of languages to be used for purposes of providing public involvement, if information made available through local school districts, local boards of health, or other knowledgeable local sources provide more accurate data that are better tailored to the project site. The Proponent may choose to increase the number of languages beyond those identified in the “Languages Spoken in Massachusetts” tab of the EJ Maps Viewer without the approval of the EEA EJ Director. If the list of languages shown in the EJ Maps Viewer has been modified through these means, the ENF/EENF shall provide a list of approved languages for the project, or, if the list has been expanded by the Proponent without input from the EEA EJ Director, shall provide a list of the additional languages that will be used to provide public involvement opportunities under Part II. If a project is exempt from the requirements of Part II, this shall be specified in the ENF/EENF.

C. Likely Effects on EJ Populations

The ENF/EENF shall describe whether the project is “reasonably likely” to negatively affect EJ populations within 1 mile radius of the project site. ~~Reasonably likely means the duration and magnitude of an adverse environmental impact.~~

1. Duration

1. An environmental impact from a project or activity continues for years, but ultimately ends and the environment returns to normal. This “long-term impact” applies both where a project takes years to complete and the environment is facing adverse effects and damage continuously throughout the duration of the project, and where the project takes a short length of time to complete but the environment and community nearby face negative effects for years afterward before the environment stabilizes. Here are examples of a “long-term impact”:

1. Adverse changes in air quality while a manufacturing use operates, or continual production of noise levels above ambient levels while the use operates. Should the manufacturing cease operations, the air pollution and noise

impacts end. Removal of large acreages of forest lands on a portion of a parcel to be planted in grass would likely be considered long term impact but the forest could regenerate if maintenance of the lawn stopped and trees were allowed to re-grow.

2. Where the impact to the environment and to populations residing nearby is irreversible to the extent that the environment and conditions cannot return to its original state at any time or with any effort, damage to the environment has occurred. Examples include: extinction of an animal or plant species; demolition of existing historical structures; conversion of prime farmland soils to residential use, and; construction of a structure that permanently alters a public access scenic view in a negative way.
3. In considering duration, even short-term projects lasting only a few days, weeks, or months may still rise to the level of significant impact (or damage to the environment) depending on other factors, namely, magnitude.

2. Magnitude

1. Magnitude considers context - geographic scope, setting, scale - of the project and the project area. A large impact under this magnitude factor would be damage to the environment. A large impact would cover large areas beyond a parcel in a neighborhood or community and the resources affected would have broad local or regional concerns. This includes but is not limited to where a project impacts resources regulated by local, state, or national agencies.
2. It's important to note that the size of a project area is not the only factor to a finding of a reasonably likely impact under a magnitude concern. A project affecting a small area or single community or neighborhood may still be found concerning to the extent that mitigation is required if the resources being impacted are rare and important, for example. Potentially, a project that is moderate in its geographic scope but is located in a community suffering historical injustice could be found concerning for the purpose of its setting within that community, and not authorized for this reason.

Consistent with [proposed] new 301 CMR 11.05(4)(d), the ENF/EENF shall also indicate whether the project meets or exceeds MEPA review thresholds under 301 CMR 11.03(8)(a)-(b)), or generates 150 or more new average daily trips (adt) of diesel vehicle traffic over a duration of 1 year or more. If either or both conditions apply, then the ENF/EENF shall further describe whether the project is reasonably likely to negatively affect EJ populations within 5 miles of the project site. The respective 1-mile and 5-mile areas around a project site shall be referred to in this MEPA EJ Public Involvement Protocol as the "designated geographical area" for the project. In construing this requirement, the MEPA Office will presume that any project impacts will negatively affect EJ populations located within a 1 mile radius of the project, absent compelling

~~information to the contrary. Accordingly, the public involvement requirements described in this protocol will apply in most cases over a 1-mile radius around the project site.~~

In describing the project's likely effects on EJ populations, the ENF/EENF shall discuss both the project's anticipated benefits ~~with and without mitigation~~, as well as its environmental impacts and related public health consequences. While MEPA review thresholds at 301 CMR 11.03 provide a guide for a discussion of impacts, the ENF/EENF shall not limit the discussion to impacts that meet or exceed MEPA review thresholds, and instead, shall address all direct and indirect potential impacts of the project, with a focus on whether such impacts and related public health consequences are likely to extend to EJ populations located within the designated geographical area around the project site. ~~Impacts means changes to human environment from the proposed action or alternatives that are reasonably foreseeable and have a reasonably close causal relationship to the proposed action or alternatives, including those effects that occur at the same time and place as the proposed action or alternatives (direct impacts) and may include effects that are later in time or farther removed in distance from the proposed action or alternatives (indirect impacts).~~ Any relevant analyses available at the time of the ENF/EENF filing, such as traffic studies or air quality assessments, any regional benefits or impacts that may result from the project, such as the potential expansion or reduction in economic opportunities, public transportation, open space, or greenhouse gas emissions (GHG), should be addressed. The discussion of likely effects included in the ENF/EENF stage may take the form of a narrative and need not be exhaustive; however, it must contain a reasonable level of specificity and more than a conclusory statement that the project will have a "net benefit" for the EJ population. ~~Any statement that a project will have a net benefit must explain short- and long-term public health and environmental impacts of the project without mitigation factored in.~~

~~For air quality, the MEPA Office will presume that project impacts exceeding MEPA review thresholds for air emissions at 301 CMR 11.03(8)(a)-(b) will affect air quality and negatively affect EJ populations within a 5-mile radius around the project site. In addition, any project that will require an unusually large volume of project or construction related diesel trucks or equipment may be regarded as affecting air quality up to a 5-mile radius depending on the specific routes of travel for the trucks or equipment. The Proponent is encouraged to consult with the MEPA Office prior to filing to ensure accuracy in determining the geographical area over which public involvement requirements will apply. The ENF/EENF shall, in any event, describe any air emissions associated with the project and whether such emissions are anticipated to affect air quality within an area up to 5 miles around the project site.~~

III. Public Involvement Requirements After Filing ENF/EENF

For any projects subject to the requirements of Part II above, the Proponent shall continue to promote meaningful public involvement by EJ populations after filing the ENF/EENF by maintaining a distribution list that includes the of CBOs and tribes identified on the EJ Reference List and the EEA EJ Director (unless any CBO, tribe or the EEA EJ Director elects not to be included on the distribution list), as well as any other individual or entity that specifically requests to be placed on the distribution list during pre-filing consultations or during the course of MEPA review. The Proponent shall use the distribution list to circulate notices of the MEPA Site

Visit, summaries of supplemental information submitted to the MEPA office, and any other relevant notices or materials generated during the course of MEPA review. The MEPA Site Visit shall ~~offer simultaneous language interpretation for~~ ~~be translated into~~ any languages identified in Part I above. For ~~other~~ documents, the Proponent shall make best efforts to translate the document, or a summary thereof, upon request by any member of the public, provided that the Proponent may require that the request be made with sufficient time to allow for written translation prior to the event or other deadline to which the materials relate.

In addition to maintaining a distribution list, the Proponent ~~is expected to~~ ~~should generally~~ maintain the same level of outreach and community engagement conducted prior to filing, throughout the MEPA review process. As an example, if certain non-English language media were identified as an effective way to communicate with the applicable EJ population, the Proponent should continue to use the same means to convey information about the project during the course of MEPA review. The Proponent should also consider holding additional community meetings as needed or upon request at key milestones in the project review, such as when the Proponent is preparing the filing of a final EIR. Specific strategies for outreach and community engagement may be included in the Secretary's Scope for an EIR.

IV. Public Involvement Requirements for Other MEPA Filings

For Notices of Project Change (NPC), DEIRs, and FEIRs, where the initial ENF/EENF was submitted prior to the effective date of this protocol, the Secretary will determine on a case-by-case basis the need for enhancing public involvement opportunities to meet the spirit of the Climate Roadmap Act ~~and achieve the principles of environmental justice~~. The Secretary will consider the nature and level of impacts associated with the filing, the extent of community engagement conducted to date, and the passage of time since the conclusion of the prior MEPA review (i.e., filings made after a long passage of time may require more public involvement efforts as the public may be unaware of the proposed project or project change). As a general matter, additional requirements for public involvement will be considered for filings that involve EIR-level impacts or projects located within EJ populations, and will consist of an additional circulation of the filing to the EEA EJ Director and CBOs and tribes on the EJ Reference List. At the discretion of the MEPA Office, a MEPA Site Visit may be held during the MEPA review period, and other applicable provisions of Part III may be applied. ~~For any projects where residents of an EJ population raise concerns about a project, the Proponent is required to hold an information session to hear about concerns and attempt to address those concerns through project modifications.~~

Addendum: Environmental Justice Screening Form

| | |
|--|--|
| Project Name | |
| Anticipated Date of MEPA filing | |
| Proponent Name | |
| Contact Information (eg consultant) | |
| public website for project or other physical location where project materials can be obtained (if available) | |
| municipality and zip code for project (if known) | |
| project type* (list all that apply) | |
| is the project within a mapped 100 year FEMA floodplain (Y/N/yet unknown) | |

Project Description:

| |
|---|
| 1. Provide a brief project description, including overall size of the project site and square footage of structures where possible. |
| 2. List anticipated MEPA review thresholds (301 CMR 11.03) (if known) |
| 3. List all anticipated local, state, and federal permits needed for the project (if known) |
| 4. Identify EJ Populations and characteristics (Minority, Income, English Isolation) within 5 miles of project site (can attach map from EEA EJ Maps Viewer in lieu of narrative) |
| 5. Identify any municipality or census tract meeting the definition of “vulnerable health criteria” in the DPH EJ Tool within 1 mile of project site. |
| 6. Identify potential short-term and long-term environmental and public health impacts that may affect EJ Populations and any anticipated mitigation |

[DRAFT]

MEPA Protocol for Analysis of Project Impacts on Environmental Justice Populations
Anticipated Effective Date: January 1, 2022

Authority and Background

This MEPA Protocol for Analysis of Impacts on Environmental Justice Populations (hereinafter, “MEPA Protocol for Analysis of EJ Impacts”) addresses new requirements for MEPA project filings set forth in Section 58 of Chapter 8 of the Acts of 2021: An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy (the “Climate Roadmap Act” or “the Act”). This guidance accompanies the MEPA Public Involvement for Environmental Justice Populations (hereinafter, the “EJ Public Involvement Protocol”), which implements public involvement requirements set forth in Section 60 of the Act.

On March 26, 2021, Governor Baker signed into law the Climate Roadmap Act, which enacted a new definition of “Environmental Justice [EJ] Population” for purposes of enhancing MEPA review procedures. The new statutory definition of “EJ population” includes four categories of neighborhoods (defined as census block groups) with certain demographic characteristics based on median income level, percentage of residents who are people of color (a.k.a. minority), and percentage of residents who lack English language proficiency (LEP). In turn, Section 58 of the Act provides that an “environmental impact report [EIR] shall be required for any project that is likely to cause damage to the environment and is located within a distance of 1 mile of an environmental justice population; provided, that for a project that impacts air quality, such environmental impact report shall be required if the project is likely to cause damage to the environment and is located within a distance of 5 miles of an environmental justice population.” Section 58 further defines the analysis that must be contained in the EIR to assess the level of existing “environmental burden” borne by the EJ population, and whether the project’s impacts will likely result in a “disproportionate adverse effect” on such population, or increase or reduce the effects of climate change.¹⁶

On June 24, 2021, the Executive Office of Energy and Environmental Affairs (EEA) updated the 2017 EJ Policy that was previously in effect. The 2021 update (the “2021 EJ Policy”)¹⁷, consistent with the 2017 EJ Policy, requires that projects triggering certain MEPA ENF review thresholds provide opportunities for “enhanced public participation” by surrounding EJ neighborhoods,¹⁸ and that projects triggering certain mandatory EIR thresholds conduct an “enhanced analysis of impacts and mitigation,” in addition to enhanced public participation.¹⁹ 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)). This MEPA

¹⁶ Under Section 102A of the Act, the Secretary of EEA is required to promulgate regulations to implement Sections 57 and 58 of the Act within 180 days of the effective date of the Act. In accordance with this statutory mandate, the Secretary issued draft regulations for public comment under M.G.L. c. 30A on September 17, 2021.

¹⁷ <https://www.mass.gov/doc/environmental-justice-policy6242021-update/download>

¹⁸ 3 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)

¹⁹ The specific EIR thresholds are 301 CMR 11.03(5)(a)(1), (6); 301 CMR 11.03(8)(a)(1); and 301 CMR 11.03(9)(a)

Protocol for Analysis of EJ Impacts expands on, but remains consistent with, the requirements of the 2021 EJ Policy. Accordingly, this guidance shall define the requirements for analyzing EJ impacts for all MEPA projects filed after its effective date.

Protocol

I. Applicability of EIR Requirement

Section 58 of the Act requires that an EIR be submitted:

- for any project that is likely to cause damage to the environment and is located within a distance of 1 mile of an EJ population; or
- if a project impacts air quality, for any project that is likely to cause damage to the environment and is located within a distance of 5 miles of an EJ population

Consistent with MEPA regulations at 301 CMR 11.00, the term “likely to cause damage to the environment” in Section 58 of the Climate Roadmap Act is construed to mean project impacts that meet or exceed MEPA review thresholds set forth in 301 CMR 11.03. See 301 CMR 11.01(2)(b) & 11.03 (MEPA “review thresholds identify categories of Projects or aspects thereof of a nature, size or location that are likely, directly or indirectly, to cause Damage to the Environment”). Thus, Section 58 requires projects that are already subject to MEPA jurisdiction and meet or exceed one or more MEPA review thresholds to submit an EIR, if the project is located within 1 mile of an EJ population.

A project is also required to submit an EIR, if it is located within 5 miles of an EJ population and will impact air quality. In accordance with new [proposed] 301 CMR 11.05(4)(d) and 11.06(7)(b), a project will be determined to impact air quality if it meets or exceeds MEPA review thresholds under [301 CMR 11.03\(7\)\(a\)-\(b\)](#), 301 CMR 11.03(8)(a)-(b), or generates 150 or more New adt of diesel vehicle traffic over a duration of 1 year or more. Thus, any project that falls under either criterion and is otherwise subject to MEPA jurisdiction will be required to submit an EIR, if the project is located within 5 miles of an EJ population.

The respective 1-mile and 5-mile areas around a project site shall be referred to in this MEPA Protocol for Analysis of EJ Impacts as the “designated geographical area” for the project.

II. Assessment of Existing Unfair or Inequitable Environmental Burden

Under Section 58 of the Act, and consistent with new [proposed] 301 CMR 11.06(7)(b) and 11.07(6)(n), each project to which the new EIR requirement applies under Part I must submit an EIR that contains “statements about the results of an assessment of any existing unfair or inequitable environmental burden and related public health consequences impacting the environmental justice population from any prior or current private, industrial, commercial, state, or municipal operation or project that has damaged the environment.”

This assessment should include all identified EJ populations within the designated geographical area for the project, depending on which applicability criteria is triggered as stated in Part I above.²⁰ The assessment should then survey past and current polluting activities that may have contributed to an overall “environmental burden” currently borne by the EJ population that may be “unfair and inequitable” as compared to the general population. While measuring the individual effects of a multitude of past and current activities is a complex endeavor, publicly available mapping tools exist as a resource, as described below.

First, Proponents should consult the Massachusetts Department of Public Health (DPH) EJ Tool²¹ to identify whether any municipality or census tract that includes any of the identified EJ populations exhibits one or more of four specific “vulnerable health criteria,” which are environmentally related health indicators that are measured to be 110% above statewide averages in the DPH EJ Tool.²² Any EJ population that exists within those municipalities or census tracts could then be viewed as exhibiting “vulnerable health EJ criteria,” and therefore potentially bearing an “unfair or inequitable” environmental burden and related public health consequences.

Second, the Proponent should consult additional data layers in the DPH EJ Tool to survey other potential sources of pollution within the boundaries of the EJ population. While comparisons to statewide averages are not presently available in the DPH EJ Tool, the Proponent should provide a narrative description of the estimated number and type of mapped facilities/infrastructure in the area, and survey enforcement histories of any facilities permitted by Massachusetts Department of Environmental Protection (MassDEP).²³

Available mapping layers in the DPH EJ Tool include the following:

- MassDEP major air and waste facilities
- M.G.L. c. 21E sites
- “Tier II” toxics use reporting facilities
- MassDEP sites with AULs
- MassDEP groundwater discharge permits
- Wastewater treatment plants
- MassDEP public water suppliers
- Underground storage tanks
- EPA facilities
- Road infrastructure
- MBTA bus and rapid transit
- Other transportation infrastructure

²⁰ The specific EJ populations and the 1-mile and 5-mile distances shall be calculated in the manner described in Part I of the MEPA Public Involvement Protocol for Environmental Justice Populations.

²¹ [EJ Screening v3a active - 2021-09-28 - XHTML \(mass.gov\)](https://www.mass.gov/info-details/ej-screening-v3a-active-2021-09-28-xhtml)

²² Specifically, “vulnerable health criteria” refers to environmentally related health indicators that are measured to be equal to or greater than 110% of statewide rates based on a 5-year average. Four such health criteria are tracked in the DPH EJ Viewer (heart attack hospitalization, childhood asthma, childhood blood lead, and low birth rate) on a municipal level. Childhood blood lead and low birth rate are also available on a census tract level.

²³ Enforcement information is available at <https://eeaonline.eea.state.ma.us/Portal/#!/search/enforcements>

- Regional transit agencies
- Energy generation and supply

Third, Proponents should consult the standard output report generated from the RMA Climate Resilience Design Standards Tool (the “RMA Tool”),²⁴ which is required as an attachment to the ENF/EENF.²⁵ Proponents should identify in the EIR whether the RMA Tool indicates a “High” risk rating for sea level rise/storm surge or extreme precipitation (urban or riverine flooding) as applied to the project site. A “High” ranking for these parameters could be an indicator of elevated climate risks for EJ populations (census block groups) in which the project site is located. The risk rating for the “extreme heat” parameter should not be used as a definitive indicator of elevated climate risks.

Fourth, Proponents, at their option, may consult U.S. EPA’s “EJ Screen,”²⁶ which provides a percentile ranking by census block group, compared against statewide averages, for 11 environmental indicators. When using the tool, Proponents should turn off the “EJ index” data layer—while the EJ index is calculated from the 11 environmental indicators after considering demographic information and population density, this calculation may be inconsistent with the definition of “EJ population” codified in Massachusetts law. In addition, while the environmental indicators/percentiles could be relevant for assessing potential environmental exposures in the relevant area, it should not be used as a definitive indicator of “unfair or inequitable” environmental burden.

The environmental indicators available through the EPA EJ Screen are as follows:

Indicator Exposure v. Risk Key Medium

NATA Air Toxics Cancer Risk (lifetime exposure) Risk/Hazard Air NATA Respiratory Hazard Index Ratio Risk/Hazard Air NATA Diesel PM (DPM) Potential Exposure Air Particulate Matter (PM2.5) (annual average) Potential Exposure Air Ozone (summer seasonal average, daily 8-hr max) Potential Exposure Air Lead Paint (% of housing built before 1960) Potential Exposure Dust/lead paint Traffic Proximity and Volume Count of vehicles (average annual) Proximity/Quantity Air Proximity to RMP (Risk Management Plan / hazardous waste cleanup) Sites Proximity/Quantity Waste/Water/Air Proximity to TSDFs (Hazardous waste Treatment, Storage, and Disposal Facilities) Proximity/Quantity Waste/Water/Air

Proximity to NPLs (National Priority List / Superfund sites) Proximity/Quantity Waste/Water/Air Wastewater Discharge Toxicity (based on NPDES permitted discharge locations) Proximity/Quantity Water

Finally, any specific concerns raised or feedback received during pre-filing consultations conducted by the Proponent with community-based organizations (CBOs), tribes, or other residents or individuals pursuant to the MEPA Public Involvement Protocol for Environmental Justice Populations should be reviewed to determine **how the Proponent will respond though**

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project modifications in the ENF/EENF and EIR. ~~whether such feedback should be viewed as indicating existing environmental burdens or related public health consequences.~~ As stated in the MEPA Public Involvement Protocol, the quality of public involvement efforts shall be considered when determining whether to approve a request for expedited review procedures under 301 CMR 11.05(7), together with the analysis provided under this MEPA Protocol for Analysis of EJ Impacts.

Based on the information gathered as described in this Part II, ~~including comments from residents of EJ populations gathering during the pre-filing consultation,~~ and any other relevant data or information obtained through the Proponent's own research, the Proponent should provide a qualitative assessment of whether the factors reviewed appear to indicate that the identified EJ populations currently bear an existing "unfair or inequitable" environmental burden and related public health consequences as compared to the general population. As a general matter, any project that demonstrates ~~any of the following criteria should be assessed as creating a strong potential for unfair or inequitable burden, such that the project should move to Part III:~~ "vulnerable health criteria" measured at or above 110% of statewide average; a cluster (more than 2) of MassDEP major air and waste facilities, M.G.L. c. 21E sites, "Tier II" toxics use reporting facilities, MassDEP sites with AULs, MassDEP groundwater discharge permits, Wastewater treatment plants, or a "High" risk rating in the RMAT tool for sea level rise/storm surge or extreme precipitation (urban or riverine flooding). ~~should be assessed as creating a strong potential for unfair or inequitable burden, such that the project should move to Part III.~~

III. Analysis of Project Impacts to Determine Disproportionate Adverse Effect

Unless the assessment in Part II definitively shows the absence of any "unfair or inequitable" environmental burden or related public health consequence borne by the identified EJ population as compared to the general population, the Proponent must further analyze whether the environmental and public health impacts from the project will likely result in a disproportionate adverse effect on such population. If the only applicable screening criterion relates to climate change risks identified through the RMAT tool, refer to Part IV below.

The project should be analyzed as creating a disproportionate adverse effect if it will have direct and adverse impacts on the EJ population that will materially exacerbate any existing environmental or public health burden borne by the EJ population. Other indirect impacts on the EJ population must be analyzed, but may be compared against project benefits intended to improve environmental conditions or the public health of the EJ population.

In analyzing direct impacts, the Proponent should consider:

- The nature and severity of the project's environmental and public health impacts; and
- The comparative impact on EJ populations versus non-EJ populations within the project site or other comparable area

In analyzing indirect impacts, the Proponent should consider:

- Whether project benefits are specifically intended to improve environmental conditions or the public health of the EJ population

A. Nature and Severity of Project Impact

In reviewing any direct project impacts on the EJ population, the Proponent should analyze whether the nature and severity of such impacts will materially exacerbate an existing environmental or public health burden borne by the EJ population. Direct impacts should be construed to mean any addition of environmental pollution or other burden directly to the EJ population and its immediately surrounding environment, including air pollution to the surrounding neighborhood, water pollution to drinking water or water bodies directly used or accessed by the EJ population, and loss of open space, recreational opportunities and waterfront access directly within or adjacent to the EJ population.²⁷

For example, a project that adds traffic directly to an EJ population identified as having elevated public health conditions could be viewed as having a disproportionate adverse effect on such population. This is especially so, if any identified environmental or public health indicators related to air quality (such as PM 2.5/ozone exposure or asthma rates) are elevated in the EJ population. The Proponent should conduct analysis or modeling sufficient to demonstrate the magnitude of any relevant project impacts, and, at a minimum, should conduct air quality analysis of new traffic consistent with the MassDEP Guidelines for Performing Mesoscale Analysis of Indirect Sources (1991). It is important to note that, where the level of existing burden is high, even a small addition of project impacts may create disproportionate adverse effects. For instance, if the DPH vulnerable health criteria or other indicator demonstrates public health or environmental indicators that are well above statewide rates, even a small addition of impacts should be viewed as potentially creating a disproportionate adverse effect.

In addition, while MEPA review thresholds at 301 CMR 11.03 provide a guide for a discussion of impacts, the Proponent shall not limit the discussion to impacts that meet or exceed MEPA review thresholds, and, instead, shall address all short-term and long-term impacts associated with the project, including construction period activities. For instance, an estimate of construction vehicle traffic and routes of travel may be warranted if construction activities will be occurring in close proximity to already-burdened EJ populations.

B. Comparable Impacts on EJ and Non-EJ Populations

In reviewing any direct project impacts on the EJ population, the Proponent should also analyze whether the impacts on the EJ population are greater or less than those on non-EJ populations within the project site or other comparable area. If a comparable area is selected outside the project site, the Proponent should provide a clear justification for why the area is viewed to be “comparable” or “similarly situated” such that a comparison with the applicable EJ population is reasonable. While a comparison of impacts may not be possible to conduct with mathematical precision, the EIR should contain a description of the proposed methodology and justification for

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any conclusions reached. Any direct impacts on EJ populations that are greater than those on non-EJ populations in the selected area should be viewed as indicating a disproportionate adverse effect.

C. Project Benefits

In reviewing indirect project impacts on the EJ population, the Proponent may analyze such impacts in comparison to project benefits that are specifically intended to improve environmental conditions or public health of the EJ population (and thereby reduce the existing burden borne by such population). Indirect impacts should be construed to mean the addition of environmental pollution or other burden in a manner in which potential effects to the EJ population and its immediately surrounding environment may be unknown or speculative, not subject to quantitative measurement, or established only through a long chain of causation. For instance, a project that alters wetland resource areas in a manner that requires a water quality certification (with unspecified impacts to surrounding waterbodies and unknown potential for indirect impacts to EJ populations) could compare such impacts with project benefits that specifically benefit EJ populations, such as improved resiliency of public infrastructure or increased open space/recreational opportunities. Similarly, the loss of open space or recreational opportunities at a location that is far removed from EJ populations may present an indirect impact to such populations.

IV. Analysis of Project Impacts to Determine Climate Change Effects

Unless the assessment in Part II definitively shows the absence of any “unfair or inequitable” environmental burden or related public health consequence borne by the identified EJ population as compared to the general population, the Proponent must further analyze, in addition to the analysis in Part III, whether the environmental impact or public health consequence from the proposed project will increase or reduce the effects of climate change on the EJ population.

In conducting this assessment, the Proponent should consider the following:

- Whether the climate change risks identified through the RMA Tool are likely to affect the applicable EJ population(s); and
- Whether the greenhouse gas (GHG) emissions associated with the project are significant (2,500 tons per year (tpy) or more) and are likely to affect EJ populations that use or occupy the project

A. Climate Adaptation

The Proponent should review the output report generated from the RMA Tool to assess whether the climate parameters for sea level rise/storm surge and extreme precipitation (urban or riverine flooding) are ranked “High” and would affect the applicable EJ population(s). For instance, a residential dwelling that may not be sufficiently elevated to accommodate future sea level rise conditions may affect EJ populations, if it is located within an EJ population or is specifically intended for use by EJ populations. Also, if a project proposes to cut a significant number of trees in a manner that potentially adds to heat conditions in the area, or proposes to add

impervious cover in a manner that worsens flooding conditions in the surrounding neighborhood, such impacts could have effects on EJ populations located in and around the project site. Any aspects of the project that could reduce climate risks, such as improvements to stormwater management systems and the use of pervious pavement and surfaces should also be reviewed. The Proponent should conduct analysis or modeling to quantify any anticipated climate change effects to the extent practicable, and should apply best available data on future climate conditions. The recommended design standards in the RMAT tool may provide a resource in performing such quantitative analyses.

B. GHG Emissions The Proponent should conduct a GHG analysis if a project is expected to generate 2,500 or more tpy of GHG (CO₂) emissions from both stationary and mobile sources,²⁸ and is likely to be used or occupied by EJ populations. For instance, a residential dwelling or office building located within an EJ population should be analyzed if total emissions from stationary and mobile sources are estimated to equal or exceed 2,500 tpy. The analysis should generally follow the methodology set forth in the 2010 MEPA Greenhouse Gas Emissions Policy and Protocol (the “2010 GHG Policy”), and should provide energy efficiency modeling to support GHG estimates for the Base Case and Design Case. To the extent a project is already required to conduct a GHG analysis under the 2010 GHG Policy, that analysis will satisfy the requirements of this Part IV.B.

V. Mitigation and Section 61 Findings

To the extent any disproportionate adverse effects or increased climate change risks are identified for the EJ population as described in Parts II-IV, the Proponent must describe measures to be taken to avoid, minimize, and mitigate such effects to the maximum extent practicable. These measures should be considered in addition to those that the project proposes to take to address its impacts more generally. For instance, measures proposed to reduce traffic congestion in the area (such as roadway improvements or traffic signals) may be sufficient to address potential deterioration in traffic conditions, but may not sufficiently address the disproportionate adverse effects that may result from the addition of air pollutants to an already burdened EJ population. In this instance, additional mitigation to further reduce project impacts (such as a more robust traffic demand management (TDM) program) or to ameliorate the existing burden borne by the EJ population (such as contributions to public health services or air quality monitoring) may be warranted. Measures to address climate change risks are particularly important, in light of the vulnerabilities faced by the EJ populations that hinder access to affordable energy resources and the ability to adapt to extreme climate events, such as extreme and more frequent storms and associated flooding.

VI. EENF/EIR Process for Ecological Restoration Projects Benefiting Environmental Justice Populations

Proponents of ecological restoration projects must complete a form that includes the following information. Ecological Restoration Project means any Project whose primary purpose is to

restore or otherwise improve the capacity of a Project site to provide and sustain natural ecosystem services including but not limited to clean air and water, shade, prevention of flooding, groundwater recharge, fisheries and wildlife habitat, carbon sequestration and storage, and reducing or reversing ongoing Damage to the Environment where natural resources have been degraded or destroyed by anthropogenic influences. Ecological Restoration Project shall not be considered to include any work or activities that result in Damage to the Environment from a Project whose primary purpose is other than restoration or improvement of natural ecosystem services capacity.

- The ecological restoration project will not reduce or eliminate public access to the resource or any other public amenity without an equivalent replacement.
- Statement of results of assessment of any existing unfair or inequitable environmental burden and related public health consequences impacting
- combined ecological restoration EENF/EIR shall contain:
- Statement that the nature and extent of the proposed project and its environmental and public health impact as result of any development, alteration, and operation of the project constitute an ecological restoration project that will not produce a negative environmental or public health impact;
- Statement that no studies were conducted to evaluate said impacts since pre-filing outreach determined that there is no need for studies to evaluate said impact:
- Statement that the project is using all measures to minimize any anticipated short-term environment and public health damage and that it will have long-term environmental and public health benefits;
- Statement that there are no adverse short-term or long-term environmental and public health consequences that cannot be avoided should the project be undertaken;
- Statement that reasonable alternatives to the proposed project and their environmental consequences were considered and that the project proponent following conversations with potentially impacted communities demonstrates that the project is the best option to achieve ecological restoration.
- Narrative assessment of any existing unfair or inequitable environmental burden and related public health consequences impacting the environmental justice population from any prior or current private, industrial, commercial, state, or municipal operation or project that has damaged the environment.
- Statement that the environmental and public health impact from the proposed project would likely reduce any adverse effects on an environmental justice population;
- Statement that the potential impact or consequence from the proposed project would reduce the effects of climate change on the environmental justice population.