



MASSACHUSETTS Rivers Alliance

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October 19, 2021

Secretary Kathleen A. Theoharides
Executive Office of Energy and Environmental Affairs
Attn: MEPA Office, Tori Kim
100 Cambridge Street, Suite 900
Boston, MA 02114

Re: Proposed amendments to 301 CMR 11.00 *MEPA Regulations*, Sections 55-60 of Chapter 8 of the Acts of 2021: *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy*

Dear Secretary Theoharides,

The Massachusetts Rivers Alliance is pleased to submit the following comments on the proposed amendments to 301 CMR 11.00 *MEPA Regulations* that will implement new requirements under the *Next Generation Roadmap for Massachusetts Climate Policy* (Chapter 8 of the Acts of 2021). Mass Rivers is an environmental non-profit organization whose mission is to protect and restore rivers and streams across the Commonwealth. We have eighty member organizations across Massachusetts, several of whom are submitting their own comments regarding the regulation changes and their individual watersheds. Our comments focus on how the proposed amendments would hinder environmental restoration work in Environmental Justice (EJ) communities.

We commend the Commonwealth's commitment to systematically improving the assessment of environmental burdens from development and redevelopment projects in EJ communities, and appreciate the creation of opportunities for meaningful public involvement by EJ populations in the MEPA regulatory review process. The consideration of EJ principles in the Climate Roadmap Act is a step in the right direction to reducing inequities in planning projects statewide and enhancing environmental benefits in historically underprivileged communities.

However, we are concerned about the implications of the proposed requirement of an Environmental Impact Report (EIR) for any project within one mile of an EJ population. While it would strengthen the assessment of development and redevelopment projects in EJ communities and would work to mitigate resulting adverse impacts, this requirement poses a major challenge for restoration and environmental enhancement projects in EJ communities that do not cause

damage to the environment as presumed. Requiring *all* projects near EJ populations to prepare extensive EIRs is impractical as it would greatly elongate the process and increase the costs of positive, environmentally restorative projects for wetlands, rivers, and coastlines, such as dam removals, culvert replacements, and wetlands and riparian restoration. Resulting setbacks in the MEPA regulatory review process only further delay advancement of climate policy goals set out in the Climate Roadmap Act.

Such a requirement would pose an unnecessary burden on EJ communities and would not only hinder enhancement of projects that benefit, not harm, the environment but could be a powerful disincentive to undertake these projects in the first place. This is particularly true for small organizations. For instance, improving recreational access along the Lower Neponset River - a goal that would benefit a local neighboring EJ community - is becoming a challenge for the Neponset River Watershed Association as the revised regulations would require this small environmental nonprofit organization to file an EIR to build a boardwalk that would restore access to a trail blocked by flooding. Likewise, completion of an EIR for a dam removal project by the Massachusetts Division of Ecological Restoration added nearly a year to the project schedule and cost approximately \$40,000 to complete.

To ensure equity of all communities across the state, it is crucial that the Commonwealth makes important strides to eliminate undue burdens on EJ populations in the face of climate change. We propose the regulations be amended to either 1) include the opportunity to request a waiver from the mandatory EIR for environmental restoration projects in EJ communities, specifically those eligible for Ecological Restoration Order of Conditions under the Wetland Protection Act, or 2) revise the Environmental Benefits definition to include protection and improvement of the Commonwealth's natural resources and establish a finding that allows for environmentally beneficial and restorative projects in EJ communities meeting such definition to be exempt from completing a mandatory EIR. Such changes to the regulations would better align the state's goal of minimizing environmental impacts in EJ communities with the broader climate mitigation, adaptation, and resilience goals of the Climate Roadmap Act.

Thank you for the opportunity to comment and for considering the issue raised in this letter. Please feel free to contact me via email at sarahbower@massriversalliance.org if you have any questions regarding these comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Sarah Bower', with a stylized, flowing script.

Sarah Bower
Technical Specialist
Massachusetts Rivers Alliance