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**Response to Comments on Regulatory Review Overview and  
Interim Protocols Proposed by  
Massachusetts Environmental Policy Act (MEPA) Office**

*MEPA Regulations at 301 CMR 11.00 et seq.*  
*DRAFT Interim Protocol on Climate Change Adaptation and Resiliency*  
*DRAFT Interim Protocol for Environmental Justice Outreach*

**June 2021**

**Regulatory Authority:  
M.G.L. c. 30, §§ 61 to 62I**

## **Response to Comments on Regulatory Review Overview**

The MEPA Office appreciates the general feedback received, in relation to key topics outlined in a power point presentation posted on February 10, 2021. Public comments were received from the following individuals and organizations:

Berkshire Regional Planning Commission  
Charles River Watershed Association  
Community Land & Water Coalition  
Connecticut River Conservancy  
Conservation Law Foundation  
Epsilon Associates, Inc.  
Eversource  
Federal Emergency Management Agency  
McGregor & Legere, P.C.  
Mass Audubon, Appalachian Mountain Club, Massachusetts Association of Conservation Commissions, Massachusetts Land Trust Coalition, The Nature Conservancy in Massachusetts (joint letter)  
Massachusetts Division of Marine Fisheries  
Massachusetts Environmental Justice Table  
Massport  
NAIOP Massachusetts  
National Grid  
Neponset River Watershed Association  
Patrick McDonald  
Stone Living Lab  
The Trustees of Reservations  
WalkBoston

Key comments received on MEPA's regulatory review overview are summarized below.

### **MEPA review thresholds**

- Some commenters expressed concern about a potential regulatory proposal to increase the MEPA review threshold related to rare species in 301 CMR 11.03(2) from 2 acres to 5 acres for species of special concern.
- Other comments expressed concern about a potential regulatory proposal to add flexibility to the MEPA review threshold related to Areas of Critical Environmental Concern (ACEC) in 301 CMR 11.03(11).
- Several commenters suggested revisions or clarifications to MEPA review thresholds for land, transportation, wetlands, water, wastewater and energy in 301 CMR 11.03(1), (3)-(7).
- One commenter requested that the MEPA Office consider a new threshold to address aquaculture projects.

Definitions and Procedures

- Several commenters requested that the MEPA review process be streamlined, or that categorical waivers be granted, for coastal resiliency or ecological restoration projects intended to address the impacts of climate change.
- Several commenters requested that the MEPA Office clarify the definitions of “Replacement Project” and “Routine Maintenance” in 301 CMR 11.02, and to add language to address exemptions for certain types of utility work referenced in M.G.L. c. 30, § 62A.
- One commenter requested clarification of the definition of “Financial Assistance” in 301 CMR 11.02 and to clarify whether various types of permits qualify as “Agency Actions” for MEPA review purposes.
- Other commenters requested clarification of Notice of Project Change and Lapse of Time provisions in 301 CMR 11.10.

**Response:** The MEPA Office will consider these comments as it compiles a concrete proposal for a rulemaking process under M.G.L. c. 30A, scheduled for Fall 2021. The MEPA Office will hold public presentations and stakeholder meetings regarding its regulatory review efforts through Summer/Fall 2021.

Public presentations on the status of MEPA’s regulatory review efforts will be held at the following times:

Date: July 14, 2021

Times: 12noon-1:30pm and 7:00-8:30pm

Location: Web link will be posted on MEPA website by July 14 (AM)

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## **Response to Comments on DRAFT Interim Protocol on Climate Change Adaptation and Resiliency**

The MEPA Office appreciates the feedback and suggestions received, in relation to the DRAFT Interim Protocol on Climate Change Adaptation and Resiliency issued for comment on February 10, 2021. Public comments were received from the following individuals and organizations:

Berkshire Regional Planning Commission  
Boston Harbor Now  
Charles River Watershed Association  
City of Cambridge  
Conservation Law Foundation  
Epsilon Associates, Inc.  
Eversource  
Friends of the Melnea Cass Boulevard  
Mass Audubon, Appalachian Mountain Club, Massachusetts Association of Conservation Commissions, Massachusetts Land Trust Coalition, The Nature Conservancy in Massachusetts (joint letter)  
Metropolitan Area Planning Council  
Mystic River Watershed Association  
NAIOP Massachusetts  
National Grid  
Neponset River Watershed Association  
Stone Living Lab

Key comments received on this DRAFT Interim Protocol are summarized below:

- Several commenters stated that the interim protocol requires clarification in many areas, including the definitions of “useful life” and asset “criticality.”
- Other comments indicated that the interim protocol should incorporate additional factors in assessing the climate risks of a project, and should reflect local sources of data on climate change predictions.
- Some comments indicated that the interim protocol appears focused on sea level rise only, and does not fully capture risks associated with extreme precipitation or extreme heat.
- Some commenters requested that the MEPA Office release a full climate resiliency policy after engaging in further stakeholder outreach, rather than issuing an interim protocol.

**Response:** Since the issuance of this DRAFT interim protocol, the Resilient Massachusetts Action Team (RMAT), an inter-agency steering committee responsible for implementation, monitoring, and maintenance of the 2018 Massachusetts Integrated State Hazard Mitigation and Climate Adaptation Plan (SHMCAP), launched the RMAT Climate Resilience Design Standards Tool, available [here](#). This tool is part of the RMAT “Climate Resilience Design Standards and Guidelines” project, which seeks to develop resilience standards, guidelines, and a project risk screening tool using the best available climate science data and projections for Massachusetts in three critical areas: sea level rise/storm surge, extreme precipitation (urban or riverine flooding), and extreme heat.

The RMAT Climate Resilience Design Standards Tool provides a standardized approach to assessing the climate risks of a project, using best available data and science. It is also intended

to be “user-friendly,” as it provides a standardized output with an initial risk screening and recommended design parameters for a project upon completion of a series of questions related to the project’s criticality and risk exposures. A user guide and training video are available on the RMAT website, and additional stakeholder sessions are planned in Summer 2021. [General guidance and best practices](#) for designing for climate risks are also available.

In light of the availability of the RMAT Climate Resilience Design Standards Tool, the MEPA Office has revised its Interim Protocol on Climate Change Adaptation and Resiliency to require, in lieu of Parts I and II, the submission of the standardized output report from the RMAT tool together with the ENF/EENF form. Part III, which solicits basic information on climate adaptation and resiliency strategies employed by the project, will continue to be required.

The Interim Protocol is intended to gather project-level data in a standardized manner that will both inform the MEPA process and assist the RMAT team in evaluating the accuracy and effectiveness of the RMAT Climate Resilience Design Standards Tool. To that end, Proponents are requested to respond to a [user feedback survey](#) on the RMAT website, which will be used by the RMAT team to further refine the tool. Once this testing process is completed, the MEPA Office anticipates developing a formal Climate Change Adaptation and Resiliency Policy through a stakeholder process. Questions about the RMAT Climate Resilience Design Standards Tool can be directed to [rmat@mass.gov](mailto:rmat@mass.gov).

The MEPA Office anticipates issuing a final protocol with an effective date of **October 1, 2021**. Consistent with 301 CMR 11.05(5), the final version of this Interim Protocol and revisions to the ENF form will be published in the Environmental Monitor at least two weeks prior to the effective date.

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**Response to Comments on  
DRAFT Interim Protocol for Environmental Justice Outreach**

The MEPA Office appreciates the feedback and suggestions received, in relation to the DRAFT Interim Protocol for Environmental Justice Outreach issued for comment on February 10, 2021. Public comments were received from the following individuals and organizations:

Anne McKinnon  
Berkshire Regional Planning Commission  
Boston Harbor Now  
Charles River Watershed Association  
Conservation Law Foundation  
Eversource  
Friends of the Melnea Cass Boulevard  
Mass Audubon, Appalachian Mountain Club, Massachusetts Association of Conservation Commissions, Massachusetts Land Trust Coalition, The Nature Conservancy in Massachusetts (joint letter)  
Massachusetts Department of Environmental Protection  
Massachusetts Environmental Justice Table  
Mystic River Watershed Association  
NAIOP Massachusetts  
National Grid  
Neponset River Watershed Association  
Stone Living Lab

Key comments received on this DRAFT Interim Protocol are summarized below:

- Many commenters noted that the interim protocol does not incorporate the requirements of Chapter 8 of the Acts of 2021: *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy*, relative to public involvement requirements for projects located near environmental justice (EJ) communities.
- Several comments suggested that project proponents be required to engage in early consultation with EJ communities, in particular, by requiring such consultations to occur prior to filing the project with the MEPA Office.
- Some commenters suggested that MEPA certificates reference mitigation measures tailored to addressing impacts on EJ communities.
- Other commenters suggested that proponents utilize additional outreach methods, such as direct mailing and social media, to communicate with EJ communities.

**Response:** The MEPA Office has revised the interim protocol, which has been renamed the “MEPA Public Involvement Protocol for Environmental Justice Populations,” to incorporate the requirements of St. 2021, c. 8, § 60 (adding new M.G.L. c. 30, § 62J). Comments on the revised protocol, available [here](#), will be accepted at [MEPA-regs@mass.gov](mailto:MEPA-regs@mass.gov) until **July 30, 2021**.

The MEPA Office anticipates issuing a final protocol with an effective date of **October 1, 2021**. Consistent with 301 CMR 11.05(5), the final version of this Interim Protocol and revisions to the ENF form will be published in the Environmental Monitor at least two weeks prior to the effective date.