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CAPE COD
COMMISSION

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Via Email

November 10, 2025

Tori Kim, Massachusetts Environmental Policy Act Director
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, 10th Floor, Boston, MA 02114

Director Kim,

Thank you for the opportunity to provide comments on proposed amendments to Massachusetts Environmental Policy Act ("MEPA") regulations. Cape Cod Commission staff support the revisions to 310 CMR 11.00 which seek to streamline review of certain housing, mixed-use, and ecological restoration projects, and conceptual urban renewal plans.

Cape Cod Commission Jurisdiction:

The Cape Cod Commission, as the regional planning and land use agency for Barnstable County, is required to review and regulate Developments of Regional Impact ("DRIs"). The Cape Cod Commission Act (St. 1989, c. 716) and the Commission's enabling regulations include thresholds and criteria for determining when a proposed development constitutes a DRI based on the magnitude of its impact on the natural or built environment and effects across multiple municipalities within the region. In addition to DRI review thresholds based on factors such as the square footage of new buildings or acreage of land divisions, the Commission Act also provides that "any proposed development project for which the secretary of environmental affairs requires the preparation of an environmental impact report...shall be deemed a development of regional impact." Accordingly, the proposed changes to mandatory EIR requirements for qualifying housing projects and ecological restoration limited projects may exempt some developments in Barnstable County from Commission review.

Proposed 301 CMR 11.00 MEPA Regulations:

The proposed regulations establish a category of housing projects ("qualifying projects"; 301 CMR 11.01(2)(c)1) that are not presumed likely to cause damage to the environment and therefore will

not require a mandatory EIR. Qualifying projects must meet certain criteria, which include avoiding significant new land disturbance, minimizing impacts to sensitive habitats, and locating development out of high flood hazard areas. These criteria appropriately balance the need for housing production with environmental protection, ensuring that the proposed streamlined process does not undermine the intent of MEPA review.

As noted in the background document for the proposed MEPA regulation amendments, these changes are intended to reduce barriers to housing development. The Commonwealth's Comprehensive Housing Plan for Massachusetts 2025-29 recognized a statewide housing crisis, and the Healey administration's Commission on Unlocking Housing Production recommended streamlining the MEPA review process as one step towards achieving year-round housing production goals. The Cape Cod region lacks an adequate supply of affordable housing opportunities and faces unique pressures due to the seasonal tourism economy and second home market. The Cape Cod Regional Policy Plan and 2024 Regional Housing Strategy aim to increase the supply of attainable year-round homes in the region and identify streamlining permitting processes as an important tool for meeting regional housing needs. The proposed MEPA regulation amendments are consistent with the Commission's goals and recommendations for the region and should reduce administrative costs and burdens on much-needed housing development.

The proposed regulations also include an exemption for projects involving one single family dwelling where the only required Agency Action is a Superseding Order of Conditions ("SOC") from MassDEP (301 CMR 11.01(2)(b)3). The background document identifies several single family home projects that have triggered MEPA review thresholds over the last five years solely due to the need for a SOC resulting from an appeal of a local Order of Conditions. Commission staff support this revision, agree that an added layer of MEPA review is generally not warranted in these circumstances, and note that some of these single family home projects have also triggered Commission DRI review under the current regulations where Environmental Justice proximity has required preparation of an EIR.

Current MEPA regulations (effective January 2023) provide a streamlined review process for Ecological Restoration Projects, as defined by the Wetlands Protection Act (M.G.L. c. 131 § 40). The proposed regulations expand streamlining options to include Ecological Restoration Limited Projects (defined at 310 CMR 10.24, 10.53). These projects will not be presumed likely to cause damage to the environment and thus will not be required to prepare an EIR. Commission staff support this amendment as these projects seek to improve the environment and restore important natural ecological functions.

Cape Cod Commission staff appreciate the opportunity to share feedback on the proposed MEPA regulation amendments and are available to answer any questions about these comments.

Sincerely,

A handwritten signature in blue ink that reads "Kristy Senatori". The script is fluid and cursive, with the first name "Kristy" and last name "Senatori" clearly legible.

Kristy Senatori
Executive Director