



## **Massachusetts Association of Conservation Commissions**

*protecting wetlands, open space and biological diversity through education and advocacy*

November 10, 2025

*Via email to [MEPA-regs@mass.gov](mailto:MEPA-regs@mass.gov)*

Tori Kim, Director  
MEPA Office  
100 Cambridge Street, 10th floor  
Boston, MA 02114

### **Re: Comments on Proposed MEPA Regulations at 301 CMR 11.00**

Dear Director Kim:

Massachusetts Association of Conservation Commissions (MACC) greatly appreciates the opportunity to submit comments on the proposed amendments to the Massachusetts Environmental Policy Act (MEPA) regulations at 301 CMR 11.00. MACC is a statewide non-profit organization that supports more than 2,000 volunteer conservation commissioners in their mission to preserve wetlands and open space. Each of the 351 cities and towns in Massachusetts has a conservation commission responsible for administering the state Wetlands Protection Act and municipal wetland bylaws and ordinances, as well as managing municipally owned conservation land. Our association protects Massachusetts' natural resources through our education and advocacy efforts, and we have been doing this work since 1961.

We support the Healey-Driscoll Administration's overarching goal of increasing the supply of affordable housing in Massachusetts. We support the intent—as described in the Background Document accompanying the proposed revisions—of streamlining development to advance housing affordability, on infill and redevelopment sites, in locations served by existing infrastructure, with criteria to ensure that we avoid damage to the environment and the project is safe and resilient. We also support proposed streamlining for Ecological Restoration Limited Projects and additional regulatory streamlining for all Ecological Restoration Projects (please see a letter sent under separate cover with other organizations).

We have concerns that the proposed revisions to the MEPA regulations, as currently written, will degrade the environment, reverse progress with Environmental Justice (EJ) communities, and put people, property, and natural resources at greater risk from climate change. In decreasing the costs of residential project permitting, we must take care not to shift expenses or risks to homeowners, occupants, and the public in the future to address resiliency or public health impacts that can reasonably be foreseen now.

We believe improvements can be made to the proposed revisions to help ensure foreseeable environmental impacts are *avoided*, *minimized*, and *mitigated* and provide a faster, more predictable process for housing production as just one way of addressing the Commonwealth's housing affordability crisis.

MEPA and the Executive Office of Energy & Environmental Affairs (EEA) can apply much of the good work that has gone into the energy siting and permitting reforms that require robust site suitability criteria, a cumulative impact analysis, and community engagement processes all of which will provide community benefits agreements and a mitigation hierarchy. Our recommendations are crafted with these goals in mind. Ecological restoration projects should be streamlined to be at least as fast and easy as is proposed for priority housing development.

### General Observations and Comments

- **Missing categories of environmental impact:** The proposed changes are structured so that projects that meet the required criteria are deemed “not likely to cause damage to the environment,” thereby avoiding the statutory requirement for an Environmental Impact Report (EIR). We note that several of the categories of impact listed in the statutory definition of Damage to the Environment are not addressed in the proposed criteria. Our recommended refinements to the criteria aim to ensure they fully address all categories.
- **2021 EJ Amendments to the MEPA Statute:** In the 2021 Climate Roadmap Law, amendments to the MEPA statute were instituted to increase review and community engagement for projects in or near EJ communities. Projects that trigger MEPA review in those locations must undergo a more detailed level of environmental review, through an EIR, even if they do not exceed mandatory EIR review thresholds. Projects in these EJ locations must also undergo more equitable and extensive opportunities for public participation. This heightened assessment and public scrutiny is critical to protecting these communities from further harms. The need alone for an EIR often prompts advance consultation before a project is filed with MEPA, leading to projects with better environmental outcomes being submitted.
- **Complementary Climate Resilience regulations still absent:** We note that the proposed updates to the Wetlands Protection Act regulations and Water Quality Certification regulations (also known as the “Climate Resilience 1.0 regulations”), which were published in December 2023, have not yet been promulgated. These regulations would establish science-based standards for development in the coastal floodplain and update the stormwater standards.

We recognize the significant effort required to review and consider the 280 unique comment letters and 800 support letters that MassDEP received in April 2024, yet these regulations have not been promulgated. MACC submitted 23 pages of comments to MassDEP on April 30, 2024. Balancing the need for robust, modern environmental regulations while addressing stakeholder concerns is indeed challenging work, ***but it has***

***been more than a year and a half since the end of the comment period in April 2024, and the regulations still have not been issued.*** These proposed regulations include crucial wetlands-related resilience updates that will enhance environmental protection and public safety as Massachusetts adapts to climate change. We urge promulgation of the Climate Resilience 1.0 regulations in 2025, before the end of 2025.

## **Recommendations**

Our recommendations are intended to add speed and predictability to the MEPA review process while still identifying, avoiding, and mitigating a project's damage to the environment, and keeping people and property clear of harm's way in the face of climate impacts. In summary, we recommend these changes to the proposed process and criteria:

### **MEPA Review Process**

- We recommend requiring advance stakeholder engagement for projects that currently require an EIR due to proximity to EJ communities with good faith attempts at outreach and dialogue. Examples can be drawn from advance engagement required for small clean energy facilities and/or guidance for equitable engagement for MVP 2.0.

### **Criteria**

- We strongly recommend removing 11.01(2)(c)2 that allows projects within EJ communities to meet either density or acreage requirements if they meet all other criteria and allows redevelopment projects within the highest hazard area. The purpose for this lower standard is unclear and inequitable. To presume a project is "not likely or reasonably likely" to cause damage to the environment, we believe the full set of criteria, with our proposed modifications, must be met.

Additional recommendations based on the proposed categories for housing/mixed use and relevant MEPA categories currently missing from the criteria:

#### Housing

- Housing affordability should be incentivized, with minimum requirements for affordability, especially for projects within an Environmental Justice DGA. To produce housing at a price point people can afford, any adjustment in regulatory tools should nudge toward affordability by including minimum requirements.

#### Mitigation Hierarchy

- We request that the mitigation hierarchy be consistent with clean energy siting and permitting reforms and statute. We request that a mitigation hierarchy sequencing is required as part of any consideration of potential environmental impacts and specifically state that the application of the mitigation hierarchy sequentially prioritizes and sets thresholds for *avoidance*, then *minimization*, followed by *mitigation* of any negative consequences.

#### Acres altered

- We support excluding projects that affect areas of high carbon stock, priority habitat and prime farmland. To this, we recommend adding that a project may not directly affect any wetland resource area except for redevelopment that reduces existing environmental impacts.
- We recommend incentivizing tree retention over replanting and including a requirement for open space in the qualifying criteria.

#### Wetlands, Waterways, Tidelands, Stormwater (this topic is omitted in the list of qualifying criteria)

In addition to the criteria for qualifying projects to avoid wetland areas, we recommend:

- Adding an additional criterion for Low Impact Development (LID) designs and a requirement that onsite stormwater management systems be designed so that the post-development peak discharge rates do not exceed the predevelopment peak discharge rates for the 2, 10, and 100-year storm events as recommended by the Resilient MA Design Tool for 2070.
- We also note that the Climate Resilience 1.0 regulations (310 CMR 10.00) will complement this category and advance outcomes that will protect the environment and properties. This includes science-based updates to the stormwater standards and standards for development in the coastal floodplain. Both of those are essential foundations for climate resiliency. We strongly urge EEA to finalize the promulgation of those regulations in concert with these MEPA regulatory revisions.

#### Flood Resilience

- We strongly recommend that no new development is eligible for streamlining within the 500-year flood area, and redevelopment should not be eligible in the highest hazard areas.
- We also strongly urge the use of data that projects future flooding, not just the decades-old look-back precipitation data used for FEMA maps.

#### Water/Utilities

- We support the criterion that a project should not require an Interbasin Transfer or a determination of no significance. We recommend also excluding projects that will require a new water supply from a groundwater source due to the lack of capacity in the public system, or a new wastewater system.


In summary, we value the interdisciplinary nature of advancing housing affordability in alignment with other statewide priority goals for biodiversity and climate resiliency, and we believe it is possible to both advance housing goals and *avoid, minimize, and mitigate* impacts through a faster review process than the current average.

Safeguarding our environment for future generations is critical for all Massachusetts residents, and especially important as our climate changes.

Thank you for the opportunity to comment on these regulations. Please contact our office with any questions or for a follow-up discussion.

Sincerely,

***Massachusetts Association of Conservation Commissions***

A handwritten signature in black ink, reading "Dorothy A. McGlinchy". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Dorothy A. McGlinchy  
Executive Director

cc: Stephanie Cooper, Undersecretary for the Environment, EEA  
Maria Belen Power, Undersecretary of Environmental Justice and Equity, EEA  
Alison Brizius, Assistant Secretary/Director of Coastal Zone Management  
Donald Cooper, Esq., MACC President