November 10, 2025

Tori Kim
Director, MEPA Office
100 Cambridge Street, Suite 900
Boston, MA 02114
*Via Email: **MEPA-regs@mass.gov***

Re: Proposed MEPA regulatory changes: 301 CMR 11.00

Dear Director Kim,

MassINC's Gateway Cities Innovation Institute and our network of leaders from 26 mid-sized cities across the commonwealth are pleased to submit written testimony in strong support of proposed changes to MEPA regulations in 301 CMR 11.00.

We appreciate the Healey-Driscoll administration's commitment to addressing regulatory barriers for common-sense projects and we welcome the opportunity to provide feedback and suggestions.

Please note the many Gateway City leaders and department heads who have endorsed this message, listed at the bottom of the letter.

The environmental case for streamlining MEPA for certain projects

As you know, our MEPA working group originally approached the Healey-Driscoll administration in 2023 because legislation passed in 2021, *An Act Creating A Next-Generation Roadmap for Massachusetts Climate Policy*, included expansive environmental justice language that has had the unintended consequence of making planning and investing in and near environmental justice (EJ) communities even more time consuming and expensive. We understand the good intention of the provision, which is to protect communities that have been harmed by the cumulative impacts of pollution. However, the geographic breadth of the language—within 1 mile of an EJ community and within 5 miles for airborne impacts—virtually blankets our entire Gateway Cities and many more communities beyond. EEA's map reveals that about half of the entire state is now covered by this requirement, which does not provide any useful targeting of the communities that have suffered historic harm. Even if EJ communities were to be defined in a more constrained way—for example covering only 25-30% of the state—most areas in Gateway Cities would surely continue to be subject to this stricter level of environmental review.

This may be an example of missing the forest for the trees. The EJ requirement sounds appealing at the project level, but has detrimental effects at the macro level. The most climate resilient and

environmentally sustainable development pattern for the commonwealth requires Gateway Cities to become thriving hubs that can accommodate large numbers of new jobs and homes. To put it simply, our cities need to grow faster than our suburbs. More dense development, less sprawl. Unit for unit, growth in our core communities is cleaner than low-density sprawl development that requires wasteful outlays of new utilities, infrastructure, and energy. These new EJ rules perversely undermine the state's own smart growth principles by making greenfield development comparatively quicker and cheaper than redeveloping urban land already served by infrastructure.

Rather than ensure better development, the more stringent EJ requirements contribute to further disinvestment and inequality in our cities by encouraging builders and investors to look elsewhere. Our cities already deal with a host of regulatory barriers; the elected officials who directly represent EJ residents overwhelmingly support commonsense permitting reforms to "level the playing field" so that they can compete with wealthier municipalities and attract the growth they need to strengthen their tax base and invest in the schools, services, and other amenities that their residents demand. Rules like mandatory environmental impact reports (EIR) for anything near an EJ community only reinforce the status quo and bolster the state's existing racial and economic segregation.

MEPA review should not be a backdoor strategy for fighting the battle over gentrification, which is a fight without winners. Even if it were possible to freeze the status quo and eliminate new market development, this would be an unwelcome state of affairs as some of our weaker-market cities know all too well. A context of no-growth or slow-growth still generates competition for scarce housing leading to rent spikes. Less foot traffic means there is not sufficient purchasing power to attract the supermarkets, pharmacies, restaurants, and retail shops that residents want and need.

When virtually every development project in communities like Chelsea and Revere triggers an EIR level of MEPA review, the delays and cost increases make all housing units less affordable—the opposite of what EJ advocates seek.

In purely environmental terms, the new EJ rules in many respects offer an outdated solution because the reality has changed on the ground. Today's building codes, energy requirements, stormwater rules, health codes, conservation commissions, historic commissions, zoning updates, and more, all ensure that every new building built will be cleaner than what is there now. Concerns that the MEPA reforms represent a rolling back of environmental rules are misplaced. The Healey administration's proposed updates acknowledge that MEPA is no longer the only environmental tool in the toolbox and will help the MEPA office focus its staff resources on examining critical projects with the most significant and untested environmental impacts, such as data centers and other emerging industries. Meanwhile, contemporary housing and mixed-use development in Gateway Cities generate predictable and well-understood impacts. Such new development produces cleaner sites and healthier communities compared to the dirty industries of yesteryear, and a simple ENF should suffice to flag projects with extraordinary impacts that deserve deeper scrutiny.

The Healey-Driscoll administration needs to adopt a clear North Star in all its permitting reforms: urban infill development represents a positive environmental outcome and needs to be supported and streamlined. Density, parking limitations, and traffic congestion are characteristic of bustling, walkable, and *energy-efficient* places and should not be environmental pretexts for blocking urban development. We believe that the proposed regulatory reforms, especially the criteria for housing and mixed-use projects, embody the spirit we share.

An example of adverse impact of the EJ rules: urban renewal plans (URPs)

The EJ language of 2021 triggered a higher level of MEPA review (mandatory EIR) for urban renewal plans rather than the manageable ENF previously required. In places like Brockton, Fall River, and New Bedford, the cost of urban renewal plans suddenly and unnecessarily ballooned by tens of thousands of dollars, as communities had to hire consulting firms to draft an expanded environmental notification form (EENF) and then, based on guidance in the MEPA office's response, develop an EIR. The new requirements generated delays of 12-18 months, time during which the municipality could not move to address properties creating public health and safety risks for the neighborhood. Moreover, these analyses have been exercises in speculation, since URPs are generally conceptual plans used nowadays to target and address challenging, blighted parcels without proposing specific new development. These are not the "slum clearance" plans of the 1950s and 60s. Even with a URP in place, significant projects developed under the plan would trigger their own MEPA project review, making the plan review redundant. Neither the MEPA office, nor the municipal government, nor the public at large are well served by imagining the negative impacts of what could happen in a conceptual plan. We don't require this kind of analysis of any other planning document, whether comprehensive plans, neighborhood plans, housing production plans, green space plans, economic development plans, or transportation plans, and with good reason: many plans never get implemented. We should evaluate the impacts of specific projects when they are proposed and can be measured.

Empower the EEA Secretary to balance the "fail-safe review" with a waiver provision

Existing MEPA regulations empower the EEA Secretary to conduct a "fail-safe review" even for projects that do not meet or exceed any review thresholds. We understand that special circumstances arise for unique projects that may warrant further scrutiny. But by the same token, fairness demands that the Secretary should have the authority to waive unreasonably burdensome review requirements for projects that, by their routine nature, have predictable impacts easily encompassed and mitigated by local permitting processes.

The current expansive EJ language moves in the opposite direction by pulling in a host of new projects that were not previously subject to mandatory EIR. The MEPA Office reports that 40% of all new housing/mixed use MEPA filings over the last three years have been subject to mandatory EIR on the sole basis of proximity to EJ communities. While the proposed housing/mixed-use rule reforms would address this problem for some projects, it cannot foresee all of the issues and offers no waiver that might provide relief for other non-harmful projects.

For that reason, we propose that the Secretary have the authority to grant a waiver upon concluding that state review is redundant with local processes and would incur unnecessary cost and delays. In our judgment, such a waiver would not circumvent the statutory intent of ensuring that projects in and near EJ communities receive judicious state scrutiny for environmental harm, but would acknowledge that such scrutiny should not be duplicative of local processes. To be sure, this requires establishing a standard by which not every project becomes a political football that puts undue strain on the Secretary and staff of the MEPA Office, and we would endorse the MEPA office developing appropriate forms and guidelines that puts the burden on the project proponent to demonstrate that. Possibly such waivers could require the endorsement of the local executive or municipal legislative body as a threshold requirement before getting to the Secretary. We suggest the following text for consideration:

301 CMR 11.06(7)b: "Except for the project categories listed in 301 CMR 11.01(2)(c), which shall be subject to 301 CMR 11.06(7)(a), the Secretary shall require an EIR for any Project that is located within a Designated Geographic Area around an Environmental Justice Population; however, the Secretary may grant a waiver upon making a determination that local permitting processes are adequate to review and mitigate project impacts, and may establish appropriate procedures and guidelines for considering such requests."

We believe that it is appropriate for the Secretary to have the authority make those judgment calls; in some cases, this could save municipalities, project proponents, and the state itself a great deal of time and money. This change would benefit not just Gateway Cities, but all communities, and could be particularly beneficial to small towns and rural areas.

Implement new review thresholds for Urban Renewal Plans (URPs)

We are pleased to see the administration's proposal to change the review thresholds for urban renewal plans, which are the only plans currently subject to MEPA. We agree that URPs should be removed from the "Land" review thresholds and included in a new category of "Regulations and Planning" [301 CMR 11.03(12)] where EIR is not mandatory. This should relieve the need for many of our municipalities to contract with private consultants and pay tens of thousands of dollars for speculative studies. This has caused major headaches for municipalities by delaying critical interventions to address severely blighted properties that pose a fire risk, attract trash and vermin, provide a haven for drug trafficking and other crime, and in the worst cases, threaten to topple into public ways. We recognize that the administration has proposed two pathways for addressing the URP issue; overwhelmingly, our communities support the regulatory reform option.

Reinforce public notice requirements for EJ communities

The proposed language requiring projects subject to MEPA review to provide no less than 45 days notice to environmental justice communities is reasonable. However, we note that urban renewal plans (URPs) are undertaken with public engagement requirements overseen by EOHLC, and we request that EOHLC and EEA coordinate on notice and engagement requirements in order to avoid redundant processes.

Notes on criteria for priority housing projects in 301 CMR 11.01(2)(c)1

MassINC's Policy Center and our network of Gateway Cities economic development leaders endorse an expansive view of priority housing projects eligible for streamlined MEPA review. We appreciate the thoughtful approach embodied in the proposed language and strongly support it. We offer the following notes.

a. Residential and mixed-use: 67% of gross floor area dedicated to residential use appears reasonable; however, we can imagine instances where this might not work, such as smaller-scale infill development where a small number of housing units may be added above existing first-floor commercial uses in commercial districts like downtowns and main street areas; including the waiver provision as we propose above for projects requiring EIR as a result of proximity to an EJ population should help with this and other unforeseen problems.
b. Density levels: These are widely deployed in state housing programs and are suitable.

c. Land: We support, and we would like to particularly highlight with appreciation how "redeveloped land" is defined and addressed.
d. High hazard and flood risk areas: While we have not scoured in detail the areas covered by these maps, they appear to be reasonably conscribed; we note that the maps online, even at the regional scale, do not provide enough resolution to show parcels, and this needs to be provided.
e. Stretch energy code: While we do not oppose this criterion and recognize that the Administration has made it a priority, we note that not all Gateway Cities have adopted it. The stretch code can cause challenges in the renovation and redevelopment of historic and older properties, of which there are so many in Gateway Cities; and there exist exemptions and alternative compliance for some buildings. Therefore the phrasing must encompass these exemptions and modes of alternative compliance; perhaps language should be added to make this explicit, such as: "e. complies with the Massachusetts Stretch Energy Code adopted pursuant to Chapter 169 of the Acts of 2008, including approved exemptions and alternative compliance;".
f. Interbasin transfers: We support the proposed language.
g. Traffic: We support the average daily trip (ADT) levels included in the proposed language and appreciate the consideration of transit-oriented and mixed-use areas.

Notes on other categories of streamlined projects: 301 CMR 11.01(2)(c)2-4

Category #2. Our understanding is that this differs from the first category described above in that it applies to projects that would otherwise *not* trigger an EIR if it were not for the proximity to an EJ community. In that spirit, we fully support this alternative pathway to winning a presumption that a project is unlikely to cause damage to the environment. It makes sense that residential and mixed-use projects that do not surpass any of the twelve standard review thresholds have the opportunity to streamline their review by meeting four or five of the metrics in the previous provision.

Category #3. Ecological restoration projects: We support the proposed language.

Category #4. Regulations and planning projects: We understand that this language intends to differentiate between conceptual urban renewal plans and plans which include specific development proposals. We appreciate and support this distinction. However, we are concerned that the phrasing could be interpreted by future regulators more broadly. Therefore, we suggest a slight amendment (added word in italics): "…provided that the Project does not independently propose any *physical* work, project, or activity that exceeds any other review threshold in 301 CMR 11.03."URPs regularly identify seriously blighted properties to target for demolition or eminent domain, and these should not trigger an EIR unless accompanied by a specific redevelopment proposal.

Feedback on the proposed Special Review Procedure

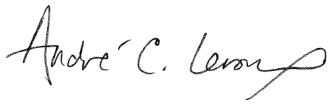
We have submitted a separate letter to respond to the proposed Special Review Procedure outlined in the September Environmental Monitor. While Gateway City municipal officials and economic development leaders strongly endorse the regulatory changes proposed, we also believe that the SRP could be complementary to these reforms in a few ways:

- It could help those communities that have already initiated new or major modifications to their urban renewal plans and for whom the proposed regulatory reforms will not apply;

- It could provide greater flexibility for those URPs in which the municipality would like to propose specific redevelopment in conjunction with their conceptual plans;
- The SRP could serve as a clear set of guidelines for urban redevelopment authorities in terms of how they should approach their URPs.

For these reasons, we recommend that EEA adopt *both* pathways.

Once again, we thank you for your consideration of these remarks, and we appreciate the diligence and long hours spent developing these thoughtful proposals. Please do not hesitate to contact me at aleroux@massinc.org or 617-251-3861, or any of the local officials listed below.



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