September 30, 2024

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Re: MEPA Straw Proposal GHG Comments

The MEPA Office conducted and shared presentations on the Greenhouse Gas Policy straw proposal in June 2024. Massachusetts Bay Transportation Authority (MBTA) reviewed the materials and prepared this letter to share our comments on the straw proposal.

MBTA recently reestablished the goals of our organization. These goals include modernizing our assets, supporting regional vitality, communicating openly about the costs and revenue needed, and increasing environmental sustainability, among others.[1] The MBTA plays an important role in the environmental progress of the Commonwealth by reducing emissions in Massachusetts and the service we provide is a major contributor to meeting the mobile source emissions reductions outlined in the 2025/2030 CECP. As of January 2021, the MBTA's system was powered by the purchase of renewable energy certificates, demonstrating its commitment to sustainable energy practices.[2] We provide a transit system that meets the needs of the 21st century, helps people get out of their cars, and supports good land use (e.g., natural resource conservation, historic preservation) in Greater Boston. MBTA is highly committed to these goals and the primary responsibility of MBTA is to provide a safe, reliable, and accessible transportation system for Massachusetts.

Our trains run on approximately 1,000 miles of tracks and provide over 150 bus routes that pass through many types of environments, including wetlands, waterways, forests, and coastal regions, and 20% of our facilities are located in the coastal zone[3]. As such, MBTA supports MEPA's mission to improve the Commonwealth's ability to reduce greenhouse gas emissions and improve resilience to the impacts of climate change. We share these same goals. In fact, as part of the Capital Investment Plan (CIP) the MBTA investments include those that address critical asset needs while keeping the MBTA on a path to better safety, service, and sustainability[4].

MEPA GHG Emissions Policy – Straw Proposal

Highlighted below are specific proposed updates included in the straw proposal regarding stationary sources, land alteration, and mobile sources that may impact the MBTA. For each update,

[1] MBTA Announces Vision to Improve Safety, Service, Equity, Sustainability, and Culture | News | MBTA, www.mbta.com/news/2023-08-24/mbta-announces-vision-improve-safety-service-equity-sustainability-and-culture
[2] MBTA, Sustainability and Resiliency at the MBTA, https://www.mbta.com/sustainability
[3] [3] Supporting the Transportation System of the Future- MBTA FY25-29 Capital Investment Plan (CIP), July 2024, https://cdn.mbta.com/sites/default/files/2024-08-fy25-29-mbta-final-cip-book-project-list-with-feedback.pdf.
[4] Supporting the Transportation System of the Future- MBTA FY25-29 Capital Investment Plan (CIP), July 2024, https://cdn.mbta.com/sites/default/files/2024-08-fy25-29-mbta-final-cip-book-project-list-with-feedback.pdf.

we have included our overarching feedback on what can be refined, clarified, defined, or amended to better account for the MBTA's unique roles and responsibilities as it relates to being both a recipient and applicant under MEPA review. In particular, the proposed changes and possible further collaboration between the MBTA and MEPA regarding mobile sources have the potential to better address mitigation opportunities and incentivize projects that support more sustainable modes of transportation.

Stationary Sources

Policy & Guidance Update: Simplify MEPA Process by Creating "Opt-Outs" if Project Commits to Best Practices; Standardize Analysis for Other Projects

- *Update (Technical): Revise How Mitigation Commitments are Expressed*
- *Update (Technical): Revise Modeling Methodology to Consider Reductions in Overall Grid Emissions by 2050*

The MBTA is unique in the types of buildings and projects that could be required to go through the MEPA process for the continued operations of the MBTA system. Given that the MBTA buildings and projects are part of a system/project that will ultimately have GHG-neutral or net positive impacts, the MBTA would like to work with MEPA to get clarity on existing and future MBTA buildings categorizations and potentially other projects (ex. SGR project) and how they can achieve opt-outs. Since many MBTA-owned and operated facilities probably won't meet the criteria for specific opt-out categories, an alternative opt-out strategy may be required. The MBTA is in the process of updating the MBTA Design Standards (possibly by 2025) and will likely go above and beyond what is required under the energy code as possibly MEPA/DOER requirements. The MBTA could work with MEPA to develop this as the opt-out conditions.

Land Alteration

Policy & Guidance Update: Lower acreage at which GHG analysis is required for large-scale land clearing. MEPA will develop carbon accounting methodology to be used to estimate GHG impacts of forest conversion and will provide mitigation options.

Given that the MBTA will have future projects that exceed the 25-acre threshold, like the changes to stationary sources, the MBTA aims to work with MEPA on exploring a separate opt-out option if the land is designated for uses that will ultimately contribute to the goals of MBTA and the state's CECP.

Mobile Sources

Policy & Guidance Update: Provide potential methodology for reporting of VMT/household to track progress towards CECP goals: Provide guidance on mitigation strategies, including potential opt-outs from GHG analysis for projects making high commitments (e.g., mode share targets).

The MBTA supports the additional guidance and potential opt-outs that the MEPA Office is considering regarding mobile sources. While it is important to establish a standard methodology for reporting total VMT and VMT/household for projects to better track progress towards CECP goals, it does not go far enough. There needs to be a more direct connection and approach to support the 2025/2030 CECP strategy to reduce pollution from the transportation sector by reducing growth in total VMT through improving alternatives to personal vehicles. To that end, further clarification and details are needed to better understand what the mitigation strategies might entail and how high commitments will be defined and set. The MBTA aims to strike a balance between increasing engagement on mitigation for projects affecting our system and avoiding obstacles for genuinely transit-oriented developments. Moreover, numerous MBTA projects are expected to rely on federal funds that come with specific deadlines, increasing the necessity for an efficient process. We look forward to further discussions with MEPA to detail our initiatives and explore cooperative solutions.

Given that the straw proposals are still at the conceptual stage, the suggestions below are meant to augment what is currently proposed and illustrate opportunities to support alternatives to personal vehicles that will have a meaningful impact on reducing VMT.

As an applicant:

1. **Expand opt-out options and/or provide more streamlined review processes for projects that are required for the MBTA to provide reliable and safe service (such as state of good repair projects).** In order for the MBTA to continue to be a partner in reducing emissions in Massachusetts, it is important to be able to efficiently navigate through the required processes to maintain the expected and safe levels of service, especially if they are tied to federal funding timelines. For example, having a carve out for projects happening within the existing right-of-way (ROW) would help with expediting the delivery of transit projects. At the Federal level, projects that take place entirely within the existing ROW are eligible for categorical exclusions (23 CFR Part 771)[5].
2. **Request that MBTA be a mitigation recipient for projects that are within a station walk shed <u>and</u> meet a certain level of increased ridership.** The MBTA requests that the MBTA be included as a recipient of mitigation efforts (physical or financial) when projects are within walking distance of stations and significantly impact the transit system by increasing ridership. In these cases, the MBTA requests to be part of discussions with the Proponent about potential mitigation strategies to determine if our transit system's facilities and operational services can accommodate new riders. At this time, we are exploring what type of metric would be sufficient to properly quantify increased ridership and what level would be necessary to signify a substantial impact. This approach will help applicants and developers to budget and plan accordingly as they develop proformas and estimate costs.

[5] Code of Federal Regulation, National Archives and Records Administration, Part 771 -Environmental Impact and Related Procedures, https://www.ecfr.gov/current/title-23/chapter-I/subchapter-H/part-771

As a recipient:

1. **Expand opt-out options and/or provide more streamlined review processes for projects that follow certain best practices and fall under MBTA Communities Act Zone or TOD areas.** The MBTA would support opt-out options similar to what is proposed for stationary sources if certain best practices are followed that adhere to transit-oriented development principles.
2. **Require mitigation strategies that include access improvements to stations and TODs and limit environment impact.** For projects that are within the walk shed of a commuter rail station, subway station, ferry terminal, or bus station, require, or at a minimum prioritize, mitigation strategies that encourage and improve pedestrian, bicycle, and/or transit access and limit environmental impact to MBTA facilities and ROW.

Social Cost of Carbon

Policy & Guidance Update: At Secretary's discretion, require SC-C analysis consistent with NEPA guidance.

To that end, further clarification and details are needed to better understand what SC-C requirements for a MEPA submission and what, if any mitigation strategies would be required. The MBTA significantly contributes to Massachusetts' environmental progress by lowering emissions and helping achieve the 2025/2030 CECP mobile source reductions.

As an important partner in continuing to support the state's greenhouse gas reduction goals and initiatives (including the 2025/2030 CECP), the MBTA respectfully requests that MEPA consider providing the avenue for the MBTA to successfully navigate the MEPA process both as a proponent but also as an opportunity for mitigation. We suggest MBTA-specific guidance that is consistent with our dedication to lowering GHG emissions, while also offering flexibility, potentially through a Memorandum of Understanding or other similar method. This continuous initiative will progress as the MBTA supports reducing greenhouse gas emissions while balancing this with system improvements, project scopes, timelines, and expenses.

We look forward to engaging in further discussions with MEPA to provide more details on our proposed initiatives and to explore collaborative solutions.

Sincerely,

Lynsey Heffernan
Chief of Policy and Strategic Planning
MBTA

Maura Healey, Governor
Kimberley Driscoll, Lieutenant Governor
Monica Tibbits-Nutt, Secretary & CEO
Phillip Eng, General Manager & CEO

massDOT
Massachusetts Department of Transportation

September 30, 2024

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Re: MEPA Straw Proposal Climate Resiliency Comments

In June of 2024, the MEPA Office released a straw proposal to update the 2021 MEPA Interim Protocol on Climate Change Adaptation and Resiliency. The Massachusetts Bay Transportation Authority (MBTA) reviewed the materials and prepared this letter to share our comments.

The MBTA is committed to mitigating the risks of climate change and investing in a more sustainable transit system. Our portfolio includes a vast array of interconnected infrastructure, including nearly 1,000 miles of track, much of which is located in constrained urban cores and/or coastal areas that are already being impacted by climate change. For this reason, the MBTA has been considering the impact of changing climate conditions on our transportation assets for over a decade. The MBTA's design priorities go beyond protecting the built environment to include minimizing downtime and preventing disruptions to the traveling public, as well as protecting the safety of system users, workers, and the surrounding environment from risks associated with flood hazards.

The MBTA has developed a set of standards[1] to assess climate change impacts and ensure that resilience is built into each project from the earliest stages of design. For example, in 2019 the MBTA established a Flood Resiliency Design Directive (the "Flood Directive") intended to provide guidance on the MBTA's design approach, preference, and requirements for protecting its assets and operations from the impacts of coastal and inland flooding. The MBTA is in the process of updating our overall design standards and guidelines. Flood resiliency will be incorporated directly into these revised guidelines to address sea-level rise / storm surge and extreme precipitation. The MBTA will draw upon experiences and outcomes of projects utilizing this design approach to inform further revisions. Additionally, other design considerations will focus on extreme heat.

Building on our *2018 MBTA Vulnerability Assessment Report,* we will soon publish our Climate Assessment, which identifies how to reduce the Agency's environmental footprint and to embed resilience to climate-related impacts in order to protect the infrastructure system, employees, riders, and operations. This Assessment will serve as a roadmap of next steps to build and deliver a more sustainable MBTA including recommendations around planning and prioritization, design enablement and integration, and much more.

The MBTA supports regulations that are protective of the environment, while simultaneously allowing us to fulfill our core mission of serving the public by providing safe, reliable, and accessible transportation. The MBTA needs to be able to improve existing transit facilities and make them more

[1] https://www.mbta.com/sustainability/climate-change-resiliency

resilient and safer for all users without significant schedule delays, permitting variances, or budget increases that will create barriers to project execution or halt a project completely. Many of the MBTA projects are federally funded and completing environmental review is required prior to being able to expend those funds. Federal funding also comes with specific deadlines, increasing the necessity for an efficient process. Having a timely environmental review affects the ability of the MBTA to deliver important projects that have a benefit to the community, especially environmental justice communities.

MEPA Climate Resiliency Policy – Straw Proposal

The MBTA is concerned about applicability and feasibility as it relates to compliance. The input provided below addresses basic filing requirements, additional analysis required for EIRs, and applicability of EIR analysis requirements.

Basic Filing Requirements

Given the unique nature of our projects, the MBTA benefits from consistently applying our Flood Directive across our portfolio of projects rather than relying on the output report and recommendations from the Massachusetts Climate Resilience Design Standards Tool (the "Tool") that are generated for individual projects. We request that MEPA develop clear pathways for the MBTA to continue to reference our Flood Directive as part of an alternative review process and utilize our revised design guidelines when they are finalized.

Additional Analysis Required for EIRs

Consistency with Tool Recommendations

While the Tool's analysis and recommendations can be helpful in understanding potential future climate conditions, the Tool does not always characterize conditions correctly. For example, it often flags projects as being at high risk for riverine flooding by incorrectly characterizing nearby ponds as sources of riverine flooding. As a result, projects are incorrectly scoped for analyses of riverine peak discharges and peak flood elevations. The Protocol should include provisions for challenging the applicability and accuracy of the Tool's recommendations, and subsequently having the assessment recognized in the subsequent certificate.

Further, the Straw Proposal requests an explanation of "compliance with local and state mandates." It would be helpful for MEPA to clearly identify these mandates and explain how they differ from regulations.

Applicability of EIR Analysis Requirements

Mandatory EIRs

The MBTA serves over 1,285 Environmental Justice Populations.[2] As a result, the vast majority of MBTA projects are required to file Environmental Impact Reports due to their location within one (1) or five (5) miles of such populations. This has significant impacts on the cost, scope, and timeline of MBTA projects, potentially adding as much as 16-18 months to the review process. Many of our projects are also subject to the National Environmental Policy Act (NEPA), which has recently been undergoing efforts to streamline the environmental review process by shortening schedules, reducing the cost of analyses, and requiring more concise documentation. The MBTA needs a reasonable alternative or expedited MEPA review process – ideally one that is compatible with the NEPA process – to ensure projects are not considerably delayed, especially for projects that will provide both short-term and long-term benefits to Environmental Justice Populations through increased access to better transit service, improvements to air quality, and the reductions in GHG emissions that help limit future climate impacts.

De Minimis Exception

The Straw Proposal includes a di minimis exception eliminating the requirement for analyses if a project is "not exposed" to any climate parameter. Virtually all areas of the Commonwealth will experience extreme heat in the future, and therefore this exception will have a very limited effect.

Minimum Analysis to be Provided in EIR

Stormwater Sizing

The Straw Proposal contemplates requiring an assessment of the resilience of a stormwater system to specific future storm events. It should be noted that projects that tie into municipal stormwater systems are unlikely to be able to provide meaningful analyses of the future performance of those systems. Moreover, transit corridors are linear and have a narrow footprint across a variety of geographies, resulting in unique constraints on stormwater management system design. MBTA would like to work with MEPA to create a self-certification process that allows us to utilize our own resilient design standards and account for our adherence to MassDOT's Stormwater Design Guide.

[2] This is a conservative estimate based on the number of EJ Populations, as defined in Section 56 of Chapter 8 of the Acts of 2021: *An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy*, within one-quarter mile of MBTA bus stops and transit stations. Additional EJ Populations outside of those areas also utilize MBTA services.

Extreme Heat

The RMAT Tool uses MassGIS data from 2016 to assess the existing tree cover and permeability of a project site. Since it is not always accurate, users should have the ability to override the existing conditions assumptions (as well as other Tool assumptions) if better information is available. This is especially important for MBTA projects wherein track ballast is incorrectly identified as impervious. The RMAT Tool is also limiting in that transit projects do not necessary work with the polygon size limit, particularly commuter rail, heavy rail, light rail, and bus-rapid transit. These projects are linear and the project extent can be much larger than what the RMAT tool allows. The tool also can generate more conservative recommendations that do not allow for differing geographies that could be covered by long transit projects.

Other Potential Analyses to be Specified in Secretary's Scope

We request that MEPA be judicious in its approach to requiring the study of on- or off-site flood impacts of individual projects, which can be time consuming and expensive. The size, footprint, and context of a proposed project (including its relationship to future district-scale flood protection measures) should be taken into account before requiring expansive modeling. Furthermore, especially in areas currently undergoing redevelopment, future (2070) off-site conditions cannot be assumed to be identical to existing conditions.

Special Considerations for the MBTA

The MBTA seeks to work with the MEPA Office to develop a more tailored approach to the review of MBTA projects that recognizes the distinct mission and functions of the MBTA, particularly from a climate resiliency and adaptation standpoint. This could take the form of a Memorandum of Understanding or other type of collaborative approach or mechanism. Ultimately, the MBTA hopes that this type of approach will reduce the administrative burden and streamline the environmental review process, allowing the MBTA to save costs and deploy projects in a more effective and efficient manner.

The MBTA believes its comments and suggestions would provide the flexibility, practicality, simplicity, and clarity necessary for project execution and compliance while supporting the MEPA Office's goals to ensure that projects take all feasible measures to avoid, minimize, or mitigate damage to the environment. We strongly urge the MEPA Office to work together with MBTA toward the common goal of improving environmental sustainability and resiliency in the Commonwealth, while enabling the MBTA to undertake critical safety, reliability, modernization, sustainability, and resilience work.

The MBTA welcomes the opportunity to discuss these comments further with the MEPA Office.

Sincerely,

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MBTA