



The Trustees of Reservations
200 High Street | Boston, MA 02110

March 31, 2021

Via Email MEPA-regs@mass.gov

Secretary Kathleen A. Theoharides
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

RE: Comments on Draft MEPA Interim Protocols on Climate Change Adaptation and Resiliency

Dear Secretary Theoharides:

The Trustees of Reservations appreciates efforts by the Massachusetts Environmental Policy Act Office (MEPA) to develop Interim Protocol on Climate Change Adaptation and Resiliency. Thank you for the opportunity to comment.

The Trustees preserves, for public use and enjoyment, properties of exceptional scenic, historic, and ecological value in Massachusetts, receiving over 2 million people at our 120 special places each year. We are the largest private holder of coastline in the state, protecting over 120 miles of coast in 25 communities.

Coordinating Agency Permitting

The Trustees is becoming increasingly involved in large-scale climate resiliency projects throughout the state, especially along the coast. We have a sense of urgency to onboard and trial new techniques to address climate adaptation and resiliency. Some new techniques trigger MEPA review. For typical development projects, it is possible to apply for several agency permits concurrently. However, for a pilot or other non-traditional restoration project, permitting pathways have not yet been firmly established so the permitting process remains complicated, time consuming, and expensive. For example, the Office of Coastal Zone Management's (CZM) serves as an advisor to MEPA and the Department of Environmental Protection (DEP) for coastal projects; and addressing CZM's concerns is essential to progress so early communication is important. However, it is challenging to predict what those concerns may be in advance, especially for new climate resiliency techniques. One solution is to improve coordination among state permitting agencies to streamline permitting processes for climate resiliency pilot projects. Developing a collaborative and facilitated MEPA permitting pathway between

state agencies, municipalities, and nonprofit conservation organizations would help to ease the burden on applicants and help to manage risks for trialing new techniques in regulated areas.

MEPA Thresholds, Waivers and Grants

We would also like to discuss the possibility of reforming the MEPA regulatory thresholds for ecological restoration and nature-based climate adaptation projects, as some thresholds are quite low. We request that triggers for waivers under the MEPA process promote innovation and limited trialing of new techniques and for ecological restoration and nature-based climate adaptation projects that have established standards or evidence showing benefit and manageable risk. Finally, where waivers may not be possible, we hope for the state to consider providing matching grants to nonprofits to offset the mounting expenses associated with required monitoring for such projects.

MEPA Exemptions

When the ecological restoration amendments were included in the Wetlands Protection Act, the intention was to consolidate state permitting requirements under DEP's jurisdiction, but this has not proven to be the case. We recommend a MEPA exemption for review for ecological restoration projects which do not require any other state actions other than DEP permitting. These projects typically do not have impacts normally associated with MEPA review (traffic, air quality, changes to open space, utility needs, etc.) MEPA already relies heavily upon DEP to assess project impacts, and for comments and guidance under current process.

General EIR for Salt Marsh Restoration

The Trustees supports efforts to facilitate the filing a general Environmental Impact Report (EIR) for specific types of salt marsh restoration projects. A general EIR for salt marsh restoration could then apply to a new project that meets the prescribed criteria established in the general EIR – which would have significant transferable benefits for nonprofit conservation partners and municipalities seeking to restore salt marsh throughout the state as part of a habitat restoration plan and importantly, to increase and improve coastal resiliency. A general EIR approach would enable individual projects to skip MEPA and move directly to permitting. State agency collaboration would be critical to developing specific metrics and standards for salt marsh restoration techniques - a consistent approach would have transferable benefits across the Commonwealth's coastal marshes.

We would also like to see the MEPA regulations encourage coastal projects that are intended to strengthen climate resiliency. This could be handled by increasing the Wetlands and Waterways impact area thresholds for filing an EIR and possibly an Environmental Notification Form (ENF) for projects designed to reduce risks to the impacts of climate change and sea level rise. Specifically, The Trustees recommends eliminating the 1,000 square foot salt marsh alteration MEPA review threshold for mandatory ENF, and one-acre salt marsh alteration for mandatory EIR for salt marsh restoration projects that qualify as ecological restoration projects under the state Wetlands Protection Act.

SMART Solar Siting

As we have expressed in previous comments, The Trustees does not support the use of ratepayer incentives to support large scale solar under DOER's Solar Massachusetts Renewable Target Program (SMART), when the solar development permanently develops pristine natural resources, including when such developments impact the land's ability to sequester and store carbon, or fragment or destroy large forest blocks, agricultural lands, and fish and wildlife habitat. We urge you to refine the MEPA regulations to ensure that SMART incentives that impact large tracts of natural resources are subject to

environmental review under MEPA. MEPA could then also keep track the specific tracts of land lost under SMART-incentivized developments and make this information public.

The Trustees is grateful for the opportunity to submit these comments and offer proposals to help the Massachusetts Environmental Policy Act Office leverage the expertise of nonprofit partners to mitigate the imminent, hazardous, and costly impacts of climate change.

We look forward to continued collaboration with EEA and hope to be actively involved in the “public stakeholder process” mentioned in the draft Interim Protocol.

If you have questions, please contact me at toshea@thetrustees.org. Thank you for your consideration.

Sincerely,



Thomas K. O'Shea
Managing Director of Resources and Planning

cc: Tori Kim, MEPA Director

Founded in 1891 by Charles Eliot, The Trustees preserves, for public use and enjoyment, properties of exceptional scenic, historic, and ecological value in Massachusetts. Today, 130 years after our founding, we are Massachusetts' largest conservation and preservation organization and with the support of our 150,000 members we care for 120 properties—nearly 27,000 irreplaceable acres. The Trustees works with a variety of volunteer, nonprofit, and community-based partners in communities across the state to preserve remarkable, scenic landscapes and historic and cultural resources. thetrustees.org