

November 10, 2025

Via email to 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:

On behalf of the fourteen undersigned organizations, thank you for the opportunity to comment on the proposed amendments to the Massachusetts Environmental Policy Act (MEPA) regulations at 301 CMR 11.00.

The undersigned organizations seek to protect and restore the environment, create healthy, sustainable communities, and work to advance environmental justice. 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 have deep concerns, however, 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 to homeowners, occupants, and the public in the future to address resiliency or public health impacts that can reasonably be foreseen now.

We also believe substantial 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 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.

Many of our organizations are also commenting on the ecological restoration components of the proposed revisions to MEPA regulations, and those comments are provided in a separate letter. Overall, we believe that streamlined MEPA certification for beneficial restoration projects should be at least as fast and easy as is proposed for priority development.

General Observations and Comments

- **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.¹ Projects that trigger MEPA review in those locations must undergo a more detailed level of environmental review, through an Environmental Impact Report (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 warranted given a legacy of bearing disproportionate environmental burdens, and is critical to protecting these communities from further harms.² 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.
- **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 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.
- **Example projects:** Our analysis of several projects processed by MEPA since 2022 under the most recent regulations shows important improvements in environmental outcomes between the ENF and the Final EIR, which could easily not materialize through the proposed process and thresholds for residential projects. Those positive outcomes should be incentivized, and not sacrificed, in a fast-tracked process.
- **Complementary Climate Resilience regulations still absent:** We note that the Climate Resilience 1.0 wetlands regulations that would establish science-based standards for development in the coastal floodplain and update the stormwater standards need to be issued, as the comment period on the draft concluded more than a year and a half ago.

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

¹ Chapter 8 of the Acts of 2021, An Act Creating a Next-Generation Roadmap for Massachusetts Climate Policy <https://malegislature.gov/Laws/SessionLaws/Acts/2021/Chapter8>

² Paul Mohai and Robin Saha, “Which Came First, People or Pollution? Assessing the Disparate Siting and Post-Siting Demographic Change Hypothesis of Environmental Justice,” 10 Environ. Res. Lett. 115008 (2015); Michael Ash and T. Robert Fetter, “Who Lives on the Wrong Side of the Environmental Tracks? Evidence from the EPA’s Risk Screening Environmental Indicators Model,” 85(2) Social Science Quarterly 441-462 (2004); Joan A. Casey, Peter James, Lara Cushing, Bill M. Jesdale, and Rachel Morello-Frosch, “Race, Ethnicity, Income Concentration and 10-Year Change in Urban Greenness in the United States,” 14(12) Int J Environ Res Public Health 1546 (2017) <https://doi.org/10.3390/ijerph14121546>

property clear of harm's way in the face of climate impacts. Detailed recommendations to the proposed 301 CMR 11.00 revisions, prepared by a subset of the signatories to this letter, are attached. In summary, we recommend these changes to the proposed process and criteria:

MEPA Review Process

- Rather than relying on an ENF for projects that meet all criteria for housing and mixed use projects, we recommend requiring an Expanded ENF with additional detail substantiating the described outcomes. This will allow more meaningful public and agency review, and has a review period that is slightly longer but not onerous. The Expanded ENF should also disclose the project's commitment to proposed mitigation measures.
- We strongly 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.
- Require an indoor air quality management plan in mitigation measures for affordable housing projects in EJ areas that meet or exceed the Vulnerable Health EJ Criteria for heart attack, low birth weight, or childhood asthma.
- Require that housing project sites meet standards ensuring a healthy environment for residents and avoid exposing them to health risks.

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 such 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 Climate Resilience Design Standards Tool (RMAT Tool) for 2070.

We also note that the Climate Resilience 1.0 regulations 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 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.

Stretch Code

- Since the Stretch Code has been adopted by most communities, it will be a nearly universal outcome of any project. We suggest a more productive criterion would be compliance with the Specialized Energy Code.

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.

Transportation

- We suggest measurable criteria, such as a Transportation Demand Management Plan, to ensure specific efforts are taken to incentivize mode shift to transit, walking, and biking.
- We also recommend projects where EJ populations meet or exceed Vulnerable Health EJ Criteria should only qualify if they do not meet or exceed thresholds in 301 CMR 11.03(6)(b)13 through 15.

Hazardous Waste Sites

- We recommend that the project site is not included on any list of hazardous facilities, does not present a risk of a public health exposure exceeding standards, and meets all applicable state or federal standards intended to ensure environmental health in housing siting.

Urban Renewal Plans

- Urban Renewal Plans impacting environmental justice communities should not be exempted from the mandatory EIR requirements. Conceptual URPs are still commitments that allocate environmental benefits and burdens, and are likely to reinforce inequities without meaningful review.

Regulations

- We strongly oppose further streamlining the regulatory streamlining process. Regulations that reduce environmental protections should continue to receive review through an EIR process insofar as they affect Environmental Justice Populations.

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.

Before MEPA finalizes these regulations:

- We request additional but swift dialogue across sectors and stakeholders—perhaps through a short-term reconvening of the MEPA Advisory Committee for one or two additional conversations focused on discrepancies.
- We request MEPA issue a revised draft of the proposed regulations for public comment before finalizing them.

Safeguarding our environment for future generations is critical for all Massachusetts residents, and especially important as our climate changes. Again, thank you for the opportunity to comment, and we would welcome follow up discussion. For questions, please contact Heather Clish at heatherclish@massriversalliance.org.

Sincerely,

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Appendix 1
Detailed Comments and Language Suggestions
MEPA Regulations at CMR 11.00

11.01(2) Applicability

...

(c) The following categories of Projects shall not be presumed likely or reasonably likely to cause Damage to the Environment, notwithstanding that the Project exceeds one or more review thresholds in 301 CMR 11.03, provided an expanded ENF is filed in accordance with 301 CMR 11.01(2). The expanded ENF shall contain the description and assessment of mitigation measures required in 301 CMR 11.07(6)(j) and, if the Project is located within an Environmental Justice Population Designated Geographic Area, the analysis required in 301 CMR 11.07(6)(n). The Secretary, after review of the expanded ENF, shall issue a written certificate in accordance with 301 CMR 11.06(7)(a).

We strongly recommend that an expanded ENF be required, both to retain the incentive for advanced consultation with Environmental Justice Populations and to provide additional detail substantiating environmental outcomes and how a Project meets the criteria. This still provides housing project proponents with a significant streamlining benefit relative to the existing regulations in that it narrows the scope of analyses and eliminates additional rounds of filings and each round's associated review and comment periods. We have strong concerns that responses submitted solely in the ENF Form, even if modified, would prove insufficient for the purposes of evaluating whether a Project meets the criteria established in (c)1, with the modifications we propose below.

1. Any Project satisfying all of the criteria in 301 CMR 11.01(2)(c)1.a.-g.:

a. devotes 67% or more of the gross floor area of the Project to residential uses, with the remainder devoted to supportive commercial uses, and[, where the Project is located within an Environmental Justice Population Designated Geographic Area,] provides affordable housing, or equivalent cash in-lieu if allowed by local policy, of at least 5 percent above the percentage of units required by the Project location's inclusionary zoning adopted pursuant to MGL Chapter 40B Section 5 or a minimum of 20% of units, whichever is higher. For the purpose of this 301 CMR 11.01(2)(c)1.a., affordable housing shall be defined as defined in the Project location's inclusionary zoning or, where not defined in local zoning, by MGL Chapter 40R Section 2. For the purpose of this 301 CMR 11.01(2)(c)1.a., gross floor area shall not include parking, utility space, and other ancillary spaces not intended for exclusive occupancy by the user or tenant. A Project within an Environmental Justice Population that meets or exceeds the Vulnerable Health EJ Criteria for heart attack, low birth weight, or childhood asthma as shown in the MA DPH Environmental Justice Tool shall only satisfy the criteria in 301 CMR 11.01(2)(c)1.a. if it commits to implementing an indoor air quality management plan during construction and operations;

Given the overarching goal of the proposed streamlining is to address the housing affordability crisis, affordable housing should be part of criteria (c)1.a. Incentivizing affordable housing in close proximity to existing Environmental Justice Populations will reduce displacement pressure on existing residents compared with new development of dense all-market-rate housing. Housing stability has a documented link to health outcomes (see, e.g., <https://upward-mobility.urban.org/framework/neighborhoods/stability>), whereas access to newer housing stock and lower housing cost burden can contribute to improved health (and ability to withstand climate-related health burdens) for vulnerable populations. The nexus with MEPA is that housing stability is an essential element of social resilience to climate change. Out of the 32 housing projects listed in the background information, 8 are single family homes. Of the remaining 24, 17 propose income-restricted affordable housing units (average 46%, minimum 10%, maximum 100%, and median 25%). Compare, also, the California Environmental Quality Act's regulatory exemptions for affordable housing (for example, providing for 10 percent affordability for moderate income households, 10 percent for low income households, and 5 percent for very low income households), summarized at www.scag.ca.gov/sites/default/files/2024-05/ceqa_exemptions_for_housing_projects_-_project_eligibility_review_matrix.pdf.

To avoid exacerbating existing inequitable public health burdens related to air pollution, such as heart attack, low birth weight, and childhood asthma, or extending those burdens to the new residents of affordable units, indoor air quality management plans should be part of required mitigation commitments for qualifying projects. Though we were unable to complete a review of all 24 housing projects that were not single family homes, we did identify several that between the filing of the ENF and the final EIR added a commitment to implement indoor air quality management plans, demonstrating their feasibility/practicability. Given that the EIR review process will limit the opportunity to encourage proponents to include this important mitigation measure, it should be a required criteria for projects located in Environmental Justice areas with air pollution related health disparities.

b. achieves density of at least 8 units per acre for single-family, at least 12 units per acre for two and three -family buildings, and at least 15 units per acre for multi-family housing of more than three-family residential uses. For the purpose of this 301 CMR 11.01(2)(c)1.b., density shall be calculated by dividing the total number of units by the [clarify the denominator];

The methods for calculating density should be explicitly defined, given that the term "density" is not defined in 301 CMR 11. It is unclear what the denominator is for calculating density to demonstrate compliance with this criteria, and for us to have a sense of the cumulative environmental impact of streamlining for density at the proposed thresholds. Is the denominator (per acre) based on gross floor area, total building footprint area, total alteration area, total lot area, total project site area? Ch.40A defines "gross density" - if that is what is intended, the word "gross" should be added before density and reference given to the definition in MGL. In the context of MEPA, it may be most appropriate to set the denominator to be either the total Project site area or the total alteration area.

c. alters up to 5 acres of previously undeveloped land; ~~or alters up to 10 acres of previously undeveloped land~~, allocates no less than 20% percent of the Project site to publicly accessible open space, and the Project ~~proposes~~ commits to a tree retention and replanting plan that adheres to ANSI A300 Part 5 standards, and, for any trees that cannot be retained, that demonstrates measures to minimize tree removal and replace removed trees at a minimum ratio of 1.5 inches of caliper planted per 1 inch diameter at breast height removed. Replacement trees shall be native species and should be planted on the Project site to the maximum extent practicable. To satisfy this 301 CMR 11.01(2)(c)1.c., no portion of the Project site shall include any land where projected total ecosystem carbon stocks for the Project site are in the top quintile statewide, as defined by the United States Forest Service's National Forest Carbon Monitoring System, Total Ecosystem Carbon in 2070 data layer, or a comparable data source that the Secretary may adopt through guidance; any designated priority habitat, as defined in 321 CMR 10.02; or any land with soils classified as prime farmland by the United States Department of Agriculture which is currently in active agricultural use or was in active agricultural use within the past five years. Redevelopment of previously developed land; ~~or redevelopment of land within or appurtenant to an office or industrial park or large institutional property, that results in no net increase in impervious area~~ shall not be defined as alteration of previously undeveloped land for purposes of this 301 CMR 11.01(2)(c)1.c.

Requiring minimum open space and tree standards as part of this criteria will incentivize nature-based strategies to mitigate the urban heat island effects of housing development on surrounding community areas and increase adaptive capacity for coping with increased extreme heat due to climate change. These strategies are particularly critical for projects in Environmental Justice Designated Geographic Areas (EJ DGAs), as these areas are likely to experience inequitable exposure to extreme heat, compounding health risks, lower tree canopy cover, and less access to open space. Reference to ANSI A300 Part 5 is important, among other reasons, because it emphasizes conservation of mature trees which provide significantly greater benefits than new plantings, including heat mitigation, energy savings, carbon storage, pollution removal, stormwater management, and canopy coverage. We have proposed a replacement ratio that gets to canopy replacement of those lost benefits quicker and in the long-run exceeds the initial benefits lost. However, there will still be lost benefits in the short run.

Redevelopment needs to be defined in 301 CMR 11, or at minimum in this section to clarify how to assess whether the criteria are met (similar to comment above on "density"). Does 1 sf of alteration of previously altered project site mean the entire project is a redevelopment project for the purpose of applying criteria in (c)1.c? We recommend using the 310 CMR 10.04 definition for purposes of the Stormwater Management Standards, which provides for "no net increase in impervious area", since impervious criteria are not yet included in the proposed regulations (a major gap).

Undeveloped portions of land within or appurtenant to office/industrial parks and large institutional properties should not be treated the same as redevelopment of previously

developed land for purposes of streamlining. The former are likely to be large relatively intact ecosystems, whereas the latter are likely to be already highly degraded.

d. the Project site is located outside of highest hazard areas and outside the Special Flood Hazard Area as defined by the Wetlands Protection Act regulations at 310 CMR 10.00 and outside the 0.2% annual chance flood zone, or Zone X as defined by the Federal Emergency Management Agency; or for a redevelopment Project, the Project site is located outside of highest hazard areas and complies with the American Society of Civil Engineers Guidance on Structural Safety in Flood Areas (ASCE 24-24); and the Project demonstrates through a Stormwater Report that onsite stormwater management systems are designed so that Stormwater Management Standards in 310 CMR 10 are met in 2070 storm events as recommended by the Climate Resilience Design Standards Tool (RMAT Tool), including that the post-development peak discharge rates for the 2, 10, and 100-year storm events for 2070 do not exceed the predevelopment peak discharge rates for the present day 2, 10, and 100-year storm events based on NOAA Atlas 14+. For the purposes of 301 CMR 11.01(2)(c)1.d., highest hazard areas shall be those areas subject to high erosion or with exposure to flooding characterized by factors such as high- velocity flows, high-velocity wave action, breaking wave heights, sheet flow and scour and flash flooding. Such highest hazard areas shall include, but not be limited to, the following areas as defined by the Federal Emergency Management Agency: V, Coastal A and AO zones on a Flood Insurance Rate Map (FIRM) and floodways and A zones along the banks of waterbodies. The Secretary shall set forth in guidance methodology for delineating highest hazard areas and the process by which community flood elevations can be established for the purpose of applying ASCE 24-24. For the purposes of 301 CMR 11.01(2)(c)1.d., redevelopment means replacement, rehabilitation, or expansion of existing structures, improvement of existing roads or reuse of degraded or previously developed areas. For the purposes of 301 CMR 11.01(2)(c)1.d., discharges to land subject to coastal storm flowage as defined in 310 CMR 10.04 are not waived from this standard.

The Commonwealth has expended significant resources into developing science-based climate change projections and future flood risk mapping information, such as the Massachusetts Coast Flood Risk Model (MC-FRM), as described in EEA's 2025 Flood Risk Resource Assessment and Recommendations report. The Resilient MA Design Tool, whose use is required for MEPA submissions, provides project proponents with design-quality data based on climate projections that are applicable at the project site level, including coastal flood elevations and precipitation design storms for the 2070 time horizon. Use of these data to demonstrate flood resilience should be required under criteria (c)1.d. Other states, including New Jersey (see Resilient Environments and Landscapes rules), have adopted science-based climate projections in development regulations.

Based on a limited evaluation of sites in Boston (Charlestown), Cambridge (Alewife), and

Winthrop, the MC-FRM 2070 100-year water surface elevations are comparable to the design flood elevations calculated using methods in ASCE 24-24. However, the MC-FRM 2070 100-year floodplain extent covers a much larger area than current FEMA 100-year and 500-year flood zones.

To the extent that EEA has insurmountable concerns regarding the use of available climate change projections data and mapping for criteria (c)1.d, we strongly encourage the Administration to work diligently to resolve these concerns as part of further data and map development efforts so that climate change projections can finally be integrated in regulations, including but not limited to MEPA, Wetlands, Waterways, and Massachusetts State Building Code, as soon as possible.

In such case, we recommend the following improvements to the criteria in (c)1.d to more adequately incentivize flood resilience for housing streamlining:

- First, to qualify, project sites for new developments should be outside the 0.2% annual chance (or 500-year) FEMA flood zone. We note that this higher standard will still leave future residents of qualified housing projects, especially within greater Boston, at future flood risk. The MC-FRM shows that 2070 100-year flood extents are far more expansive than even the present FEMA 500-year flood zone, especially in greater Boston (see Figure 1 in Additional Information).
- Second, to qualify, projects should demonstrate that they have designed stormwater management systems to perform as well, relative to the Stormwater Management Standards, in 2070 rainfall design storm conditions as in present conditions. Projects in Land Subject to Coastal Storm Flowage should not be exempted from peak discharge control standards, as extreme rainfall events do not necessarily coincide with extreme storm tide events.
- In addition, EEA should provide guidance to communities in case they want to establish higher community flood elevations for purposes of ASCE 24-24.

e. complies with the Massachusetts ~~Stretch~~Specialized Energy Code adopted pursuant to ~~Chapter 169 of the Acts of 2008~~MGL 25A Section 6;

The Stretch Code has been very widely adopted at present time, including 70% of municipalities representing 61% of the state's existing population:
<https://www.mass.gov/doc/building-energy-code-adoption-by-municipality/download>.

Compliance with the Stretch Code as a criteria therefore is unlikely to represent any "above and beyond" effort by the proponent to produce sustainable housing stock, but rather a basic code compliance requirement. Given the significant benefits afforded to proponents from the proposed streamlining, it is more appropriate to set the standard higher based on Specialized Code which has seen much less adoption. This would also incentivize municipalities to adopt the Specialized Code.

f. does not require approval of a new interbasin transfer of water or wastewater, unless determined to be insignificant by the Water Resources Commission pursuant to the Interbasin Transfer Act and implementing regulations at 313 CMR 4.00, does not require a new water supply or wastewater system due to

insufficient capacity of a public water supply or public wastewater system, and does not require new or expanded gas mains; and

We support the requirement that a project should not require an Interbasin Transfer or a termination of no significance. However, most projects do not require an interbasin transfer. For projects with ready access to a public water supply system, the new water demand should be well within the capacity of the system.

The gpd needed for residential use is also normally below the 100,000 gpd threshold for a Water Management Act permit. For example, a 400 unit project might typically use about 70,000 gpd according to our review of MEPA EIRs since 2022.

If a new well-water supply is needed simply because the local water supply is nearing its capacity and/or already stressed, there should be a higher level of environmental review to determine, avoid, and mitigate for cumulative impacts of groundwater withdrawal. The same precaution and analysis should be applied to wastewater.

g. generates fewer than 3,000 New adt of traffic on roadways providing access to a single location; or generates fewer than 6,000 New adt of traffic on roadways providing access to a single location if the Project is located either in a transit-oriented development district or mixed-use district or less than one-half mile from a public transit stop with an existing or proposed safe and accessible path of travel to the Project site, and the Project includes a commitment to implement a Transportation Demand Management (TDM) plan designed to support mode shift. Projects with over 3,000 New adt must consult with the Massachusetts Department of Transportation and Massachusetts Bay Transit Authority prior to filing the ENF. Notwithstanding the above, a Project where EJ Populations within the Project DGA meet or exceed the Vulnerable Health EJ Criteria for heart attack, low birth weight, or childhood asthma as shown in the MA DPH Environmental Justice Tool shall only satisfy the criteria in 301 CMR 11.01(2)(c)1.g. if it does not meet or exceed thresholds in 301 CMR 11.03(6)(b)13-15.

Transportation-related air pollution has been shown in multiple Massachusetts-specific peer reviewed studies to significantly increase risks of heart attack, low birth weight, and childhood asthma (see Tables 1 and 2 in Additional Information). Many EJ communities bear a disproportionate burden of this pollution as demonstrated in public health data. Housing projects within the DGA of EJ Populations that exceed the ENF, let alone mandatory EIR, thresholds for Transportation in 301 CMR 11 should not be afforded the significant benefits of streamlined review. That would not be in the spirit of the 2021 law or Environmental Justice Principles in 301 CMR 11.

~~2. Any Project that does not meet or exceed any mandatory EIR threshold in 301 CMR 11.03, provided the Project satisfies the criteria in 301 CMR 11.01(2)(c)1.a., d., e., g., and either 11.01(2)(c)1.b. or 11.01(2)(c)1.c. For the purposes of 301 CMR 11.01(2)(c)2., a redevelopment Project located in the highest hazard area, as defined in 301 CMR 11.01(2)(c)1.d., shall be deemed to satisfy the criterion in 301 CMR 11.01(2)(c)1.d. if the Project complies with the American Society of Civil Engineers Guidance on Structural Safety in Flood Areas (ASCE 24-24) and demonstrates the absence of off-site flood impacts on adjacent properties and infrastructure.~~

We strongly recommend that (c)2 be removed in its entirety. In order to lower the environmental damage to "not presumed likely or reasonably likely", we believe the full set of criteria under (c)1, as proposed for modification in our comments above, must be met. A good project is a good project, and there should not be a lower standard for Projects in Environmental Justice Population Designate Geographic Areas.

Should you decide to retain (c)2, and whether or not you decide to modify (c)1.e. to reference the Specialized instead of the Stretch Code, we recommend requiring projects streamlined under (c)2 to meet both (c)1.e and (c)1.g., modified as we have proposed.

Transportation-related air pollution is likely the most directly linked criteria to EJ population environmental health inequities. Energy code has the potential to increase EV uptake (10% EV ready parking spaces required in Stretch, 20% in Specialized), and EVs produce no exhaust and less brake dust. However, EVs may produce more tire wear particles due to their heavier weight, and tire wear particles are a significant contributor to PM2.5 and PM10. Qualified housing projects in EJ DGAs that do not trigger other mandatory EIR thresholds should only be streamlined if they bring fewer cars (less exhaust, brake dust, and tire dust), more of which are EVs (less exhaust and brake dust), into/through the EJ DGA.

Should you decide to retain (c)2., we strongly object to streamlining review of redevelopment projects in the highest hazard area (HHA) under this section. Redevelopment housing projects in the HHA are excluded from qualification in (c)1.d. for good reason - today's V zones, coastal A zones, floodways, and floodplain riverbanks are very unlikely to be safe places for people to live (in dense concentration no less) 50 years from now given climate change. It does not seem ethical to streamline EJ area housing projects in the HHA while excluding non-EJ area housing projects in the HHA from streamlining, even acknowledging that not all housing projects streamlined in (c)2 are within EJ areas (DGA of 1 mi) and not all housing projects excluded by (c)1.d are outside of EJ areas.

3. Any Project that ~~does not meet~~s or exceeds any mandatory EIR threshold in 301 CMR 11.03 and seeks to qualify as an Ecological Restoration Limited Project under 310 CMR 10.24(8) and 10.53(4), but does not qualify as an Ecological Restoration Project eligible for the procedures in 301 CMR 11.01(2)(b)4.

Given the proposal to streamline housing projects that exceed mandatory EIR thresholds (which could include alteration of 1+ acres of salt marsh or BVW), we strongly object to the exclusion of ecological restoration projects that exceed mandatory EIR thresholds from equivalent streamlining. While qualified housing projects, as proposed, will permanently convert natural lands to hardened development, ecological restoration projects will create or

restore natural functions. If more detailed criteria similar to (c)1 are needed to facilitate equal treatment, we welcome the opportunity to be part of the consultative process to inform your development of those criteria.

~~4. Any Project that meets or exceeds any review threshold in 301 CMR 11.03(1213), provided that the Project does not independently propose any work, project or activity that exceeds any other review threshold in 301 CMR 11.03.~~

URPs in the EJ DGA should not be exempted from the mandatory EIR, either here or through the proposed SRP, irrespective of whether they propose any work, project, or activity that exceeds any other review threshold. Conceptual URPs have a high likelihood of having significant indirect environmental and public health impacts, specifically on EJ Populations. Historically, URPs worked alongside other discriminatory policies like redlining to concentrate undesirable land uses and associated pollution, public health, and socio-economic harms in low-income neighborhoods and communities of color. URPs subjected to ENF level review only have the potential to perpetuate or worsen these historical injustices.

It is very likely that individual URP projects and Master Plans that come after a conceptual URP is approved will point back to the conceptual URP's MEPA approvals in justifying land use decisions and environmental impacts as necessary to achieve the URPs previously certified objectives and in dismissing environmentally less damaging alternatives. As such, it is important that even conceptual URPs affecting EJ DGAs undergo the EIR process.

In addition, the EIR process has the potential to help address past harms by proposing cleanup of legacy contamination, improving equity in open space, waterfront access, and access to healthy food, but without the EJ analysis, additional agency and public review, and mitigation commitments that the EIR provides, there are likely to be many missed opportunities for these potential benefits of urban renewal to be realized. As such, detailed review and public involvement as provided by the EIR process is an important safeguard to ensure damages are avoided, minimized, and mitigated from the start.

Should you decide to retain the proposed exemption of conceptual URPs from mandatory EIRs when in the EJ DGA, then a new section - 11.03(13) Urban Renewal Plans - should be created to facilitate the EIR exemption, and the reference in 11.01(2)(c)4 should be changed to 11.03(13).

Regulatory streamlining should not be streamlined, which is the effect of exempting 11.03(12) in the way proposed. Other regulatory streamlining efforts should continue to be carried out with detailed analysis, including alternatives analysis, of impacts and meaningful opportunities for public review to assist Agencies in avoiding, minimizing, and mitigating damage to the environment, as provided by the EIR process. Exempting all environmental streamlining efforts from having to analyze the unfair or inequitable effects on EJ Populations is not in line with the Environmental Justice Principles defined in 301 CMR 11.02.

X. Notwithstanding the above criteria, all residential housing projects must ensure that project sites provide for a healthy environment for residents and must meet the following site standards:

(a) The site of the project is not included on any list of hazardous facilities and sites identified under state or federal law.

(b) The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

(c) The site of the project is subject to an assessment of the existence of any release of a hazardous substance on the site and to an assessment of the potential for exposure of future occupants to significant health hazards from any nearby property or activity. In addition, the following steps have been taken in response to such assessments:

(i) If a release of a hazardous substance is found to exist on the site, the release shall be removed, or any significant effects of the release shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(ii) If a potential for exposure to significant hazards from surrounding properties or activities is found to exist, the effects of the potential exposure shall be mitigated to a level of insignificance in compliance with state and federal requirements.

(f) The project site meets all other applicable state or federal standards intended to ensure environmental health in housing siting, including but not limited to standards for the siting of subsidized and income-restricted housing.

(g) Any project ENF must identify any major sources of negative health impacts in proximity to the project site, including but not limited to traffic routes, waste transfer sites, and sources of air, water, soil, or noise pollution, as shown by relevant data sources or identified by public comment.

(h) The Project site shall not be eligible for the streamlined review provided in 301 CMR 11.01(2)(c) if said site is a "disposal site" as defined in M.G.L. c. 21E and 310 CMR 40.0000 (the "Massachusetts Contingency Plan") and, as of the filing of the ENF, is subject to an active Release Tracking Number (RTN), has achieved only a "Temporary Solution" as defined in 310 CMR 40.0006, or is designated with "Downstream Property Status" as defined in 310 CMR 40.0180.

The location of a housing development has significant public health consequences for its residents, in addition to any potential ecological impacts. Exposure to toxins in air, soil, and water can create or exacerbate health problems, in particular given cumulative impacts and underlying health vulnerabilities for environmental justice populations; such exposures can also exacerbate climate-related health risks, such as asthma (where rising temperatures and air quality both play a role). These concerns are implicated by both new construction and redevelopment, which may occur near pre-existing health and environmental burdens.

Vulnerable residents, in particular residents of subsidized or income-restricted housing, may lack better options for healthy housing if safeguards are not in place at the development (or redevelopment) stage. Federal (National Environmental Policy Act) review of HUD-subsidized housing has required examination of site quality with regard to prospective health impacts on residents. However, even prior to federal rollbacks, those reviews have had gaps: they have been under-enforced, and Low Income Housing Tax Credit properties (under the Treasury Department) have thus far lacked NEPA reviews (see Shriver Center et al, Poisonous Homes 2020, www.povertylaw.org/report/poisonoushomes/).

Massachusetts should include site reviews and certifications in its MEPA process, in order to assess public health impacts for residents – in particular, due to the risks for environmental justice populations and for subsidized households. (See definition of “Environmental Burdens” under the MEPA statute, regarding adequate remediation; risks to public health; statutory EIR requirements regarding assessment of public health risks.) Above, we include for consideration language that is based in part on California’s (pre-2025) affordable housing exemptions, providing basic public health criteria for housing site standards. See for reference: *California Code, Government Code - GOV § 65962.5 and Cal. Code Regs. Tit. 14, § 15192.*

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11.03

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(12) Regulations ~~and Planning~~.

(a) ENF and Mandatory EIR. None.

(b) ENF and Other MEPA Review if the Secretary So Requires.

1. Promulgation of New or revised regulations, of which a primary purpose is protecting against Damage to the Environment, that significantly reduce:

a. standards for environmental protection;

b. opportunities for public participation in permitting or other review processes; or

c. public access to information generated or provided in accordance with the regulations.

~~2. Approval in accordance with M.G.L. c. 121B of a New urban renewal plan or a major modification of an existing urban renewal plan.1.03(12)~~

(13) Urban Renewal Plans.

(a) ENF and Mandatory EIR. None.

(b) ENF and Other MEPA Review if the Secretary So Requires.

1. Approval in accordance with M.G.L. c. 121B of a New urban renewal plan or a major modification of an existing urban renewal plan.

See the previous comment box above in response to proposed 11.01(2)(c)4.
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11.05

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(4) Environmental Justice Populations.

(a) If a Project requires MEPA review in accordance with 301 CMR 11.01(2) and one or more Environmental Justice Populations are located within the Designated Geographic Area around the Project, the Proponent shall undertake effective measures to provide public involvement opportunities for such Environmental Justice Populations. The Proponent shall demonstrate in the ENF filing that measures undertaken prior to filing have been effective at involving residents of Environmental Justice Populations located within the Designated Geographic Area, including but not limited to the number and content of verbal and written comments received by such residents, the number of such residents who attended pre-filing public meetings, and, where languages other than English are spoken by 5% or more of such Environmental Justice Populations, the number of such residents that requested or utilized translation services provided by the Proponent at such meetings. The Proponent shall also provide a table responding to each comment received that indicates whether or not the comment was incorporated in the Project, and, for comments not incorporated, and the Proponent's justification.

(b) A Proponent shall provide advance notification of a Project, in a form determined by the MEPA Office, to the MEPA Office and organizations and individuals based on recommendations by the EEA Environmental Justice Director, for any Project that is located within a Designated Geographic Area around one or more Environmental Justice Populations. Such advance notification shall be provided no later than 45 Days, and no earlier than 90 Days, prior to filing the ENF. For an expanded ENF for a mixed use or residential Project meeting the criteria set forth under 11.01(2)(c), such advanced notification shall be provided no later than 60 days prior to filing the expanded ENF.

(c) The Proponent's failure to provide advance notification as required 301 CMR 11.05(4) shall allow the Secretary to require an extension or repetition of the ENF review. The Secretary may also reject an ENF as incomplete if the Proponent has failed to provide advance notification as required, or has undertaken no measures to provide public

involvement opportunities for Environmental Justice Populations prior to filing the ENF, or has not demonstrated that measures undertaken to provide public involvement of Environmental Justice Populations prior to filing the ENF have been effective.

Evidence from reviewing MEPA certificates for projects subject to the EJ public involvement requirements demonstrates that proponents generally make limited efforts beyond sending the EJ Screening Form and posting flyers and notifications of public meetings in multiple languages. This limited approach has yielded very limited public involvement of EJ populations in the MEPA process based on the Secretary's descriptions in the certificates. This is not in the spirit of the EJ law, regulations, or protocol, yet these projects ultimately receive their MEPA certificates. Given that this proposed streamlining of MEPA regulations will confer significant benefits on qualified housing project proponents and further reduce opportunities for EJ Populations to be involved in public review, we strongly recommend strengthening the expectation for proponents to achieve effective public involvement of EJ populations, extending the advanced notification to 60 days, and allowing the Secretary to condition their decision on demonstrated effectiveness. If necessary, these proposed additions could be limited to only apply in the context of 11.01(2)(c).

(d) Any project consisting of one single family home shall be exempt from the requirements of this 301 CMR 11.05(4).

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(8) Expanded ENF. In addition to filing a completed ENF and the required attachments, the Proponent may file more extensive and detailed information describing and analyzing the Project and its alternatives, and assessing its potential environmental and public health impacts and mitigation measures. The Proponent may provide this additional information whenever it is available. The Proponent shall provide this additional information when the Proponent is requesting that the Secretary issue a decision pursuant to 301 CMR 11.01(2)(c), allow a single EIR in accordance with 301 CMR 11.06(8), establish a Special Review Procedure in accordance with 301 CMR 11.09, or grant a waiver in accordance with 301 CMR 11.11. The Proponent may refer to 301 CMR 11.07(6) for guidance and may consult with the Secretary for specific advice as to the form and content of this additional information. The Secretary shall duly consider this additional information in the ENF, although it shall not limit the Secretary's discretion to determine the Scope. A Proponent who files an expanded ENF requesting a decision pursuant to 301 CMR 11.01(2)(c), single EIR, or Special Review Procedure shall be deemed to consent to an extension of the ENF review period in accordance with 301 CMR 11.06(1) and of the ENF public comment period in accordance with 301 CMR 11.06(3).

These changes are offered as a way of incorporating our comment on 11.01(2)(c) that an expanded ENF should be required.

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11.06 ENF Review and Decision

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(1) Publication and Review Period. Upon receiving and accepting the ENF, the Secretary shall publish the appropriate pages of the ENF in the next Environmental Monitor in accordance with 301 CMR 11.15(2), which begins the ENF review period. The ENF review period lasts for 30 Days, unless extended by the Secretary on account of the Proponent's failure to meet circulation or Public Notice requirements or with the consent of the Proponent. The review period for an expanded ENF requesting [a decision pursuant to 301 CMR 11.01\(2\)\(c\)](#), a single EIR, rollover EIR, or Special Review Procedure lasts for 37 Days, unless extended by the Secretary on account of the Proponent's failure to meet circulation or Public Notice requirements or with the consent of the Proponent.

These changes are offered as a way of incorporating our comment on 11.01(2)(c) that an expanded ENF should be required.

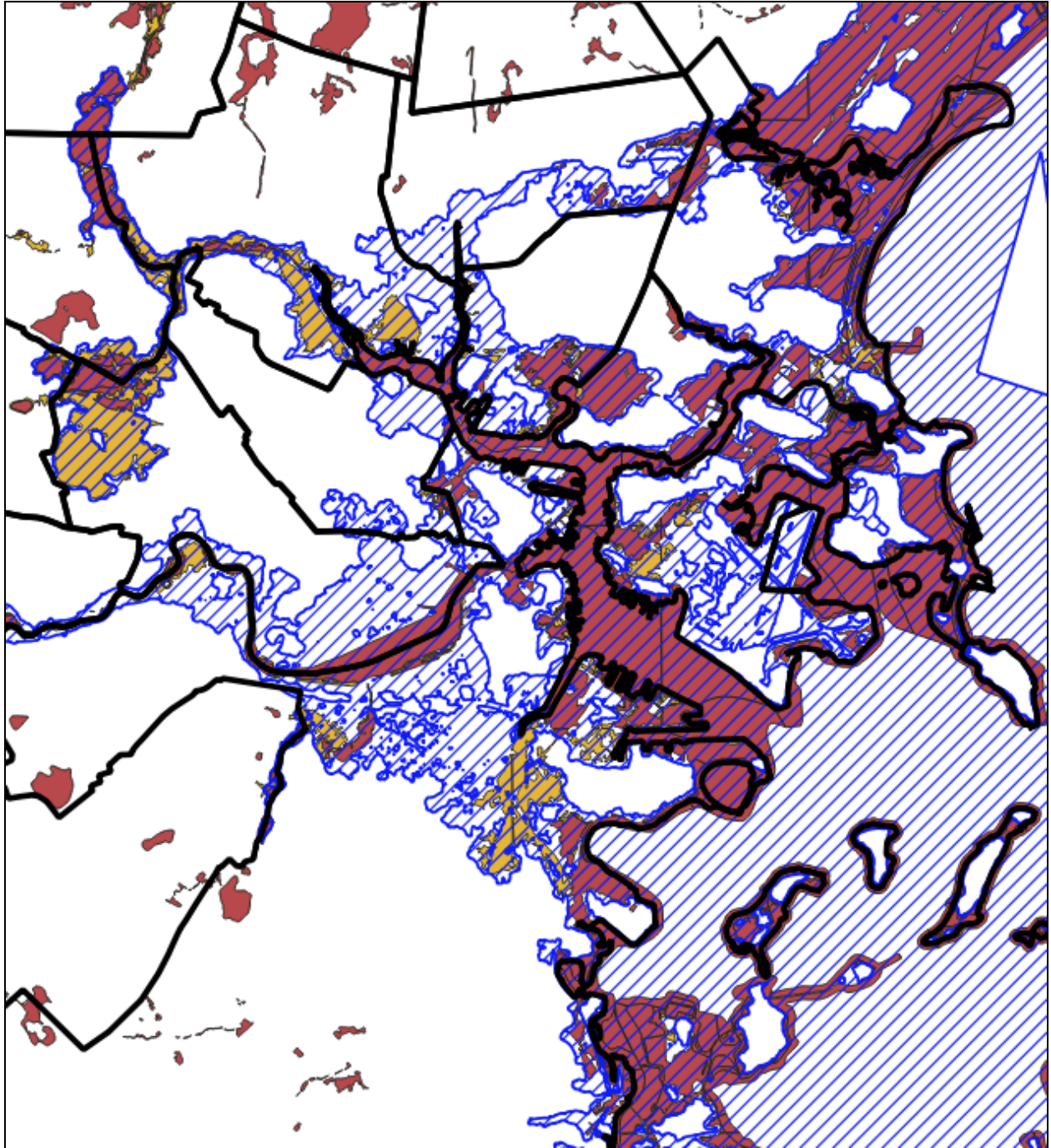
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(3) Public Comment Period, Extensions, Late Comments. After receiving and accepting an ENF, the Secretary shall receive into the record written comments from any Agency or Person, concerning the Project, its alternatives, its potential environmental and public health impacts, mitigation measures, and whether to require an EIR and, if so, what to require in the Scope. Comments shall be filed with the Secretary within 20 Days following publication of the ENF in the Environmental Monitor, unless the public comment period is extended by the Secretary on account of the Proponent's failure to meet circulation or Public Notice requirements or with the consent of the Proponent. If the Proponent has filed an expanded ENF requesting [a decision pursuant to 301 CMR 11.01\(2\)\(c\)](#), a single EIR, rollover EIR, or a Special Review Procedure in accordance with 301 CMR 11.05(8), comments shall be filed within 30 Days following publication of the ENF in the Environmental Monitor, unless the comment period is extended by the Secretary on account of the Proponent's failure to meet circulation or Public Notice requirements or with the consent of the Proponent. An extension shall not ordinarily exceed 30 Days. The Secretary may accept a late comment, provided it is received prior to the Secretary's decision on the ENF.

These changes are offered as a way of incorporating our comment on 11.01(2)(c) that an expanded ENF should be required.

Additional Information

Figure 1. Comparison of Massachusetts Coast Flood Risk Model 2070 100-year flood extent (blue hatch) with FEMA 500-year flood zones (orange) and 100-year flood zones (maroon) in the greater Boston region.



The following tables summarizing peer-reviewed research of the environmental health impacts of transportation air pollution was generated by ChatGPT.

Table 1. Summary of research providing evidence of the effect of transportation air pollution on heart attack, low birth weight, and childhood asthma in Massachusetts.

Study (year) — design / population	Exposure metric (how measured)	Exposure window / contrast	Main effect estimate (adjusted)	Key notes
Tonne et al. (2007) — case-control; Worcester Heart Attack Study (MA)	Cumulative traffic within 100 m of residence; distance to major roadway (GIS/traffic counts)	Long-term residential exposure (cumulative traffic within 100 m; km closer to roadway)	4% increase in odds of AMI per IQR increase in cumulative traffic (95% CI: 2%-7%); 5% increase per km closer to major roadway (95% CI: 3%-6%)	Massachusetts- specific heart attack risk linked to traffic exposure
Tonne et al. (2009) — case-control; Worcester / MA, modeled traffic particles	Modeled traffic-particle exposure (latent variable using NO ₂ and PM _{2.5} absorbance)	Long-term spatial variation (~IQR contrast)	10% increase in odds of AMI per IQR increase in traffic particles (OR = 1.10; 95% CI: 1.04-1.16)	MA data, adds modeling of traffic particles beyond simple traffic counts
Peters et al. (2001) — case-crossover; Greater Boston area	Ambient hourly PM _{2.5} and carbon black from monitors	Short-term/triggering: 2-hour and 24-hr lags before MI onset	OR = 1.48 per 25 µg/m³ increase in PM_{2.5} (2-hour lag) (95% CI: 1.09-2.02); OR = 1.69 per 20 µg/m³ increase in 24-h average (lag1) (95% CI: 1.13-2.34)	Short-term trigger effect in MA region (Boston) for heart attack

Study (year) — design / population	Exposure metric (how measured)	Exposure window / contrast	Main effect estimate (adjusted)	Key notes
Bell et al. (2007) — cohort; births in CT & MA (n≈358,504)	County-level averages of NO ₂ , CO, PM ₁₀ , PM _{2.5} (maternal residence)	Gestational and trimester averages; per IQR increase	Birth weight lowered by: NO ₂ : –8.9 g (95% CI: –10.8 to –7.0), CO: –16.2 g (95% CI: –19.7 to –12.6), PM ₁₀ : –8.2 g (95% CI: –11.1 to –5.3), PM _{2.5} : –14.7 g (95% CI: –17.1 to –12.3). For logistic LBW (<2500 g) the OR per IQR increase in NO ₂ ≈1.027 (2.7% increase, 95% CI 0.2%-5.1%) and PM _{2.5} OR ≈1.054 (5.4% increase, 95% CI 2.2%-8.7%). (PubMed)	Direct MA & CT data. Large sample, county-level exposures; shows modest reductions in birth weight and slight increased odds of LBW.
Kloog et al. (2012) — cohort; Massachusetts births 2000-2008	Daily PM _{2.5} predictions (10×10 km grid) using satellite AOD + land use + meteorology; adjusted for traffic density	Full pregnancy, last month of pregnancy (also last 30 & 90 days) contrasts; per 10 µg/m ³ increase	–13.8 g (95% CI: –21.1 to –6.05) birth weight change per 10 µg/m³ increase in PM_{2.5} over full pregnancy. OR for preterm birth: 1.06 (95% CI: 1.01-1.13) per 10 µg/m ³ . (BioMed Central)	Massachusetts- specific, higher spatial-resolution exposure; controls for traffic density so isolates regional PM _{2.5} effect; effect modest but statistically robust.

Study (year) — design / population	Exposure metric (how measured)	Exposure window / contrast	Main effect estimate (adjusted)	Key notes
Fleisch et al. (2015) — cohort; Project Viva (Boston area)	Residential traffic density, roadway proximity, modeled black carbon & PM _{2.5} (spatiotemporal models)	Prenatal exposure (e.g., 3rd trimester) and quartile contrasts of traffic density	Highest vs lowest quartile of traffic density: birth weight-for-gestatio nal-age z-score difference ≈ −0.13 (95% CI: −0.25 to −0.01) in fetal growth metric. (PMC)	Boston area cohort; traffic-specific metric (not just ambient PM _{2.5}); shows fetal growth (not just birth weight).

Table 2. Approximate “% increase in traffic → % increase in health risk” interpretations

Study	Original metric	Approximate translation to “% increase in traffic exposure”	Health effect
Tonne et al. 2007 (Worcester Heart Attack Study)	<i>Cumulative traffic within 100 m of residence — continuous measure combining road length × traffic counts</i>	Authors report 4% higher odds of AMI per interquartile range (IQR) increase in cumulative traffic (95% CI: 2–7%). The IQR represented roughly a doubling (≈ 100% increase) in local traffic volume , so a 100% increase in nearby traffic ≈ 4% higher odds of heart attack.	AMI (heart attack)
Tonne et al. 2009 (modeled traffic particles, Worcester)	<i>Traffic particle concentration</i> (latent variable combining NO ₂ & PM _{2.5} absorbance)	Effect estimate: 10% higher odds of AMI per IQR increase in traffic particles (95% CI 1.04–1.16) . Because the IQR represents roughly a 50–60% change in modeled traffic-particle concentration across the area, that roughly corresponds to a 1.5–2% increase in AMI risk per 10% increase in traffic-derived particle exposure.	AMI (heart attack)

Study	Original metric	Approximate translation to “% increase in traffic exposure”	Health effect
Fleisch et al. 2015 (Project Viva, Boston)	<i>Traffic density near home</i> (quartiles)	Highest quartile vs. lowest quartile of neighborhood traffic density had ~13% lower fetal growth z-score (–0.13 SD; 95% CI –0.25 to –0.01) . That quartile difference corresponds to roughly a 3–5× higher local traffic density , implying that each doubling of nearby traffic was linked to ~3–4% lower fetal growth .	Fetal growth / birth weight
Zeka et al. 2008 (Eastern MA)	<i>Traffic density index</i>	Reported statistically significant associations between higher traffic/land-use indices and reduced birth weight (magnitude similar to –10 to –20 g per IQR). Translating, a doubling of traffic density corresponds to roughly 1–2% higher odds of LBW .	Birth weight / preterm birth