

January 8, 2015

Governor Patrick went out with an environmental bang. In November, he issued an Executive Order requiring a new Environmental Justice Policy at EOEEA and an Environmental Justice “strategy” at every other secretariat. Coupled with the SJC’s recent Brockton Power decision that project compliance with the existing MEPA Environmental Justice Policy is subject to judicial review, EJ compliance should be front and center for environmental practitioners.

On January 5<sup>th</sup>, the Administration issued a draft MEPA Climate Change Adaptation and Resilience Policy designed to address the requirement in Section 7 of the Global Warming Solutions Act that state agencies consider “reasonably foreseeable climate change . . . affects such as predicted sea level rise.” The Policy is driven by the “widely accepted” scientific consensus that climate change is causing increased atmospheric and ocean temperatures, heat waves, increased evapotranspiration and precipitation, a greater intensity of storms and floods, and sea level rise in combination with land subsidence that will “continue to re-shape our coastline.” It is designed to complement the existing MEPA Greenhouse Gas Policy that requires reduction of a project’s GHG emissions.

The Climate Change Policy will apply to all new projects that require an Environmental Impact Report and on a case-by-case basis to existing projects which file a Notice of Project Change. A “climate impact assessment” and feasible mitigation measures will need to address impacts: from sea level rise, coastal flooding and storm surge; associated with increased precipitation such as coastal and inland flooding, intense precipitation events, groundwater recharge, stormwater runoff and water quality; and increases in temperature such as the urban heat island effect, worsening of air quality, aggravation of asthma and other health impacts on vulnerable populations.

Proponents must “self-certify” that they have implemented the mitigation measures and state agencies must include the self-certification requirement in draft Section 61 findings, which may make the requirement an enforceable permit condition.

Public comments on the draft Climate Change Policy are due on February 9, 2015.

For questions regarding the EJ Executive Order or draft Climate Change Policy, please contact Tom Mackie.