



October 9, 2015

Ms. Michelle Reid, Director of Environmental Justice  
Executive Office of Energy and Environmental Affairs  
100 Cambridge Street, Suite 900  
Boston, MA 02114

**Re: Comments on Draft Environmental Justice Policy**

Dear Ms. Reid:

NAIOP Massachusetts, The Commercial Real Estate Development Association, appreciates the opportunity to provide comments on the Draft Environmental Justice Policy. There is no question that many of the Commonwealth's most economically challenged locations also face environmental and health challenges. By encouraging responsible development, through the success of laws such as the Brownfields Act, many of these communities have been transformed in recent years into thriving economic hubs.

NAIOP has long advocated for policies that encourage economic development while promoting the cleanup and redevelopment of contaminated sites. While NAIOP largely supports most of the concepts outlined in the Draft Environmental Justice Policy ("Policy"), we believe that a few important changes and additional clarification are needed to ensure that growth and prosperity are encouraged in such communities. Without such changes, the Policy may inadvertently drive sorely needed economic development projects to greenfield sites outside of challenged, urban areas.

**NAIOP's comments on the draft Policy are as follows:**

- **More Clarity Needed on Definition of EJ Population:** It is unclear exactly where the Policy will be applied. For example, under the Definitions Section, the "Environmental Justice Population" definition references Environmental Justice community maps by Mass GIS, but these maps do not use the same criteria as either the old or new draft Policy. For example, the maps use 25% or more of households making less than 65% of statewide median income, while the existing and proposed Policy uses median income of a neighborhood with less than 65% of statewide median income. There is a dramatic difference between these two numbers. Also, the new criteria uses health measures, e.g. childhood cancer/lead poisoning and asthma "significantly higher" than statewide averages. "Significantly higher" should be quantified, otherwise the EJ population is a subjective determination. The MassGIS maps also have slightly different language on English proficiency. The maps define it as 25% or more of households that "have no one over the age of 14 who speaks English only or very well" vs. the Policy which defines it as 25% of the population of a neighborhood who is "lacking English Language Proficiency." The policy defines "Lacking English Proficiency" as, "households that, according to federal census

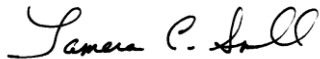
forms, do not have an adult proficient in English.” Unless there is a clear match between mapping criteria and EJ population definition, there will be disputes over jurisdiction.

- **Significant Sources of Environmental Burden Open to Interpretation:** The draft Policy expands the statement of purpose (p. 4, second bullet) by calling for enhanced focus on “significant sources” of “environmental burdens,” while the old Policy’s purpose specifies a focus only on sources of air emissions and regional waste facilities. This could increase review time by allowing communities to argue that any project could potentially be a “significant source” of environmental burden. For example, if a new small business opens would a few new car trips per day be classified as a significant source of environmental burden?
- **ADR Should be Removed from Public Involvement Provisions:** While NAIOP understands many of the changes to the public involvement provisions of the Policy (#12), we question why Alternative Dispute Resolution is recommended. We have concerns that this could lengthen the development process and it is unclear who would cover the cost of ADR. For these reasons, we suggest this language be removed from the Policy.
- **MEPA Enhanced Analysis & Public Participation Far Too Broad:** The MEPA language contained in the Policy will have the most significant impact on development projects. Enhanced analysis and public participation will be required in EIRs near EJ areas (#13 & #14). While the basic premise of enhanced communication and opportunity for public participation is a laudable objective for EJ areas, the extent of coverage is far too broad and the additional EJ analysis is not warranted. The criteria include projects within one mile of an EJ population, which will include all of Boston, Cambridge, Somerville, Everett, Chelsea, Revere, Malden, Quincy, Waltham, Lexington, etc. This is much too broad a definition, even if it is limited to certain project types. For projects with air quality issues, the range is further extended to five miles, which would cover at least everything within Route 128/I-95. This does not seem to be an effective use of resources nor a strategy to effectively attain the goals of the Policy. Any MEPA review should be sufficient to analyze and disclose project impacts and there should be a consistent standard statewide, not a higher standard in EJ areas. As stated above, EJ communities are the most in need of redevelopment opportunities and the Commonwealth should streamline the process for work in these areas, not make it more onerous.
- **Serious Consideration Needed on Impact of Enhanced Threshold Review:** The MEPA participation and analysis requirements in #15 require review of some thresholds (to be determined) for enhanced MEPA analysis and #16 calls for collaboration between MEPA and the EJ Director to come up with additional mitigation in EJ communities. Depending on how these items are implemented, they could cause project delays, extend the process indefinitely, and result in more costs through additional, unwarranted mitigation.

In conclusion, NAIOP appreciates the opportunity to comment on the Draft Policy and we support efforts to address this important issue. We urge EEA to carefully think through the unintended consequences associated with the language referenced above and we look forward to a continued dialog on this important issue.

NAIOP represents the interests of more than 1600 members involved with the development, ownership, management, and financing of more than 250 million square feet of office, research & development, multifamily, industrial, mixed use, and retail space in the Commonwealth. Thank you for the opportunity to provide comments. Please contact me to discuss this issue at your convenience.

Sincerely,  
NAIOP Massachusetts, The Commercial Real Estate Development Association

A handwritten signature in cursive script that reads "Tamara C. Small".

Tamara C. Small  
Senior Vice President, Government Affairs