

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CAPE COD COMMISSION AND
OF THE SECRETARY OF ENVIRONMENTAL AFFAIRS**

In accordance with the Massachusetts Environmental Policy Act, G.L. c. 30, ss. 61-62H (MEPA), the Secretary of Environmental Affairs (the Secretary) has the authority to require environmental impact review of certain development projects receiving state financial assistance or requiring state permits. This review is carried out by the MEPA Unit within the Secretary's office, in accordance with regulations promulgated at 301 CMR 11.00 et seq. In accordance with the Cape Cod Commission Act (the Act), Chapter 716 of the Acts of 1989, as amended, the Cape Cod Commission (Commission) has the authority to review and regulate Developments of Regional Impact (DRIs). This review is carried out by the Commissioners and the Commission staff, in accordance with Administrative and Enabling regulations.

The environmental review processes of the Commission and the MEPA Unit are, in some instances, overlapping. For example, the Act states that any proposed development for which the Secretary requires the preparation of an Environmental Impact Report (EIR) shall be deemed a DRI and will therefore be subject to review by the Commission. Any project for which an Environmental Notification Form (ENF) must be filed pursuant to MEPA may be deemed by the Commission to be a DRI and therefore subject to review by the Commission.

The environmental review procedures of the Secretary and the Commission are similar. Both involve notification of proposed projects through publication in a local newspaper, a public meeting or meetings, and opportunities for comment by state and local officials and interested parties.

THEREFORE, given the extensive overlap of the statutory responsibilities of the Commission and the Secretary with respect to development on Cape Cod, and in order to establish a coordinated review process for development projects that are subject to review pursuant to the Act and to MEPA, the Secretary and the Commission hereby enter into this MEMORANDUM OF UNDERSTANDING.

1. At the election of the project proponent, projects that are subject to MEPA and deemed to be DRIs pursuant to the Act may be subject to a Joint Review Process (JRP). The JRP is a voluntary process by which the Commission and the MEPA Unit will coordinate review of DRIs. Developers will have the option of participating in the JRP when they know or have reason to believe that a project will require review by both agencies.
2. The procedure for the JRP is set forth in Attachment A hereto. It provides for a single initial newspaper notice of environmental review by the Commission and the MEPA Unit, use of the ENF with supplemental pages as the Commission application, a joint MEPA scoping session/Commission public hearing, and an

environmental review document designed to address the concerns of both agencies. In order to participate in the JRP, the applicant must agree that if an EIR is required by the Secretary, it will address issues of concern to both MEPA and the Commission.

3. Participation in the JRP does not guarantee approval of a project by the Cape Cod Commission or certification of an EIR by the Secretary. Through its public hearing process, the Commission may address issues outside of the scope of the EIR. Applicants should also be aware that regularly required state and local approvals will be necessary in addition to Commission and MEPA approvals.

4. The Commission and the MEPA Unit will, by means of the Environmental Monitor, The REPORTER (the Commission's publication) and other appropriate publications or other mechanisms, publicize the availability of the JRP.

11.25.91

DATE

Susan F. Tierney

SUSAN F. TIERNEY
SECRETARY OF ENVIRONMENTAL AFFAIRS

11/21/91

DATE

[Signature]
RICHARD ARMSTRONG, CHAIR
CAPE COD COMMISSION

ATTACHMENT A

Procedure for Joint Review Process (JRP)

The applicant meets informally with MEPA and/or CCC to discuss joint review process. If the applicant chooses to participate in the joint review process, the following procedure applies:

1. Applicant fills out ENF and supplemental pages for CCC. Copies of the ENF and supplemental CCC pages will be available at both the CCC and the MEPA offices.
2. Applicant consults with MEPA staff and CCC staff and agrees upon a future time for the joint MEPA/CCC scoping session/public hearing. The scoping session/public hearing must be held within 20 days of publication of the ENF in the Environmental Monitor. MEPA staff coordinates with CCC staff regarding publication in a local newspaper of the scoping session/public hearing.
3. Joint CCC/MEPA notice is published in a local newspaper announcing the date of the public hearing/scoping session. Notice is published prior to publication of the ENF in the Monitor.
4. Applicant files the ENF with MEPA and the ENF with supplemental pages with the Commission. Date of public hearing/scoping session is indicated on the first page of the ENF, so that it will appear in the Environmental Monitor. Applicant agrees in writing that if an EIR is required, it will cover issues of concern to and within jurisdiction of both MEPA and the Commission.
5. ENF is published in the Monitor.
6. Scoping session/public hearing is held within 20 days of publication of ENF in the Monitor. Scoping session/public hearing is held by a DRI subcommittee and MEPA officials. Both the DRI subcommittee and MEPA officials conduct the hearing. State and local officials and other interested persons are invited to comment on the project.
7. DRI subcommittee meets to decide on comments to MEPA. Comments include either a recommendation that no EIR be prepared, or recommend a scope if an EIR is recommended or required.
8. Commission sends DRI subcommittee recommendation to MEPA.

9. Secretary issues Certificate on ENF. If no EIR is required, state MEPA process and, therefore, joint review process is over. (Please note that the DRI process may continue even though the MEPA process is over.) If EIR is required, the JRP process continues.
10. Applicant files Draft Environmental Impact Report (DEIR) with MEPA, the Commission, and requisite other parties.
11. Commission files comments with MEPA on DEIR.
12. Secretary issues decision on DEIR.
13. Applicant files Final Environmental Impact Report (FEIR), or Supplemental DEIR if required.
14. Commission files comments with MEPA on FEIR (or SDEIR).
15. Secretary issues decision on FEIR (or SDEIR).
16. Commission holds a public hearing within 45 days of the Secretary's certification of the FEIR. The Commission may hold additional hearings as it deems necessary. (Please note that the DRI Subcommittee may hold public hearings as necessary throughout the review process.)
17. Commission issues a final decision on the proposed DRI.