



Commonwealth of Massachusetts

*Executive Office of Energy and
Environmental Affairs*

**Massachusetts Environmental Policy Act
2022 Regulatory Revisions (Final Proposal)**



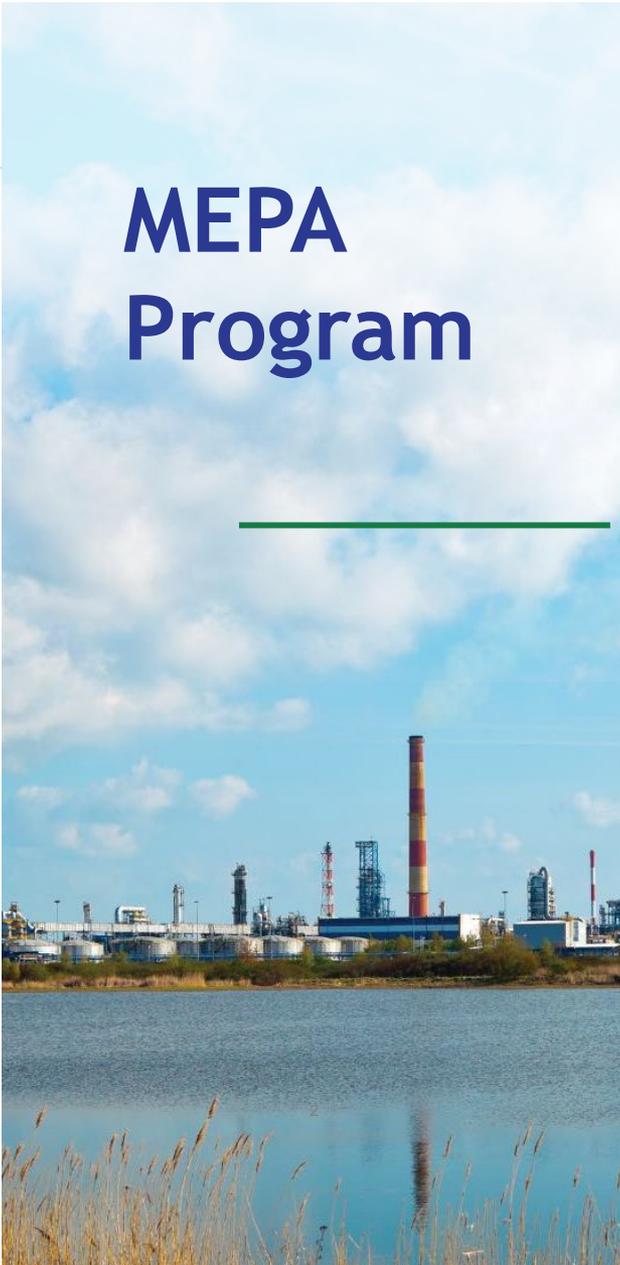
MEPA Program

Modeled on National Environmental Policy Act (NEPA)

- NEPA (1970) premised on federal “agency action”
- MEPA (1972) premised on state “agency action”
- About 16 states have “little NEPA” programs

Key principles

- Comprehensive environmental review before permitting
- Alternatives analysis
- Public participation





KEY THEMES FOR REGULATORY REVIEW (2021-22)

- **Regulatory review effort launched in February 2021**
- **Alignment with policy and planning efforts**
 - Environmental justice (regulations promulgated 12/24/21)
 - Climate resiliency (interim protocol launched 10/1/21)
 - Greenhouse gas (GHG) mitigation
- **Updates to thresholds and process (“Phase 2”)**
 - Clarify definitions
 - Update thresholds
 - Clarify review procedures



ACTIVITIES CONDUCTED IN 2022

2021 regulatory revisions

- Implemented statutory mandate in St. 2021, c. 8 (climate legislation)
- Two environmental justice (EJ) protocols issued, eff. Jan. 1, 2022

MEPA advisory committee meetings*

- Sept to Dec 2021: Discussed EJ-related regulatory changes
- Jan to Apr 2022: Discussed “Phase 2” regulatory review effort
- Apr to June 2022: Topical presentations on EJ projects, ecological restoration, climate resiliency, GHG emissions policy

Summer 2022 activities

- Informal stakeholder meetings
- Planning for remainder of 2022

**Materials posted at <https://www.mass.gov/info-details/mepa-advisory-committee>*



2022 REGULATORY REVISIONS

Overall Theme: Targeted regulatory package to address key areas that would improve the administration of the MEPA program in the short term. Longer term items will be left for further consideration.*

Review Thresholds

1. “De minimis” exception to review threshold requiring review for projects subject to article 97 of the amendments to the Massachusetts constitution
 - **REVISE:** replace with “waiver” provision in *new M.G.L. c. 3, 5A (added by St. 2021, c. 274, An Act Preserving Open Space in the Commonwealth)*
2. Eliminate ½ mile sewer main extension as trigger for MEPA review
 - same as draft regulation
3. Limit 4-foot road widening threshold to exclude widening to add bicycle or pedestrian accommodations
 - same as draft regulation
4. Add ½ acre minimum to Area of Critical Environmental Concern (ACEC) threshold for any work in ACEC
 - same as draft regulation

*Written public comments received on regulatory proposal are posted [here](#).



2022 REGULATORY REVISIONS

5. Ecological Restoration

Streamline review for projects that seek to benefit the environment by restoring ecological functions, specifically:

- Publish notice of project in Environmental Monitor
 - Secretary retains discretion to require ENF filing
 - Environmental justice outreach required
- **REVISE:** require public notice to be filed at least 60 days (increase from 14 days) prior to filing NOI with conservation commission; add more content to the public notice, including project details, description of wetland impacts and anticipated documentation, and impacts and benefits to EJ populations



2022 REGULATORY REVISIONS

Other Procedural Change

6. Add language to make clear that the Scope of an EIR should facilitate issuance of “Section 61” findings; also conforms with statutory language
 - same as draft regulation
7. Amend definitions of “Replacement Project” and “Routine Maintenance” to allow for more flexibility in applying these existing exemptions
 - REMOVE to allow for further stakeholder discussion
8. Clarify the projects that qualify for new “rollover EIR” process
 - same as draft regulation
9. Improve project change review procedures by replacing “insignificance finding” process with advisory rulings
 - same as draft regulation (**will require change to NPC form)
10. Also solicited comment on revising the word “involves” as relating to Financial Assistance to refer to “seeking” the provision of Financial Assistance
 - ADD to align with statutory language



DEFERRED ITEMS

Regulatory Revisions

- More extensive revisions to review thresholds (raise/lower, eliminate outdated, create new)
- “Programmatic reviews” of agency policies
- Revisions to distinguish redevelopment from more impactful projects
- Revisions to complement MassDEP cumulative impact analysis (CIA) effort for air permitting
- Climate resiliency / habitat management projects

MEPA Policies

- Update to 2010 GHG Emissions Policy & Protocol
- Further refinement of 2021 Interim Protocol on Climate Resiliency
- Further refinement of 2021 EJ protocols



WAYS TO KEEP INFORMED

- Attend public meetings of the MEPA advisory committee: <https://www.mass.gov/info-details/mepa-advisory-committee>.
- Send blank email to subscribe_mepa_reg_review@listserv.state.ma.us to receive ongoing alerts. To request translation, email MEPA-regs@mass.gov.
- Updates will be posted at MEPA website at <http://mass.gov/service-details/information-about-upcoming-regulatory-updates>.