



# Commonwealth of Massachusetts

*Executive Office of Energy and  
Environmental Affairs*

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**Massachusetts Environmental Policy Act  
2022 Regulatory Revisions**



# MEPA Program

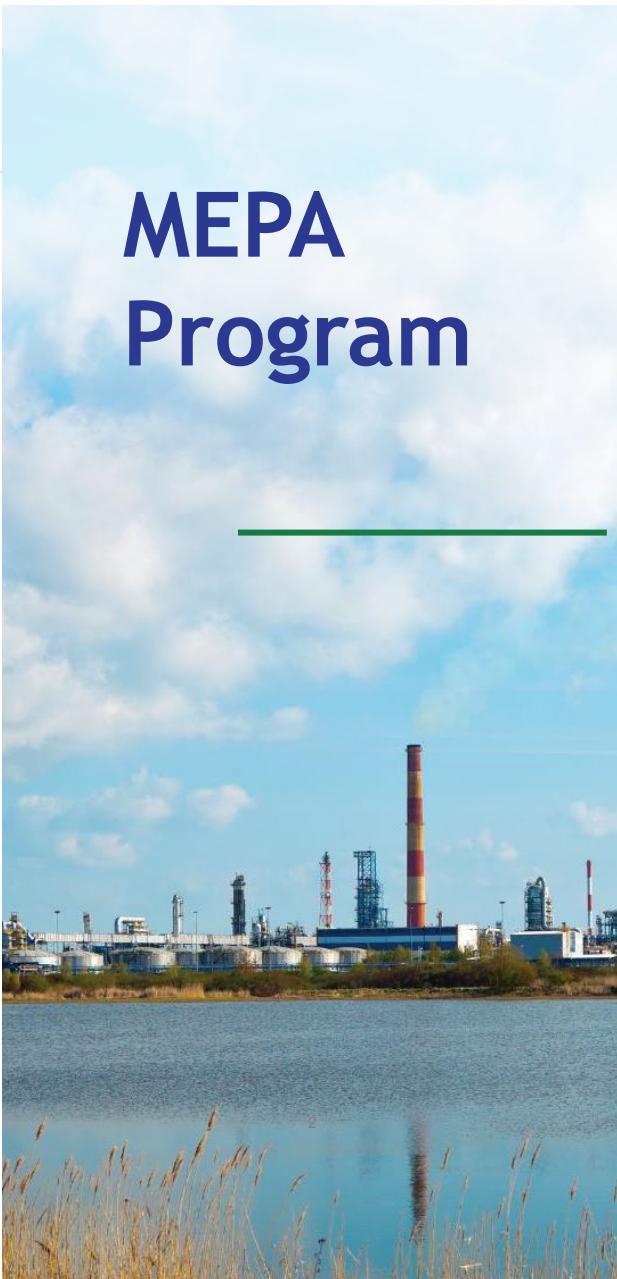
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## Modeled on National Environmental Policy Act (NEPA)

- 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)

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- **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 TO DATE

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## 2021 regulatory revisions

- Implement 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

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**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
2. Eliminate ½ mile sewer main extension as trigger for MEPA review
3. Limit 4-foot road widening threshold to exclude widening to add bicycle or pedestrian accommodations (Complete Streets projects)
4. Add ½ acre minimum to Area of Critical Environmental Concern (ACEC) threshold for any work in ACEC

**Key takeaway:** Create exemptions for minor projects for which MEPA review does not materially advance goals of MEPA.

**\*Project data now available on Environmental Monitor [search page](#).**



# 2022 REGULATORY REVISIONS

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## 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

**Key takeaway: Implement original intent of “Restoration Order of Conditions” permitting pathway in wetlands regulations, which was to exempt projects from MEPA where prescriptive requirements are met.**



# 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
7. Amend definitions of “Replacement Project” and “Routine Maintenance” to allow for more flexibility in applying these existing exemptions
8. Clarify the projects that qualify for new “rollover EIR” process
9. Improve project change review procedures by replacing “insignificance finding” process with advisory rulings

**Key takeaway: Technical changes to conform with statutory language and to add flexibility in applying procedures.**

***\*Also considering revision to the word “involves” as relating to Financial Assistance, as described in the “Note to Reviewer” section of Background Document.***



# DEFERRED ITEMS

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## 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
- Other EJ/air quality topics (air thresholds, fail safe, urban heat island)
- 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 PARTICIPATE

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- Written comments will be accepted until **5:00pm on November 14, 2022** by email at [MEPA-regs@mass.gov](mailto:MEPA-regs@mass.gov), or by mail to MEPA Office, Attn: Tori Kim, 100 Cambridge Street, 10th fl., Boston, MA 02114.
- Send blank email to [subscribe-mepa\\_reg\\_review@listserv.state.ma.us](mailto:subscribe-mepa_reg_review@listserv.state.ma.us) to receive ongoing alerts. To request translation, email [MEPA-regs@mass.gov](mailto:MEPA-regs@mass.gov).
- Updates will be posted at MEPA website at <http://mass.gov/service-details/information-about-upcoming-regulatory-updates>.