



MEPA REGULATORY REVIEW

February 2021



MEPA PROGRAM OVERVIEW

- **Modeled on National Environmental Policy Act (NEPA)**
 - NEPA (1970) premised on federal action
 - MEPA (1972) premised on state action
 - About 16 states have “little NEPA” programs (CA, NY, WA, MN, CT, HI consider GHG/climate in reviews)

- **Enacted in 1970s together with modern environmental laws**
 - Clean Water Act (1972)
 - Clean Air Act (1970)

- **Key principles**
 - Comprehensive environmental review before permitting
 - Alternatives analysis
 - Public participation and transparency



MEPA OVERVIEW - Jurisdiction

- **Basic rule**

- MEPA review needed if there is Agency Action and thresholds are exceeded

- **MEPA statute**

- Agency must certify that “all feasible measures” will be taken to avoid or minimize environmental impacts (Section 61 findings)
- GWSA provision (2008) requires agencies to consider climate change

- **MEPA regulations**

- Defines Agency Action
 - State agency undertaking project OR
 - State funding, land transfer, permits and other approvals
- Defines threshold impacts requiring review
 - ENF thresholds require filing of environmental notification form
 - EIR thresholds require mandatory draft and final env impact reports



MEPA OVERVIEW – Existing Key Thresholds

- **Land**
 - Land “alteration” (25-50 acres); impervious area (5-10 acres), art. 97 disposition
- **Traffic**
 - Tied to DOT/DCR access permit thresholds (2,000-3,000 average daily trips (adt); 300-1,000 new parking spaces; 1,000 adt plus 150 new parking)
- **Wetlands**
 - EIR: 1 acre salt marsh/BVW; 10 acres of “other wetlands”; any wetlands variance
 - ENF: 1-5K sf salt marsh/BVW; ½ acre of “other wetlands”
- **Rare Species**
 - >2 acres priority habitat disturbance resulting in “take” of mapped species
- **Water/wastewater**
 - New/expanded withdrawals or discharges; interbasin transfers; WsPA variances
- **Others**
 - Energy (>25MW generation), solid waste, air emissions, historic resources, ACEC



KEY THEMES FOR REGULATORY REVIEW

- **Alignment with policy and planning efforts**
 - Decarbonization study and roadmap (GHG mitigation)
 - Climate resilience planning
 - Environmental justice considerations
- **Updates to thresholds and process identified through interagency review and discussions**
 - Update thresholds
 - Clarify definitions
 - Clarify review procedures



GHG Mitigation – Key Areas for Public Input

- **Revisions to MEPA GHG Policy and Protocol (2010)**
- **Stationary sources (buildings)**
 - Standardize modeling assumptions and methodology (DOER guidance)
 - Create “opt outs” from modeling with high energy efficiency commitments
 - Potential new “GHG threshold” tied to carbon footprint (tons per year)
- **Mobile sources**
 - Require VMT (vehicle miles traveled)/GHG calculation for all projects
 - Consider updates to traffic guidelines in consultation with DOT
- **Carbon sequestration**
 - Enhanced analysis and mitigation for significant forest clearing



Climate Adaptation – Key Areas for Public Input

- **Update/Release of MEPA Climate Adaptation Policy (2014)**
- **Requirements for ENF filings**
 - Incorporate EEA climate tool into ENF form (to be released in Spring 2021 on resilientma.org)
 - Require description of how project will adapt to climate change
- **Areas for EIR scoping**
 - Require consideration of recommended design standards and flexible adaptation strategies from EEA climate tool
 - Additional modeling and analysis in key areas, including stormwater sizing, building elevation (base/design flood elevations), and flood pathways analysis
- **Draft interim protocol published in the *Environmental Monitor* for comment on Feb. 10**



Environmental Justice – Key Areas for Public Input

- **Draft interim protocol published in the *Environmental Monitor* for comment on Feb. 10**
 - All new ENF projects located within EJ neighborhoods must consult with MEPA Office prior to filing to determine EJ outreach strategy
 - Other EIR projects to consider EJ strategy during MEPA review period
 - Existing requirements of 2017 EEA EJ Policy to remain in place
- **Long term improvements**
 - MEPA Office engaged in an effort to formulate an overall MEPA EJ strategy , in consultation with EEA EJ Director
 - Interim protocol shall be amended if necessary to comply with statutory requirements, and will be superseded by a formal MEPA EJ Strategy and associated policy or guidance

****Additional opportunities for public input will be available during the public comment period for the EEA EJ Strategy, anticipated in Summer/Fall 2021.**



MEPA Procedures – Key Areas for Public Input

- **Updates to MEPA thresholds**
 - Add flexibility to ACEC threshold
 - Increase rare species threshold (5 acres for species of special concern)
 - Lower electric transmission EIR threshold (230 kv to 115 kv)
- **Clarification of MEPA definitions**
 - Add “Alteration” definition to distinguish redevelopment projects
 - Clarify “Replacement Project” and “Routine Maintenance”
- **Clarification of MEPA procedures**
 - Streamline notice of project change procedure
 - Allow for joint reviews and mitigation by multiple proponents
 - Add distribution requirement to Massport for projects near airports



SCHEDULE AND PUBLIC INPUT

- **Schedule**

- Spring 2021: general public input
- Spring/Summer 2021: presentations on potential updates to GHG and climate adaptation policies, with technical sessions as needed
- Fall/Winter 2021: M.G.L. c. 30A process / public hearings

- **How to submit public input**

- General public input on MEPA regulations can be sent to MEPA-regs@mass.gov, until **March 31, 2021**.
- Comments on interim protocols can be sent to MEPA-regs@mass.gov, until **March 10, 2021**.
- Send blank email to subscribe-mepa_reg_review@listserv.state.ma.us to receive ongoing alerts.
- Ongoing updates will be posted at <http://mass.gov/service-details/information-about-upcoming-regulatory-updates>