To request translation of a video recording made of this presentation on Jan. 6, 2022, please contact MEPA@mass.gov (insert “Translation Request” into the subject line).
KEY THEMES FOR REGULATORY REVIEW

• Regulatory review effort launched in February 2021

• Goal is alignment with state policy and planning efforts
  – Environmental justice
  – Climate adaptation and resiliency
  – Greenhouse gas (GHG) mitigation

• Timing of regulatory revisions
  – **2021**: Meet December 2021 statutory deadline to incorporate environmental justice requirements into regulation.
  – **2021-22**: Partner with MassDEP’s cumulative impact analysis (CIA) stakeholder effort and consider 2nd phase rulemaking in 2022.
MEPA OVERVIEW

• Basic rule
  – MEPA review needed if there is Agency Action and “review thresholds” (defined in regulation) are exceeded

• MEPA statute (M.G.L. c. 30, s. 61 et seq.)
  – NEW: 2021 climate legislation (St. 2021, c. 8, ss. 57-60) requires consideration of environmental justice during MEPA review

• MEPA regulations (301 CMR 11.00)
  – Review thresholds define project impacts that are “likely to cause Damage to the Environment”
    • “ENF” thresholds require filing of environmental notification form
    • “Mandatory EIR” thresholds require environmental impact reports
CLIMATE LEGISLATION (Section 57)

- Modified existing provisions for Environmental Impact Reports (EIRs) submitted to the MEPA Office

- New requirements:
  - A description of the **public health impact** of the proposed project
  - Include measures to minimize **public health damage**
  - Include adverse **public health consequences** that cannot be avoided
CLIMATE LEGISLATION (Section 58)

- Added new requirements for EIRs to contain analysis of impacts on Environmental Justice (EJ) populations:
  - EIR for projects that are **likely to cause Damage to the Environment** [as defined in regulation] and are located **within 1 mile of an EJ population or within 5 miles if the project that impacts air quality**
  - Assessment of any **existing unfair or inequitable environmental burden and related public health consequences** from any prior or current project
  - If EJ population is subject to an existing burden, the report shall identify any: (i) **environmental and public health impact from the proposed project that would likely result in a disproportionate adverse effect**; and (ii) potential impact or consequence from the proposed project that would **increase or reduce the effects of climate change** on the EJ population
CLIMATE LEGISLATION (Section 60)

• Added new requirements for public involvement by EJ populations:
  – Environmental notification form shall indicate if an EJ population that lacks English language proficiency within a designated geographical area is reasonably likely to be affected negatively by the project.
  – If a proposed project affects an EJ population, the secretary shall require additional measures to improve public participation by the EJ population.
  – The term designated geographic area shall mean an EJ population located within a distance of 1 mile of a project, unless the project affects air quality then the distance from such project shall be increased to 5 miles.
1. Apply plain language of statute ("EIR shall be required") for any project within 1 mile of EJ population [5 miles would be based on air quality impact, as defined in regulation].

2. Define in regulation what EIR scope would contain if EIR were required based on EJ impacts, including:
   - Assessment of “existing environmental burden”
   - Assessment of “disproportionate adverse effects” on EJ population and whether project will increase/reduce climate effects
   - Mitigation and Sec. 61 findings to the extent related to EJ impacts

3. Apply existing flexibility in review procedures (e.g., Single EIR and “rollover EIR”).

4. Incorporate key elements of public involvement protocol into regulation, including 45-day advance notification requirement.
MEPA Public Involvement Protocol

❖ Draft MEPA Public Involvement Protocol issued in June
   • Accepted public comments until August 9
   • Will be incorporated into M.G.L. c. 30A rulemaking effort

❖ Key Components
   • Early notification to EEA EJ Director and local EJ groups and tribes prior to filing with the MEPA office
   • Meaningful engagement with EJ communities through community meetings, alternative language media, etc.
   • Language services to be provided based on languages identified through the EEA EJ Map Viewer or local data
MEPA Protocol for Analysis of EJ Impacts

Step 1: Assess Existing Environmental Burden

1. **DPH EJ Tool**: “vulnerable health criteria” for EJ populations and additional mapping layers (available at https://matracking.ehs.state.ma.us/Environmental-Data/ej-vulnerable-health/environmental-justice.html)

2. **RMAT climate tool**: climate risks for sea level rise and precipitation (urban and riverine) (available at https://resilientma.org/rmat_home/designstandards/)


4. Any other factors identified during community engagement
MEPA Protocol for Analysis of EJ Impacts

**Step 2: Assess Project Impacts**

1. Consider **nature** and **severity** of project impacts to determine disproportionate adverse effect

2. Compare impacts on **EJ vs. non-EJ populations**

3. Consider **project benefits** that will reduce existing environmental burden

4. Consider **climate change effects** (e.g., flooding)

5. Provide **mitigation** if disproportionate adverse effects or increased climate risks to EJ population are identified.
### Current Schedule - MEPA Process

<table>
<thead>
<tr>
<th>Date</th>
<th>Event</th>
</tr>
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<tbody>
<tr>
<td>Early September 2021</td>
<td>• Formed MEPA advisory committee for 2021-22 regulatory review effort</td>
</tr>
<tr>
<td>September 17, 2021</td>
<td>• Filed draft regulations with Secretary of State’s Office</td>
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<td></td>
<td>○ Oct. 20 end of comment period</td>
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<tr>
<td>November 5-29, 2021</td>
<td>• Comment period for EJ protocols</td>
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<tr>
<td>December 2021</td>
<td>• <strong>Official promulgation</strong></td>
</tr>
<tr>
<td>2022</td>
<td>• Consider second phase regulatory revisions following MassDEP’s CIA stakeholder effort</td>
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WAYS TO PARTICIPATE

- 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.