

CUMULATIVE IMPACT ANALYSIS

Stakeholder Meeting #1

August 31, 2021



Agenda

- 1:00 Welcome and Introduction (Christine Kirby)**
Opening remarks
Martin Suuberg, Commissioner Department of Environmental Protection (MassDEP)
- 1:15 Overview (Glenn Keith and Joanne Morin)**
Climate Law cumulative impact provisions
Agency roles and activities
Stakeholder engagement process
Rulemaking schedule
- 2:00 Massachusetts Environmental Policy Act (MEPA) draft rulemaking presentation and discussion (Tori Kim)**
- 2:45 Next steps**
- 3:15 Adjourn**

Key Agency Contacts

Department of Environmental Protection (MassDEP)

Christine Kirby	Assistant Commissioner, Bureau of Air and Waste
Glenn Keith	Director, Air and Climate Programs Division
Joanne Morin	Deputy Director, Air and Climate Programs Division
Sandy Baird	Chief, Toxicology Group, Office of Research and Standards
Deneen Simpson	Environmental Justice Director

Executive Office of Energy and Environmental Affairs

Rishi Reddi	Director of Environmental Justice
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MASS Environmental Policy Act Office (MEPA)

Tori Kim	MEPA Director
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Welcome

Commissioner
Martin Suuberg

MassDEP

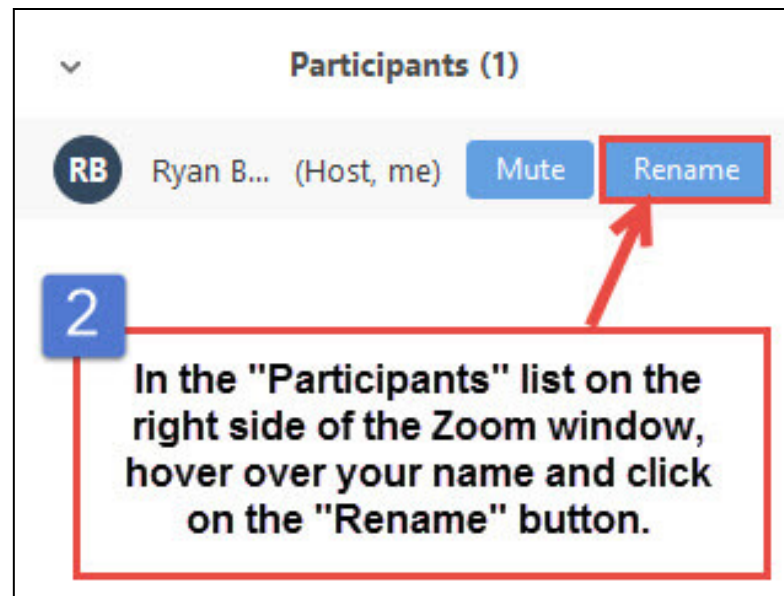
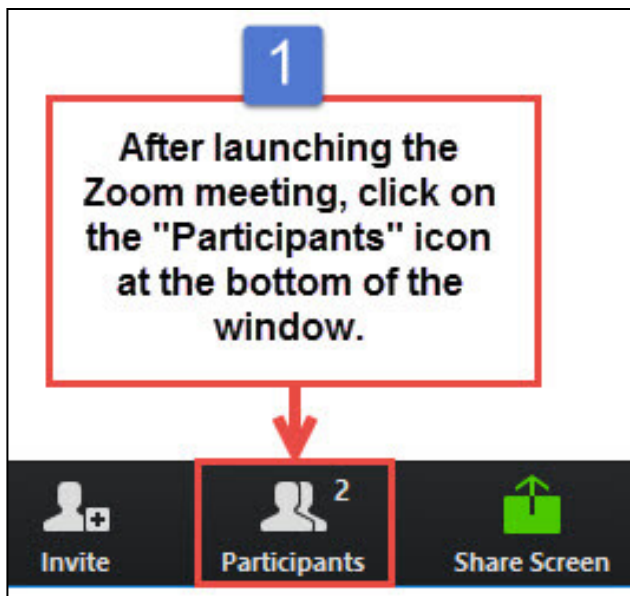


Zoom Meeting Logistics

This meeting is being recorded.

To minimize background noise, attendees are on mute.

Please enter your full name in the Participants panel.

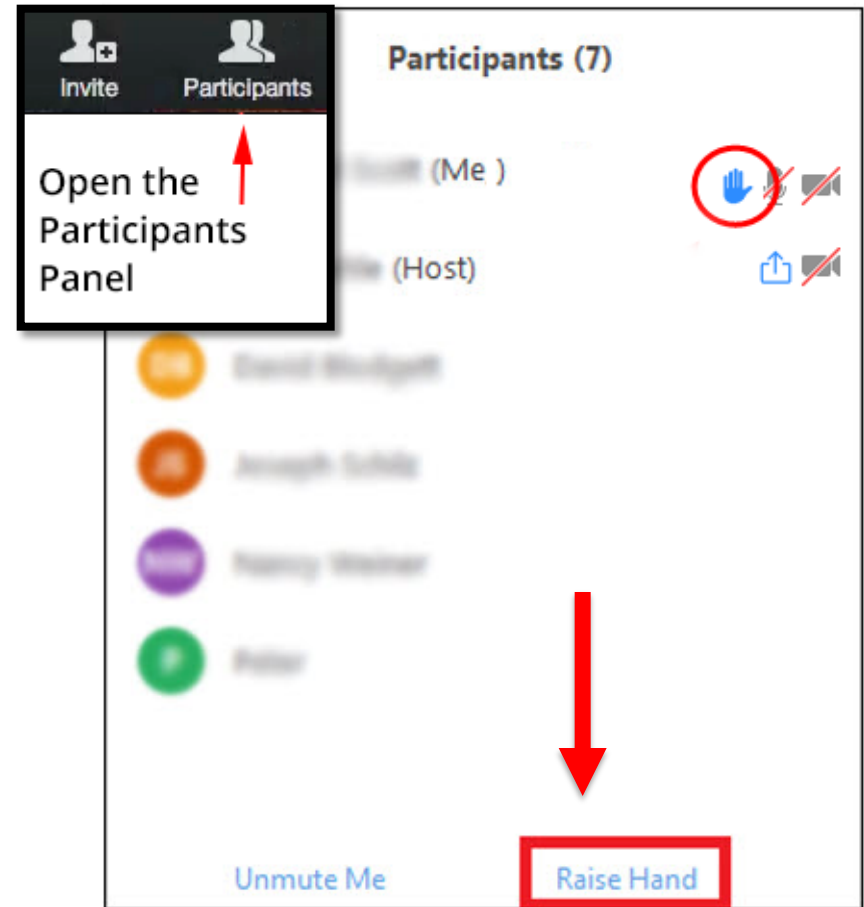


How to Participate via Zoom

Raise your virtual hand.

When it's your turn we will:

1. Notify you by chat.
2. Announce your name.
3. Unmute you and lower your raised hand.



An Act Creating a Next Generation Roadmap for MA Climate Policy

Signed into law by Governor Baker on March 26, 2021 and effective on June 26, 2021



- **Directs MassDEP** to evaluate and seek public comment on incorporating cumulative impact analyses into certain permits, and to propose regulations within 18 months requiring cumulative impact analysis in certain air permits.
- **Directs MEPA** to require an environmental impact report for any project that impacts an environmental justice (EJ) population that assesses whether there is an existing unfair or inequitable environmental burden and related public health consequences, and how the proposed project might result in a disproportionate adverse effect on the EJ population.



Section 102C - Cumulative Impact Analysis

SECTION 102C. The department of environmental protection shall evaluate and seek public comment on the incorporation of **cumulative impact analyses in the assessment and identification of certain categories of permits and approvals**. Not later than 18 months after the effective date of this act, the department of environmental protection shall propose regulations to include cumulative impact analyses for defined categories of air quality permits identified through the evaluation and public comment process.

Section 58 - Amends 62B of MEPA

Said report shall contain **statements about the results of an assessment of any existing unfair or inequitable environmental burden and related public health consequences impacting the environmental justice population from any prior or current private, industrial, commercial, state, or municipal operation or project that has damaged the environment.** The required assessment shall conform to the standards and guidelines established by the secretary. If the assessment indicates an environmental justice population is subject to an existing unfair or inequitable environmental burden or related health consequence the report shall **identify any: (i) environmental and public health impact from the proposed project that would likely result in a disproportionate adverse effect on such population; and (ii) potential impact or consequence from the proposed project that would increase or reduce the effects of climate change on the environmental justice population.** The secretary may require that an assessment be performed at any stage of the review process.

Agency Role and Activities

MassDEP*

Developing regulations
& guidance for CIA in
air permits

Contact:

Joanne Morin,
Deputy Director,
BAW

MEPA Office

Developing regulations
& guidance for CIA in
MEPA review

Contact:

Tori Kim,
Director, MEPA

EOEEA Interagency Workgroup

Evaluating how
CIA can be incorporated
into state programs

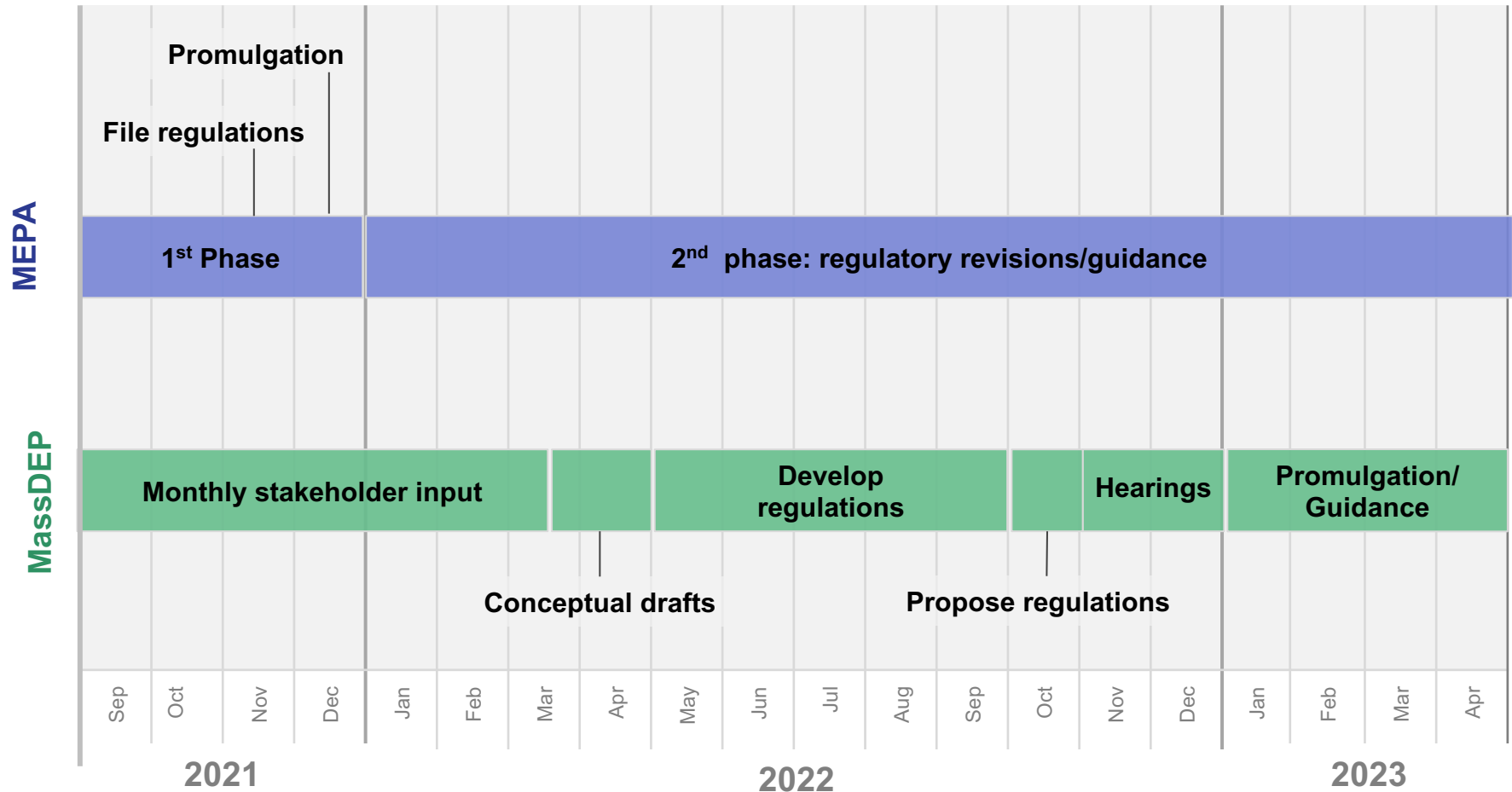
Contact:

Rishi Reddi,
Director of
Environmental Justice

* Contractors: ERG for stakeholder process and Abt for technical support



Timeline



CIA

Definition

Examples

National
Environmental
Policy Act

A cumulative impact is “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions....”

CIA

Definition

Examples

California

Cumulative impacts means the exposures, public health or environmental effects from the combined emissions and discharges, in a geographic area, including environmental pollution from all sources, whether single or multi-media, routinely, accidentally, or otherwise released. Impacts will take into account sensitive populations and socio-economic factors, where applicable and to the extent data are available.”

CIA

Definition

Examples

New Jersey

Environmental Justice Impact Statement must assess “the potential environmental and public health stressors associated with the proposed new or expanded facility... and the environmental or public health stressors already borne by the overburdened community...”

Key Questions for the CIA Process

- What types of impacts should be included in a CIA (e.g., environmental, health) and how should a CIA be conducted?
- What types of air permits should require a CIA?
- What criteria should MassDEP use to make permit decisions? Should criteria be quantitative or qualitative (or both)?



Stakeholder Engagement Process

- Monthly sets of stakeholder meetings (Tuesday afternoons and Wednesday evenings)
- Present and discuss information and policy options and solicit input
- Input and comments received subsequent to each meeting
- Meetings recorded and posted on MassDEP's YouTube Channel
- Sign-up for CIA email listserv via webpage

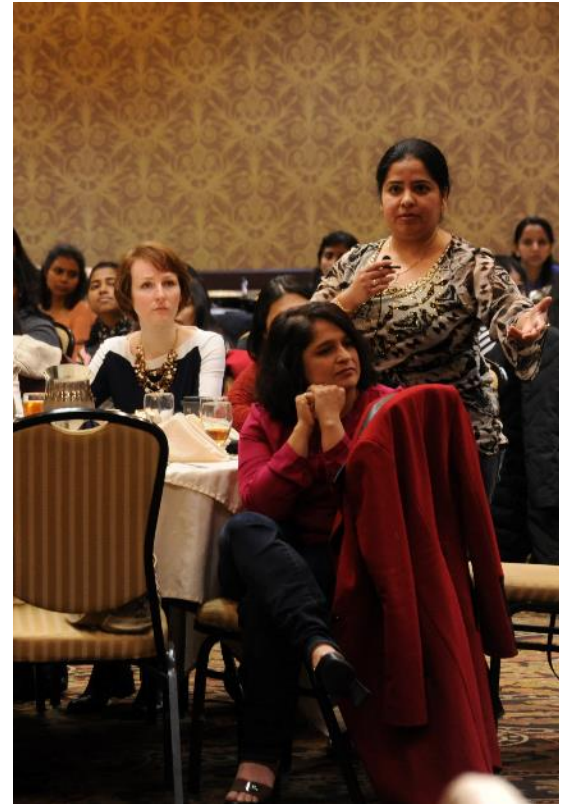


Photo by Wonderlane on Unsplash

Proposed Schedule

Meeting #1—August 2021	<ul style="list-style-type: none">• Overview of Climate Law CIA/MEPA provisions• Agency roles• Stakeholder engagement process and schedule• MEPA rulemaking presentation and discussion
Meeting #2—September 2021	<ul style="list-style-type: none">• Background on CIA (types, approaches, terminology)• Risk vs Impact• Mapping Tools• Data Sources
Meeting #3—October 2021	<ul style="list-style-type: none">• Environmental Stressors• Data Availability and Quality• Stressors to include in CIA
Meeting #4—November 2021	<ul style="list-style-type: none">• Public Health Stressors / Population Attributes• Data Availability and Quality• Stressors to include in CIA
Meeting #5—December 2021	<ul style="list-style-type: none">• MassDEP air permit program (types, requirements, standards)• Legal Framework for Permits• Permits to require CIA

Proposed Schedule (continued)

Meeting #6—January 2022	<ul style="list-style-type: none">• CIA conceptual model• Public involvement in CIA
Meeting #7—February 2022	<ul style="list-style-type: none">• CIA Analysis Protocol• Air Permit Decision-making criteria
Meeting #8—March 2022	<ul style="list-style-type: none">• Outline of draft regulations• Discussions of Issues
Meeting #9—April 2022	<ul style="list-style-type: none">• 1st Draft regulations• Discussions of Issues
July to September 2022	<ul style="list-style-type: none">• MassDEP develops draft regulation
October 2022	<ul style="list-style-type: none">• MassDEP proposes draft regulation
November to December 2022	<ul style="list-style-type: none">• Public hearings, comment period
January to March 2023	<ul style="list-style-type: none">• Develop final regulations and guidance
April 2023	<ul style="list-style-type: none">• Promulgate regulations, issue guidance

Stakeholder Process Input

- What suggestions do you have for input to the process?
- How would you like MassDEP to share information?
- How would you like to provide feedback/comments throughout the process?

Please provide your comment in the chat or use the “raise the hand function”

Please try to keep your comment to approximately two minutes

MEPA Program Overview

Modeled on National Environmental Policy Act (NEPA)

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

Key principles

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

MEPA Program Overview

Basic rule

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

MEPA statute (M.G.L. c. 30, s. 61 et seq.)

- Agency must certify that “all feasible measures” will be taken to avoid or minimize environmental impacts
- **NEW: 2021 climate legislation (St. 2021, c. 8, ss. 55-60) requires consideration of environmental justice**

MEPA regulations (301 CMR 11.00)

- Defines impact “thresholds” requiring review
 - “ENF” thresholds require filing of environmental notification form
 - “Mandatory EIR” thresholds require environmental impact reports

Key Themes for Regulatory Review

Alignment with policy and planning efforts

- Environmental justice
- Climate adaptation and resiliency
- Greenhouse gas (GHG) mitigation

Timing of regulatory revisions

- 2021: End of December statutory deadline to incorporate environmental justice requirements
- 2021-22: Partner with MassDEP's CIA stakeholder effort and consider second phase rulemaking next year

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 **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.

Activities Conducted to Date

Draft MEPA Public Involvement Protocol released on June 23

- Accepted public comments until August 9
- Will be incorporated into M.G.L. c. 30A rulemaking package in September

Meetings held

- 7/14: Two public presentations
- 7/13-16: Small group sessions with business community, environmental/EJ groups, local/regional planning bodies
- 7/21, 8/5, 8/6: Focus groups with key business groups, advocacy organizations, regional planning agencies

MEPA advisory committee (planned for September)

- Will inform MEPA regulatory review process moving forward
- **Plan to meet frequently to discuss EJ topics in Sept-Oct 2021**

Key Questions for MEPA Process

- What types of factors should be included in a CIA (e.g., environmental, population attributes) to assess “existing environmental burdens” for EJ populations and how should a CIA be conducted?
- How should the MEPA process assess the public health impacts of a project, in addition to its environmental impacts?
- How should the MEPA process analyze whether a project will have a “disproportionate adverse effect” on an environmental justice population, or increase or reduce climate change effects?
- What **interim** approaches should MEPA adopt in 2021 while the MassDEP CIA stakeholder effort is ongoing?



Tentative Schedule MEPA Process

Early September 2021	<ul style="list-style-type: none">• Form MEPA advisory committee for 2021-22 regulatory review effort
Mid September 2021	<ul style="list-style-type: none">• File draft regulations with Secretary of State's Office<ul style="list-style-type: none">○ Continue to develop related guidance document with input from MEPA advisory committee○ Comment period for regulations and guidance
End of November 2021	<ul style="list-style-type: none">• File final regulations with SOS
December 2021	<ul style="list-style-type: none">• Official promulgation date to meet <u>statutory</u> deadline
2022	<ul style="list-style-type: none">• Consider second phase regulatory revisions following MassDEP's CIA stakeholder effort

Ways to Participate in MEPA Process

Dedicated email box for regulatory review effort at MEPA-regs@mass.gov. Indicate “CIA” in subject line.

Send blank email to subscribe-mepa_reg_review@listserv.state.ma.us to receive ongoing alerts.

Ongoing updates (including public comments received by the MEPA Office) will be posted at MEPA website at <http://mass.gov/service-details/information-about-upcoming-regulatory-updates>.

Next Steps for MassDEP's CIA Process

- If you have any comments or suggestions on the material covered today, please send them to massdep.impact@mass.gov by September 21st
- To be added to the CIA stakeholder list, including future stakeholder meeting announcements, please enter your information at this link:
https://massgov.formstack.com/forms/subscribe_cia
- Further information including posting of this recording and slides, and future meetings will also be posted on the CIA website at <https://www.mass.gov/info-details/cumulative-impact-analysis-in-air-quality-permitting>

Further Information

	MassDEP CIA	MEPA Regulation Changes
Comments/ input	massdep.impact@mass.gov	MEPA-regs@mass.gov
Distribution list	Please enter your information at this link: https://massgov.formstack.com/forms/subscribe_cia	Send <u>blank</u> email to subscribe-mepa_reg_review@listserv.state.ma.us to receive ongoing alerts
Website	https://www.mass.gov/info-details/cumulative-impact-analysis-in-air-quality-permitting	http://mass.gov/service-details/information-about-upcoming-regulatory-updates

Questions?

