



By email to: [massdep.impact@mass.gov](mailto:massdep.impact@mass.gov)

March 22, 2023

Ms. Joanne Morin  
MassDEP  
100 Cambridge Street  
Boston, MA 02114

**RE: Proposed Amendments to 310 CMR 7.00 - Cumulative Impact Analysis in Comprehensive Plan Approvals**

Dear Ms. Morin:

On behalf of our members, the Massachusetts Chemistry & Technology Alliance (MCTA) and Associated Industries of Massachusetts (AIM) are pleased to make the following comments on the proposed amendments referenced above.

The proposed amendments would add section 7.02(14) to the current 310 CMR 7.00 air quality control regulations. This new section would require a cumulative impact analysis (CIA) for comprehensive plan applications (CPA) for facilities located in or near an environmental justice (EJ) population. The proposed CIA requirements would include enhanced public outreach to, and involvement of, environmental justice populations, assessment of existing community conditions, and analysis of cumulative impacts of the proposed project. These proposed regulations were released for public comment on December 29, 2022, and comments are due by April 7, 2023.

MCTA is the professional organization representing manufacturers, users, and distributors of chemistry in the Commonwealth. Our membership ranges from small, multi-generational family-owned businesses operating with a handful of employees to large global companies employing thousands. More than 96% of all manufactured goods – from solar panels and turbine blades to automotive parts and pharmaceutical products – are touched by chemistry. In Massachusetts, the business of chemistry results in 6,114 direct jobs and 6,703 related jobs; \$576 million in wages; and \$68 million in state and local taxes.

AIM is the largest general trade association in Massachusetts. AIM's mission is to promote the prosperity of the Commonwealth of Massachusetts by improving the economic climate, proactively advocating for fair and equitable public policy, and providing relevant, reliable information and excellent services.

Our members are located throughout the Commonwealth, some near environmental justice populations and therefore would be impacted by this proposed regulation.

MCTA, AIM and our members attended numerous stakeholder meetings and public hearings during development of these proposed regulations and we appreciate the thoughtful approach MassDEP took to engage and listen to all stakeholders.

We support the Environmental Justice (EJ) goals as defined in Chapter 8 of the Acts of 2021 - *An Act Creating a Next Generation Roadmap for Massachusetts Climate Policy*. We support the Department in its longstanding record of managing air permitting for new and modified sources with technical rigor and concern for protection of public safety and health.

Throughout our participation in the stakeholder process, MCTA, AIM and our members stressed the need for certainty, uniformity, and the availability of accurate and up to date information. We also voiced our concerns regarding the Department's capacity for timely review and decision-making on permit applications and the impact of a 120-day notification period on a facility's ability to expand or renovate operations in the Commonwealth.

Toward that end, we offer the following comments:

**Definition of Air Toxic.** To facilitate compliance and uniformity, we recommend that the Department develop and maintain an updated list of substances determined to be toxic or potentially toxic to human health by inhalation.

**Availability of Table 1 Indicators.** The Table 1 Indicators should each be pertinent, and from readily available information that can be assembled from specific, credible sources. This will make the process more efficient as applicants assemble information for review by the Department. Given the large number of indicators that were proposed in the stakeholder process, we commend MassDEP for carefully determining the indicators and specific risk criterion to ensure trustworthy quantitative comparisons. We request that in the future, any additional indicators considered continue to meet the criteria mentioned above, in that they be pertinent, readily available, specific, credible, and allow for quantitative comparisons.

**Applicability - Increase Net Facility-Wide Emissions.** The proposed provision at 7.02(14)(a)4 provides important short-term flexibility for longer term gain. Because of the nuance in terminology, MCTA and AIM recommend the proposed framework for determination of netting with creditable emissions within 7.02(14) for relevant air contaminants covered under CIA be included within this section to avoid confusion with the meaning of *Net Emissions Increase* as described in existing Appendix A.

**1 Ton Per Year Per Each Pollutant Applicability Threshold.** We support the conclusion that this is an appropriate threshold for exemption from the CIA requirements. However, following similar language at 7.02(1)(d), we recommend that the applicability of CIA be clarified relative to GHGs as follows:

“For the air contaminant GHGs, the increase in net facility-wide emissions shall be determined based on tons per year CO<sub>2</sub>e, and 310 CMR 7.02(14) shall be applicable to GHGs only if construction, substantial reconstruction or alteration of a facility or emission unit results in an increase in potential emissions equal to or greater than 75,000 tons per year CO<sub>2</sub>e.”

We also requests clarification in this section that the applicability determination is made on a pollutant-by-pollutant basis and definition of which pollutants are subject to this applicability test (e.g., criteria pollutants, federal hazardous air pollutants (HAP), and/or state-defined toxic air pollutants that are neither criteria pollutants nor HAPs).

**Sequence for Public Notice and Involvement.** We request that the Department clarify whether the required meeting mentioned at 7.02(14)(b)3 is to occur prior to, or after, submittal of the 60-day notice to MassDEP.

**Risk Characterization of Air Toxics.** MCTA and AIM request clarification on whether existing actual or existing potential air toxics emissions are to be used in the risk characterization spreadsheet tool.

**Air Dispersion Modeling.** We request that the Department allow use of the risk characterization spreadsheet tool to apply default air dispersion factors to criteria air pollutants for compliance with 7.02(14)(d).

**Evaluation of Proposed Project Cumulative Impacts 7.02(14)(f).** We suggest that consistent with 7.01(1)(e), the Department's review be focused upon matters that may cause or contribute to a condition of air pollution and the wording of 7.02(14)(f) be clarified as follows:

7.02(14)(f) As part of the cumulative impact analysis, the applicant shall evaluate and describe whether criteria air pollutant and air toxics emissions from the proposed project could affect existing environmental and public health conditions and create a condition of air pollution in nearby environmental justice populations.

**Timely Review and Public Comment.** During the Stakeholder process, MCTA, AIM and our members raised concerns about the impact of the expanded permit application and extended public involvement period on facility expansion, renovations and siting in the Commonwealth. We also expressed concern about the Department's capacity to review and issue a decision on permit applications in a timely fashion, and the lack of a time frame by which the Department must act.

While we recognize the importance of public input on project review, the requirement for a 60-day notice period before the permit application is made, an as yet undefined extension of time for Department review and response to public comments (proposed change to 310 CMR 4.00 permit timelines mentioned in Background Document), and the extension of the public comment period from 30 to 60 days collectively add at least 90 days to the permitting process beyond current requirements.

The extended timing increases exposure for out-of-state competitors to exploit publicly available announcements of expansion by companies in Massachusetts; and it inhibits flexibility from corporations which typically choose a site only when plans are developed and funding in place.

As written, this process denies industry the ability to be nimble if considering Massachusetts' sites when considering locations for new plants or product lines.

MCTA and AIM request that the requirement for a 60-day notice period before the permit application is made be reduced to 30 days. This should provide adequate time

for applicants to conduct public outreach and gather public input in preparation for the permit application. The additional 30-days now provided for public comment after the application has been submitted should allow sufficient public scrutiny of the specific details of the application. This approach will still collectively add 60 days to the permitting process beyond current requirements.

Thank you for your consideration of the concerns raised by MCTA, AIM and our members during the CIA stakeholder process. If you have any questions, please do not hesitate to call Katherine Robertson at 508-572-9113 or via email at [katherine@masscta.org](mailto:katherine@masscta.org). Brooke Thomson can be reached at 617-262-1180 or at [bthomson@aimnet.org](mailto:bthomson@aimnet.org).

Respectfully,



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cc: Glen Keith, Director, Air and Climate Programs  
Christine Kirby, Asst. Commissioner, Bureau of Air and Waste