

Appendix B:

Legislation and Other Government Documents



The Commonwealth of
Massachusetts
Executive Office of Energy and Environmental
Affairs
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December 28, 2010

DETERMINATION OF GREENHOUSE GAS EMISSION LIMIT FOR 2020

Pursuant to the Global Warming Solutions Act (Chapter 298 of the Acts of 2008, and as codified at M.G.L. c. 21N, "Chapter 21N") **I hereby establish a statewide greenhouse gas (GHG) emissions limit of 25 percent below statewide 1990 GHG emissions levels by the year 2020.** As detailed below, this legally binding statewide greenhouse gas emissions limit is consistent with the directives of the Massachusetts legislature as embodied in the Global Warming Solutions Act (GWSA) and Chapter 21N, the Climate Protection and Green Economy Act. In a separate report entitled Massachusetts Clean Energy and Climate Plan for 2020 also issued today pursuant to Chapter 21N, I have outlined a portfolio of policies designed to achieve the 2020 emissions limit established herein. Establishing this statewide GHG emissions limit and outlining the specific and practical policy measures that can achieve that limit is a milestone in the Commonwealth's ongoing efforts to create a vibrant clean energy economy, reduce energy costs for consumers, increase energy independence and contribute toward stabilizing our climate.

Background

Massachusetts is at the end of the energy pipeline, and our customers pay for that in increasing and volatile costs, and dependence on sources of energy outside our state and region. The global market is also showing greater demand for clean energy technology and services and Massachusetts has the entrepreneurial know-how, the venture capital, and the quality workforce to seize an enormous economic opportunity, and to address one of the most pressing environmental concerns of our era.

The international consensus on climate released in 2007 by the Intergovernmental Panel on Climate Change (IPCC) found that the "*warming of the climate system is unequivocal.*" There is broad agreement and very high confidence that the documented increase in greenhouse gas concentrations is changing the Earth's climate—not only raising average global temperatures

but more importantly altering regional and local climatic and weather patterns.¹ Our climate is already changing, and there is scientific consensus that the changes are largely due to the combustion of fossil fuels and other human activities that increase atmospheric concentrations of GHGs.

The ongoing debate in the scientific community is not about whether climate change will occur, but rather about the rate and extent to which it will occur, what the regional and local impacts will be, and what adjustments will be needed to address its impacts through adaptation or mitigation efforts. Changes to Massachusetts' climate have already begun and will continue over the course of this century.

Since GHG emissions are primarily and directly tied to the use of fossil fuels for energy, the best strategy against climate change is moving toward a clean energy economy of energy efficiency, renewable energy, and other non-emitting ways to meet our energy needs. With its unparalleled academic and technical resources, local sources of investment capital, and highly skilled workforce, Massachusetts is poised to lead the transition to a clean energy economy nationally and to disproportionately benefit from the economic development and jobs resulting from that transition. Taking action to reduce GHG emissions in Massachusetts can both set an example of climate change mitigation for the nation and jumpstart the growth of clean energy jobs in the Commonwealth.

The GWSA, passed by the Massachusetts Legislature in 2008 and signed into law by Governor Deval Patrick, was a clear directive to limit and reduce the emissions of GHGs in Massachusetts in response to the overwhelming scientific evidence concerning global climate change and to the economic opportunity for Massachusetts inherent in leading the transition to a clean energy economy. That legislative directive, the formulation of this GHG emissions limit for the year 2020, and the establishment of a series of GHG reduction mitigation measures as outlined in the *Massachusetts Clean Energy and Climate Plan for 2020* collectively constitute a strong commitment by the Commonwealth to reducing its contribution to global climate change, while seizing opportunities to lower energy costs and grow our clean energy economy.

Statutory Mandate

In August 2008, Governor Deval Patrick signed the GWSA into law; Chapter 21N became effective in November of that year. The core mandate of the GWSA is that the Secretary of the Executive Office of Energy and Environmental Affairs (EEA), in consultation with other State agencies and the public, set economy-wide GHG emission limits for Massachusetts that are:

- Between 10 percent and 25 percent below statewide 1990 GHG emission levels by 2020; and
- 80 percent below statewide 1990 GHG emission levels by 2050.

¹ IPCC (Intergovernmental Panel on Climate Change), 2007: Summary for Policymakers. In: Climate Change 2007: The Physical Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor and H.L. Miller (eds.)]. Cambridge University Press, Cambridge, United Kingdom and New York, NY, USA.

Chapter 21N required that these emissions limits be established by January 1, 2011 and that a plan be created addressing how the emissions reductions will be achieved. Sections 3(a) and 14 of Chapter 21N also required the Massachusetts Department of Environmental Protection (“MassDEP”) to determine, “*the statewide greenhouse gas emissions level in calendar year 1990 and reasonably project what the emissions level will be in calendar year 2020 if no measures are imposed to lower emissions other than those formally adopted and implemented as of January 1, 2009. This projection shall hereafter be referred to as the projected 2020 business as usual level.*”² MassDEP issued its *Statewide Greenhouse Gas Emissions Level: 1990 Baseline and 2020 Business As Usual Projection* on July 1, 2009.

In March 2009, I established a Climate Protection and Green Economy Advisory Committee to provide input on measures to reduce GHG emissions in accordance with the GWSA. As required by the GWSA, the Climate Protection and Green Economy Advisory Committee included members representing the following sectors: commercial, industrial and manufacturing; transportation; low-income consumers; energy generation and distribution; environmental protection; energy efficiency and renewable energy; local government; and academic institutions. Advisory committee meetings were held on May 11, 2009; September 16, 2009; February 5, 2010; June 14, 2010; and November 18, 2010.

On April 30, 2010, the consultant commissioned by the state to analyze clean energy and climate strategies, Eastern Research Group, submitted a report to the Advisory Committee, *Initial Estimates of Emissions Reductions from Existing Policies Related to Reducing Greenhouse Gas Emissions*. This report analyzed the expected GHG reductions through 2020 that would result from the policies and programs implemented or initiated since the beginning of the Patrick Administration.

On April 30, 2010, EEA issued a *Draft Climate Implementation Plan: A framework for meeting the 2020 and 2050 goals of the Global Warming Solutions Act*. In that *Draft Climate Implementation Plan*, I signaled my intention to set a 2020 emissions reduction requirement of 18 to 25 percent below 1990 levels and, for the plan to achieve this limit, to give greatest consideration to those measures that show potential for significant energy cost savings and job creation.

In May, 2010, Eastern Research Group submitted an additional report, *Cost-Effective Greenhouse Gas Mitigation in Massachusetts: An Analysis of 2020 Potential*. In this second report, I asked the consultants to consider additional GHG reductions (beyond those already in place) that would be possible with further cost-effective policies.

Chapter 21N directed me to analyze the feasibility of measures such as electric generating facility aggregate limits, direct emissions reduction measures in various sectors of the economy, alternative compliance mechanisms, market-based compliance mechanisms, and the use of potential monetary and non-monetary incentives to achieve the emissions reduction limit.

A total of eight public hearings were held in June 2010 to solicit comment on the *Draft*

Climate Implementation Plan. Nearly 200 individuals and organizations provided oral or written comment on the 2020 emissions reduction requirement and on measures to meet the requirement.

Analysis conducted by the staff of my agencies pursuant to the requirements of Chapter 21N and information gathered from the Climate Protection and Green Economy Advisory Committee, the public hearings, and written public comments were all used to advise me in the preparation of the final *Massachusetts Clean Energy and Climate Plan for 2020*. The *Massachusetts Clean Energy and Climate Plan for 2020*, issued separately, outlines a range of proposed measures to be adopted, in whole or in part, by the Commonwealth.

Findings of Fact

In accordance with Section 4 of Chapter 21N, I make the following findings:

- I have considered relevant information pertaining to GHG emissions reduction programs in other states and nations when establishing the emissions reduction limit and selecting GHG reduction portfolio measures;
- I have considered and evaluated the total potential costs and economic and non-economic benefits of various reduction measures to the economy, environment and public health. Analyses have been conducted using the best available economic models, emissions estimation techniques, and other scientific measures;
- I have identified opportunities for emissions reduction measures from all verifiable and enforceable voluntary actions and incorporated them into the *Massachusetts Clean Energy and Climate Plan for 2020* as applicable;
- I considered establishing emission limits by sources or categories of sources as well as *de minimis* exemptions from such limits, but rejected this approach as inconsistent with the preference I have expressed for measures that result in cost savings and/or job growth.
- A series of public hearings was held in accordance with the provisions of M.G.L. c.30A to solicit input on the proposed 2020 GHG emissions limit and a draft version of the implementing plan. As directed in the GWSA, a portion of these hearings were held in regions that have the most significant exposure to air pollutants, including, but not limited to, communities with minority populations, communities with low-income populations, or both. A total of eight hearings were held between June 1 and June 22, 2010, with hearings held in Pittsfield, Worcester, Lowell, Lakeville, Springfield, Falmouth, and Boston. Written comments were accepted through July 15, 2010.
- MassDEP determined the statewide GHG emissions level in calendar year 1990 and projected the emissions level in calendar year 2020 if no measures are imposed to lower emissions other than those formally adopted and implemented as of January 1, 2009. This “Business as Usual” (BAU) analysis indicated that GHG emissions in Massachusetts have been generally stable since 1990 and will remain relatively stable through 2020;
- The report *Initial Estimates of Emissions Reductions from Existing Policies Related to Reducing Greenhouse Gas Emissions* estimated that policies and programs instituted since January 2007 should result in approximately an 18 percent reduction in GHG below 1990 levels by 2020;
- The report *Cost-Effective Greenhouse Gas Mitigation in Massachusetts: An Analysis of*

2020 Potential indicated that the technical potential of additional cost-effective policies and programs could result in GHG emission reductions of up to 35 percent below 1990 levels by 2020;

- Based on analysis presented in the *Massachusetts Clean Energy and Climate Plan for 2020*, the portfolio of measures examined could reduce GHG emissions 18 percent to 33 percent below 1990 levels by 2020. This range captures uncertainties in future economic trends, energy markets, and implementation of proposed policies.

Determination of 2020 Limit

In determining the GHG emissions limit for 2020, I am aware that actions taken under other statutory mandates, such as the Green Communities Act of 2008, and established state policies to promote energy conservation and cleaner energy sources are expected to produce GHG reductions of 18 percent below 1990 levels by 2020. Therefore, the question before me is where in the remaining statutory range of 18 percent to 25 percent reduction it is practical and appropriate to set the 2020 limit. Central to that question is what additional actions of policy, regulation, and legislation could be pursued that would achieve additional emissions reduction by 2020 and beyond. As I indicated in the *Draft Climate Implementation Plan* issued April 30, 2010, I have considered a wide range of measures but included in the *Massachusetts Clean Energy and Climate Plan for 2020* only those additional measures that provide significant energy cost savings or create clean energy jobs, and I use the sum total of GHG reductions that would be achieved by those cost saving and job producing measures as guidance for setting the 2020 limit.

I received many public comments urging me to set the 2020 limit at or above 25 percent, as well as a smaller number of comments suggesting going no further than 19 or 20 percent. I note that, in setting the limit, I am constrained by the statutory range of 10 to 25 percent below 1990 levels for 2020. I am also mindful of the statutory mandate of 80 percent reduction by 2050, which leads me to reach as high as is practical in setting the initial limit for 2020.

I also take note of the many constructive comments I received on possible measures to achieve the 2020 limit and, indeed, go beyond it in reducing GHG emissions. While I cannot respond to each comment individually, rest assured that all of these comments were carefully considered in the development of the policies incorporated in the *Massachusetts Clean Energy and Climate Plan for 2020*.

Based on the findings above and with full consideration of the public comments received, I hereby determine that a responsible and achievable GHG emissions reduction limit for 2020 that maximizes opportunities to realize energy cost savings, increase energy independence, and promote growth in clean energy jobs in Massachusetts is 25 percent and that the aggregate of the portfolio of measures, discounting for uncertainty and potential implementation constraints, outlined in the *Massachusetts Clean Energy and Climate Plan for 2020* is sufficient for the Commonwealth to achieve the 2020 reduction limit of 25 percent. I also find that a limit of 25 percent will not have an undue economic impact but rather provide opportunities for energy cost savings and spur economic growth, even as it moves the Commonwealth towards the ultimate statutory mandate of 80 percent reduction by 2050.

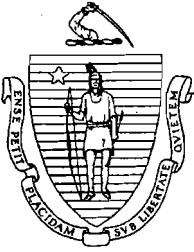
Conclusion

Pursuant to the findings and determination made above, I have met my obligations under Chapter 21N to establish a GHG emissions limit between 10 percent and 25 percent below 1990 levels for the year 2020 by January 1, 2011. This limit, which I have set at 25 percent, together with the portfolio of GHG mitigation measures presented in the *Massachusetts Clean Energy and Climate Plan for 2020*, is a substantial step forward in the Commonwealth's ongoing efforts to grow our clean energy economy, reduce energy costs, become more energy independent and minimize climate change impacts to the citizens, environmental resources, and economy of Massachusetts.

December 29, 2010

Date

Ian A. Bowles



DEVAL L. PATRICK
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THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

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By His Excellency

DEVAL L. PATRICK
GOVERNOR

EXECUTIVE ORDER NO. 484

**LEADING BY EXAMPLE—CLEAN ENERGY
AND EFFICIENT BUILDINGS**

WHEREAS, buildings are significant users of energy, water and natural resources, consuming 39% of U.S. energy, 70% of U.S. electricity, 12% of U.S. potable water, and 40% of raw materials globally;

WHEREAS, the Commonwealth of Massachusetts manages over 64 million square feet of buildings at hundreds of facilities, which annually consume over 1 billion kilowatt hours of electricity, 22 million gallons of heating oil, and 46 million therms of natural gas;

WHEREAS, such energy consumption results in greenhouse gas emissions totaling more than 1.1 million tons per year, equivalent to the emissions generated by more than 200,000 cars driven for one year;

WHEREAS, environmental and health issues related to energy consumption, such as global climate change, regional mercury contamination, and urban asthma rates are critical issues that need to be addressed immediately and comprehensively;

WHEREAS, state government has an obligation to lead by example and demonstrate that large entities such as state colleges and universities, prisons, hospitals and others can make significant progress in reducing their environmental impacts, thereby providing a model for businesses and private citizens;

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SECRETARY OF STATE

WHEREAS, by setting clean energy targets and developing clean energy practices, state agencies can play an important role in the development and support of new and local technologies, fostering innovation and benefiting the Massachusetts economy;

WHEREAS, leading-by-example programs can not only reduce environmental and health impacts but can also lead to significant cost savings;

WHEREAS, the Commonwealth is already committed to environmental protection and resource conservation through a variety of regional and state commitments, including, but not limited to, the Clean State Initiative, the Massachusetts Beyond 2000 Solid Waste Master Plan, the New England Governors/Eastern Canadian Premiers 2001 Climate Change Action Plan, the Commonwealth's Climate Protection Plan, the Toxics Use Reduction Reform Act of 2006, the Massachusetts Zero Mercury Strategy, and the Mass. LEED Plus green building standards for state construction;

WHEREAS, all the clean energy and environmental efforts under way within state government operations should be coordinated to ensure that programs are developed and implemented as effectively and efficiently as possible;

WHEREAS, this Administration intends to send a clear message to all state agencies that practicing what we preach is a priority and that agencies should integrate clean energy, environmental protection, and resource conservation programs, policies and procedures into all appropriate aspects of governing;

NOW, THEREFORE, I, Deval L. Patrick, Governor of the Commonwealth of Massachusetts, by virtue of the authority vested in me by the Constitution, Part 2, c. 2, § 1, Art. I, order as follows:

I affirm that state agencies shall prioritize practices and programs that address resource use at state facilities, including a reduction in energy

consumption derived from fossil fuels and emissions associated with such consumption.

Furthermore, I direct the Executive Offices of Energy and Environmental Affairs (EOEEA) and Administration and Finance (A&F) to establish and direct a **Leading by Example Program** (the Program), the purpose of which shall be to oversee and coordinate efforts at state agencies, including all UMass campuses and all state and community colleges, to reduce their environmental impact. Such efforts shall include, but not be limited to, the provisions of this Order to promote energy conservation and clean energy practices, as well as waste reduction and recycling, environmentally preferable procurement, toxics use reduction, water conservation, sustainable transportation, open space and natural resource protection, and improved compliance practices.

The Secretaries of EOEEA and A&F or their designees shall co-chair the **Leading by Example Council** (Council), which shall consist of members from each of the Commonwealth Executive Offices, with specific additional membership to be determined by the co-chairs. The purposes of the Council shall be to provide advice and feedback to the Program to facilitate the implementation of key initiatives that will result in reduced environmental impacts at state agencies. The Council shall coordinate efforts with all agencies, who shall appoint program coordinators to act as liaisons between the Council and agency staff and support Program efforts.

Furthermore, the Program shall direct all efforts across state government to track and measure progress toward clean energy and environmental goals, develop long-term programs at state facilities to identify and implement cost-effective initiatives that will result in environmental improvement, and offer educational and training efforts necessary to carry out the provisions of this Order and other related directives. Agencies shall provide all necessary support to the Council and Program and agency staff shall serve, as appropriate, on the Council or other internal committees as requested by the Secretaries of EOEEA and A&F. Agencies shall also provide all requested data related to facility operations and energy use at least annually or on an alternative schedule determined by the Council.

I. Energy Targets for Agency Buildings

All Commonwealth agencies as a whole and, to the greatest extent feasible individually, shall meet the following targets:

1. Reduce greenhouse gas emissions that result from state government operations by 25% by Fiscal Year 2012, 40% by 2020 and 80% by 2050. In calculating emissions, agencies shall use Fiscal Year 2002 as the baseline, and emissions reductions shall be measured on an absolute basis and not adjusted for facility expansion, load growth, or weather.
2. Reduce overall energy consumption at state owned and leased (at which the state pays directly for energy) buildings by 20% by Fiscal Year 2012 and 35% by 2020. Such reductions shall be based on a Fiscal Year 2004 baseline and measured on a BTU per square foot basis.
3. Procure 15% of agency annual electricity consumption from renewable sources by 2012 and 30% by 2020. This mandate may be achieved through procurement of renewable energy supply, purchase of renewable energy certificates (RECs) in accordance with EOEEA guidance and/or through the production of on-site renewable power. Only renewable sources that qualify for the Massachusetts Renewable Portfolio Standard (RPS) shall be eligible. Alternative compliance payments under 225 CMR 14.08 shall not be required under this Order.
4. Utilize bio heat products with a minimum blend of 3% bio based materials for all heating applications that use #2 fuel starting with the winter of 2007-2008, and 10% bio heat blend by 2012.
5. All new construction and major renovations, effective immediately, must meet the Mass. LEED Plus green building standard established by the Commonwealth of Massachusetts Sustainable Design Roundtable.
6. Reduce potable water use, as compared to 2006, by 10% by 2012 and 15% by 2020.

Where appropriate, EOEEA, A&F and the Council shall establish alternative baselines and guidelines for meeting the above targets.

II. Clean Energy Committee

A Clean Energy Committee, to be chaired by Secretary of the Executive Office of Energy and Environmental Affairs and the Commissioner of the Division of Capital Asset Management (DCAM), or their designees, shall be established to facilitate implementation of this Order and to assist agencies in their efforts to meet the targets and requirements herein. The Committee shall consist of representatives of the Division of Energy Resources (DOER), the Operational Services Division (OSD), and other agencies as determined by the chairs. The Committee shall meet regularly and shall communicate with agencies through designated Program Coordinators, who shall be responsible for disseminating all applicable information from the Committee to agency staff, coordinating agency energy activities, and tracking and reporting all requested energy consumption data to the Committee and Council.

The Committee shall, by February 1st of each year, submit to the Governor an annual report on the results of energy conservation actions taken by agencies during the prior fiscal year, the environmental and economic impacts of such actions, and recommendations for future energy reductions. The Committee shall also solicit advice on energy reduction goals from experts outside of state government, including, but not limited to, federal agencies, other states, and not-for-profit organizations. The Committee shall also consider and propose longer-term energy conservation strategies for state government and submit such proposals to the Governor.

III. Energy Measures and Strategies

To meet the above targets, agencies may utilize a variety of energy conservation, energy efficiency and renewable energy strategies, including but not limited to:

- Comprehensive on-site energy efficiency programs
- Installation of energy efficient HVAC equipment
- Fuel switching
- Purchase of energy efficient products

- Increased energy conservation by employees
- Installation of on-site renewable energy and combined heat and power systems
- Procurement of renewable energy
- Use of bio-based and other alternative fuels
- Purchase of Renewable Energy Certificates

To meet the goals of this Order, all agencies shall adopt, where applicable, specific measures including but not limited to:

Energy Conservation

- Develop and disseminate an agency-wide policy that encourages employees to reduce energy use by turning off lights in rooms when not in use, shutting down computers when leaving work, minimizing use of personal appliances, and other actions that will lead to a reduction in energy consumption and costs.
- Run dishwashers and laundry equipment only when fully loaded.
- Set thermostats 2 degrees lower than usual during the winter and 2 degrees higher than usual during the summer.
- Reduce lighting in common areas without compromising safety.
- Minimize energy use at facilities during non-work hours.

Energy Efficient Products

I direct the Environmentally Preferable Products (EPP) Program of OSD to continue to make energy efficient products available on statewide contracts that meet the needs of state agencies and the requirements of this Order. Agencies shall also adopt, where applicable, specific energy efficiency measures including but not limited to the following:

- Use only efficient lights such as compact fluorescent lamps, LED lighting, or other similar products. Until further notice, agencies shall be prohibited from purchasing incandescent lights unless absolutely necessary to meet a specific and unique agency need.
- Install LED and/or photoluminescent exit signs to replace those with incandescent or fluorescent lighting wherever cost effective.
- Install programmable thermostats.

- Install motion sensors or timing devices in rooms that are used only intermittently, such as conference rooms, bathrooms, etc.
- Procure only computers, monitors, copiers, printers, and other office equipment that are EnergyStar qualified, enable all EnergyStar features upon installation, and establish policies and procedures to ensure that such equipment continues to operate efficiently during its life.

Energy Efficiency Programs

I direct the Division of Capital Asset Management, in collaboration with EOEEA, to maximize the number and scope of energy efficiency efforts at state facilities. DCAM and EOEEA shall, in consultation with A&F, identify and recommend appropriate changes to construction laws and financing mechanisms necessary to ensure that the following goals are achieved by the end of Fiscal Year 2012:

- Comprehensive, large-scale energy efficiency projects at all appropriate facilities over 100,000 square feet.
- Implementation of energy efficiency programs such as installation of new equipment, agency coordinated performance contracts, and lighting retrofits at all facilities where the cost of such programs is less than \$1 million.
- Completion of smaller energy efficiency projects at all appropriate smaller state facilities where the cost of such projects is less than \$100,000, and electric and gas utility incentive programs cover a significant portion of the project cost.

Furthermore, DCAM and EOEEA shall coordinate efforts to ensure that:

- All renovation and new construction projects identify and utilize all available utility rebates.
- All applicable buildings over 50,000 square feet undergo a “retro-commissioning” process to identify and implement low-cost and no-cost energy and water conservation measures with short payback periods.
- Changes to building processes, funding mechanisms and regulations that are necessary to meet the goals of this Order are developed and implemented.

In addition, DCAM is directed to ensure that site selection for leased space considers energy performance.

Energy Training and Maintenance

DCAM's Office of Facilities Maintenance shall, in coordination with agencies:

- Develop and implement a facility maintenance program and schedule for lighting and HVAC systems, including but not limited to, lubricating, balancing, aligning, vacuuming, cleaning, and checking seals, to ensure optimum efficiency.
- Ensure that all appropriate staff receive regular training on proper facility management and maintenance practices.

IV. Renewable Energy

To achieve the renewable energy goals of this Order and obtain 15% of agency electricity from renewable resources by 2012 and 30% by 2020, agencies shall make every effort to power their facilities with clean, renewable energy resources (e.g. wind, solar PV, solar thermal, biomass, landfill gas, anaerobic digestion) that are RPS eligible. Such efforts may include the installation of on-site distributed generation, the purchase of renewable power from energy suppliers, and/or the use of Renewable Energy Certificates (RECs) in compliance with the REC guidance established by EOEEA.

EOEEA, DCAM, OSD and DOER shall continue to assist agencies in meeting these goals through bundled clean electricity contracts, technical and financial assistance, project management and policy initiatives. These entities shall continue to monitor and evaluate options for increasing the renewable energy portfolio of state government's electricity use.

V. Biofuels

To achieve the 3% bioheat goal of this Order, agencies shall commence the purchase of this fuel as of October 1, 2007 for all facilities that use #2 heating oil, or as soon as available through statewide contracts. To facilitate agency use of this fuel, EOEEA and OSD shall conduct informational and training sessions prior to October 1, 2007 to address any

questions and report on the result of the bioheat pilot conducted during the winter of 2006-2007. Additionally, OSD is hereby directed to establish a heating fuel contract that specifies biofuel for oil heating products specified by this Order.

Furthermore, I direct EOEEA and OSD to work with cities and towns to inform them of this new policy and encourage them to utilize bioheat. Pending availability, performance and cost, EOEEA and OSD shall review annually the use of bioheat and develop recommendations for increasing the bioheat goals in this Order to a minimum of 10% by 2012.

VI. Building Design and Construction

DCAM and all agencies involved in the construction and renovation of state facilities shall ensure that all new construction and major renovation projects are energy and water efficient, conserve the use of resources, and provide healthy and productive spaces for employees, clients, and visitors.

To achieve these goals, I endorse the recommendations of the Commonwealth of Massachusetts Sustainable Design Roundtable (Roundtable), which require all new construction at state agencies and significant renovation projects over 20,000 square feet to meet a Mass. LEED Plus building standard. For projects smaller than 20,000 square feet, all projects shall at least meet the minimum energy performance standards established by the Roundtable.

The Mass. LEED Plus standard includes:

- Certification by the U.S. Green Building Council Leadership in Energy and Environmental Design (LEED) program for all new construction and major renovation projects over 20,000 square feet;
- Energy Performance 20% better than the Massachusetts Energy Code;
- Independent 3rd party commissioning;
- Reduction of outdoor water consumption by 50% and indoor water consumption by 20% relative to standard baseline projections; and
- Conformance with at least 1 of 4 identified smart growth criteria.

The Mass. LEED Plus standard shall apply to all projects overseen by DCAM and any other executive agency, as well as those that are built for use by state agencies on state land. In addition, EOEEA shall coordinate efforts to incorporate the Mass. LEED Plus standard into all non-executive branch agencies involved in construction. EOEEA and DCAM shall report each year on progress made with regard to integration of this standard into state building projects.

Furthermore, whenever DCAM requires the construction of a new building to be leased by DCAM, DCAM shall establish and incorporate energy performance criteria consistent with the energy goals of this Order.

Additionally, I direct EOEEA and DCAM to support education and training programs for agency personnel and periodically consult with design and construction practitioners to review progress in meeting green building standards, develop strategies to improve communication of the benefits of green buildings, and identify new opportunities for expanded green building efforts.

VII. Distributed Generation

In order to facilitate the installation of on-site renewable energy and Combined Heat and Power projects, within 6 months of the date of this Order, the DOER shall provide an analysis of the barriers to distributed generation that impede the successful completion of such projects at state facilities and, through collaboration with DCAM, OSD, and the Comptroller's office, shall develop recommendations on addressing identified barriers.

VIII. Forward Capacity Market

In order to take advantage of the new ISO-New England Forward Capacity Market (FCM) Program, including the Demand Response Program, which allocate payments for new electric generation capacity, and measurable reductions in electricity use, agencies shall identify and submit all applicable projects for inclusion in the FCM program. DCAM shall coordinate this effort and, in collaboration with EOEEA and OSD, establish the necessary vehicles to facilitate agency participation in this program as well as ensure that payments received are allocated to agencies for additional energy reduction activities. DCAM may elect to

allocate portions of FCM payments in order to manage this program as well as other related energy efforts.

IX. Energy Tracking

The EOEEA is hereby charged with development and implementation of an Energy Information System (EIS) that shall facilitate the tracking of agency energy use and prioritization of energy efficiency programs and projects at state facilities. Such a system will allow facilities to compare building energy consumption and rate energy performance of Commonwealth buildings. DOER and DCAM shall collaborate in the development of the EIS and shall work to ensure that DCAM information systems, such as CAMIS, are effectively linked with any new energy tracking systems. EOEEA and DCAM shall annually track all energy use at state facilities to determine compliance with the goals of this Order and, as appropriate, share this data with other state agencies to further the purposes of this Order.

The development of the EIS shall not eliminate the need for agencies to track other energy and water use and submit annual data to EOEEA as directed by the Council.

X. Water Conservation

Agencies shall make every effort to reduce overall water use and increase water use efficiency to the maximum extent possible. Toward this end, all state agencies shall reduce water use through the following indoor and outdoor measures:

Indoor Water Consumption

- Conduct periodic water audits and system-wide leak detection programs.
- Work toward metering all significant water uses.
- Strictly apply plumbing codes, and actively promote waterless plumbing fixtures, where appropriate.
- Replace and retrofit older water consuming equipment, such as toilets, faucets and showerheads, with modern, more efficient devices as quickly as possible.

- Implementation of energy efficiency programs such as installation of new equipment, agency coordinated performance contracts, and lighting retrofits at all facilities where the cost of such programs is less than \$1 million.

Outdoor Water Consumption

- Minimize, and wherever possible eliminate, use of potable water and groundwater for outdoor watering purposes, street cleaning, and building washing.
- Lower watering frequency.
- Improve watering efficiency by watering lawns and plants only when necessary through use of moisture sensors and/or drip irrigation techniques.
- Incorporate Low Impact Development (LID) techniques wherever possible, including use of natural landscaping, permeable pavement, and native and drought resistant vegetation to prevent run-off and ensure rainwater infiltration into the groundwater.
- When procuring services for lawn and landscape maintenance, require contractors to minimize water use wherever possible through incorporation of the above techniques.

XI. Technology

Agencies are hereby directed to analyze and consider use of innovative technologies wherever possible, either on a pilot- or long-term basis, when such technologies can demonstrate environmental and fiscal benefits. Where possible, and to the extent permitted by law, agencies shall work to identify technologies developed and/or manufactured in Massachusetts.

XII. Financing

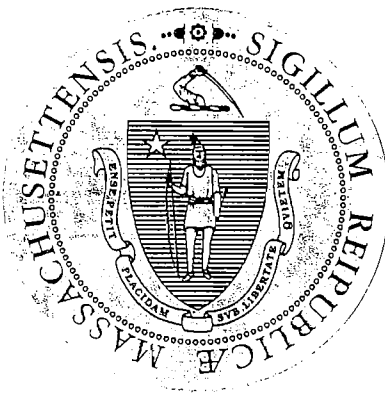
In order to facilitate the above efforts, EOEEA and A&F shall, within 6 months of the effective date of this Order, submit to me recommendations concerning financing options that will result in energy and water improvements at state facilities without requiring significant infusion of state funding.

XIII. Resources and Commitment


All agencies shall provide the necessary resources and commitment to meet the goals of this Order.

XIV. Effective Date

This Order shall take effect immediately and shall continue in effect until amended, superseded, or revoked by subsequent Executive Order. This Order shall supersede Executive Order No. 438 and all provisions contained in Administration Bulletin #11 and #12.



Given at the Executive Chamber in Boston this 18th day of April in the year of our Lord two thousand and seven, and of the Independence of the United States of America two hundred and thirty-one.

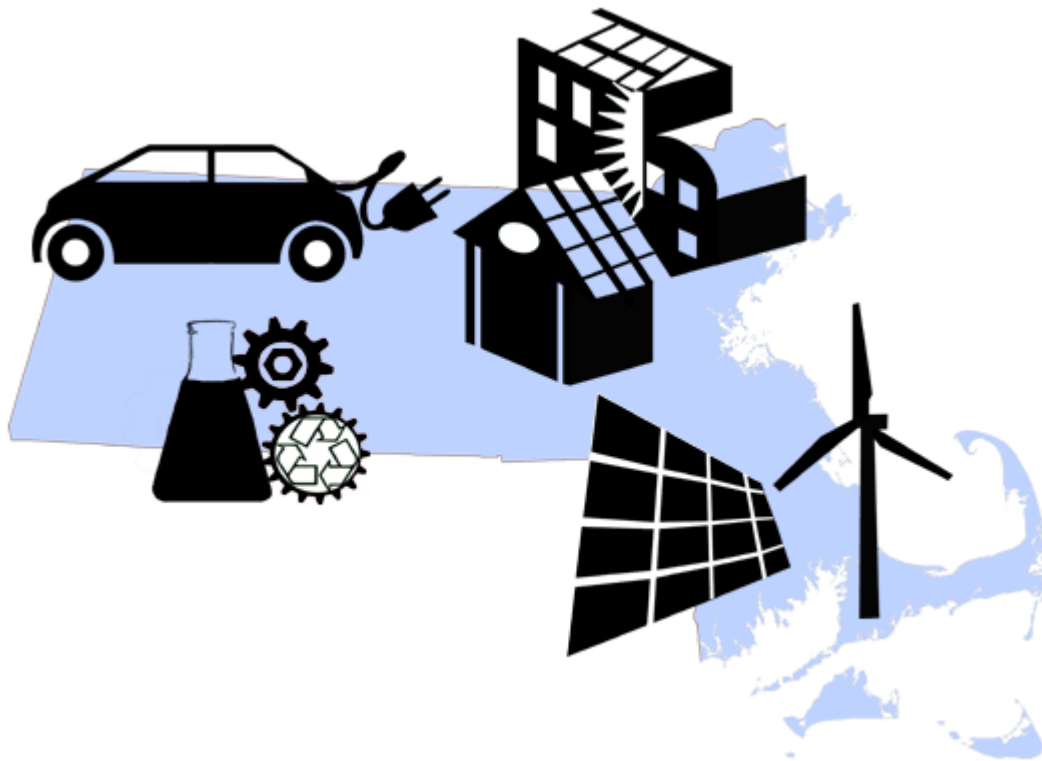

DEVAL L. PATRICK, GOVERNOR
Commonwealth of Massachusetts



William Francis Galvin
Secretary of the Commonwealth

GOD SAVE THE COMMONWEALTH OF MASSACHUSETTS

Massachusetts Clean Energy and Climate Plan for 2020



A report to the Great and General Court pursuant to the
Global Warming Solutions Act
(Chapter 298 of the Acts of 2008, and as codified at
M.G.L. c. 21N)

Secretary of Energy and Environmental Affairs

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December 29, 2010



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Statutory Requirement

This report fulfills the requirements of Chapter 298 of the Acts of 2008, and as codified at M.G.L. c. 21N.

Section 4. (a) The secretary shall adopt the 2020 statewide greenhouse gas emissions limit pursuant to subsection (b) of section 3 which shall be between 10 per cent and 25 per cent below the 1990 emissions level and a plan for achieving said reduction.

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Executive Summary

A Clean Energy Revolution

Between 2007 and the end of 2010, solar photovoltaic (PV) systems installed and scheduled for installation in Massachusetts increased 20-fold – with jobs in solar manufacturing, installation, and services nearly tripling – while installed wind energy increased 10-fold. In that same time period, Massachusetts launched the most aggressive energy efficiency program in the country, with estimated savings of over \$6 billion for residential, municipal, industrial and commercial customers and 4,500 jobs sustained or created.

This is not a vision of a possible future for Massachusetts. This is Massachusetts today.

It is in this context that the Executive Office of Energy and Environmental Affairs (EEA) presents the *Massachusetts Clean Energy and Climate Plan for 2020*. The Global Warming Solutions Act (GWSA, or the Act) of 2008 requires the Secretary of Energy and Environmental Affairs to establish a statewide limit on greenhouse gas (GHG) emissions of between 10 percent and 25 percent below 1990 levels for 2020 – on the way toward an 80 percent reduction in emissions by 2050 – along with a plan to achieve the 2020 target. Secretary Bowles has set that 2020 limit at 25 percent – and this Clean Energy and Climate Plan for 2020 contains the measures necessary to meet the limit.

Fulfilling that mandate will do much more than meet the requirements of the Act. It will allow the Commonwealth to address a number of challenges, only one of which is climate change. Most importantly, it will give powerful impetus to the clean energy revolution that has already begun.

Energy Independence: Massachusetts is at the end of the energy pipeline, figuratively and literally. All of our fossil-based energy sources – oil, natural gas, and coal – are derived from other regions of the country (e.g., the Gulf Coast or Western states) and other parts of the world, many of them unstable or hostile to the United States, (e.g., countries in the Middle East and Venezuela). Thus, all spending on fossil fuel energy – whether to fuel power plants, buildings, or vehicles – flows out of state and fails to provide income to in-state businesses or employees. This exported economic value is significant, totaling almost \$22 billion in 2008.¹ In 2008, an average Massachusetts household spent about \$5,200 for energy costs, of which about \$1,700 was for heating (space and water), \$1,300 for electricity, and \$2,200 for gasoline. Almost all of these expenditures leave Massachusetts.



Energy Costs and Volatility: In addition to the economic drain represented by Massachusetts dollars flowing out of the state for energy resources, energy consumers have experienced wild price swings and long term energy price increases. The figures below show both steadily increasing and volatile prices for natural gas, electricity and gasoline.

¹ Energy Price and Expenditure Estimates by Source, Selected Years, 1970-2008, Massachusetts, U.S. Energy Information Administration (EIA).
www.eia.doe.gov/states/sep_prices/total/pdf/pr_ma.pdf

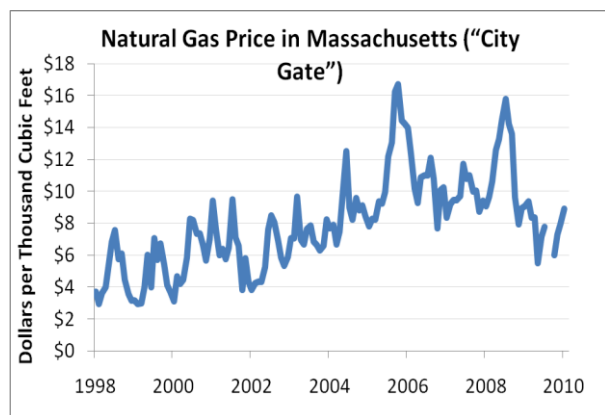


Figure ES-1. Increase and volatility in natural gas prices (source: DOER)

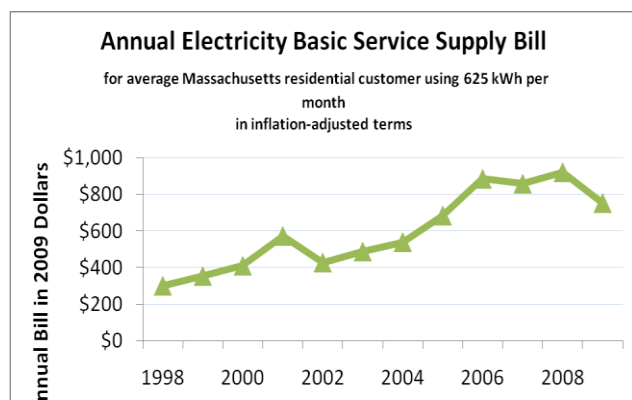


Figure ES-2. Increase and volatility in electricity prices (source: DOER)

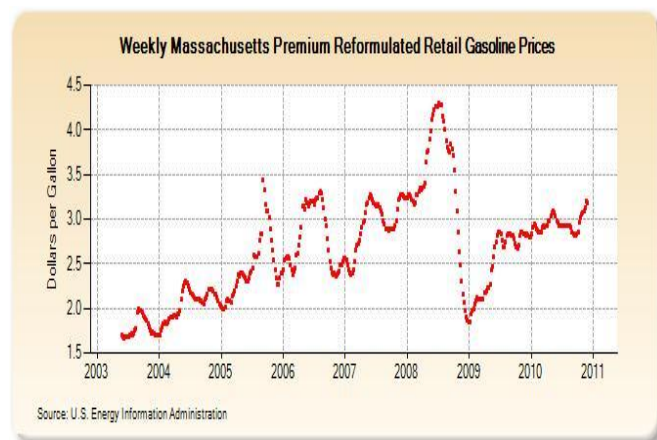


Figure ES-3. Increase and volatility in gasoline prices (source: U.S. Energy Information Administration (EIA))

Economic Opportunity: Along with the rest of the nation, Massachusetts is coming out of the most severe recession in half a century. In the transition to a clean energy economy, Massachusetts has many resources to bring to bear — and should be the disproportionate beneficiary as the economy becomes cleaner and greener. Clean Edge, Inc., has found that Massachusetts is the leading state on the East Coast for clean energy innovation, investment, deployment, and jobs.²

Massachusetts already has a core of companies and jobs in clean energy, and this industry has been growing even during challenging economic times. According to a Massachusetts Clean Energy Center (MassCEC) survey of 471 local companies, more than 11,000 people are employed in clean energy at the end of 2010, up 65 percent since 2007. Some 3,500 people are employed in manufacturing of energy efficiency products, with growth of 20 percent since 2007, and the fastest growth (67 percent) in energy storage, represented by such companies as A123 Systems, Inc., Beacon Power Corp., and Premium Power Corp.

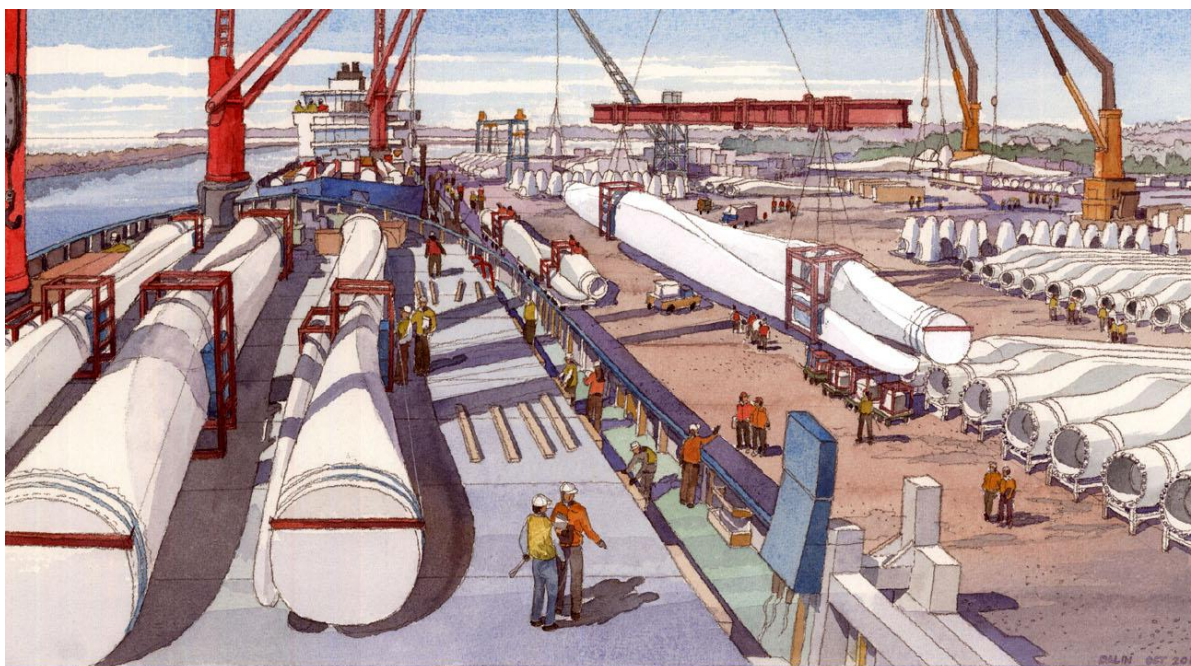
Policies in this Plan will result in large reductions in fossil fuel use in buildings, electricity generation, and transportation. These include energy efficiency programs, advanced building codes, requirements for increased renewable electricity generation, federal vehicle efficiency standards, state incentives for purchasing more efficient vehicles, incentives to reduce vehicle miles traveled, and “smart growth” policies. Through both direct and indirect impacts, these policies will create an estimated 42,000 to 48,000 jobs in Massachusetts in 2020.

² A Future of Innovation and Growth: Advancing Massachusetts’ Clean Energy Leadership, Clean Edge, April 2010, Massachusetts Clean Energy Center.

Table ES-1. Approximate Massachusetts job increases, direct and indirect, in 2020 due to Implementation of the *Massachusetts Clean Energy and Climate Plan*

Federal and California vehicle efficiency and GHG standards	6,000
Federal emissions and fuel efficiency standards for medium and heavy duty vehicles	1,000
Pay As You Drive auto insurance (PAYD)	3,000
Clean car consumer incentives	2,000
Smart growth policy package	1,000
subtotal — transportation	13,000
Electric efficiency programs	10,000
Natural gas, heating oil efficiency programs	9,000
Advanced building energy codes	3,000
Federal appliance & product standards	1,000
subtotal — buildings efficiency	23,000
Renewables (solar, wind, biomass, biofuels)	6,000 - 12,000 ³
Total	42,000 - 48,000

Note: see the methodological appendix for sources and description of how the employment gains were estimated.



Artist's rendering of proposed New Bedford Marine Commerce Terminal, staging area for offshore wind installation. (Courtesy of MassCEC)

³ The figure for renewables is given as a range, because most of the value added for renewables is in manufacturing, and the degree to which renewable components will be manufactured in the Commonwealth is fluid at this time, as is the degree to which the state's 2020 renewable energy requirements will be met from in-state sources.

Climate Change: The international consensus on climate released in 2007 by the Intergovernmental Panel on Climate Change (IPCC) found that the “warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level.”⁴

Massachusetts is vulnerable to severe impacts from climate change. Impacts are expected to include increased coastal flooding from intense storms and permanent inundation of low-lying coastal areas; infrastructure and development located along the coast affected by storm surges, sea level rise, and saltwater intrusion; degraded water quality and quantity, habitat loss, and increased sedimentation and pollution of waterways due to changes in precipitation; increased number of extreme heat days, impacting those with respiratory and cardiovascular conditions; habitat for commercially important fish and shellfish species, such as cod and lobster, shifted northward; and for recreation areas, decreased average ski and snowboard seasons and increased need for artificial snow making.

Local and Regional Air Pollution: In addition to causing climate change, emissions from the combustion of fossil fuels result in a range of negative human health and ecosystem impacts. The U.S. Environmental Protection Agency (EPA) has established health-based National Ambient Air Quality Standards (NAAQS) for six pervasive pollutants that have well-documented health and environmental impacts: ozone (O₃), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM), lead, and carbon monoxide (CO). Exposure

to each of these pollutants has been linked to adverse health effects. Ozone can also irritate the respiratory system, causing coughing, throat irritation, chest pain and reduced lung function. Ozone can also aggravate asthma, leading to more asthma attacks and increased hospital admissions and emergency room visits for respiratory problems. Fine PM is associated with aggravation of respiratory and cardiovascular disease resulting in increased hospital admissions, emergency room visits and premature mortality.

These pollutants also damage ecosystems. Acid rain is created when SO₂ and NO_x emissions mix with water in the atmosphere. Acid rain lowers the pH levels of lakes, rivers, and soils, harming fish and invertebrates. Exposure to ozone is associated with a range of adverse impacts to vegetation, including impairment of tree growth and loss of agricultural crop yield. Ozone can increase the rate of water loss by trees causing forests to drain streams and soils of water, thus stressing natural ecosystems beyond the trees themselves.

Meeting Challenges, Seizing

Opportunities: At roughly 2 percent of the U.S. economy and 1.3 percent of the nation’s GHG emissions, Massachusetts could not, on its own, stop global climate change even if it reduced statewide emissions to zero instantly. However, Massachusetts is in a position to show the way to a clean energy economy — and reap direct benefits in economic growth — through the development of smart, targeted policies that reduce emissions by promoting greater energy efficiency, developing renewable energy, and encouraging other alternatives to the combustion of fossil fuels. In the process, Massachusetts will also start to get off the fossil fuel rollercoaster, become more energy independent, and jump start its economy with new technologies, new companies, and new jobs.

⁴ 4th Assessment Report, Intergovernmental Panel on Climate Change, 2007.

The *Massachusetts Clean Energy and Climate Plan for 2020* will put Massachusetts on a path to meeting its statutory obligation to reduce GHG emissions, and on the road to a vibrant clean energy economy.

Setting the 2020 Emissions Limit

The statewide GHG emissions limit set for 2020 was based on two years of analysis and public comment, and followed a process to determine the baseline Massachusetts 1990 emissions level and the predicted “Business as Usual” (BAU) emissions trajectory for 2020. The trend line of GHG emissions was found to be relatively stable since 1990 and projected as remaining relatively stable through 2020. Policies and programs implemented or initiated since the beginning of the Patrick-Murray Administration in 2007 — including the Green Communities Act and various state government executive actions, and federal government actions — are projected to result in GHG emissions reduction of roughly 18 percent — roughly the midpoint of the 10 percent to 25 percent range required by the GWSA.

Further analysis showed that it would be technically feasible to reduce emissions by up to 35 percent below 1990 levels by 2020 with additional policies that are cost-effective. In a series of eight public hearings held in June 2010, as required by the Act, nearly 200 individuals and organizations provided oral or written comment on the 2020 emissions reduction requirement and on policy measures to meet the requirement. The vast majority of commenters called for the Secretary to set the GHG limit at 25 percent below 1990 levels, the maximum allowed under the statute. The Secretary of EEA then directed state technical teams to conduct in-depth analyses of measures that satisfy criteria of cost-effectiveness and reducing GHG emissions.

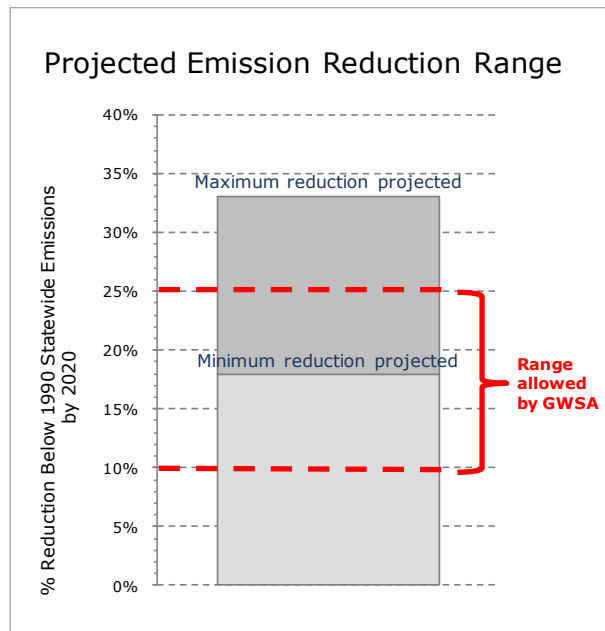


Figure ES-4. Projected emission reduction range below 1990 by 2020. The range results from uncertainties in Business as Usual (BAU) emissions, policy designs, and impacts of individual policies.

Table ES-2 (on page ES-6) displays the portfolio of policies incorporated in this *Clean Energy and Climate Plan for 2020*, and the associated potential contribution to GHG reduction below 1990 levels by 2020 for each policy. In aggregate, these policies, which include measures put in place since 2007 and new initiatives proposed in this Plan, are projected to achieve emissions reductions in the range of 18 percent to 33 percent by 2020 (see Figure ES-4). The lower end of this range represents a scenario in which Business as Usual (BAU) emissions are higher than projected and actual emissions reduction from the policies as implemented is at the low end of estimates. The higher end of the range represents a scenario in which BAU emissions are lower than projected and implementation success is relatively high. A mid-range estimate for the portfolio of policies results in GHG emissions approximately 27 percent below 1990 levels by 2020 (See Figure ES-5 on page ES-7).

Table ES-2. The Portfolio of Policies	middle estimate % reduction below 1990
Buildings	9.8%
All cost-effective energy efficiency/RGGI	7.1%
Advanced building energy codes	1.6%
Building energy rating and labeling	---
"Deep" energy efficiency improvements for buildings	0.2%
Expanding energy efficiency programs to C/I heating oil	0.1%
Developing a mature market for solar thermal water/space heating	0.1%
Tree retention and planting to reduce heating and cooling loads	0.1%
Federal appliance and product standards	0.6%
Electricity	7.7%
Expanded Renewable Portfolio Standard (RPS)	1.2%
More stringent EPA power plant rules	1.2%
Clean energy imports	5.4%
Clean energy performance standard (CPS)	---
Transportation	7.6%
Federal and California vehicle efficiency and GHG standards	2.6%
Federal emissions and fuel efficiency standards for medium and heavy duty vehicles	0.3%
Federal renewable fuel standard and regional low carbon fuel standard	1.6%
Clean car consumer incentives	0.5%
Pay As You Drive (PAYD) auto insurance (pilot program, possible expansion later)	1.1%
Sustainable Development Principles	0.1%
GreenDOT	1.2%
Smart growth policy package	0.4%
Non-Energy Emissions	2.0%
Reducing GHG emissions from motor vehicle air conditioning	0.3%
Stationary equipment refrigerant management	1.3%
Reducing SF ₆ emissions from gas-insulated switchgear	0.2%
Reducing GHG emissions from plastics	0.3%
Cross-cutting Policies	---
MEPA GHG policy and protocol	---
Leading by Example	---
Green Communities Division	---
Consideration of GHG emissions in State permitting, licensing and administrative approvals	---
Overall reductions versus 1990 (adjusted for uncertainty in Business as Usual (BAU) emissions, policy designs, and impacts of individual policies)	
High BAU emissions and low policy impacts	18%
Middle BAU emissions and policy impacts	27%
Low BAU emissions and high policy impacts	33%

Note: the overall reduction is adjusted for overlap among policies, so is smaller than the sum of the individual policies. Individual lines may not sum to subtotals due to rounding.

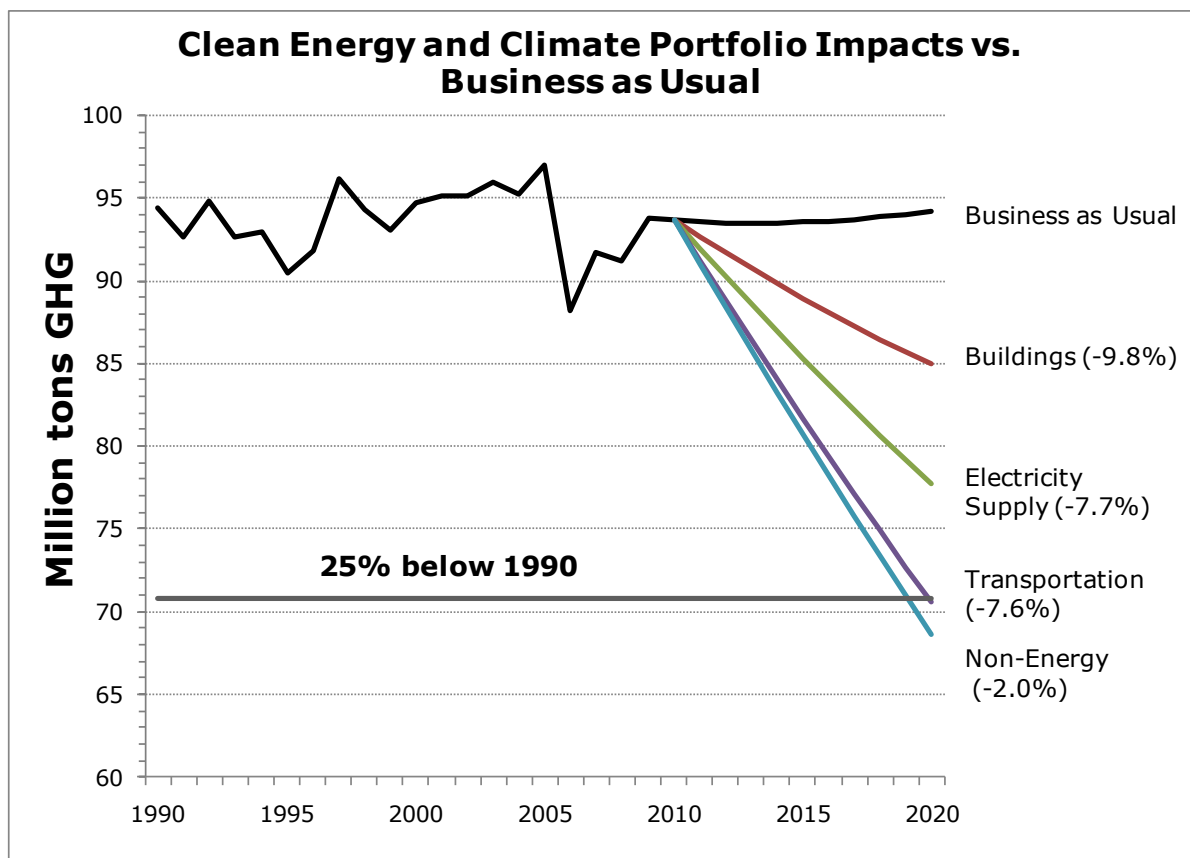


Figure ES-5. Emissions reductions by sector for the portfolio of policies, at the mid-range estimate of 27 percent below 1990 levels by 2020.

Based on these analyses, input from the Climate Protection and Green Economy Advisory Committee created by the GWSA, and full consideration of the public comments received, EEA determined that a responsible and achievable GHG emissions reduction limit for 2020 that maximizes opportunities to realize energy cost savings, increase energy independence, and promote growth in clean energy jobs in Massachusetts is 25 percent. The limit is at the high end of the range for 2020 authorized by GWSA, but the middle of the range of possible outcomes for the policies incorporated in this Plan.

An Integrated Portfolio of Policies

The GWSA provides broad authority to choose policy tools — from targeted and technology-specific policies to economy-wide and market-based mechanisms — to advance a clean energy economy while reducing GHG emissions. An integrated portfolio approach plays to Massachusetts strengths and, taken as a whole, has the greatest likelihood of reaching the goals of addressing energy costs, energy security and independence, and reducing GHG emissions.

In the last four years, Massachusetts has demonstrated the effectiveness of a portfolio approach. A combination of legislation, executive action and private sector entrepreneurship has aligned incentives and created opportunities for clean energy growth and GHG reductions.

The directive from the Secretary was to build on this portfolio — expanding existing programs where practical and developing

new complementary policies that could accelerate clean energy growth and lower GHG emissions. Each of the policies presented in this Plan — GHG reductions; cost-effectiveness; lowering energy costs for consumers and businesses; job growth; equity; implementability; and co-benefits — underwent rigorous analysis focusing on criteria established by the Act and input from the public hearings and Advisory Committee. Some policies can be put in place immediately; others will be tested first through pilot programs. Not every one of these policies must be implemented to its fullest extent in order to achieve the 2020 mandate. But these represent the suite of policies that the Patrick-Murray Administration is committed to pursuing over the next four years as we build on the foundation created in the past four years and work toward the 2020 emissions limit set by the Secretary.

This portfolio is divided into five categories: buildings, electricity supply, transportation, non-energy emissions, and cross-cutting policies.

BUILDINGS

9.8 PERCENT REDUCTION OF GHG EMISSIONS

Buildings consume over 50 percent of the energy used in Massachusetts and are therefore responsible for the greatest GHG emissions of any sector. Energy use in buildings comes from these two primary areas: 1) fuels for heating — primarily natural gas and heating oil, and 2) electricity for air conditioning, lighting, ventilation, appliances and equipment. The *Clean Energy and Climate Plan for 2020* takes into account Massachusetts nation-leading energy efficiency efforts mandated by the Green Communities Act (GCA) of 2008, which will produce substantial GHG reductions for 2020, and proposes additional measures that will contribute toward meeting the 2020 limit. This category is expected to yield GHG reductions of 9.8 percent.

- **All Cost-Effective Energy Efficiency**

Existing Policy

With the Governor's signing of the GCA of 2008, Massachusetts embarked on a path to greatly increase investments in—and return on investments from—building energy improvements. From 2010 to 2012—the first three year plan approved by the Department of Public Utilities (DPU) under the GCA mandate to capture all cost-effective energy efficiency opportunities — the state will invest over \$2 billion, with an anticipated return of over \$6 billion in savings for customers, and creation of thousands of clean energy jobs that cannot be outsourced overseas.

- **Advanced Building Energy Codes**

Expanded Policy

Massachusetts has adopted a pathway to greater energy efficiency in building codes through a commitment in the GCA to adopt the latest IECC, as well as by creating a local-option “stretch” code that has been adopted by over 60 municipalities. This policy would complete the transition to performance-based codes by 2020 that go beyond the IECC code in terms of efficiency while reducing their complexity, giving developers flexibility and clear performance targets and creating “green” jobs.

- **Building Energy Rating and Labeling**

New Policy

The real estate market currently operates without explicit consideration of energy efficiency. This policy would address this market failure by introducing an energy rating program designed to facilitate “apples-to-apples” comparisons between buildings. Initially in a pilot form, this would be the buildings equivalent of the EPA miles-per-gallon (MPG) rating on cars and light trucks.

- **“Deep” Energy Efficiency Improvements for Buildings** New Policy

To reach our 2050 GHG reduction requirement, energy use in existing buildings must fall dramatically. To accomplish this, it is necessary to begin retrofitting buildings with much higher levels of insulation, less air leakage, and better windows than are typically installed in the retrofit energy efficiency programs. This policy, begun with pilots with utilities, would make rebates and appropriate training and technical support widely available for “deeper” energy improvements for residential buildings.

- **Expanding Efficiency Programs to Commercial/Industrial Heating Oil** New Policy

Currently, electric utility programs provide funding for heating-related efficiency measures in homes that use oil heat but not for commercial and industrial buildings that use fuel oil for heating. Expanding the programs to such customers would yield significant cuts in energy use and GHG emissions.

- **Developing a Market for Solar Thermal Water and Space Heating** New Policy

A policy framework will be established to develop a mature and self-sustaining market for solar thermal water and space heating in both residential and commercial buildings as part of a broader effort to support renewable heating technologies (such as clean biomass heating and efficient heat pumps) for low-grade heating needs and spur job and business growth in renewable thermal.

- **Tree Retention and Planting to Reduce Heating and Cooling Loads** New Policy

Trees help to reduce heating and cooling loads in buildings. This policy would provide incentives to plant new trees around

existing housing, and retain trees within new housing developments. This pilot program might be feasible within current utility efficiency programs, or might require new funding and/or regulatory authority.

- **Federal Appliance and Product Standards** Existing Policy

The federal government sets energy efficiency standards for appliances, electronics, and other products. Under President Obama, the DOE has planned an accelerated schedule for setting new standards between 2009 and 2013. Nationwide these are expected to yield major savings in electricity (11.5 percent of total consumption in 2020), fuel, costs to homeowners and businesses, and carbon dioxide emissions, with Massachusetts getting its proportional share.

ELECTRICITY SUPPLY

7.7 PERCENT REDUCTION OF GHG EMISSIONS

The vast majority of existing power plants burn fossil fuels to generate electricity, producing millions of tons of pollution. Non-fossil fuel electricity generation technologies include nuclear, hydro, wind, solar, and eligible biomass and anaerobic digestion, which vary in their emissions profiles. The character of the electric power sector as a whole is determined by three key factors: the demand for electricity overall, existing generation capacity by technology type, and how much of each type of existing capacity is utilized to meet demand. The *Clean Energy and Climate Plan for 2020* relies on progress in each of these areas made since 2007, along with proposed new measures to move toward a cleaner electricity supply.

- **Massachusetts Renewable Portfolio Standard (RPS)** Existing Policy

The RPS was created as part of electricity restructuring in Massachusetts in 1997 and then expanded in the GCA. The RPS requires retail electricity suppliers—both distribution companies and other retail suppliers—to buy a growing percentage of their electricity sales from eligible resources. The RPS will require 15 percent of electricity supply to be from renewable sources by 2020.

- **Regional Greenhouse Gas Initiative (RGGI)** Existing Policy

Massachusetts is one of the 10 Northeast and Mid-Atlantic states participating in a regional effort to limit carbon dioxide emissions from electric generating units. The program, which began in January of 2009, establishes a region-wide cap on CO₂ emissions from fossil fuel-fired power plants that will remain at the initial level for six years then decrease 2.5 percent per year for the next four years, for a total reduction of 10 percent by 2018. Allowances are made available for purchase in quarterly auctions. Massachusetts is investing over 80 percent of its auction proceeds in energy efficiency, with smaller amounts for renewable energy and other consumer benefit programs.

- **More Stringent EPA Power Plant Rules** New Policy

The EPA is in the midst of proposing and implementing a variety of regulations that will affect allowable water and air emissions of the nation's power plant fleet. The owners of some older, smaller power plants may find it is not economical to retrofit their plants to meet EPA's new regulations, and will instead choose to shut down the plants. In Massachusetts, The Somerset Power Station last ran in January 2010, and its permits will eventually expire if it is not restarted, and the owner

of the Salem Harbor Station has indicated that it expects the plant to close within five years.

- **Clean Energy Imports** Expanded Policy

Canada has substantial hydro-electric resources, which have very low emissions, and are available at relatively low cost and with no need for renewable energy subsidies (see RPS above). A new transmission line being developed by two Massachusetts utilities, NSTAR and Northeast Utilities Service Co., in partnership with Hydro Quebec (HQ) and with the support of the Patrick-Murray Administration would tap more of these resources. When this power line is completed, at HQ's expense, it will bring to New England enough clean power to serve up to 15 percent of Massachusetts present electricity demand. Additional transmission lines may also be possible.

- **Clean Energy Performance Standard (CPS)** New Policy

A market-based framework is needed to provide a clear signal to the electricity market to improve upon the cleaner energy portfolios of the last few years. One approach to be considered is a CPS, which would require electricity suppliers to favor lower- and no-emissions sources in the mix of electricity delivered to their customers.

TRANSPORTATION

7.6 PERCENT GHG EMISSION REDUCTION

Transportation is second only to buildings in responsibility for GHG emissions in Massachusetts. The *Clean Energy and Climate Plan for 2020* takes into account state and federal measures to improve vehicle efficiency, reduce vehicle miles traveled (VMT), and increase use of lower-carbon fuels; and proposes additional measures that will contribute toward meeting the 2020 limit.

- **Federal and California Light Vehicle Efficiency and GHG Standards**

Existing Policy

The EPA and the National Highway Traffic Safety Administration (NHTSA) have set harmonized standards for light-duty MPG and GHG emissions; raising the fuel efficiency standard from 27.5 MPG at present to 35.5 MPG for model year 2016. California is expected to propose stricter standards for model year 2017-2020 vehicles, and Massachusetts law requires the Commonwealth to adopt the California standards. In combination, the federal and California standards are forecasted to yield a 17 percent reduction in GHG emissions in 2020 (primarily from lower gasoline consumption, but also some reduced emissions from vehicle air conditioning systems).

- **Federal GHG Emissions and Fuel Efficiency Standards for Medium- and Heavy-Duty Vehicles**

Existing Policy

The EPA and the U.S. Department of Transportation (DOT) have announced complementary programs to reduce GHG emissions and improve fuel efficiency, for medium- and heavy-duty vehicles, such as the largest pickup trucks and vans, combination tractors (semis), and all types and sizes of work trucks and buses for model years 2014-2018.

- **Federal Renewable Fuel Standard and Regional Low Carbon Fuel Standard (LCFS)**

Existing Policy

Title II of the federal Energy Independence and Security Act of 2007 creates a “renewable fuel standard,” which requires an increase in the volume of renewable fuels used in the U.S. Massachusetts biofuels law, passed in 2008, instructs the state to pursue development of a LCFS on a regional basis throughout the Northeast. The LCFS (first developed by California) would require that the average carbon

intensity of vehicle fuels falls by a specific percentage compared to petroleum fuels.

- **Clean Car Consumer Incentives**

New Policy

There are various means by which the Commonwealth could provide incentives for consumers to shift their vehicle purchases to more fuel-efficient (or lower GHG) models. This includes varying the rates on new car sales taxes, annual auto excise (property) taxes, and registration fees, with rates raised on low-MPG vehicles and reduced on high-MPG ones. The change could be designed to be revenue-neutral to consumers as a whole and to the state. EEA and MassDOT will conduct a study to examine critical implementation challenges and possible regulatory or legislative paths for this policy.

- **Pay As You Drive (PAYD) Auto Insurance Pilot**

New Policy

PAYD would convert a large fixed annual premium into a variable cost based on miles traveled, creating a major incentive to reduce discretionary driving, while cutting the overall cost of insurance due to fewer accidents. Miles driven would fall substantially, along with CO₂ emissions and costs for gasoline, accidents, and congestion. The Commonwealth plans to conduct a PAYD pilot program initially, and, depending on results, work with the insurance industry to make this payment method more widely available.

- **Massachusetts Sustainable Development Principles**

Existing Policy

In 2007, the Patrick-Murray Administration updated the Massachusetts *Sustainable Development Principles*. Making state investments consistent with the *Principles* increases the amount of growth that takes place in locations and densities that reduce VMT and GHG

emissions and have other clean energy benefits.

- **GreenDOT** New Policy
GreenDOT is MassDOT's sustainability initiative, announced through a Policy Directive by the Secretary of Transportation in June 2010. GreenDOT is focused on three related goals: reducing GHG emissions; promoting the healthy transportation modes of walking, bicycling, and public transit; and supporting smart growth development.
- **Smart Growth Policy Package** Expanded Policy
Additional "smart growth" would make it easier for households and businesses to decrease the number and distance of vehicle trips, reducing VMT and related emissions. Massachusetts already has several policies promoting smart growth, but new, complementary policies are necessary to achieve our smart growth targets. Such policies would focus on influencing infrastructure investments by state agencies and planning decisions made by local governments.

NON-ENERGY EMISSIONS

2.0 PERCENT GHG EMISSIONS REDUCTION

Greenhouse gas emissions not related to energy use represent a small but important part of statewide GHG emissions. Although these sources currently represent only 7 percent of total emissions, many of the gases emitted by these processes have high global warming potential (GWP) — thousands of times greater than CO₂. The *Massachusetts Clean Energy and Climate Plan for 2020* addresses a number of non-energy sources of GHG emissions.

- **Reducing GHG Emissions from Motor Vehicle Air Conditioning** New Policy
Massachusetts law requires adoption of California's emissions standards for new

motor vehicles, and the California Air Resources Board (CARB) is developing regulations to reduce emissions associated with motor vehicle air conditioning (MVAC). CARB's standard aims to minimize emissions by reducing direct GHG emissions from MVAC systems, by using low GWP refrigerants and reducing leaks, as well as improvement in the efficiency of the AC system (e.g., more efficient compressors, fans and motors; systems that avoid over-chilling and reheating; and technologies to reduce heat gain in the passenger cabin).

- **Stationary Equipment Refrigerant Management** New Policy
This policy aims to minimize emissions of high GWP refrigerants used in non-residential refrigerating equipment through: facility registration, leak detection and monitoring, leak repair, system retrofit and retirement, required service practices, recordkeeping and reporting, and eventual replacement with equipment using no-GWP or lower GWP substances, where such alternatives are available and practical. The policy would affect facilities with refrigeration units containing at least 50 pounds of refrigerant, beginning with a voluntary pilot program focused on leak detection and repair.
- **Reducing SF₆ Emissions from Gas-Insulated Switchgear** New Policy
Through a pilot program, followed by possible regulatory action, this policy aims to minimize emissions of sulfur hexafluoride (SF₆), a high GWP substance, from leakage of gas insulated switchgear (GIS) used in electricity transmission and distribution systems by setting limits on leakage rates and implementing best management practices for the recovery and handling of SF₆.

- **Reducing GHG Emissions from Plastics** Expanded Policy

Diverting plastics from the waste stream under this Plan will result in materials with a lower carbon content being combusted at Massachusetts' municipal waste-to-energy facilities, reducing emissions of CO₂.

CROSS-CUTTING POLICIES

Several policies pursued under the *Clean Energy and Climate Plan for 2020* do not neatly fit in the categories of buildings, electricity supply, transportation or non-energy emissions, but involve state actions that drive clean energy adoption across all of these domains.

- **MEPA GHG Policy and Protocol**

Expanded Policy

MEPA requires that all major projects proposed in the Commonwealth that have state involvement (in the form of state permits, land transfers or financial assistance, for example) undertake an assessment of project impacts and alternatives in an effort to avoid, minimize and mitigate damage to the environment to the maximum extent feasible. Building on this general requirement, the MEPA GHG Policy requires that certain projects undergoing review by the MEPA office quantify their GHG emissions and identify measures to avoid, minimize, and mitigate such emissions.

- **Leading by Example** Expanded Policy

The Leading by Example (LBE) Program, established in April 2007 by Governor Patrick's Executive Order No. 484, works to lower costs and reduce environmental impacts at all Executive Branch agencies, public colleges and universities and quasi-public authorities. The program oversees efforts to reduce energy use by the state's buildings and vehicles, expand recycling programs, cut water consumption, pro-

mote green procurement, facilitate the construction of high performance state buildings, and reduce carbon emissions across state government. In addition, the Administration has proposed creation of a Commonwealth Energy Solutions program charged with managing and purchasing low-cost, clean energy across all public agencies, authorities, and facilities — providing an integrated strategy for energy procurement that capitalizes on economies of scale.

- **Green Communities Division**

Existing Policy

Created by the GCA, the Green Communities Division of the Department of Energy Resources (DOER) helps municipalities become more sustainable, control rising energy costs, and incubate the clean energy technologies and practices. Envisioned as a way to encourage municipalities to make greener energy decisions, the Division offer assistance to municipalities in order to be designated as "Green Communities" and qualify for grant funding.

- **Consideration of GHG Emissions in State Permitting, Licensing and Administrative Approvals** New Policy

The Global Warming Solutions Act requires all state agencies, departments, boards, commissions and authorities to consider climate change impacts, such as GHG emissions, when they issue permits, licenses and other administrative approvals in the context of environmental review. EEA, in collaboration with other state and quasi-public agencies, will develop a plan to implement this requirement in selected agency actions.

The Road to 80 Percent Lower Emissions in 2050

The clean energy economy of 2050 will be very different than the fossil-fuel dominated economy of today. With many of the policies embodied in this Plan in place, 2050 would find a Massachusetts where energy costs are less volatile and comprise a smaller part of budgets. Businesses, households, municipalities and institutions are better able to manage their energy needs. Renewable and alternative sources of energy have largely displaced fossil-based sources, and a smart grid and advanced storage technologies release to the grid as needed electricity generated during the night by massive wind farms off the coast of the Northeast. Both small and large-scale solar installations are ubiquitous across the state. National security has been strengthened by an economy driven by homegrown sources of energy that no longer depend on fossil fuel from unstable regions or countries that do not share the interests of the U.S.

By 2050, the clean energy cluster in Massachusetts has matured, much as the biotechnology and health care sectors matured in the early part of the 21st century. Massachusetts plays a major role in the global market for technologies in offshore wind, solar PV and thermal, electricity storage and energy management. Massachusetts architects and engineers are leaders internationally in green building design and building energy management. Massachusetts companies that pioneered battery technology have robust partnerships with American, European, Indian and Chinese car and truck manufacturers.

And by law, in 2050, GHG emissions are 80 percent lower than in 1990 and the air cleaner.

Getting to this clean energy future will require significant innovation in policy, technology and business practices over the

next 40 years. Unlike the 2020 limit, which can be met with actions that we take here in Massachusetts, reaching 80 percent reductions below 1990 emission levels, as required by the Global Warming Solutions Act, will mean broad changes that are beyond the reach of Massachusetts alone. Between 2010 and 2050, much will change — in the economy, in federal regulation, and in technology — that will make possible GHG emission reductions that would be unthinkable today. But in imagining — and planning for — a path to the mandated GHG emissions reduction of 80 percent in 2050, it is important to ask now: How do we get there?

The *Clean Energy and Climate Plan for 2020* describes two scenarios — one based on maximum energy conservation, the other on widespread switching from fossil fuels to electricity for transportation, buildings, and industry, powered by an extremely clean electricity supply. While there are differences between the two scenarios — the former allows marginally greater use of conventional fuels for meeting the remaining energy needs after fundamental efficiency improvements, while the latter allows for marginally greater energy utilization, as long as the source is clean — but there is more that they have in common. Both require dramatic reductions in energy use to meet heating, cooling, lighting, transportation, and production needs, and both require dramatic shifts in where the energy we use comes from.

Although it could not, by itself, get Massachusetts to the mandated 2050 emissions levels, the Plan contains a number of policies that produce modest emissions reductions for 2020 but, if put in place under the Plan for 2020, will make substantial contributions to meeting the 2050 requirement. These include advanced

building codes and building energy rating and labeling, since building stock turns over slowly. The same is true for smart growth, which will take many years to reap emissions dividends in changed transportation patterns. Also vital will be reducing the carbon content of vehicle fuels through a low carbon fuel standard, which will require the development and widespread commercialization of advanced, truly low-carbon biofuels that are not yet in the marketplace, and/or the near universal installation of fueling infrastructure for electric vehicles, which will take time.

Conclusion

Developed under the authority of the GWSA of 2008, the Commonwealth's *Clean Energy and Climate Plan for 2020* provides the means for meeting the Secretary's GHG emissions reduction requirement of 25 percent in 2020, putting the Commonwealth on track toward the GWSA's mandate of 80 percent reduction in 2050 — and accelerating the development of a clean energy economy for Massachusetts.

As this Plan is implemented, homeowners and businesses will discover new ways to save money on energy costs, make living and work spaces more comfortable, and make production processes cleaner and more efficient. The air we breathe will be cleaner, and we will be less dependent on energy from unstable parts of the world. Above all, we will be putting Massachusetts in a leadership position in the clean energy economy of the future.

Capitalizing on the state's advantages in academic resources, venture capital, and skilled resources, the measures advanced in this Plan will give rise to technological

innovation and commercialization, company formation, and job creation up and down the skill ladder. There will be clean energy jobs for scientists and engineers, construction workers and insulation installers, as Massachusetts develops the products and services not only needed here, but across the country and around the world. There will be opportunities for those displaced by economic change to retool for a new industry, and for those long disadvantaged in the mainstream economy to find a new point of entry.

Clean energy is an industry of the future, but for Massachusetts, the future is now.



Deep retrofit with super-insulation.
(source: DOER)

I. A Clean Energy Revolution

Between 2007 and the end of 2010, solar photovoltaic (PV) systems installed and scheduled for installation in Massachusetts increased 20-fold — with jobs in solar manufacturing, installation, and services nearly tripling — while installed wind energy increased 10-fold. In that same time period, Massachusetts launched the most aggressive energy efficiency program in the country, with estimated savings of over \$6 billion for residential, municipal, industrial and commercial customers and 4,500 jobs projected. Companies that are saving on energy costs can devote those dollars to business development and job expansion. School districts that cut energy costs can devote more resources to students. Homeowners who reduce their energy bills can spend more on other needs and desires. By the end of 2010, thousands of new jobs will have been added in clean energy services, manufacturing and research and development (R&D) — this at a time when the country is undergoing the most severe economic recession in a generation. Vibrant high-tech clusters in biofuels, wind energy, solar power, energy storage, and energy efficiency services have taken root and are leading clean energy technology development globally.

This is not a vision of a *possible* future for Massachusetts. This is Massachusetts *today*.



Solar array at Chelmsford Drinking Water Plant

Photo Credit: MassDEP

Here in the Commonwealth, the transition to a clean energy economy has begun — and has already shown itself to be an engine of economic growth. Driven by an entrepreneurial private sector, and an integrated state framework of legislation, regulation and executive branch programs, Massachusetts has launched the clean energy revolution. Unparalleled academic and technical resources, local sources of investment capital, and a highly skilled workforce are all ingredients of this revolution — lowering costs to consumers, increasing our energy independence, growing clean energy jobs, and reducing our contribution to climate change and other environmental impacts. Massachusetts is poised to lead the transition to a clean energy economy nationally and to disproportionately benefit from the economic development and jobs resulting from that transition.

It is in this context that the Executive Office of Energy and Environmental Affairs offers the *Massachusetts Clean Energy and Climate Plan for 2020*. The Global Warming Solutions Act (GWSA) of 2008 requires the Secretary of Energy and Environmental Affairs to establish a statewide limit on GHG emissions of between 10 percent and 25 percent below 1990 levels for 2020, on the way toward 80 percent reduction in emissions by 2050, along with a plan to achieve the 2020 target. Secretary Bowles has set that 2020 limit at 25 percent — and the *Massachusetts Clean Energy and Climate Plan for 2020* contains the measures necessary to meet that limit. But fulfilling that mandate will do much more than meet the requirements of the Act. It will allow the Commonwealth to address a number of challenges, only one of which is climate change. Importantly, it will give powerful impetus to the clean energy revolution that has already begun. Rather

than putting a burden on our economy, a statewide mandate to reduce GHG emissions, achieved through measures that are carefully chosen, designed, and implemented to reduce costs or maximize job growth, will accelerate the transition to a clean energy economy that has already taken hold across the state.

Energy Independence

Massachusetts is at the end of the energy pipeline, figuratively and literally. *All* of our fossil-based energy sources — oil, natural gas, and coal — are derived from other regions of the country (e.g., the Gulf Coast or Western states) and other parts of the world, many of them unstable or hostile to the United States, (e.g., countries in the Middle East and Venezuela). Thus, all spending on fossil fuel energy — whether to fuel power plants, buildings, or vehicles — flows out of state and fails to provide income to in-state businesses or employees. This exported economic value is significant, totaling almost \$22 billion in 2008.⁵ To put this in a smaller scale, in 2008, an average Massachusetts household spent about \$5,200 for energy costs, of which about \$1,700 was for heating (space and water), \$1,300 for electricity, and \$2,200 for gasoline. Almost all of these expenditures leave Massachusetts.

Energy Costs and Volatility

In addition to the economic drain represented by Massachusetts dollars flowing out of the state for energy resources, energy consumers have experienced wild price swings and long term energy price increases. Figures 1-3 show both steadily increasing and volatile prices for the cost of natural gas, electricity and gasoline.

⁵ Energy Price and Expenditure Estimates by Source, Selected Years, 1970-2008, Massachusetts, EIA.
www.eia.doe.gov/states/sep_prices/total/pdf/pr_ma.pdf

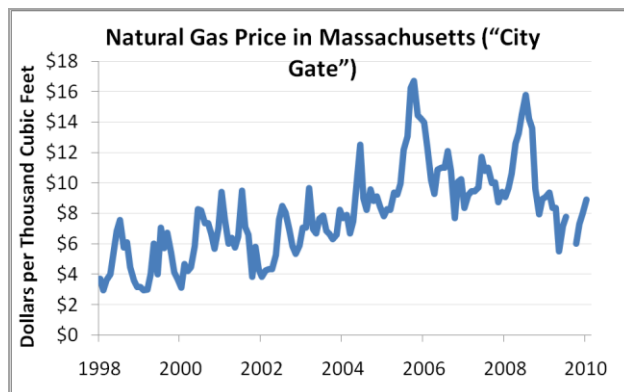


Figure 1. Increase and volatility in natural gas prices (source: DOER)

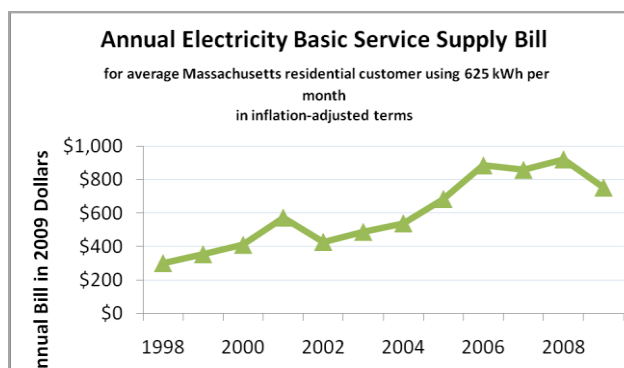


Figure 2. Increase and volatility in electricity prices (source: DOER)

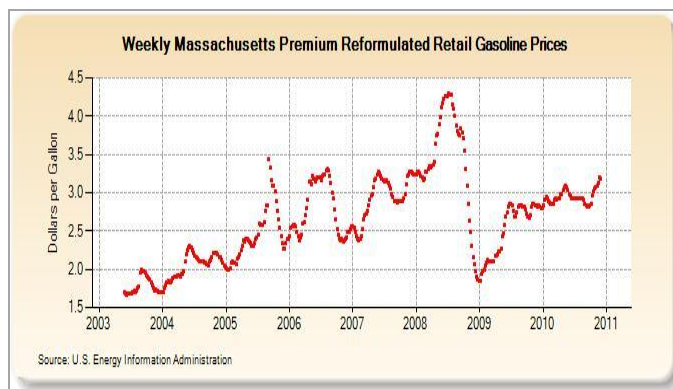


Figure 3. Increase and volatility in gasoline prices (source: U.S. Energy Information Administration (EIA))

As has been experienced numerous times in the past decades, events in other regions and countries drive global energy markets and prices, often to the detriment of Massachusetts consumers and businesses. Between 2005 and 2008, the combination of Hurricane Katrina's impact on refining and pipeline capacity and exploding demand in

China and India for petroleum products resulted in some of the most rapid increases in energy prices that Massachusetts has experienced. Basic service electricity prices quadrupled between 1998 and 2008, before dropping at the onset of the global recession. The price of home heating oil peaked at \$4.71 per gallon in 2008 and regular gasoline topped \$4 a gallon. Over the past decade, price shocks have forced Massachusetts consumers, businesses and governments to struggle with an increasing burden of costs and uncertainty.

Economic Opportunity

Along with the rest of the nation,

Massachusetts is coming out of the

most severe recession in half a century.

Massachusetts has fared better than most other states during this difficult period, but still faces a steep climb to regain the prosperity its citizens expect and deserve.

Routinely recognized as one of the nation's centers of economic innovation,⁶

Jobs in solar manufacturing, installation, and services have nearly tripled in the same period, from 1,200 to 3,000

of state and out of the country in order to fuel its economy. But in the transition to a clean energy economy, Massachusetts has many resources to bring to bear — and

...more than 11,000 people are employed in clean energy at the end of 2010, up 65 percent since 2007.

Massachusetts has many strengths to draw on, but local fossil-based energy sources are not among them. With no oil, coal, or natural gas of its own, Massachusetts has paid dearly for energy, sending precious economic resources out

should be the disproportionate beneficiary as the economy becomes cleaner and greener.

This is, in fact, already happening, as clean energy innovations developed at academic centers such as the Massachusetts Institute of Technology (MIT) and the University of Massachusetts translate into products and companies, and as laws, regulations, and incentive programs developed under Governor Patrick have created or expanded markets in Massachusetts for clean energy products and services. A study earlier this year by Clean Edge, Inc. found that Massachusetts has become the leading state on the East Coast for clean energy innovation, investment, deployment, and jobs.⁷

Massachusetts already has a core of companies and jobs in clean energy, and this industry has been growing even during challenging economic times. According to a Massachusetts Clean Energy Center (MassCEC) survey of 471 local companies, more than 11,000 people are employed in clean energy at the end of 2010, up 65 percent since 2007. Some 3,500 people are employed in manufacturing of energy efficiency products, with growth of 20 percent since 2007, and the fastest growth (67 percent) in energy storage, represented by such companies as A123 Systems, Inc., Beacon Power, and Premium Power.

Jobs in solar manufacturing, installation, and services have nearly tripled in the same period, from 1,200 to 3,000; solar manufacturing jobs alone have jumped from 750 in 2007 to 2,000 in 2010. Despite fierce competition from overseas, Marlborough-based Evergreen Solar, Inc. has more than maintained its commitment to manufacturing jobs in Massachusetts in exchange for state

⁶ 2008 Index of the Massachusetts Innovation Economy, Massachusetts Technology Collaborative/John Adams Innovation Institute.

⁷ *A Future of Innovation and Growth: Advancing Massachusetts' Clean Energy Leadership*, April 2010, Clean Edge, for Massachusetts Clean Energy Center.

support, with a payroll of more than 900 employees at the end of 2010. Meanwhile, 1366 Technologies, a Lexington-based start-up that received a prestigious “transformational energy technologies” grant from the U.S. Department of Energy (DOE), has developed production technology that promises to slash the cost of solar power, and plans to break ground on a Massachusetts manufacturing facility within a year.

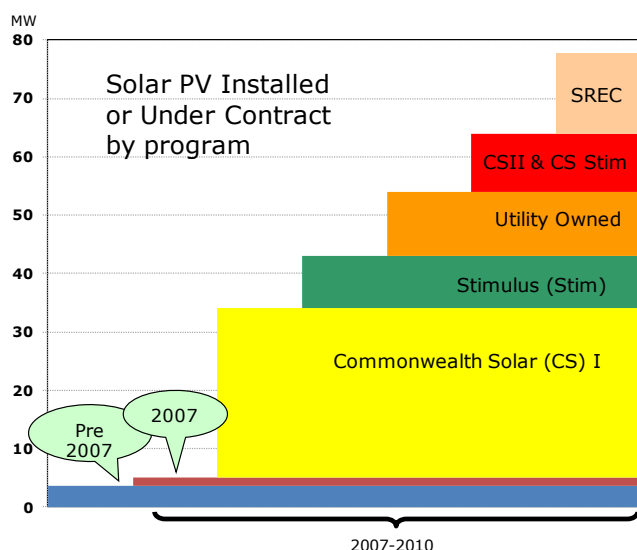


Figure 4. Expansion from 3.5 MW to over 75 MW installed and in the pipeline from 2007 to 2010. (source: DOER)

With nation-leading firms such as Conservation Services Group, Ameresco and Noresco based in Massachusetts, employment in energy efficiency services has nearly doubled, from 1,000 in 2007 to 1,972 in 2010 in just the 69 firms that responded to the MassCEC survey — representing just one fifth of energy efficiency services companies in the state. Anecdotal information indicates similar growth is taking place across the Commonwealth’s energy efficiency sector.

This growth should accelerate in the coming years, thanks in part to state initiatives, including those contained in this report. From 2010 to 2012 the state’s electric and gas utilities will invest close to \$2 billion in

energy efficiency incentives, as a result of the Green Communities Act, producing \$6 billion in savings for consumers — and 4,500 direct jobs. The Advanced Biofuels Task Force estimated that development of non-food-crop-based alternatives to petroleum fuels could yield 2,500 permanent Massachusetts jobs within the industry by the year 2025, with another 3,700 jobs through indirect spending effects.⁸ Massachusetts has the only tax incentive in the nation for cellulosic biofuel — exemption from the state gasoline tax, and nation-leading companies like Qteros, Inc. in partnership with research at UMass, are leading the way to a non-fossil future.

In addition to solar power, which has boomed from 3.5 megawatts (MW) at the start of 2007 to over 75 MW installed or slated for installation at the end of 2010 (see Figure 4), wind power is another local energy resource — and opportunity for economic growth. Governor Patrick has set a goal of 2,000 MW of wind — enough to power 800,000 homes — by 2020 (see Figure 5 on page 5). Much of that will come from offshore wind — the greatest renewable energy resource available to Massachusetts. At 468 MW, Cape Wind will be the first offshore wind project in the United States, and installation — which will be based in a new port facility in New Bedford — will create 600 to 1,000 jobs. Siemens AG, one of the world’s largest manufacturers of wind turbines, has located its U.S. offshore wind headquarters in Boston, because of its contract to supply Cape Wind with 130 turbines, and EEW Group of Germany, a leading maker of foundations for offshore wind, has partnered with Middleboro-based Mass Tank Corp. to supply monopile foundations and other structural components

⁸ “Advanced Biofuels Task Force Report,” Commonwealth of Massachusetts, Spring 2008, page 20.

for Cape Wind at a new manufacturing facility in Massachusetts.

The Wind Technology Testing Center (WTTC), now under construction in Charlestown, will also bolster Massachusetts' emerging role as a center for wind energy advancement and jobs. Backed by a \$25 million grant from the DOE, the WTTC will be the first facility in the United States capable of testing the large-scale (up to 90 meters long) wind turbine blades that represent the next generation of wind energy technology, specifically applicable to offshore installations. The WTTC has already attracted TPI Composites, Inc. a leading manufacturer of turbine blades, to establish an R&D facility in Fall River. Devens-based American Superconductor Corp. is engaged in development of technology for ever-larger wind turbines (a 10 MW turbine is now under development), and Massachusetts-based ePower LLC was acquired by Vestas Technology R&D Americas, Inc., one of the world's largest wind turbine companies, for its direct drive technology. With support from the MassCEC, FloDesign Wind Turbine Corporation — another "transformational energy technology" grant winner — has established a new facility in Waltham, with a promise of creating 150 new jobs as it brings its innovative "shrouded" wind turbine design to market.

In addition to companies that are providing the new technologies of the clean energy future, Massachusetts also has thousands of individuals and small companies who are taking risks and making investments to power their businesses with smaller scale energy installations to provide energy stability, diversification, and in some cases powering back to the grid. In the last four years, these entrepreneurs have invested in small-scale anaerobic digestion, solar thermal, low head hydro and geothermal.

Employment Projections for 2020

Reducing energy use through efficiency and conservation — for both buildings and vehicles — cuts living costs for households and expenses for business, improving prosperity and creating jobs. Efficiency relies more heavily on local labor and companies than do fossil-fuel based industries. Efficiency programs not only create employment directly, but households and companies will spend their energy cost savings at other businesses within the state, creating "indirect" and "induced" jobs and economic growth. Renewable energy facilities tend to be more capital-intensive, but also provide many local jobs in construction.

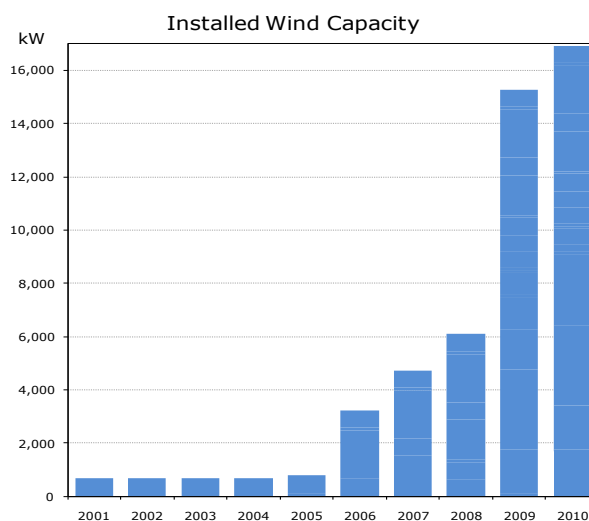


Figure 5. Expansion from about 3MW to over 16 MW installed from 2007 to 2010, with more in the pipeline. (source: DOER)

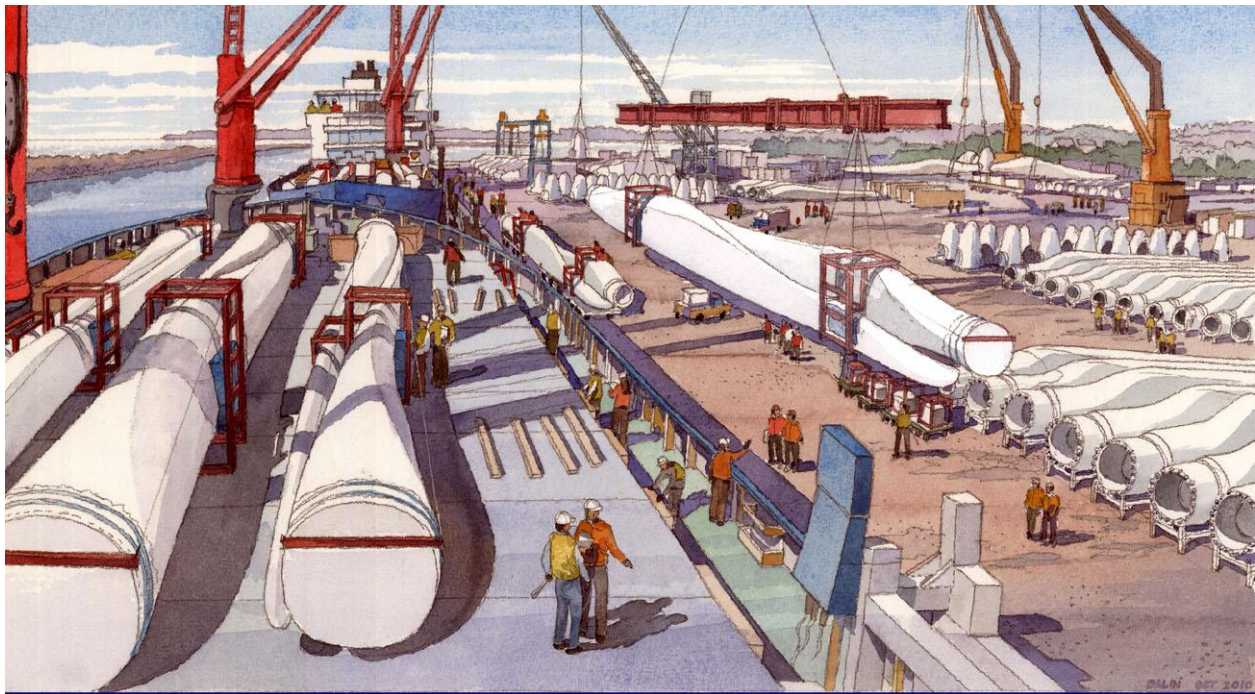
A number of the most important policies in this Plan will cause large reductions in fossil fuel use in buildings, electricity generation, and transportation. These include energy efficiency programs, building codes, requirements for increased renewable electricity generation, federal vehicle efficiency standards, state incentives for purchasing more efficient vehicles, incentives to reduce vehicle miles traveled, and "smart growth" policies. Through both direct and indirect impacts, we estimate that these policies will create 36,000 jobs in

Massachusetts in 2020, including about 13,000 via transportation policies and 23,000 via policies to improve efficiency of energy use in buildings.

The estimate for employment from in-state demand for renewable energy in Massachusetts in 2020 is 6,000 to 12,000 full-time jobs.

The figures for transportation, efficiency and renewables are based on employment needed to cover in-state demand for these clean energy sectors. They do not include the ability of Massachusetts companies to export both services and products to other states and countries in greater amounts than

we import. To the degree that the Commonwealth can continue and expand its leadership in clean energy R&D, manufacturing, and service provision (such as Massachusetts companies that operate energy efficiency programs across the nation), the employment gains could be significantly larger than shown in the table on page 7. However, projecting such changes in industry growth is difficult, and beyond the scope of the modeling conducted for this Plan.



Artist's rendering of proposed New Bedford Marine Commerce Terminal, staging area for offshore wind installation. (Courtesy of MassCEC)

Table 1. Approximate Massachusetts job increases, direct and indirect, in 2020 due to implementation of the <i>Massachusetts Clean Energy and Climate Plan</i>	
Federal and California vehicle efficiency and GHG standards	6,000
Federal emissions and fuel efficiency standards for medium and heavy duty vehicles	1,000
Pay As You Drive auto insurance (PAYD)	3,000
Clean car consumer incentives	2,000
Smart growth policy package	1,000
Subtotal — Transportation	13,000
Electric efficiency programs	10,000
Natural gas, heating oil efficiency programs	9,000
Advanced building energy codes	3,000
Federal appliance & product standards	1,000
Subtotal — Buildings, Efficiency	23,000
Renewables (solar, wind, biomass, biofuels)	6,000 - 12,000 ⁹
Total	42,000 - 48,000
<i>Note: See the methodological appendix for a description of how the employment gains were estimated and for the data sources and studies utilized.</i>	



Retrofitting a house with new windows and energy efficient insulation.
(source: DOER)

⁹ The figure for renewables is given as a range, because most of the value-added for renewables is in manufacturing, and the degree to which renewable components will be manufactured in the Commonwealth is fluid at this time, as is the degree to which the state's 2020 renewable energy requirements will be met from in-state sources.

Transportation and buildings efficiency policies that reduce consumption of fossil fuels aid employment not only in Massachusetts, but in other states and nationally. One study, conducted at the UMass Amherst, estimated that \$100 billion of national spending directed toward the green economy would create approximately 2 million jobs through both direct and indirect effects, compared to only 540,000 jobs if the same amount of money continued to be spent on oil, natural gas, and electricity. The differences are due to how much of the spending stays within the U.S. economy and to how much pays for labor expenses versus capital costs.¹⁰

Another recent study, “Green Jobs/Green Homes New York,” estimated the economic impacts of conducting energy efficiency retrofits of one million housing units over the course of five years. It found that the program would cut home energy consumption by 30 percent to 40 percent, save New York households \$1 billion annually in energy bills, and create about 120,000 “job years” (one year’s worth of employment, reflecting that many of these would be temporary construction jobs). Half of these jobs would be direct results of the retrofit activity and half would come from the re-spending of increased incomes throughout the New York economy.¹¹

In short, the private sector has already grasped the potential huge revenue growth by capitalizing on the Commonwealth’s emerging clean energy policies and

programs. The Bay State has a long and impressive entrepreneurial history, and it is that spirit — fueled by the intellect and innovation of world-class academic centers such as Harvard, MIT, and UMass, and catalyzed by the state’s nation-leading clean energy policies — that will continue to propel the Commonwealth forward.

Climate Change

The international consensus on climate released in 2007 by the Intergovernmental Panel on Climate Change (IPCC) found that the “warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level.”¹² There is broad agreement and high confidence that the documented increase in GHG concentrations is changing the earth’s climate — not only raising average global temperatures but altering regional and local climatic and weather patterns. Observed effects of climate change include: increased atmospheric and ocean temperatures, heat waves, increased evaporation and changes in precipitation patterns, and a greater intensity of storms, floods, and droughts. Thermal expansion of a warmer ocean and the melting of glaciers are contributing to a rise in sea level. These trends are expected to continue for a minimum of several decades even if GHG emissions are reduced.

Global atmospheric concentrations of carbon dioxide (CO₂), methane, and nitrous oxide have increased markedly as a result of human activities since 1750 and now far exceed pre-industrial values (see Figure 6 on page 9).

The global increases in CO₂ concentration are primarily due to increased fossil fuel use and

¹⁰ “Green Recovery: A Program to Create Good Jobs and Start Building a Low-Carbon Economy,” Robert Pollin et al, Political Economy Research Institute and Center for American Progress, Sept. 2008, page 10.

¹¹ “Green Jobs/Green Homes New York: Expanding home energy efficiency and creating good jobs in a clean energy economy,” Center for Working Families, Green Jobs New York and Center for American Progress, May 2009, page 5.

¹² Fourth Assessment Report, Intergovernmental Panel on Climate Change, (IPCC, 2007.)

land use change, while increases in methane and nitrous oxide are primarily due to agriculture. Carbon dioxide is the most important anthropogenic (human induced) GHG. Globally, CO₂ concentrations have reached 385 parts per million (ppm) — about 105 ppm greater than during pre-industrial times. The increasing atmospheric CO₂ and other heat trapping greenhouse gases are causing an increase in the earth's air temperatures. Eleven of the 12 warmest years on record have occurred in the period between 1995 and 2006.¹³ A recent study by the National Oceanic and Atmospheric Administration (NOAA) indicated that the summer of 2010 tied with 1998 as the warmest global temperature on record.

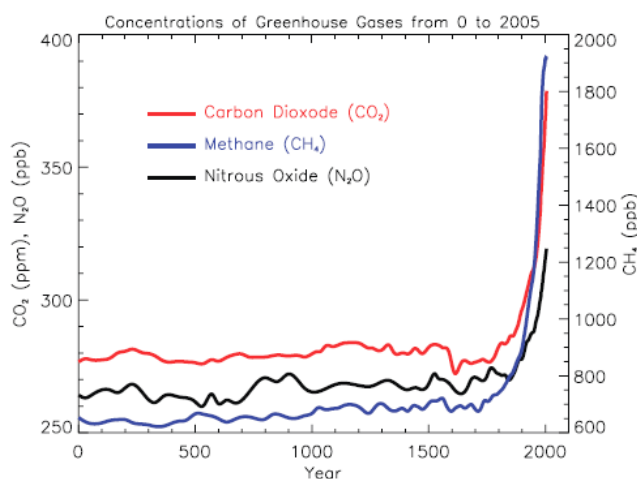


Figure 6. Increasing concentrations of atmospheric GHGs: carbon dioxide; methane and nitrous oxide. (source: IPCC)

For the period between January and September in 2010, the global combined land and ocean surface temperature was

0.65°C (1.17°F) above the 20th century average of 14.1°C (57.5°F).¹⁴

In order to understand the potential impacts of climate change in Massachusetts, EEA undertook a year-long study driven by the Climate Adaptation Advisory Committee, a body created by the GWSA to advise the Secretary on adaptation strategies.¹⁵ The Adaptation Advisory Committee found that Massachusetts' climate is already changing and will continue to change over the course of this century. Under the IPCC's high emissions scenario, by the end of the century Massachusetts is set to experience a 3° to 5°C (5° to 10°F) increase in average ambient temperature¹⁶; summer temperatures would feel like the current summer climate of the Carolinas. Days with temperatures greater than 32°C (90°F) are predicted to increase from the five to 20 days a year that Massachusetts presently experiences to between 30 and 60 days each year (IPCC, 2007). Sea surface temperatures are predicted to increase by 4°C (8°F) (IPCC, 2007); precipitation is expected to increase in winter months by 12 percent to 30 percent, but will fall mostly in the form of rain⁵; and the number of snow days is predicted to decrease from five each month to one to three each month. Finally, while no single event can be entirely attributed to global warming, a warming climate is increasing the likelihood of more extreme weather. The Northeast has recently experienced major storms, with notable

¹³ Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change [Solomon, S., D. Qin, M. Manning, Z. Chen, M. Marquis, K.B. Averyt, M. Tignor, and H.L. Miller (eds.)], IPCC (Intergovernmental Panel on Climate Change), 2007. Cambridge University Press, Cambridge, UK, and New York, 996 pp.

¹⁴ State of the Climate Global Analysis. National Oceanic and Atmospheric Administration, September 2010. www.ncdc.noaa.gov/sotc/?report=global

¹⁵ Massachusetts Climate Change Adaptation Report, forthcoming.

¹⁶ *Past and Future Changes in Climate and Hydrological Indicators in the U.S. Northeast*, K. Hayhoe et al., 2006, *Climate Dynamics* 28:381-407, DOI 10.1007. www.northeastclimateimpacts.org/pdf/tech/hayhoe_et_al_climate_dynamics_2006.pdf

rainfall and flooding events occurring in May 2006, April 2007, and March 2010.

Massachusetts is vulnerable to severe impacts from climate change. Impacts to natural resources include:

Coastal

- Substantial increases in the extent and frequency of coastal flooding and increased risk of severe storm-related damage.
- Permanent inundation of low-lying coastal areas and increased shoreline erosion and wetland loss due to projected sea-level rise and increased wave action.

Rivers and wetlands

- Alteration of stream flow timing and volumes due to precipitation changes, punctuated by increased winter flooding events and longer low-flow periods.
- Degraded water quality and quantity, habitat loss, and increased sedimentation and pollution of waterways due to precipitation changes, higher temperatures, and more frequent droughts.
- Changes in temperature will lead to shifts in wetlands species and types and/or composition, changes to wetland soils that could result in increased erosion, decreased species diversity, and reduced groundwater recharge capabilities.

Forests

- Certain species may succumb to climate stress, increased competition, and other pressures, resulting in trickle-down impacts to dependent bird and animal species, increasing vulnerability to invasives and pests.
- A shift northward of suitable habitat by 350 to 500 miles is expected for most of the Northeast region's tree species.

Climate change will also impact a number of business sectors in Massachusetts that

depend on overall ecosystem health, including fisheries, agriculture, and recreation. These impacts include:

Fisheries

- As ocean temperatures continue to rise, the range of suitable habitat in the Northeast for many commercially important fish and shellfish species, such as cod and lobster, is projected to shift northward. Certain fisheries will decline in productivity, impacting the economic viability of fishing-related industries.
- Temperature, precipitation, nutrient, and salinity changes will result in a loss of habitat for marine species, altering the location or productivity of commercial and recreational fishing.

Agriculture

- Changes to growing seasons, frequency and duration of droughts, increased frequency of extreme precipitation events, and heat stress will make some areas unsuitable for growing popular varieties of produce (e.g., apples, cranberries), depress milk production from dairy cows, and increase irrigation needs to maintain viable crop production.
- A longer growing season may allow farmers to experiment with new crops, but many traditional farm operations in the region will become unsustainable without adaptation strategies that could be costly, impacting already narrow profit margins.

Recreation

- Global warming is projected to profoundly affect winter recreation and tourism in the Northeast as winter temperatures continue to rise and snow cover declines.
- With warmer winters, the average ski and snowboard season will decrease and operation costs will increase with greater requirements for artificial snow making.

Infrastructure/developed land

Climate change will also profoundly impact the built environment such as energy infrastructure, transportation, water supply, wastewater and stormwater, dam safety and flood control, solid and hazardous waste, and telecommunications.

- Key infrastructure and development that is located along the coast will particularly be affected by storm surges, sea level rise, and salt water intrusion. The 100-year coastal storm floodplain can get shifted further inland.
- Inland, the predicted changes in precipitation patterns and more frequent and intensive precipitation events will inundate development that is located in the floodplains.
- Increased temperature can affect the structural integrity of many elements of the built environment.

Human Health

Higher temperatures and intensive and increased precipitation events impact human health (especially the most vulnerable populations) both directly and indirectly.

- Higher temperatures including extreme heat days will increase heat stress, impact those with respiratory and cardiovascular conditions, increase ozone and particulate matter production resulting in poor air quality, and increase pollen production.
- Increased runoff from precipitation events can degrade surface water quality, increase outbreaks of water-borne diseases, and result in more algal blooms.

There is compelling evidence that the Northeast's climate has already begun to change, with additional changes predicted to unfold over the next century. All of these will require the implementation of adaptation

measures to help decrease the state's vulnerability and increase resilience.

Impacts of Local and Regional Air Pollution

In addition to causing climate change, emissions from the combustion of fossil fuels result in a range of negative human health and ecosystem impacts.

The U.S. Environmental Protection Agency (EPA) has established health-based National Ambient Air Quality Standards (NAAQS) for six pervasive pollutants that have well-documented health and environmental impacts: ozone (O₃), nitrogen dioxide (NO₂), sulfur dioxide (SO₂), particulate matter (PM), lead, and carbon monoxide (CO). The federally regulated pollutant of greatest concern in Massachusetts is ozone.

Ozone concentrations in Massachusetts exceed the health-based NAAQS due to a combination of locally generated emissions (particularly from vehicles), and the transport of pollutants from states to the south and west of Massachusetts. Massachusetts' overall air quality has improved significantly over the last 25 years. Nonetheless, ozone concentrations in the Commonwealth regularly exceed the national standards, despite the adoption of a wide range of control programs that have reduced emissions of the pollutants that contribute to ozone.

Exposures to each of the criteria pollutants have been linked to adverse health effects. For example, ozone can irritate the respiratory system, causing coughing, throat irritation, chest pain and reduced lung function. Ozone also can aggravate asthma, leading to more asthma attacks and increased hospital admissions and emergency room visits for respiratory problems. Fine PM is associated with a number of serious health effects including aggravation of respiratory and cardiovascular disease reflected in increased hospital

admissions, emergency room visits and premature mortality.

In its 2010 proposed Transport Rule,¹⁷ EPA proposes to reduce emissions from power plants in 32 eastern states. In the proposal, EPA concludes that reducing the emissions from power plants that contribute to ozone and fine PM pollution will lead to significant health benefits. EPA estimates that the national benefits, which include the value of avoiding approximately 14,000 to 36,000 premature deaths, 22,000 nonfatal heart attacks, 11,000 hospitalizations for respiratory and cardiovascular diseases, 1.8 million lost work days, 100,000 school absences, and 10 million days when adults restrict normal activities because of respiratory symptoms exacerbated by fine PM and ozone pollution, significantly outweigh the costs of the emission reductions.¹⁸

Since air pollution levels are highly sensitive to weather, climate change may significantly affect our overall air quality. For example, ozone is formed in warm weather, so higher summer temperatures may result in increased ozone concentrations in Massachusetts. Climate-driven increases in global and regional wild fires and dust-storms and changes in precipitation may impact PM concentrations in Massachusetts.

Criteria pollutants also damage ecosystems. Acid rain is created when SO₂ and NO_x emissions mix with water in the atmosphere. Acid rain lowers the pH levels of lakes, rivers, and soils, harming fish and invertebrates. It damages forest ecosystem health by making plant roots more likely to

dry out and by washing away calcium and other minerals essential for plant growth. Exposure to ozone is associated with a range of adverse impacts to vegetation, including impairment of tree growth and loss of agricultural crop yield. Ozone can increase the rate of water loss by trees causing forests to drain streams and soils of water, thus stressing natural ecosystems beyond the trees themselves. Ozone interferes with photosynthesis, thus reducing carbon capture by trees, affecting the efficiency of large forested areas to act as carbon sinks.

Meeting Challenges, Seizing Opportunities

At roughly 2 percent of the U.S. economy and 1.3 percent of the nation's GHG emissions, Massachusetts could not, on its own, stop global climate change even if it reduced statewide emissions to zero instantly. But the severity of the climate change challenge requires leadership at every level, and Massachusetts is in a position to show the way toward a clean energy economy through the development of smart, targeted policies that reduce emissions by promoting greater energy efficiency, developing renewable energy, and encouraging other alternatives to the combustion of fossil fuels. There are opportunities to reduce emissions this way across the economy, and Massachusetts should continue to be a leader in identifying and capitalizing on those opportunities.

But, more importantly, Massachusetts can make use of the climate change imperative to get off the fossil fuel rollercoaster, become more energy independent, and jump start its economy with new technologies, new companies, and new jobs. The *Massachusetts Clean Energy and Climate Plan for 2020* will put Massachusetts on a path to meeting its statutory obligation to reduce GHG emissions, and on the road to a vibrant clean energy economy.

¹⁷ Federal Implementation Plans to Reduce Interstate Transport of Fine Particulate Matter and Ozone. (August 2, 2010, 75 FR 45210-45465).

¹⁸ EPA estimates that the benefits from the reductions outweigh the costs by 60 to 145 to one or 55 to 130 to one depending on the discount rate used in the economic analysis. *Regulatory Impact Analysis for the Proposed Federal Transport Rule*, EPA, June 2010, page 1.
http://www.epa.gov/ttn/ecas/regdata/RIAs/proposaltrria_final.pdf

II. An Integrated Portfolio of Policies

The GWSA gives broad authority to the state to choose policy tools — from targeted technology-specific policies to economy-wide market-based policies — to advance a clean energy economy while reducing GHG emissions. Since the passage of the Act in 2008, the interagency technical team, the Climate Protection and Green Economy Advisory Committee, and an outside group of consulting experts in energy, transportation, buildings, and industrial emissions have analyzed a wide range of policies and explored other states' and other countries' efforts to make concrete steps toward a clean energy economy. Public comments collected during hearings held through the summer of 2010 focused on policy choices, design and outcomes.

In weighing the different paths forward, it became clear that an integrated portfolio approach plays best to Massachusetts' strengths and, taken as a whole, has the greatest likelihood of reaching the goals of addressing energy costs, energy security and independence, and reducing GHG emissions in the absence of broad federal action on climate and clean energy. In the last four years Massachusetts has demonstrated the effectiveness of a portfolio approach: a combination of legislation, executive actions and private sector entrepreneurship has aligned incentives and created opportunities for clean energy growth and GHG reductions. Successful energy efficiency programs, solar incentives, building codes, transportation planning, ocean planning and green jobs training are tailored to the Massachusetts economic and workforce landscape. The portfolio that the state has built in the last four years is greater than the sum of its parts, working synergistically to launch the Commonwealth on a path to GHG reductions of 18 percent below 1990 levels by 2020.

The directive from the EEA Secretary was to build on this portfolio — expand existing

programs where practical and develop new complementary policies that could accelerate clean energy growth and lower GHG emissions. Each of the policies presented in this section underwent rigorous analysis that focused on criteria established by the Act and input from the public hearings and Advisory Committee: GHG reductions, cost-effectiveness, energy cost mitigation, job growth, equity, implementability, and co-benefits.

The portfolio of policies that follow are those deemed most likely to reach our clean energy and climate goals. Some can be put in place immediately; others will be tested through pilot programs, with those that show the best results ultimately implemented statewide through regulation or legislation, as needed. Depending on actual (as opposed to projected) results, not every one of these policies must be implemented to its fullest extent in order to achieve the 2020 mandate. But these represent the suite of policies that the Patrick-Murray Administration is committed to pursuing over the next four years as we build on the foundation created in the past four years and work toward the 2020 emissions limit set by the Secretary.

This portfolio is divided into five categories: buildings, energy supply, transportation, non-energy emissions, and cross-cutting policies. Each policy is labeled as either "Existing", "Expanded" or "New". Existing policies are those that were put in place prior to our Draft Implementation Plan in June of 2010. An example is the energy efficiency programs that started with the passage of the Green Communities Act of 2008. Expanded policies are those that build on already existing policies and expand their scope. An example is Smart Growth policies. New policies are those that have not yet been initiated or were begun since June of 2010. The GreenDot policy is an example of a new policy.



Buildings

Buildings consume more than 50 percent of the energy used in Massachusetts and are therefore responsible for the greatest GHG emissions of any sector; 49 percent of GHGs, including over 21 percent from direct fuel use excluding electricity. Energy use in buildings comes from these two primary areas: 1) fuels for heating, primarily natural gas and heating oil, and 2) electricity for air conditioning, lighting, ventilation, appliances and equipment. The character of energy use in the buildings sector overall is determined by three factors: the amount and location of existing and new building space in use, the energy performance of these buildings, and the choice of energy sources. There are several effective approaches for enabling changes, primarily related to the latter two factors.¹⁹ The issue of location is covered in the transportation chapter.

Global, national and regional studies have consistently pointed to energy efficiency and improved energy performance of residential and commercial buildings as the largest and most cost-effective clean energy opportunities. This is particularly true in the Northeast, where the combination of a cold climate and heavy reliance on heating oil

¹⁹ In general, the amount of building space is driven by broader trends such as economic growth, Federal policy relating to real estate and capital markets, and personal preferences. Innovations such as e-commerce, virtualization, and telepresence (telecommuting and teleconferencing) could one day substantially change the amount of building space in use.

results in both high heating energy use²⁰ and high average fuel costs. For existing buildings, energy improvements can be encouraged through financial incentives, access to financing, and rating of building energy performance. For new buildings, energy performance can be moved to higher standards through advanced building energy codes.

In addition to eliminating energy waste in buildings, there is a significant opportunity to transition to cleaner energy sources. For example, oil heating can be replaced by solar thermal, sustainable biomass/biofuels, or heat pumps, while electricity supply can be shifted from fossil fuels such as coal and oil to wind and hydro.²¹

Massachusetts began to address many of these opportunities through the Zero Net Energy Buildings Task Force, created by Governor Deval Patrick in 2008. This stakeholder group, made up of energy and building industry professionals working with the DOER, released a roadmap for the state called *Getting to Zero*²² in March 2009.

The *Clean Energy and Climate Plan for 2020* takes into account Massachusetts' nation-leading energy efficiency efforts mandated by the Green Communities Act of 2008, which will produce substantial GHG reductions for 2020, and proposes additional measures that will contribute toward meeting the 2020 limit set as part of implementation of the GWSA.

²⁰ The Northeast census region uses 16% more energy per capita than the U.S. average, due largely to having 46% more heating degree days than the U.S. average. EIA Annual Energy Review 2009.

²¹ Electricity supply is discussed further in a separate chapter.

²² The "Getting to Zero" report can be downloaded at: http://www.mass.gov/Eoeea/docs/eea/press/publications/zneb_taskforce_report.pdf

All Cost-Effective Energy Efficiency

With the Governor's signing of the Green Communities Act (GCA) of 2008, Massachusetts embarked on a path to greatly increase investments in — and return on investments from — building energy improvements. From 2010 to 2012 — the first three year plan approved by the Department of Public Utilities (DPU) under the GCA mandate to capture all cost-effective energy efficiency opportunities — the state will invest more than \$2 billion, with an anticipated return of over \$6 billion in savings for customers.

Under the *Massachusetts Clean Energy and Climate Plan for 2020*, additional changes need to be implemented to maximize emissions reductions through energy efficiency. For example, deep energy improvements, which substantially improve building energy performance, should be encouraged in a way they are not in the existing program structure. Commercial and industrial buildings heated with fuel oil should have access to energy efficiency programs in the same way that residential buildings do. Finally, new measures, such as tree planting and retention that can reduce heating and cooling loads over the long-term, even if not so much for 2020, should be supported.

Performance-based Energy Codes

In addition to achieving energy efficiency upgrades in existing structures, the Commonwealth needs to set standards for construction and rehabilitation that ensure higher energy performance. New construction in Massachusetts accounts for additions and turnover of around 0.75 percent a year in the total building stock for residential units and 1 percent for commercial space. That translates into turnover of 7 percent to 10 percent of the building stock through 2020, and 30 percent-40 percent by 2050. These buildings have an

expected lifetime ranging from 30 to more than 300 years. The design of buildings newly built today and in coming years will have a large and lasting impact on fossil fuel use and corresponding GHG and local air pollution emissions.

Massachusetts has already adopted a pathway to greater energy efficiency in building codes through a commitment in the Green Communities Act of 2008 to adopt the latest International Energy Conservation Code (IECC) from the International Code Council (ICC), the body that develops and maintains model building codes for the United States. In addition to this energy code baseline, which updates every three years, the Massachusetts Board of Building Regulations and Standards (BBRS) adopted a local-option "stretch" energy code for municipalities in 2009. Over 60 municipalities in Massachusetts have already adopted this higher-efficiency code. More significantly, "stretch" is now approaching the norm: The 2009 stretch code for commercial buildings recently became the basis for the 2012 IECC code for commercial buildings, the largest improvement in the energy efficiency of the national model code in its 35 year history.

The *Massachusetts Clean Energy and Climate Plan for 2020* proposes to move away from the traditional approach of "prescriptive" codes, which set minimum standards for each building component or system, and toward "performance" or "outcome-based" codes, which set a maximum energy usage criterion for buildings but allow flexibility to meet that criterion in any number of ways. The Massachusetts stretch code has spearheaded "performance-based" energy codes, through performance targets and testing requirements for new homes and through energy modeling requirements for large commercial buildings.

By shifting to performance-driven energy codes that get progressively more effective in reducing energy needs, new construction in 2020 will use half the energy of the same buildings under a business-as-usual scenario. This results in a total savings over the coming decade of 30 percent to 40 percent of the expected energy use from new construction in residential and commercial sectors, with similar reductions in their total GHG emissions by 2020. Each year this number compounds, making it a critical component of any 2050 plan.

Energy Rating and Labeling of Buildings

In addition, this Plan proposes to use energy rating and labeling of buildings to create greater markets for energy-saving investments in existing structures. Currently, there is little data available on the energy use of existing buildings, which prevents buyers and renters — and their lenders — from placing a value on the energy performance of spaces. Under this Plan, Massachusetts proposes to pilot and then broadly deploy residential building energy labeling that allows apples-to-apples comparisons of home energy performance in much the same way that miles per gallon (MPG) ratings allow fuel efficiency comparisons of cars and light trucks. A pilot program in western Massachusetts beginning in 2011 will seek to integrate this new information on energy use into the real estate marketplace through Multiple Listing Service listings and trainings for contractors, realtors and home appraisers. In addition, Massachusetts will develop a commercial building rating pilot that would deploy both operational energy ratings (based on utility energy bills and the EPA Energy Star Portfolio Manager program) and asset ratings (similar to home energy ratings or vehicle miles-per-gallon) ratings. These two forms of ratings reveal to prospective tenants what impact on energy use previous tenants have had, as well as the inherent energy

performance of the building under average tenant use. The DOER has been working with a team from both the public and private sectors to design a commercial building energy rating program, with plans to launch a pilot in eastern Massachusetts in 2011.

Solar Thermal Water and Space Heating

While water and space heating together account for around half of total building energy use and carbon emissions in Massachusetts, it does not require very high-grade fuels (unlike powering aircraft and motor vehicles for example). These large but low intensity heating needs make them excellent candidates for active solar heating which has no fuel expense, and can provide significant heating from a small roof, wall or ground-mounted system. Unlike in the 1970's, the technology for active solar thermal heating is now mature and comes with decade-long warranties to protect the up-front investment in a solar thermal system. This technology has been broadly adopted and even required in new construction in places as varied as Hawaii, Cyprus, Israel, and Austria (where there is less solar radiation available per square foot than in Massachusetts). However, the market for solar thermal in New England is currently small, and needs support to reach maturity and become a broadly viable option for new and existing construction alike. Solar thermal is only one of several renewable thermal technologies that over time can replace a growing portion of our heating needs that are currently met with fossil fuels.

Buildings as Elements of Livable Communities

While improving the design and efficiency of buildings is the focus of this chapter, we cannot lose sight of the importance of location. When considering energy and GHG gas footprints of homes and businesses, siting is also a critical consideration. The chapter on transportation covers in more

depth the importance of liveable and walkable communities and the necessity of “smart growth” policies as we continue to build infrastructure in our growing economy. Consideration of these factors builds

community cohesion and improves both our long-term quality of life and our economic competitiveness.



Heat leakage as shown by infrared camera, identifying where insulation and air sealing are needed. (source: DOER)

Existing Policy

ALL COST-EFFECTIVE ENERGY EFFICIENCY

Policy summary: With the Governor’s signing of the Green Communities Act of 2008, Massachusetts embarked on a path toward significant energy improvements in homes and commercial buildings. The Act required that the electric and gas utilities pursue all cost-effective energy efficiency, *i.e.* eliminating energy waste whenever it is cheaper to do so than buying additional supply. From 2010 to 2012 — the duration of the first three year plan — the state will invest more than \$2 billion, with an anticipated return of over \$6 billion for participants. The program is administered by the investor-owned utilities in the state and the Cape Light Compact, together known as Program Administrators (PAs). The PAs work under the guidance of the Energy Efficiency Advisory Council (EEAC), which represents a broad range of stakeholders.

Economy-wide GHG reductions in 2020	6.7 million metric tons; 7.1% ²³
Gigawatt (GWh) electricity savings in 2020	9,500 ²⁴
Million BTU (MMBTU) natural gas savings in 2020	36 million
Million BTU (MMBTU) heating oil savings in 2020	7.7 million
Cumulative net benefits 2010-2020 (discounted)	\$17.5 billion ²⁵
Jobs gained in 2020 (direct and indirect)	19,600 ²⁶

Clean energy economy impacts: From 2010 to 2020, the program will induce investments of \$10.2 billion in buildings, creating approximately 19,600 jobs in 2020. In addition, the program will generate \$17.5 billion in net benefits, largely in avoided future costs of energy and avoided energy system expansion. These savings will largely enter the local economy rather than flowing out of state and out of the country, while reducing living costs for residents and operating costs for businesses.

Rationale: A substantial amount of energy efficiency is cheaper than energy supplies now provided by coal, oil, natural gas, and nuclear power. However, due to various market barriers, investments in energy efficiency fall short of optimal, either for an individual organization or for

²³ 6.7 million tons is based on expansion of the efficiency programs since 2008, due to the Green Communities Act. The program savings from levels of efficiency spending prior to 2008 are excluded, since the emissions trend in the Business as Usual (BAU) projection is estimated to include them.

²⁴ Energy savings in 2020 are based on the full value of efficiency programs, including the spending levels that existed prior to 2008, in order to be consistent with DOER required reporting to the Department of Public Utilities (this differs from the calculation of GHG savings, as discussed in prior footnote).

²⁵ \$13.7 billion electric, \$3.4 billion natural gas, and \$0.5 billion fuel oil, all discounted to 2010 at a 2.5 percent real discount rate. Includes savings from 2010 to 2020 from the full value of efficiency programs, to be consistent with DOER required reporting to the DPU. DPU order 08-50-A directs programs to use a discount rate pegged to the 10-year Treasury note over the previous year. Rather than vary the rate year by year, 2.5 percent was used as a reasonable approximation of the real Treasury rate historically.

²⁶ Approximately 10,300 jobs from electric efficiency, 7,000 from gas efficiency, and 2,300 from heating oil efficiency. More than two-thirds of the employment gains are “indirect” and “induced” — due to lower energy bills causing greater respending of household and business incomes within the Massachusetts economy, and to purchases by efficiency-related companies from other businesses in the state.

the state as a whole. The PAs, as a primary point of contact with customers on energy, are well-suited to incentivize customers to undertake building energy improvements. Participation in energy efficiency could be increased greatly.

Policy design and issues: The PAs, with guidance from the EEAC and DOER, attempt to reduce consumption of electricity, natural gas, and heating oil by conducting energy assessments on buildings, and providing financial incentives for customers to implement a variety of efficiency measures, such as installing higher-efficiency lighting, HVAC systems and appliances; adding insulation to attics, walls, and basements; and reducing air leakage from buildings. Both technical and financial assistance are provided to developers of new buildings, such as the Energy Star Homes program and customized project support for commercial buildings.

There are a variety of market barriers that make achievement of all cost-effective efficiency a challenge. One of these is customers' lack of up-front capital to pay for efficiency investments, and the PAs are currently addressing this through providing subsidized financing, targeted to different types of customers. Another is the "split incentive" problem for rental space, when a tenant is paying the utility bills but only the owner has the ability to invest in efficiency measures. Efforts are also being made to address this issue.

GHG impact: The programs will reduce emissions by 6.7 million tons in 2020.

Other benefits: By reducing fossil fuel combustion, the program will help reduce criteria pollutants and other hazardous air pollutants, providing public health and environmental benefits.

Cost: From 2010 to 2020, the electricity, natural gas, and oil efficiency programs will generate \$27.7 billion of energy savings, at a cost of \$10.2 billion, yielding \$17.5 billion in net benefits for the state, largely in avoided future costs of energy and energy system expansion.

Experience in other states: Many states have energy efficiency programs operated by utilities within a similar framework. Massachusetts' program is one of the most well established in the nation, and its 2010-12 plan represents the largest per capita investment in energy efficiency in the country.

Uncertainty: It remains uncertain how much energy efficiency there is to be captured and what program elements will capture it.

Expanded Policy

ADVANCED BUILDING ENERGY CODES

Policy summary: Massachusetts recently adopted a requirement that building energy codes meet or exceed the latest International Energy Conservation Code (IECC) and stay current with its three-year update cycle. In addition, the Commonwealth developed one of the first “stretch” energy codes, which moves away from the traditional code approach that prescribes specific energy measures that must be installed (levels of insulation, methods for air sealing, etc.), toward a “performance” oriented code that mandates a percentage reduction in total building energy use, while allowing developers to make their own design choices on how to achieve that reduction. This policy would complete the transition to performance-based codes by 2020 that go beyond the IECC codes in terms of efficiency while reducing their complexity.

Economy-wide GHG reductions by 2020	1.5 million metric tons; 1.6%
Energy saved by 2020, million BTU (MMBTU)	28 million
Net cumulative benefit 2011 to 2020 discounted (from new residential construction only ²⁷)	\$1.3 billion
Jobs created in 2020 (direct and indirect)	3,000 jobs

Clean energy economy impacts: Building construction is one of the largest economic sectors in the U.S. and is a major employer of skilled labor, with excellent potential for clean energy job growth. Between now and 2020 new construction is estimated to account for 7 percent to 10 percent of the total building stock. In addition, major renovations of existing buildings trigger code compliance requirements, and this will affect a significant percentage of buildings. The avoided fuel and electric costs due to enhanced codes will cut the long-term operational costs of this real estate and increase its durability. In addition, these projects will require more energy and design expertise, generating clean energy jobs in these sectors. In taking a leadership position on energy efficient design and construction Massachusetts-based firms are also likely to become national leaders in green design and to grow demand for their services in the increasingly global building design and engineering sector.

Rationale: Massachusetts has recently moved to the forefront of a national shift toward greater energy efficiency in building codes. This growing attention is due to the underlying economics, emphasized in analyses such as the McKinsey climate studies which point to modernized energy codes as one of the most cost-effective climate mitigation strategies.²⁸ Further, given the long lifespan of the building stock, decisions made today determine energy demands of the buildings sector for the rest of the century and beyond.

Massachusetts has the opportunity to build on its recent leadership in energy codes by developing a clear roadmap for both residential and commercial code reform over the next decade. Clear and bold action can ensure that we put ourselves on a path to zero-net energy buildings, and provide

²⁷ Cost data is not broadly available for either new commercial buildings or the residential and commercial renovation and retrofit market.

²⁸ The November 2007 McKinsey report: “Reducing U.S. greenhouse gas emissions: How much at what cost?” lists “improving energy efficiency in buildings and appliances” at number 1 in its 5 clusters of GHG abatement potential in the U.S. by 2030. <http://www.mckinsey.com/client-service/sustainability/costcurves.asp>

improved competitiveness for our nation-leading design, construction and developer communities.

The shift from prescriptive codes that try indirectly to reduce energy waste, to performance-based codes that directly measure and reduce energy waste, is one of the clearest ways to improve energy codes. Historically it was not possible to meaningfully measure or model the energy use of residential or commercial buildings, but the advance of diagnostic tools such as duct-testing equipment, blower doors, and infra-red cameras have revolutionized that process for residential buildings. In larger commercial building spaces, the sophistication of energy models has grown rapidly.

Design issues: Building energy codes are relatively complex, particularly for commercial buildings, and there are numerous stakeholders across the design and construction supply chain to factor into the rate of improvement that is possible. The early “windfall” gains come from redirecting the emphasis of the energy code to more directly drive improvements in energy performance. Once these gains have been achieved the rate of progress will depend somewhat on design innovation and the appropriate application of new technologies that respond to marketplace demands. The dominant commercial building types are also the ones with the most turnover in real estate markets: office, retail and lab space and multi-family rental housing. The Commonwealth is looking to pilot programs in these sectors first, and to initially focus code improvement efforts there.

On the residential side the pathway to zero-net energy homes has already been paved by several industry-leading builders, who build and sell net-zero homes at both market and affordable housing prices. However, the broader market transition will take time, a focused set of building codes, and a supporting framework of training, outreach and technical assistance. More than a third of new residential construction in Massachusetts voluntarily adopted the Home Energy Rating System (HERS) index in 2009, and this has been complemented by more than 60 communities opting into the “stretch” energy code. A steady ratcheting down of the maximum allowed HERS index for new construction allows home builders and their subcontractors the time to re-train and modernize their design practices to meet performance targets without major shocks to the price of construction.

GHG impact: Estimated at 1.6 percent of statewide GHG emissions in 2020, based on an average reduction of over 50 percent in the energy use of new code-built buildings in 2020 versus 2008, and improved levels of energy code compliance.

Other benefits: A stronger emphasis on energy use requires earlier attention to building design and performance considerations than is currently practiced. This generally is the most cost-effective time to find cost savings, and results in the use of more skilled labor early in a project, while reducing energy and material costs later during construction and occupancy. Further, more energy efficient buildings can better manage air quality and moisture in a building through controlled ventilation. Energy modeling forces consideration of benefits such as daylighting that improve health, productivity and quality of life for building occupants. Added thermal insulation both reduces drafts and improves sound insulation, and mechanical ventilation reduces dust and mold build-up in homes.

Costs: On average, up-front design and construction costs are likely to increase marginally. To date, cost estimates have been in the 1 percent to 3 percent range for both residential and commercial buildings that achieve a 20 percent to 30 percent improvement over the base code. In

return for this upfront investment the developer is able to more clearly differentiate new construction as higher-performance than the stock of existing buildings, and the final owner/operator of the building receives significant energy cost savings.

Equity issues: Inability to afford heating fuel is widespread in Massachusetts, and the cost of subsidizing fuel needs of low-income households is borne broadly by ratepayers as a result. Higher-efficiency homes are a direct and sustainable method of addressing this social issue. More efficient homes reduce the cost of homeownership, they directly benefit renters who pay the cost of utilities, and indirectly benefit them when utilities are included in rents. For commercial buildings improved codes reduce the cost of doing business for retail and commercial office tenants, and operating costs fall for all investors in new commercial real estate.

Experience in other states: California is the first state to propose a roadmap to zero-net energy homes and commercial buildings, and their approach has several similarities to that proposed in Massachusetts. However, as our climates are somewhat different the specific measures and building designs differ, particularly given our heating-load dominated residential market. The commercial building sector initiatives in New York City, California, and Washington D.C. show broad support for improvement in building energy performance.

Legal authority: The building energy code is governed by the independent Board of Building Regulation and Standards (BBRS). The Department of Public Safety (DPS), EEA and DOER will continue working together to craft future energy code provisions for consideration by the BBRS. The Commonwealth could also pass legislation to clarify the scope²⁹ and direction of the building energy code and to provide longer-term certainty for the real estate marketplace.

Implementation issues: The residential sector has begun the market-led transition to performance-based energy codes remarkably smoothly. However, as the rest of the market follows and as energy code requirements increase, the need for training and technical assistance is likely to rise. In order to ensure and improve code compliance, ongoing resources will be needed to provide continued training in best practices to builders, designers and subcontractors working in the new construction and retrofit markets.

The commercial sector is perhaps earlier in the transition to high performance buildings, but the professionalization of design and engineering teams is higher. In order to effectively transition to performance-based codes for commercial buildings improvements and standardization in energy modeling will be needed, and there will be increased demand for building energy modelers. These are new clean energy jobs that require 21st century skill sets, and Massachusetts will only retain its leadership in green building design and engineering by cultivating this workforce.

Uncertainty: With the baseline energy codes in Massachusetts now tied to decisions of the International Code Council (ICC) there is a delegation of authority to this national body. The policy described here would reduce the uncertainty inherent in relying on the ICC by laying out a codes road map for the next three code cycles from 2012 through 2018. The impact of these codes on overall GHG emissions depends greatly on the economic performance of the broader economy and the resulting level of investment in new construction and building renovation.

²⁹ The mandate of the BBRS is presently limited in regard to areas such as water conservation, siting, and other “green” building considerations that impact energy use and that are addressed in recent “green” codes from ASHRAE and the ICC.

New Policy

BUILDING ENERGY RATING AND LABELING

Policy summary: The current real estate market operates without the explicit consideration of energy performance of the property – a significant factor in future operating costs. Potential building owners or tenants of either residential or commercial buildings make major investments without the ability to compare the energy performance of the buildings they are interested in. This policy would address this market barrier by introducing an energy rating program designed to facilitate “apples-to-apples” comparisons between buildings. Initially in a pilot form, this would be the buildings equivalent of the EPA MPG rating on cars and light trucks. This policy complements existing efforts to track actual energy use through utility billing data, but the ratings are intended to be independent of tenant or user behavior, and are known as “asset” ratings. The DOER is developing pilot programs for new “asset ratings” of both residential and commercial buildings.

Clean energy economy impacts: Building energy labeling is anticipated to enable significant additional investments in energy efficiency. This investment in turn leads to large reductions in fuel expenses and creates and supports clean energy jobs in residential and commercial remodeling and construction. Less spending on imported fuel will keep more money in the state economy and thereby create additional jobs.

Rationale: At present the voluntary market is providing a glimpse of the potential for an “MPG rating” for buildings. For commercial buildings the Leadership in Energy and Environmental Design (LEED) green building rating has become a must-have requirement for class-A office space in cities across the country, including the greater Boston area. But while the LEED program has steadily improved its emphasis on energy costs, it remains a poor proxy for energy savings potential, and instead signifies that the building underwent a more thoughtful design process than is typical elsewhere in the market. In addition, a growing number of relatively energy efficient buildings have opted into the Energy Star Portfolio Manager program for commercial buildings — which allows buildings above the 75th percentile in energy performance to receive an Energy Star designation.

For the residential market a similar story is apparent. The Energy Star homes program has achieved significant market penetration in MA and other states around the country, and LEED for homes is also a growing “green building” presence, alongside several other green homes certification programs.

While these voluntary programs have shown that there is market interest in energy and green design data, their impact has been limited largely to new construction, particularly toward the higher end of the market, leaving existing residential and commercial real estate markets largely unaffected. Initially developed as pilot programs serving the much larger existing buildings market, this policy could become a standardized source of energy comparison information. This would enable investment decisions that improve energy performance once developers are able to demonstrate and market the results of their investment.

Design issues: Any energy benchmarking and rating metric needs to be clear, transparent and trusted if it is to support increased energy efficiency investment. However, residential and commercial real estate markets face different design issues. For the relatively homogenous

residential market, a comparison of total annual energy needs (primarily heating and standardized electric plug loads) is likely to be the most intuitive metric. DOER, in collaboration with three other states and funding from the DOE, is launching a pilot along these lines in western Massachusetts in 2011.

For the more diverse commercial real estate market, an accurate comparison of energy needs per square foot (primarily heating, cooling, ventilation and lighting in office/retail/lab spaces) is the generally accepted metric. DOER in collaboration with a public and private sector team is developing a pilot to launch in eastern Massachusetts.

GHG impact: The GHG impact for this policy is indirect, in that it enables larger and more targeted energy efficiency investments in the covered real estate markets. It is too early to estimate the actual level of GHG savings attributable to this policy. However, given the large number of existing buildings and the equally large level of annual investment made in building renovations, retrofits and other improvements, enabling the market valuation of energy performance has the potential to foster significant private investment in energy-saving measures and hence reduced carbon emissions. Two major constraints to energy efficiency investment are lack of awareness of potential savings, and lack of credible metrics to support financing from lenders. This policy tackles both of these market failures, and enables smarter real-estate investment decisions.

Other benefits: The task of rating and labeling building energy performance is a labor intensive and skilled exercise. The resulting clean energy jobs are paid for from the energy savings and the other actionable building condition information that results from the building assessments. Energy assessments conducted for asset ratings generally uncover operational issues that can affect building durability (such as water damage, mold, and mechanical problems) as well as more energy-specific improvement opportunities. This information on buildings results in better market valuation and reduced investor risk, and also facilitates improved comfort and early identification of any health and life-safety issues.

Costs: The primary costs of energy asset rating and labeling programs is in the initial building assessments. It is critically important that these assessments are conducted in an independent, consistent and professional manner to ensure the integrity of the ratings. At the same time it is important to minimize costs to building owners and property managers. The Commonwealth is moving forward with pilot programs for both residential and commercial building energy rating to better assess the likely costs of implementation and to allow for both technology and process innovations to be tested, to reduce costs prior to any broader statewide deployment.

Equity issues: Providing access to energy use comparison data is likely to have equity benefits for low and moderate income households for whom energy costs represent a significant portion of their disposable income. As a result, there has been relatively high voluntary adoption of the Energy Star homes program by public and affordable housing programs both in Massachusetts and elsewhere in the U.S. Similarly, for the commercial buildings sector it is likely that small business owners and tenants who lease space will be the primary beneficiaries of more transparent and comprehensive access to energy comparison data in making decisions about where to lease and buy commercial space.

Experience in other states: Residential energy labeling has been successfully piloted in various metro-areas in the U.S., and has become a cornerstone of the European Union climate

and energy policy framework for buildings. Notable examples in the U.S. on the residential side include Portland, Oregon; Seattle, Washington; and Austin, Texas. On the commercial side California is moving to a mandatory utility bill disclosure and benchmarking program through Energy Star Portfolio Manager. Similar programs are underway in New York City and Washington D.C. for public sector buildings and commercial office markets. A growing number of property management companies are developing internal metrics to assess building energy assets and performance in order to inform investment decisions across their portfolio. Adopting an “asset” rating, which has credibility for building appraisers in commercial real estate, is a new idea in the U.S., although it has been the policy direction of the European Union for the past several years.

Legal authority: The Commonwealth can likely require energy ratings as part of the building code governed by the independent Board of Building Regulation and Standards (BBRS). Based on the findings of the pilots, DOER and the Department of Public Safety will develop plans for widespread adoption of rating and labeling and their possible incorporation into the building code. However, the state may opt to put such a requirement in legislation in order to provide longer-term certainty for investors and businesses in the real estate marketplace.

Implementation issues: If energy labeling pilot programs are subsequently expanded to a statewide level, the large number of existing buildings to assess and rate mean that it will necessarily take many years to fully implement this policy. As a result, the timing of market coverage will likely vary in different market segments and different geographic areas around the state. Further, in order to be effective energy ratings need to be accessible prior to any major financial transactions, and ensuring awareness and access to this information may be initially difficult while market coverage is low.

Uncertainty: The rate of adoption of energy ratings and labels by different segments of the real estate market, and the impact that this new information will have on efficiency investment decisions, is unknown. A certain threshold level or “critical mass” is needed for both the residential and commercial markets to make full use of energy comparison data in their purchasing and leasing decisions, and it will likely take a few years before a broader trend in energy efficiency investments can be seen in response to these market signals. Availability of sufficient financing to improve properties is also likely dependent on broader economic trends.

New Policy

"DEEP" ENERGY EFFICIENCY IMPROVEMENTS FOR BUILDINGS

Policy summary: To reach our 2050 GHG reduction requirement, energy use in existing buildings must fall dramatically. To accomplish this, it is necessary to begin retrofitting buildings with much higher levels of insulation, less air leakage, and better windows than are typically installed in the retrofit energy efficiency programs. This policy would make rebates and appropriate training and technical support widely available for "deeper" energy improvements for residential buildings

Economy-wide GHG emissions reduced in 2020	0.1 - 0.2 million metric tons; 0.1%-0.2%
Total Fuel Savings in 2020 (MMBtu)	2.7 million
Total Electricity Savings in 2020 (MWh)	79,000
Energy cost savings in 2020	\$84 million

Note: energy savings are for the "high" case, with 0.2 million metric tons of CO₂ reductions.

Clean energy economy impacts: Deep retrofits will save large amounts of both electricity and heating fuels, reducing living costs and cutting energy imports; while expanding job opportunities for skilled contractors and construction workers.

Rationale: At present the energy efficiency program administrator (PA)-operated programs provide financial incentives for "moderate" retrofits of residential buildings, such as adding insulation to attics and walls, upgrading fossil-fuel-based heating and cooling equipment, and air sealing. If all the standard measures are done, these improvements typically achieve 20 percent to 30 percent reductions in heating energy use. While a major contributor to our 2020 emissions target, this level of savings is far from adequate for achieving the 2050 requirement of an 80 percent emissions reduction. For 2050 "deeper" measures are needed –higher and more consistent levels of insulation on all the outside surfaces of a building, along with sharp reductions in air leakage. When needed building maintenance is done without adding insulation, such as re-roofing and re-siding, there is a huge "lost opportunity" for achieving energy savings. The PAs currently have pilots that provide incentives for such deep retrofits. This policy would make such incentives a standard part of the PA offerings, with the expectation that their adoption by consumers would gradually rise from now through 2020.

Design issues: Until recently the utilities' pilot only provided incentives for whole-house deep retrofits. The cost of such retrofits is quite high, for both the homeowner and the utilities, and is unlikely to be done broadly. More attractive to homeowners may be "partial" deep retrofits, where one part of a house is done at a time when the owner was planning to do a renovation anyway. The incremental cost of energy saving improvements is greatly reduced when they are integrated with other work on the same portion of a home, such as when replacing a roof, residing exterior walls, or replacing windows. This policy would provide rebates that are substantial enough to attract widespread adoption of deep retrofits, such as rigid insulation installed below the roofing shingles or inside new siding, and triple-pane windows.

Another design option is to continue what some PA deep retrofit pilots are doing currently, paying higher incentives for comprehensive projects that go deeper still, to Net Zero Energy, Passive House and Thousand Homes Challenge levels. Once heating needs are reduced to this level, there are significant savings on heating and cooling equipment. This practice provides additional

leveraging and measure bundling advantages, and builds the skills needed to reach the 2050 GHG reduction requirement.

In addition, the particular methods that are used to evaluate programs for cost effectiveness should be reviewed to ensure that deep retrofits can be implemented to the maximum possible extent.

GHG impact: 0.1 to 0.2 million tons in 2020, depending on the rate of adoption by consumers. The state's consultants have projected a relatively small number of project completions, based on (a) homeowners only undertake deep retrofits at the time when they are doing building maintenance anyway, (b) consumer adoption begins at low levels and grows slowly until it reaches 10 percent of normal maintenance projects by 2020. Since these are long-lasting improvements to buildings the cumulative impacts continue growing beyond 2020, contributing substantially to the 2050 reduction requirement.

Other benefits: Substantial reductions in energy use, cost savings to homeowner, and improvements to building comfort.

Costs: Costs to the utility efficiency budgets and to homeowners are significant. For an expanded program that goes beyond the current pilots, impacts on utility budgets would depend on the scale of adoption by consumers.

Equity issues: In most cases the incentives for deep retrofits will be substantially larger than those offered for "moderate" retrofits. This creates possible equity issues between participants and non-participants in the program.

Experience in other states: The pilots currently underway by Massachusetts utilities are at the forefront of deep retrofit efforts in the United States. California has made a commitment to achieving sharp reductions in energy use by existing buildings, and the Province of Yukon in Canada has a program to super-insulate existing buildings.

Legal authority: These kinds of programs fall within the authority of the electric and gas utilities under their existing efficiency programs.

Implementation issues: Deep retrofits involve more complex construction techniques than are needed for conventional construction or moderate retrofits. To achieve the projected energy savings, and to not create or worsen other problems such as moisture and mold issues in a home, the deep retrofit shell must be installed correctly. As less heat is used in a building the drying potential is greatly reduced, so both interior and exterior water management details become critical for the health of occupants and durability of the structure. To avoid other indoor air quality problems, as well as to capitalize on smaller heating loads, shell measures should be carefully integrated with mechanical ventilation and smaller heating equipment that has sealed combustion or forced draft. Further, deep measures, if installed incrementally, should be deployed in a manner that does not hamper future energy improvements. This requires contractors with appropriate deep retrofit expertise, partnered with others with advanced HVAC expertise. At present these skills\teams are in limited supply and there is a need for training of contractors, along with a contractor guidance and inspection component such as in the Energy Star Homes program. Also needed is a system or incentives for a party involved to have long-term responsibility for the energy performance, durability, health, and safety of buildings that undergo deep retrofits.

Uncertainty: The rate of adoption of deep retrofits by consumers, even with substantial utility incentives, is not known and could be lower than projected. Availability of sufficient funds, from utility budgets or other sources, could be a question if the rate of adoption is high.

New Policy

EXPANDING ENERGY EFFICIENCY PROGRAMS TO COMMERCIAL/ INDUSTRIAL HEATING OIL

Policy summary: At present the electric utilities provide funding for heating-related efficiency measures in homes that use oil heat. There is no funding available for commercial and industrial buildings that use fuel oil for heating. Expanding the programs to such customers would yield significant cuts in energy use and GHG emissions.

Economy-wide GHG emissions reduced in 2020	0.1 million metric tons; 0.1%
MMBTU oil savings in 2020	230,000

Clean energy economy impacts: These programs would result in increased employment in efficiency audits and installation of efficiency measures and reduced spending on fuel oil imports, which keeps more money in the state and thereby helps to provide jobs throughout the Commonwealth's economy. Companies using fuel oil would see lower operating costs, which increase their ability to continue operating in Massachusetts.

Rationale: The exclusion of commercial and industrial (C/I) customers from oil heating efficiency programs is a significant missed opportunity for reducing energy use and GHG emissions. Given that heating oil is a relatively high-carbon fuel, and that the lack of programs in the past means that such buildings will typically have low efficiency levels, the savings both in energy and GHG should be relatively high per dollar of funds spent.

Design issues: At present there may not be legal authorization for the electric utilities to provide funding to C/I customers in the same way that they do for residential customers. If this is the case then other funding sources will be needed, such as RGGI funds.

GHG impact: Assuming that C/I customers participate at the same rate, relative to their total use of heating oil, as do residential customers at present and as projected for the future, we estimate savings of 0.1 million metric tons of CO₂ in 2020.

Other benefits: Non-CO₂ air pollutants from fuel oil will be reduced due to lower consumption, including reductions in SO₂, NO_x, and particulates.

Costs: Relatively small since C/I customers constitute only about one-quarter of total heating oil consumption in Massachusetts, with the rest being residential.

Equity issues: Heating oil customers do not pay into a specific efficiency funding pool, as do electricity and natural gas customers. However, in almost all cases they are also electricity ratepayers, and as with residential customers, if there are highly cost-effective efficiency opportunities available for heating-related measures, it can be argued that this is a good use of utility-administered efficiency funds. If other funding sources are used, equity considerations will depend on the source.

Legal authority: Needs further investigation, depending on anticipated sources of funds.

Uncertainty: Measures to improve the efficiency of building shells, heating systems, and heating distribution systems are well known and there is extensive experience with them, so there is little risk of not being able to achieve cost-effective energy and GHG savings.

New Policy

DEVELOPING A MATURE MARKET FOR SOLAR THERMAL WATER AND SPACE HEATING

Policy summary: A policy framework will be established to achieve a mature and self-sustaining market for solar thermal water and space heating in both residential and commercial buildings. This support for the nascent solar thermal market is part of a broader goal of developing renewable heating technologies (such as clean biomass heating and efficient heat pumps), to facilitate a market transition to renewable fuels as the dominant fuels for heating purposes by 2050. The policy will also establish robust job and business growth in the renewable thermal sector in the Commonwealth.

Economy-wide GHG emissions reduced in 2020	0.1 million metric tons; 0.1%
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Clean energy economy impacts: Large reductions in fuel costs in exchange for investments in solar thermal heating equipment will reduce the cost of living for residents and the cost of business for commercial customers. New installations will result in the growth of the solar thermal industry in Massachusetts, and to a lesser extent, local maintenance work. Directly offsetting spending on imported fuel will keep more money in the region and thereby create additional jobs in the broader state economy.

Rationale: Hot water and space heating are large energy users that do not require very high-grade fuels (unlike motor vehicles for example). This makes them excellent candidates for active solar heating, which has no fuel expense and can provide significant heating from a small roof, wall or ground-mounted system. Unlike in the 1970's, the technology for active solar thermal heating is now mature and comes with decade-long warranties to protect the up-front investment in a solar thermal system. However, the market for solar thermal in New England is currently very small, and needs "infant industry" support to accelerate its growth to the scale needed to maintain continued growth and provide a realistic option to interested customers.

Design issues: Similar to the Solar PV industry in MA prior to its recent exponential growth in the last four years, the small size of the solar thermal market burdens it with high levels of "soft" costs in sales and marketing (finding customers and designing and installing well-sized systems). This forms a barrier to consumer awareness and competitive pricing in comparison to the dominant market share of fossil fuel-based heating systems. The "hard" costs of quality equipment are being driven down by global market growth, and so once Massachusetts can develop a significant demand entrepreneurial companies will likely be able to bring turn-key pricing down considerably. Solar thermal systems require a back-up system in the event of a cold and cloudy week in winter, so most customers will retain their pre-existing fossil fuel heating system and new construction will likely move to on-demand electric or much smaller backup fossil fueled boilers .

GHG impact: For purposes of this Plan, a modest 0.1 million ton reduction in emissions due to solar thermal is forecast. However, larger reductions could be attained through a broader program applying to all renewable thermal technologies, including heat-pumps, biomass/biofuels, and solar thermal. If the displacement of 20 percent of the fuel oil used for thermal energy and 50 percent of propane heating and electric water heating could be attained, this would reduce GHG emissions in Massachusetts by approximately 2 million tons, or slightly more than 2 percent

of total 1990 emissions. This 2020 goal would be for all renewable thermal technologies, including heat-pumps, biomass/biofuels, and solar thermal applications. GHG emissions from biomass and biofuels used for thermal energy are important to consider, but Massachusetts policies will limit the eligibility of feedstocks (advanced biofuels and residue woody biomass) to those which demonstrate real and rapid GHG benefits, such as advanced biofuels and residue woody biomass

Other benefits: Expanding solar thermal energy will create and expand businesses in Massachusetts in a manner similar to our early stimulation of the solar PV market. For solar PV, the Commonwealth has added 1,800 new jobs since 2008 when the solar PV programs were launched. PV installations grew from 3 MW to 35 MW between 2007 and 2010, with another 35 MW in the development pipeline. Jobs will include system marketing, design, finance, installation and maintenance, along with manufacturing and fabrication of solar thermal panels and system components. In addition a mature solar thermal market complements the utility energy efficiency and advanced building energy codes policies. For existing homes in particular, there is a large stock of buildings that are heated with hot water, and where solar exposure is available these distribution systems can be easily retrofitted to provide space heating from renewable solar heated water with the fossil fuel systems retained as back-up systems.

Costs: In order to accelerate the market for solar thermal systems a highly publicized state rebate program analogous to the successful Commonwealth Solar program for PV is recommended. Due to the lower per system costs of solar thermal the MassCEC has proposed launching a pilot program to explore the most effective way to implement such a program. Any state rebate would leverage existing incentives primarily from Federal tax credits and the utility managed zero-interest HEAT loan program.

Equity issues: As with any upfront capital intensive investment, the early adopters of solar thermal systems are often relatively affluent homeowners, large well capitalized businesses, and the public sector, that have the resources to take advantage of the long term benefits of renewable heating both for their bottom-line and co-benefits. However, these early actors catalyze the market, provide useful exposure and marketing, and bring down costs, all of which makes these technologies increasingly accessible and desirable to the broader market. Among the early adopters of solar PV in Massachusetts was the public housing and affordable housing sector, with a notable role played by Boston Community Capital.

Experience in other states: Solar thermal subsidies to support the industry are relatively widespread and have grown in use in U.S. states including: New Hampshire, California, Delaware, Wisconsin, New Jersey, and Arizona. Total state incentives typically account for 25 percent to 50 percent of the system installed cost, but are expected to fall substantially over time. In particular, Arizona, Nevada, North Carolina and Washington D.C. have added solar thermal to the “solar carve-out” of their Renewable Portfolio Standard (RPS) programs, which are primarily designed to support electric renewable energy sources. Massachusetts would also have this option once a pilot rebate period runs its course.

Legal authority: In order to add an incentive for solar thermal to the Massachusetts RPS regulations, new legislation would be required. In the absence of this, the Clean Energy Center is able to provide rebate funding and other incentives to thermal renewables as part of their enabling mandate in the Green Communities Act of 2008.

Implementation issues: The perceived barriers to solar thermal adoption can be summarized in the following four areas:

1. Upfront cost of system
2. Lack of consumer education and confidence
3. Shortage of experienced solar hot water designers
4. Permitting costs and inspections

All of these can be addressed in a well designed pilot, followed by a broader program.

Uncertainty: Projections of the rate of adoption of solar thermal systems in response to a well designed solar thermal incentive program are highly uncertain. The precise rate at which rebates or other incentives would be taken up by the private market is also unknown. However, the lessons of the Commonwealth Solar Rebate program for PV and the experiences of other states are instructive. As with any alternative to fossil fuels, the volatility in the price of oil and to a lesser extent the price of natural gas over the coming decade is a critical uncertainty.

New Policy

TREE RETENTION AND PLANTING TO REDUCE HEATING AND COOLING LOADS

Policy summary: Trees help to reduce heating and cooling loads in buildings. This policy would provide incentives to plant new trees around existing housing, and retain trees within new housing developments, to conserve energy and reduce GHG emissions. This pilot program might be feasible within current utility efficiency programs, or might require new funding and/or regulatory authority.

Economy-wide GHG emissions reduced in 2020	100,000 metric tons in 2020, 300,000 tons in 2035 from trees planted by 2020
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Clean energy economy impacts: On the order of 500 direct jobs per year from the scale of tree planting envisioned here, in nurseries, planting, and maintenance. Reduced energy costs and lower fuel imports.

Rationale: Strategically located around housing, trees can significantly reduce cooling and heating loads.³⁰ Retaining trees when new homes are built, and planting new ones around existing housing, can be a low-cost means of saving energy and reducing GHG emissions. Optimally trees should be located on the southeast and southwest sides of a building to provide shade and reduce air conditioning load. Evergreen trees planted on the north and northwest sides (given prevailing winds in Massachusetts) provide wind breaks and can reduce winter heating needs. Retaining and planting trees could be subsidized by the electric and gas utilities on the same basis that they provide incentives for other efficiency measures.

Design issues: For existing residential buildings, incentives could be provided to owners to plant new trees in the correct locations. For new housing development, incentives could be provided to developers to retain existing tree cover, and to particularly keep trees in the optimal locations for cooling and heating savings. Another option would be to provide incentives to municipal governments that pass local planning ordinances requiring developers to follow specific tree retention practices. Because trees generally take 15 years to reach their full shade potential, this policy would need to begin soon to have much impact by 2020. On the other hand, even if impacts by 2020 are small, they will rise after 2020 as trees mature, contributing to the 2050 GHG requirement.

³⁰ Studies of large scale tree-planting programs in New York, Chicago, and Philadelphia resulted in a 1.7C average reduction in maximum air temperature in the hottest areas. Chicago heat island reduction measures reduced annual cooling degree days by 39. "Energy Savings for Heat-Island Reduction Strategies in Chicago and Houston (including updates for Baton Rouge, Sacramento, and Salt Lake City," S. Konopacki and H. Akbari, 2002, Lawrence Berkeley National Laboratory LBNL-49638; "Shade trees reduce building energy use and CO2 emissions from power plants," H. Akbari, 2002, *Environmental Pollution* 116: S119-S126; "Energy conservation potential of urban tree planting," E.G. McPherson and R.A. Rountree, 1993, *Journal of Arboriculture* 19(6):321-331. Trees also reduce ambient air temperature through evapotranspiration. Per-tree calculation: a single white spruce with dbh 8inches is projected to save 1.1MBTU in heating energy for a single family home in Boston. (Casey Trees, based on the USFS iTree model). Toronto area heat energy savings: single family residences saved 3 percent (built pre-1980) and 2.5 percent (after 1980); efficient R-2000 houses 2 percent; row-houses 1.6 percent (built before 1980) and 1 percent (built after 1980) (Konopacki and Akbari, 2002).

GHG impact: About 100,000 metric tons CO₂e potential by 2020 under realistic assumptions of possible participation. Savings become much greater over time, rising to 300,000 tons in 2035 from the trees planted/retained by 2020, because most will not have reached their full growth until well past 2020. (Note that GHG savings from trees sequestering CO₂ are real but are not included here. Due to data problems, tree sequestration is not included in the 1990 baseline emissions estimate, nor are reductions or increases in sequestration in the years since then included. Without those numbers it is not valid to include sequestration gains due to a policy measure.)

Other benefits: Trees significantly improve the quality of life for immediate residents and the neighborhoods around them. This may have other secondary benefits which have not been quantified — such as higher real estate values, better-maintained homes, lower crime, etc.

Costs: Depending on the scale and scope of these programs, their costs could vary greatly. More than most efficiency programs, the benefits accrue over a long time period. Pilot programs between state agencies and utilities will allow for analysis of cost and benefits, as well as identifying implementation issues. One current estimate is on the order of \$150 per tree for purchase and planting.

Equity issues: To fairly distribute benefits to urban and lower-income residents, it would be essential to ensure that the tree planting take place on a large scale in cities as well as around suburban homes, despite the likelihood of greater siting difficulties. As with the existing efficiency programs, this could be a particular challenge for rental housing, where landlords often lack the incentive to cut energy costs when tenants are paying the electricity and/or heating bills. Greater efforts would need to be made to achieve participation in rental properties.

Experience in other states: Utility-funded tree-planting programs are already in place in several cities and states. Sacramento, CA has avoided the cost of constructing a new 19 MW power plant by planting over 450,000 trees next to homes. With funding from the Sacramento Municipal Utility District (SMUD), the Sacramento Shade (for residences) and Neighbor Woods (for public spaces) Programs aim to plant 5 million trees by 2025. Residents are eligible for up to 10 free trees. SMUD estimates that each tree provides \$90 in annual benefit.³¹ In Iowa, the Municipal Tree Planting Program is a partnership between the non-profit Trees Forever and four utilities, in which the utilities provide funding for community planting programs.³² Here in Massachusetts, Grow Boston Greener is a collaborative effort of the City of Boston and its partners in Boston's Urban Forest Coalition to increase the urban tree canopy cover in the city by planting 100,000 trees by 2020.

31 The partnership between the Sacramento Municipal Utility District and Sacramento Tree Foundation has been ongoing since 1990. <http://www.smud.org/en/residential/trees/Pages/index.aspx> or <http://www.sactree.com/doc.aspx?25> . Riverside, California program: <http://www.riversideca.gov/UTILITIES/resi-treepower.asp>. Pasadena, Alameda, and a number of other California utility companies have similar programs. Initiatives to capture environmental savings from trees are also underway in more temperate climates. The Department of Public Services in Portland, Maine will deliver and plant trees that residents purchase at local nurseries. The "Treebate" program in Portland, Oregon offers residents a rebate on trees they purchase and plant (funded for water quality). Washington, DC residents can receive a \$50 rebate for each eligible species of tree.

32 www.treesforever.org

Legal authority: PAs have the authority to conduct pilots and to expand these into new efficiency programs, based on approval of the Energy Efficiency Advisory Council and the DPU. Pilots will help determine whether and over what time period energy savings exceed costs. The results of such pilot programs will help determine the value and feasibility of tree planting and retention activities.

Implementation issues: This would be a pioneering program in the northeast, and so a variety of program approaches to achieving participation, planting trees effectively, and maintaining them could occur.

Uncertainty: We do not know the degree to which residents will be willing to participate, even with subsidies; nor the degree to which developers and landlords will participate; nor municipalities for a program design in which they require developers to retain trees.

Existing Policy

FEDERAL APPLIANCE AND PRODUCT STANDARDS

Policy summary: The federal government sets energy efficiency standards for appliances, electronics, and other products. Under President Obama, DOE has planned an accelerated schedule for setting new standards between 2009 and 2013. Nationwide these are expected to yield major savings in electricity (11.5 percent of total consumption in 2020), fuel, costs to homeowners and businesses, and carbon dioxide emissions, with Massachusetts getting its proportional share.³³

Savings (above current trends)³⁴

Economy-wide GHG emissions reduced 2020	0.5 million metric tons; 0.6%
Electricity saved — Gigawatt hours (GWh) 2020	1,040 ³⁵
Natural gas, fuel oil saved — MMBtu	2.9 million
\$ value energy savings in 2020	\$330 million
Cumulative net benefits 2011-2020 (discounted)	\$2.7 billion
Jobs gained 2020 (direct and indirect)	1,200 jobs

Clean energy economy impacts: Reduction of \$330 million in costs in 2020 will improve cost of living for residents and reduce operating costs for businesses, also helping to keep jobs in the state.

Rationale: As with most efficiency measures, appliance and product efficiency faces market barriers that result in consumers making short-term purchasing decisions that don't reflect the optimal financial decisions long-term. To some degree this occurs because products, particularly appliances, are often bought on an emergency basis when the old item has failed. By mandating that products be built to specifications that will minimize their lifecycle costs, including both capital and energy costs, DOE can drive large savings.

Policy design and issues: The federal government sets nationwide standards, in some cases, due because climate conditions standards vary by region (such as with windows), but in other cases DOE has not made this distinction, as with heating system efficiencies. For this reason, Massachusetts applied for a federal waiver to set a standard for gas furnaces higher than the 80 percent federal standard, due to our colder climate. DOE denied Massachusetts' waiver request; although it has said that it is looking to develop a higher standard for the entire northern tier of the country.

³³ "Ka-BOOM! The Power of Appliance Standards. Opportunities for New Federal Appliance and Equipment Standards," American Council for an Energy-Efficient Economy and Appliance Standards Awareness Project, July 2009.

³⁴ Because federal standards have existed in the past and exist today, the state's consultants estimate that half the savings from forthcoming standards are already embedded in the "business as usual" trend lines; so only half the savings expected from the planned federal standards are included here. Also, the savings given here for 2020 include a portion of savings over the lifetime of products purchased by 2020, some of which occur after 2020.

³⁵ "State-Level Benefits from Potential Federal Appliance Standards," Appliance Standards Awareness Project, 2009.

GHG impact: ACEEE and the Appliance Standards Awareness Project (ASAP) forecast that the forthcoming standards will reduce GHG emissions by 1.0 million tons in 2020. The Commonwealth's consultants estimate that half of these reductions are already counted in the business-as-usual (BAU) trend for electricity emissions in 2020, and so 0.5 million tons are counted as a reduction versus the BAU.

Other benefits: The standards yield large savings in electricity and costs. In parallel with the GHG reductions, half of the savings are counted in the existing trends, so the incremental gains are estimated at 1,040 gigawatt hours of electricity and \$200 million in 2020.

Costs: Incremental costs of production vary for each product, and are required to be less than the lifetime energy savings in each case in order for DOE to set a standard. Sample costs are \$52 for a refrigerator, \$50 for a clothes dryer, and \$2 for microwave ovens. There have been reports of more frequent or more expensive repairs needed for some items, such as the computer boards for variable speed motors in refrigerators.

Equity issues: Not significant, due to low incremental cost of attaining higher efficiency standards.

Experience in other states: This is a nationwide program.

Legal authority: The federal government has preempted authority over efficiency standards for products; states can apply for waivers.

Implementation issues: None known.

Uncertainty: Energy savings per product are dependable due to mass production and quality standards. Durability of products can be an issue, and higher frequency of replacements would reduce energy savings due to the embodied energy in manufacturing of products.



Electricity Supply

The vast majority of existing power plants burn fossil fuels to generate electricity, producing millions of tons of pollution. Additional electricity generation technologies include nuclear, hydro, wind, solar, and eligible biomass, which vary in their emissions profiles. The character of the electric power sector as a whole is determined by three key factors: the demand for electricity across sectors, existing generation capacity by technology type, and actual generation, which depends on how much of each type of existing capacity is utilized to meet demand. There are several approaches related to each of these factors that can push the Commonwealth toward a clean energy future for electricity supply.

Demand for electricity can be reduced by improving the energy efficiency of our end-use devices, such as refrigerators and office equipment, as is discussed in the buildings section of this Plan. Both generating capacity and actual generation of clean energy technologies can be increased by a spectrum of activities based on the maturity of the technology.³⁶ Grants and other direct

investments are best suited for research and development and early-stage companies or projects. A Renewable Energy Portfolio Standard can create market demand for all qualifying technologies, while specific requirements for particular technologies can target support for emerging technologies. By setting a price for carbon dioxide emissions from power plants by auction, the Regional Greenhouse Gas Initiative (RGGI) provides the power generating market with a transparent, stable, technology-neutral signal that influences both new investments and current operations. And implementation of Federal Clean Air Act rules encourages generators to retire or upgrade their dirtiest plants.

In order to achieve the GHG emission limit set by the Secretary, the *Massachusetts Clean Energy and Climate Plan for 2020* relies on progress in each of these areas made since 2007, along with proposed new measures to move toward a cleaner electricity supply.

Massachusetts Clean Energy Center

The Green Jobs Act of 2008 created the MassCEC to accelerate job growth and economic development in the state's clean energy industry. MassCEC serves as a clearinghouse and support center for the clean energy sector, making direct investments in new and existing technologies, clean energy companies, and workforce development to meet the skill needs of this growing industry.

In November 2009, an Act Relative to Clean Energy transferred the state's Renewable Energy Trust Fund to MassCEC. The Trust Fund was created in 1998 by the Legislature to provide financial assistance for development of renewable energy projects. With funds and programs to support clean energy development, entrepreneurship,

³⁶ A framework for effective clean electricity policies by technology/market maturity has been developed by the International Energy Agency.
<http://www.iea.org/Textbase/npsum/DeployRenew2008SUM.pdf>

workforce development, and installation, MassCEC is a unique one-stop shop for growing a clean energy economy.

Renewable Portfolio Standard

The RPS is used in more than 20 states and in other countries to create demand for renewable energy technologies such as wind, solar, biomass, and small hydro that are not yet price competitive with conventional power sources.³⁷ In Massachusetts, retail sellers of electricity are required to obtain a growing share of their supply from new renewable sources, thereby creating a demand for new projects. The eligible renewable resources are categorized into “classes” of similar maturity and type (“technology banding”). For example, wind, eligible biomass and anaerobic digestion, and small hydro are all in Class I while solar is carved out into a separate class. Beginning in 2003, the share of total electricity supply required to come from Class I resources increased one-half percent a year, reaching 4 percent in 2009. Starting in 2010, the required percentage increased by 1 percent a year, and will rise to 15 percent by 2020.

In addition to requiring increasing amounts of renewables in the market, the Department of Energy Resources (DOER) has taken steps to assure that the kind of renewables that receive state incentives produce GHG savings over time. In 2009, DOER commissioned a study from the Manomet Center for Conservation Sciences to explore the lifecycle GHG implications of biomass energy plants. The results of the study, published in 2010, questioned long-held assumptions about the carbon-neutrality of biomass electricity technologies, and DOER is currently in the midst of finalizing RPS regulations to assure that biomass projects

are only eligible for the RPS if they yield true and substantial GHG reductions.

The Green Communities Act of 2008 (GCA) also made several other changes to further drive investment in the renewable energy market enabled by the RPS. It requires that the electric distribution companies solicit bids for long-term contracts of 10 to 15 years from new renewable energy projects. Lack of such a long-term power purchase agreement is often a stumbling block for renewable energy projects to obtain financing. In addition, operators of *distributed* renewable electricity generation such as rooftop solar panels and community wind turbines are now eligible to sell excess electricity back into the grid at the price they pay (known as “net-metering”), effectively having their electric meters turn backwards. Finally, distribution utilities were granted authority to each build and own up to 50 megawatts (MW) of solar generation. There are 11 MW underway or completed thus far.

Regional Greenhouse Gas Initiative (RGGI)

Massachusetts is one of 10 states participating in the RGGI. The initiative, which began in January 2009, establishes a region-wide constraint on CO₂ emissions from fossil fuel-fired power plants. The current program design calls for the cap to remain at the initial level for six years (2009 to 2014), and then to decrease by 2.5 percent per year for the next four years, for a total reduction of 10 percent by 2018. RGGI provides a transparent and stable signal to the electricity market to plan future investments with an understanding that higher emitting generators will need a greater number of emissions allowances than cleaner generators. Proceeds from the auction of allowances have been effectively used to fund a range of energy efficiency programs in the state, resulting in cost

³⁷ Large hydro dams are considered a mature technology that requires no market support and are typically not included in Renewable Portfolio Standards.

savings for residential and business consumers.

Clean Energy Imports

Canada has substantial hydro-electric resources, which have very low emissions and are available at relatively low cost, but transmission lines that deliver this resource to southern New England are currently at full capacity. One effort to tap more of this resource is the Northern Pass transmission line being developed by NSTAR and Northeast Utilities, in partnership with Hydro Quebec (HQ) and with the support of the Patrick-Murray administration. When this power line is completed, at HQ's expense, it will bring to New England enough inexpensive clean power to serve up to 15 percent of Massachusetts' present electricity demand. Additional transmission lines may also be possible.

Federal Clean Air Act Implementation

The Supreme Court, in its 2007 decision *Massachusetts vs. Environmental Protection Agency*, ordered the EPA to regulate GHG under the Clean Air Act (CAA) as "pollution which may reasonably be anticipated to endanger public health and welfare." While the CAA is federal law covering the entire country, it is largely implemented by the states, which are often better suited to understand local industries and conditions. Implementation of the CAA will provide the dirtiest power plants the choice of making upgrades in control technology of those plants or retiring them.

Cleaner Energy Performance Standard

From 2005 to 2009, the electricity portfolio serving Massachusetts became more than 20 percent cleaner. This was largely the result of how much of the time each existing power plant was operated and which fuel they utilized, rather than investment in new capacity. The major changes were the nearly complete phase-out of fuel oil by 2007 because of high oil prices, a reduction in coal operation relative to natural gas since 2007 because of low natural gas prices, and a doubling of large hydro imports into New England from Canada. These developments demonstrate that the electricity sector even as it exists can operate more cleanly.

This Plan will provide a signal to electricity suppliers to maintain and improve upon these cleaner energy portfolios by proposing a Clean Energy Standard, which would require electricity suppliers to increasingly favor low-emissions and no-emissions sources in the mix of electricity delivered to their customers. This could be designed to favor in the long-term sources like wind, solar, and hydro, which emit no GHGs, but also initially favor cleaner fossil fuels like natural gas, to act as a bridge to a clean energy future.

Existing Policy

RENEWABLE PORTFOLIO STANDARD (RPS)

Policy summary: The Massachusetts RPS was created as part of electricity restructuring in Massachusetts in 1997 and then expanded in the Green Communities Act of 2008³⁸. The RPS requires retail electricity suppliers — both distribution companies and other retail suppliers — to buy a percentage of their portfolio of electricity sales from eligible resources.

Economy-wide GHG emissions reduced 2020	1.1 million metric tons, 1.2%
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Clean energy economy impacts: Over the period from 2010 to 2020, the Massachusetts RPS classes will stimulate \$360 million in annual investment, or \$3.9 billion in cumulative investment in clean power generation that would have not occurred on its own. This is expected to create approximately 900 full-time construction jobs throughout that period.

Rationale: Because of low prices for fossil fuels, the lack of a market price for the negative impacts of pollution from fossil fuels (“externalities”), and other market barriers, the private market is not, on its own, supplying as much renewable, low-carbon power as society needs. By creating market demand, Renewable Portfolio Standards drive investments in renewable energy supply.

Policy design: The Massachusetts RPS includes “technology banding” in classes, with the Green Communities Act expanding the number of renewable classes to the following: Class 1 — New Renewables; Class 1 — Solar Carve-Out; Class 2 — Existing Renewables; and the Alternative Portfolio Standard (APS). Suppliers meet their commitments by buying Renewable Energy Credits (RECs), the accounting mechanism for ensuring that every unit of renewable energy generated is counted exactly once in terms of state requirements. As a result of the Green Communities Act, the RPS will require 15 percent of electricity supply to be from new Class 1 renewable resources, such as wind, solar, small hydro and eligible biomass and anaerobic digestion, by 2020. In total, all classes will account for 27 percent of electricity supply in that year.

GHG impact: 1.1 million tons of emissions will be avoided in 2020, from the expansion of the RPS due to the Green Communities Act, not including the RPS requirements that existed prior to the Act.

Other benefits: As with other electric sector policies, the RPS results in reduced burning of fossil fuels and therefore reduced local air pollution and improved public health. For example, a study by the independent National Research Council found that coal use around the country resulted in 20,000 premature deaths annually.³⁹

Cost: There is a great deal of uncertainty in cost estimates for the RPS, due to unknown future changes in fuel prices, federal policies, and technology. Just in the last three years REC prices have dropped by a factor of three. A more detailed electricity supply study is underway. Although

³⁸ The GCA’s annual report for 2009 has a more detailed summary and charts at:
<http://www.mass.gov/Eoeea/docs/doer/rps/rps+aps-2009annual-rpt.pdf>

³⁹ Hidden Costs of Energy: Unpriced Consequences of Energy Production and Use, National Research Council.
www.nap.edu/catalog.php?record_id=12794

some renewable power is relatively high-cost, the RPS also helps to reduce electricity prices throughout New England, due to the mechanics of the regional electricity market. Power, like many other commodities, is bought and sold both under longer-term contracts and in a “spot” market. The spot market price is set by the most expensive supply needed to meet demand at a particular time. New renewable resources that have low operating costs displace the most expensive supply needed to meet demand, thereby reducing prices for all spot market power and providing savings to all customers.

Experience in other states: Twenty-four states have some type of Renewable Portfolio Standard. Key features of successful programs are those which provide transparency, longevity, and certainty to the market. Repeated changes to the program design create concern in the market.

Legal authority: RPS authority derives from electricity restructuring statutes from the late 1990s as well as the Green Communities Act.

Implementation issues: The RPS (Class I) program compliance began in 2003. After several years in which eligible renewable generation fell short of requirements, and while project development continued to make progress, the program has successfully met its annual compliance obligation with new renewable energy since 2007. In 2009, the minimum standard of 5 percent was met, though an increasing portion of the generation is coming from imports from New York and adjacent Canadian provinces into the New England region.

Since the restructuring of energy markets in Massachusetts in 1997, supply contracts between the electric distribution companies and power generators have typically been for only three months to one year, far too short a period to allow financing of the high capital costs involved in developing renewable generating facilities. This has been a contributing factor in limiting supplies of RPS-eligible renewables in Massachusetts. To rectify this problem, the Green Communities Act required that the distribution companies solicit proposals from renewable energy developers and enter into cost-effective long-term contracts for at least a limited amount of renewable energy, in order to facilitate the financing of renewable energy generation. Such contracts can assist renewable energy developers in obtaining financing by providing assurance of revenues from sales of RECs and electricity over a number of years.

Uncertainty: Siting constraints both for generation nearby or for transmission to remote resources could constrain the renewable supply. In addition, restructured markets like New England may lack parties to enter into long-term power purchase agreements that are often required for financing of renewable energy projects, particularly at a time of low natural gas prices.

Existing Policy

REGIONAL GREENHOUSE GAS INITIATIVE (RGGI)

Policy summary: Massachusetts is one of the 10 Northeast and Mid-Atlantic states participating in a regional effort to limit carbon dioxide emissions from electric generating units in the region⁴⁰. The program, which began in January 2009, establishes a region-wide cap on CO₂ emissions from fossil fuel-fired power plants in the region. The current program design calls for the cap to remain at the initial level for six years (2009 to 2014), and then to decrease at 2.5 percent per year for the next four years, for a total reduction of 10 percent by 2018.

By the end of each three-year compliance period, facilities covered under the program are required to have purchased allowances — a limited authorization to emit one ton of CO₂ — equal to their total emissions; the allowances are then retired so they cannot be used again. Allowances are made available by the states for purchase in quarterly auctions. Massachusetts is investing over 80 percent of its auction proceeds in energy efficiency, with smaller amounts for renewable energy and other consumer benefit programs.

Clean energy economy impacts: Over \$120 million in auction proceeds has been invested in energy efficiency projects across the Commonwealth since 2009, creating jobs in the clean energy economy. In addition, the efficiency investments will reduce electricity and fuel costs for property owners, leaving them with savings to be invested elsewhere in the local economy.

Rationale: The electric generating sector represents approximately a quarter of total GHG emissions in Massachusetts at present. The RGGI program provides a transparent and stable signal to the electricity sector to plan for a cleaner energy future. In addition, improvements in building energy efficiency reduce the demand for electricity and help keep emissions below the cap, reducing the cost of compliance.

Policy design: Recent trends in relative fuel prices, weather, investments in energy efficiency, and the downturn in the economy have resulted in actual total regional emissions much lower than anticipated. The RGGI states, along with broad stakeholder engagement, are currently in the process of a comprehensive program review which will include evaluation of program success, program impacts, additional reductions, imports and emission leakage, and offsets.

GHG impact: RGGI has a regional emissions cap, providing for a 10 percent reduction in CO₂ emissions across the 10-state region by 2018, and there is no specific limit on emissions deriving from the power plants in a particular state. Massachusetts' significant policies for electrical energy efficiency and renewable electricity are supported, in part, by proceeds from the RGGI auctions. Therefore, in this Massachusetts-specific analysis, emissions reductions are attributed to all of these programs in combination.

Other benefits: By providing incentives for reduced operation of the dirtiest plants and greater operation of cleaner ones, the RGGI program also reduces criteria and hazardous pollutant emissions (NO_x, SO₂, mercury, and fine particulate matter). These reductions will have public health and environmental benefits.

⁴⁰ The states participating in the RGGI are CT, DE, MA, MD, ME, NH, NJ, NY, RI, VT.

Costs: Since funds received from sale of RGGI allowances are largely invested in the state's utility-administered energy efficiency programs, RGGI's costs in fractionally higher electricity prices are offset by reductions in the costs of the efficiency program.

Experience in other states: Other states are in the process of developing and implementing similar programs. These efforts include the Western Climate Initiative and the Midwest Climate Accord.

Legal authority: Massachusetts RGGI regulations derive from authority under the Green Communities Act.

Uncertainty: A range of factors affect emissions from power plants, some under the control of power plants or the state and some not, ranging from weather and relative prices of fuels used to generate electricity to the aggressiveness of the implementation of energy efficiency programs.

New Policy

MORE STRINGENT EPA POWER PLANT RULES

Policy summary: The EPA is in the midst of proposing and implementing a variety of regulations that will affect the nation's power plant fleet, impacting their allowable water and air emissions. It is likely that the owners of some older, smaller power plants will find it is not economical to retrofit their plants to meet EPA's new regulations, and they will instead choose to shut down the plants. In Massachusetts, it is possible that two of the state's older coal-fired power plants will close. The Somerset Power Station in Somerset last ran in January 2010, and its permits will eventually expire if it is not restarted. The owner of the Salem Harbor Station in Salem has indicated that it expects the plant to close within five years.⁴¹

Economy-wide GHG emissions reduced 2020	1.2 million metric tons; 1.2%
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Rationale: Power plant emissions have severe consequences for human health.

Policy design: Among the new rules being proposed by EPA are air emissions regulations addressing the transport of power plant pollution from one state to another (Clean Air Transport Rule, or CATR). Power plants contribute to high levels of ground-level ozone and fine particulates. These rules will require significant reductions in nitrogen oxides and sulfur dioxide emissions, which will tend to favor more efficient, cleaner power plants.

The Clean Air Act also requires EPA to propose air emission limits to control the release of mercury and other hazardous substances contained in power plant fuels (National Emission Standards for Hazardous Air Pollutants) and Maximum Available Control Technology standards). In addition, under Clean Water Act Section 316(b), cooling water intake structures may need to be redesigned to minimize the adverse environmental impact associated with the entrainment of fish, shellfish and their eggs and larvae by power plants drawing in large volumes of water to condense steam used in making electricity. Finally, Coal Combustion Residuals disposal regulations will ensure the safe disposal of coal ash.

Legal authority: EPA has the authority to issue new rules under the Clean Air and Clean Water Acts.

GHG impact: If these rules result in power from two older Massachusetts power plants being displaced by natural gas-fired power plants, there would be a net 1.2 million metric ton reduction in CO₂e in 2020.

Other benefits: Reduced exposure to fine particulates and ozone will have health and environmental benefits.

⁴¹ See http://www.boston.com/business/articles/2010/11/28/old_plant_begins_to_break_spell_over_salem_mass/

Expanded Policy

CLEAN ENERGY IMPORTS

Policy summary: Canada has substantial hydro-electric resources, which have very low emissions, and are available at relatively low cost and with no need for renewable energy subsidies (see Renewable Portfolio Standard, above). The amount of Canadian hydro has risen to 8.5 percent of New England’s electric consumption, but transmission lines that deliver this resource to southern New England are at full capacity, preventing any additional Canadian hydro from getting to our market. One effort to tap more of this resource is the Northern Pass transmission line being developed by two Massachusetts utilities, NSTAR and Northeast Utilities, in partnership with Hydro Quebec (HQ) and with the support of the Patrick-Murray administration. When this power line is completed, at HQ’s expense, it will bring to New England enough inexpensive clean power to serve up to 15 percent of Massachusetts’ present electricity demand. Additional transmission lines may also be possible.

Clean energy economy impacts:⁴² The project represents an infrastructure investment in the region by Hydro Quebec estimated at \$1.1 billion. It will create hundreds of jobs related to clearing and site work, harvesting, construction and materials, including electrical, professional, and technical services. While the vast majority of these jobs will be in New Hampshire and Quebec, it is likely to have spillover effects in Massachusetts.

Economy-wide GHG emissions reduced in 2020	5.1 million metric tons; 5.4%
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Rationale: Canadian hydro resources are extensive and have low operating costs. The transmission lines necessary to bring more Canadian hydropower to load centers in southern New England do not have to be financed by ratepayers apart from the price of delivered electricity, which will be sold in the competitive market.

Policy design: This policy involves working with the Massachusetts utilities to help overcome any hurdles.

GHG impact: The Northern Pass transmission line alone would provide 1,200 MW of clean electricity, enough to power nearly 1 million homes. This would result in up to 5 million tons of emissions reduction in the Commonwealth, depending on how much of the power is utilized in Massachusetts versus other states.

Other benefits: Like other electric sector policies, by incentivizing the reduced operation of fossil fuel plants, these additional low-emissions electricity imports would help reduce criteria and hazardous pollutants in the air (NO_x, SO₂, mercury, and fine particulate matter). These reductions will have public health and environmental benefits. In addition, additional hydro imports will significantly improve the region’s fuel diversity, improving energy security and price stability.

Cost: There are no additional costs to this effort to ratepayers or taxpayers. The power is expected to be sold in the market. In fact, as a “price-taker” in the market, it is possible that it would lower the wholesale electricity price and therefore reduce costs for business and residential

⁴² www.northernpass.us/transmission_project_impact.pdf

consumers. According to Northeast Utilities, a comprehensive analysis by Charles River Associates (CRA) shows that, even with conservative assumptions, the Northern Pass line will reduce energy prices in the wholesale market, potentially saving New England customers \$200 million to \$300 million in annual energy costs.

Experience in other states: Massachusetts and other Northeast states already have transmission lines to Canada and have imported hydro power for years. In fact, additional hydro power imports have been a significant contributor to a cleaner New England electricity grid in the last five years.

Legal authority: DPU and DOER have already begun working with utilities and ISO-New England on increasing such imports.

Uncertainty: Transmission lines involve federal, state and local permitting, and often raise siting concerns, with potential delays from legal action.

New Policy

CLEAN ENERGY PERFORMANCE STANDARD (CPS)

Policy summary: From 2005 to 2009, the electricity portfolio serving Massachusetts became nearly 20 percent cleaner. The major changes came from substitution of natural gas for coal and oil, doubling of imports of hydro power from Canada into New England, and the up-rating — or increasing of capacity — of existing nuclear plants regionally. This demonstrated that mature technologies have made a significant contribution to a cleaner electricity grid, without the federal or state incentives required for developing earlier stage technologies. They have an important role to play moving forward.

A market-based framework is needed to provide a clear signal to the electricity market to improve upon the cleaner energy portfolios of the last few years and to encourage projects such as the Northern Pass line (see “Clean Energy Imports” above). One approach to be considered is a Clean Energy Performance Standard (CPS), which applies an output-based performance standard to either portfolios of retail electricity sellers or to generators in terms of tons of pollution per megawatt-hour of electricity. As the performance standard becomes more stringent over time, the electricity market uses the least-cost mechanism for meeting it. The existing RPS fits neatly into this framework as a technology-specific means of meeting the standard.

Clean energy economy impacts: The CPS is a transparent and stable market-based framework that provides market certainty and enables investments to be made. It would encourage further replacement of power plant capital stock with cleaner technologies and cleaner fuels while disadvantaging dirtier power plants in the electricity marketplace.

Rationale: By being performance-based rather than technology-based, the CPS allows the market to find the least-cost approach to achieving a cleaner energy portfolio. In addition, it could empower electricity suppliers to manage their portfolios, akin to the CAFE standard for vehicles, offering cleaner products to interested customers to help meet their portfolio targets.

Policy design: Design issues include setting the targets; creating tracking mechanisms, particularly for system power; allowing tradability among suppliers, and minimizing “shuffling,” in which generators shift cleaner power to Massachusetts and dirtier power to other states. Resolving these and other design issues would require substantial consultation with the electricity industry.

GHG impact: The potential GHG impacts are substantial; however, they are completely dependent on the targets set and include the impacts from both the RPS and the clean energy imports. Therefore no additional GHG reductions from this potential policy were included in the overall estimates.

Other benefits: Like other electric sector policies, by providing incentives for the reduced operation of the dirtiest plants and greater operation of cleaner ones, a CPS reduces criteria and hazardous pollutant emissions (NO_x, SO₂, mercury, and fine particulate matter). These reductions will have public health and environmental benefits.

Cost: In the near-term, a CPS is likely to have a limited impact on electricity prices for consumers.⁴³

Experience in other states: Generator-level performance standards for new generators have recently been considered or implemented in several states and countries. However, portfolio-level performance standards for retail sellers of electricity or tradable performance standards for existing plants are less common, but have been analyzed recently. California has been working on a preferred loading order meant to encourage dispatch of lower emissions resources.

Legal authority: DOER and DPU will begin analysis of possible paths forward for creating a CPS, including regulatory or legislative avenues, as well as cost-benefit and implementation issues.

Uncertainty: The CPS ensures a cleaner energy portfolio over time. However, since it sets a limit on the carbon intensity of electricity generation, it does not constrain overall emissions. For example, if demand growth exceeded expectations, overall emissions would grow. Effective implementation of energy efficiency policies are a critical complement to mitigate this risk.

⁴³ Carolyn Fischer and Richard G. Newell, "Environmental and Technology Policies for Climate Mitigation".
<http://rff.org/rff/Documents/RFF-DP-04-05-REV.pdf>



Transportation

Transportation is second only to buildings in responsibility for GHG emissions in the state, and is a fast-growing emissions sector. The vast majority of emissions come from cars and trucks, although air travel is a rapidly rising emissions source. There are several means of addressing transportation emissions, all of which Massachusetts has been pursuing — improving vehicle efficiency, moderating the growth in auto travel through providing alternatives to it, and promoting the development and use of vehicle fuels that yield lower GHG emissions than petroleum-based fuels. The *Massachusetts Clean Energy and Climate Plan for 2020* takes into account state and federal measures to improve vehicle efficiency, reduce vehicle miles traveled, and increase use of lower-carbon fuels, and proposes additional measures that will contribute toward meeting the 2020 limit.

Improving Vehicle Efficiency

Improving vehicle efficiency has been primarily a federal government responsibility, implemented through Corporate Average Fuel Economy (CAFE) standards first put forth in 1975 by the National Highway Traffic and Safety Administration (NHTSA). These standards had been stagnant for many years, but were raised in the 2007 federal Energy Independence and Security Act. Under President Obama, the standards were raised sharply in 2010, from 27.5 miles per gallon

currently to 35.5 MPG (in 2016), and for the first time NHTSA and the Environmental Protection Agency (EPA) issued joint regulations that will control both fuel efficiency and GHG emissions from cars and light trucks.

During the period when federal CAFE standards were stagnant, the state of California passed its own law to regulate GHG emissions from light vehicles, under a longstanding waiver provision of the federal Clean Air Act. Massachusetts law requires adoption of California's standards if they are stricter than the federal ones, and the Commonwealth did so in December 2005. These standards apply to model year 2009 and newer vehicles. However, the federal government requires California to obtain a waiver of federal law in order to impose its own emission standards. In 2007 EPA denied California's waiver request, although it was later approved under President Obama.

In October 2010, NHTSA and EPA announced that they would propose regulations to require improved efficiency and lower GHG emissions from medium- and heavy-duty vehicles, including delivery trucks, buses and semi trucks (tractor trailers). These will also yield substantial GHG reductions in Massachusetts.

This Plan proposes a complementary measure to improve the overall efficiency of light-duty vehicles in Massachusetts: providing incentives to consumers to purchase more fuel-efficient vehicles. Such incentives would involve varying charges and/or rebates on vehicles according to their GHG emissions per mile (similar to fuel use per mile) — such as varying the sales tax on new cars, the annual vehicle excise tax, or registration fees. The variable charges could be designed to be revenue-neutral to consumers as a whole and to the state, with tax increases and decreases balancing each other.

Reducing Vehicle Miles Travelled (VMT)

Massachusetts has a number of programs to rein in the growth of driving, which is generally measured by vehicle miles traveled (VMT). Most of these programs have as their primary purposes improving mobility options for state residents by providing alternative methods of travel and reducing congestion on the roads, and reducing air pollutants that damage human health, such as nitrogen oxides, carbon monoxide, and particulates. Among these are support for public transit and for infrastructure that improves conditions for bicyclists and pedestrians. The state also operates programs that encourage ride-sharing among commuters, van pooling, and employer-based methods for reducing single-occupancy travel to work.

The amount of driving is greatly influenced by patterns of new housing and business development in the state. The more spread out development is, the more driving people must do to get to work and school, to shop and participate in other activities. Although decisions on development are primarily up to local governments and the private sector, the state has several policies designed to influence them. The state has issued *Sustainable Development Principles* to guide state agency programs, as well as investment in land and infrastructure. The principles call for encouraging building homes “near jobs, transit, and where services are available,” and encourage the creation of pedestrian-friendly neighborhoods — practices known as “smart growth”. Adherence to the principles is aided by the Commonwealth Capital program, under which about \$600 million annually in grants and loans for municipalities is distributed in part on the basis of communities meeting sustainable development criteria.

The Massachusetts Department of Transportation (MassDOT) took a major step

forward in June, 2010 with its “GreenDOT” policy directive, which commits MassDOT to “be a national leader in promoting sustainability in the transportation sector.” Among the three primary goals of GreenDOT is reducing GHG emissions, in part through implementation of the Global Warming Solutions Act.⁴⁴ Critical to the specific efforts under GreenDOT is consideration of GHG impacts in statewide and regional transportation planning, and in the selection of particular projects that receive funding in the regional and statewide transportation plans.⁴⁵ GreenDOT also specifies several other efforts (to be discussed later in this Plan), such as enhanced support for alternative modes of transportation and promotion of “eco-driving” (fuel-saving auto maintenance and driving practices). GHG emissions from auto travel can also be reduced by enabling more efficient roadway operation through the use of intelligent transportation systems and mitigating “bottlenecks” that create local congestion, if such mitigation is designed so that it does not expand overall system capacity, facilitate increased auto travel, nor increase GHG emissions over time.

This Plan proposes several new policies to aid in the effort to limit miles traveled. First, an extension of policies to steer new development toward smart growth — through a new law designed to improve local zoning, provide assistance to communities to help them develop zoning policies, and require that state infrastructure funding

⁴⁴ MassDOT Policy Directive on GreenDOT, Jeffrey B. Mullan, Secretary of Transportation, June 2, 2010.

⁴⁵ Although Green DOT is now an “existing” state policy, it was released subsequent to completion of ERG’s February 2010 report on the impacts of the state’s current GHG reduction policies, and so was not included in those numerical estimates. Therefore in the present document the impacts of GreenDOT are treated as “new” policies.

decisions take into account impacts on GHG emissions.

Second, the Plan proposes that the state implement a pilot program of "Pay As You Drive" (PAYD) auto insurance, with the possibility of its expansion later. PAYD is an innovation that many studies have shown would significantly reduce miles driven,⁴⁶ by converting a fixed annual cost into a cost that varies by the amount of driving. In addition, average insurance costs across all drivers would fall, as less driving also means fewer accidents, and there would be significant reductions in traffic congestion, particularly in urban areas.

Reducing the Carbon Content of Vehicle Fuel

Emissions controls on cars have greatly cut emissions of health-damaging pollutants such as nitrogen dioxide. But such controls are unable to reduce carbon dioxide emissions from petroleum fuels, the primary GHG pollutant. As a result, to limit the GHG emissions from vehicle fuel, it is necessary to find alternatives to gasoline and petroleum-based diesel fuel, such as bio-diesel, ethanol, natural gas, and electricity.

In recent years, the actual GHG benefits of liquid biofuels made from food crops, such as corn-based ethanol and soy-based bio-diesel, have been questioned. When one examines the entire lifecycle of such fuels, including their impacts on food supplies and deforestation, it is unclear whether and to

what degree GHG emissions are reduced compared to petroleum fuels. As a result, Massachusetts has concentrated its efforts on supporting non-food crop based or "advanced" biofuels, and has required that alternatives to petroleum demonstrate significant GHG benefits.

In 2008, Governor Patrick signed the Clean Energy Biofuels Act, which has several parts. First, it exempts non-food crop based, or cellulosic, biofuel from the state's gasoline tax. Second, it requires that initially 2 percent of the diesel fuel and home heating fuel sold in the state consist of bio-diesel, rising to 5 percent in 2013. However, the bio-diesel must be shown to yield a 50 percent reduction in GHG emissions compared to petroleum diesel. A lack of supply of such fuel, along with other obstacles to implementation, have caused the state to delay implementation of the content mandate. Third, the Act instructs the state to pursue development of a "low carbon fuel standard" (LCFS) on a regional basis throughout the Northeast. The LCFS concept originated in California, where the legal target is to reduce the average carbon content of motor fuel 10 percent by 2020. During the past two years Massachusetts has been leading an effort by the Northeast and Mid-Atlantic states to construct such a standard. A target for the Northeast/Mid-Atlantic LCFS has not been set.

In addition, two federal laws are designed to bring more alternative fuels into the market. First, Title II of the federal Energy Independence and Security Act of 2007 creates a "renewable fuel standard," which requires that such fuel used in the U.S. will rise from 4.7 billion gallons in 2007 to 36 billion gallons in 2022. Of that, "advanced biofuel" must rise from 0.6 billion gallons in 2009 to 21 billion gallons in 2022, and cellulosic biofuel must rise from 0.1 billion gallons in 2010 to 16 billion gallons in 2022. Renewable fuels must be produced from

⁴⁶ See, for example, "Pay-As-You-Drive Auto Insurance: A Simple Way to Reduce Driving-Related Harms and Increase Equity," Jason E. Bordoff and Pascal J. Noel, The Hamilton Project, The Brookings Institution, July, 2008; Pay-As-You-Drive Auto Insurance In Massachusetts: A Risk Assessment And Report On Consumer, Industry And Environmental Benefits, MIT Professor Joseph Ferreira, Jr. & Eric Minikel Commissioned by Conservation Law Foundation & Environmental Insurance Agency, November 2010.

renewable biomass, replace other transportation fuel, and achieve at least a 20 percent reduction in GHG emissions on a lifecycle basis for "new facilities." (Existing facilities, such as those producing corn-based ethanol, and their expansion are exempt from the GHG criterion.) Advanced biofuel excludes ethanol derived from corn starch, and must yield at least a 50 percent lifecycle reduction in GHG emissions, while cellulosic biofuel must achieve a 60 percent reduction.

Second, the federal Energy Improvement and Extension Act of 2008 provides a \$2,500

tax credit for the first 250,000 light-duty plug-in hybrid electric vehicles sold until 2015, requiring that each must have a battery capacity of at least 4 kW. The tax credit rises with battery capacity to a maximum of \$7,500.

This Plan relies primarily on development of a regional Low Carbon Fuel Standard, along with the federal policies described above, to obtain reductions in the average carbon content of vehicle fuels; which constitutes one of the three main methods of reducing GHG emissions from transportation.

Existing Policy

FEDERAL AND CALIFORNIA VEHICLE EFFICIENCY AND GHG STANDARDS

Policy Summary: The EPA and the National Highway Traffic Safety Administration (NHTSA) have set harmonized standards for light-duty vehicle MPG and GHG emissions for model year 2012 through 2016 vehicles. The standard is raised from 27.5 MPG at present to 35.5 MPG in 2016. California has harmonized its standards with the federal standards through 2016, but is expected to propose stricter standards for model year 2017 to 2020 vehicles, and Massachusetts law requires the Commonwealth to adopt the California standards. In combination, the EPA and California standards are forecast to yield a 17 percent reduction in GHG emissions in 2020 (primarily from lower gasoline consumption, but also with some reduced emissions from vehicle air conditioning systems).

Economy-wide GHG emissions reduced in 2020	2.4 million metric tons; 2.6%
Cumulative net benefits discounted, 2012-lifetime of vehicles (fuel savings and other social benefits, less increased vehicle costs)	\$8.0 billion
Jobs gained in 2020 (direct and indirect)	6,200 jobs

Note: benefits are calculated over the lifetimes of vehicles purchased from 2012 through 2020, which extend beyond 2020.

Clean energy economy impacts: The vast majority of spending on motor fuel goes out of state, so reducing those expenditures by billions of dollars means more money can be spent on in-state businesses, stimulating the economy and creating jobs.

Rationale: Federal fuel economy (CAFE) standards were first enacted in 1975 but have been relatively stagnant since the 1980s. Federal law raised them in 2007, but the Obama administration proposed an accelerated schedule through 2016. Improving the fuel economy of vehicles is one of the most effective tools to reduce energy consumption and GHG emissions.

Design issues: The federal regulations continue the practice of having different standards for cars and light trucks, although two-wheel drive SUVs will be reclassified as cars. EPA/NHTSA project the fraction of vehicles sold in the two categories; average MPG and fuel savings could be lower than expected if a higher proportion of light trucks are sold.

GHG impact: 2.4 million tons in 2020 for Massachusetts, based on EPA/NHTSA and California projections.

Other benefits: EPA's benefit calculations include lower air pollution from vehicles, less time spent refueling, security benefits of lower petroleum imports, and the social value of lower carbon emissions.

Costs: About \$3.4 billion in additional vehicle costs through 2020, far outweighed by \$11.4 billion in reduced fuel costs (all in net present value).

Equity issues: Both higher initial capital costs and subsequent fuel savings will accrue first to purchasers of new vehicles. Lower income drivers more commonly buy used vehicles, and will only be affected in later years as the new models are sold on the used car market.

Experience in other states: The federal regulations are required in all states. Massachusetts and a number of other states have adopted California's stricter standards in the past, with no implementation problems.

Legal authority: The federal government has authority over vehicle efficiency and air emissions. However, there is an exemption under the 1970 Clean Air Act for California to adopt standards stricter than EPA's (if awarded a waiver by EPA) and for other states to adopt California's standards.

Implementation issues: None.

Uncertainty: See discussion under "design issues" concerning the distribution of sales between cars and light trucks.

New Policy

FEDERAL EMISSIONS AND FUEL EFFICIENCY STANDARDS FOR MEDIUM- AND HEAVY-DUTY VEHICLES

Policy summary: The EPA and the DOT have announced complementary programs to reduce GHG emissions and improve fuel efficiency, respectively, for medium- and heavy-duty vehicles, such as the largest pickup trucks and vans, combination tractors⁴⁷, and all types and size of work trucks and buses in between, for model years 2014-2018.

Economy-wide GHG emissions reduced in 2020	0.3 million metric tons; 0.3%
Motor fuel savings in 2020 ⁴⁸	\$140 million per year
Cumulative net benefits (discounted) 2011-lifetime of vehicles	\$240 million
Jobs gained in 2020 (direct and indirect)	1,000 jobs

Clean energy economy impacts: Using commercially available technologies, a payback period of one to two years is estimated for the majority of vehicles. Vehicles with lower annual miles would have payback periods of four to five years. For example, an operator of a semi truck could pay for the technology upgrades in under a year, and have net savings up to \$74,000 over the truck's useful life.⁴⁹ Large reductions in fuel use will improve air quality. Less spending on imported fuel will keep more money in the Massachusetts economy and thereby create jobs.

Rationale: Transportation is projected to account for close to 40 percent of total GHG emissions in Massachusetts in 2020, and medium- and heavy-duty vehicles are projected to account for 13 percent of transportation sector emissions. These vehicle standards will reduce fuel consumption and GHG emissions while providing regulatory certainty for manufacturers.

GHG impact: 0.34 percent of statewide GHG emissions in 2020, based on a reduction of 6.4 percent in emissions from medium- and heavy-duty vehicles.

Equity issues: The federal regulations are carefully designed to set efficiency standards that are appropriate and cost-effective for different sizes and types of vehicles. There are no significant predicted equity issues with the promulgation of this federal regulation.

Uncertainty: Current projections of the impact of these standards by the EPA and NHTSA may not turn out to be correct, in terms of fuel savings and costs and benefits, as the regulation is not final. In addition, if manufacturers cannot meet the standard and pay penalties instead, then GHG and fuel consumption targets will not be met.

⁴⁷ Also known as semi trucks that typically pull trailers.

⁴⁸ At \$3.34/gallon gasoline, \$3.51/gallon diesel, in 2008\$. Energy Information Administration, Annual Energy Outlook 2010.

⁴⁹ "EPA and NHTSA Propose First-Ever Program to Reduce Greenhouse Gas Emissions and Improve Fuel Efficiency of Medium- and Heavy-Duty Vehicles: Regulatory Announcement," Report No. EPA-420-F-10-901, October 2010.

Existing Policy

FEDERAL RENEWABLE FUEL STANDARD AND REGIONAL LOW CARBON FUEL STANDARD

Policy summary: Title II of the federal Energy Independence and Security Act of 2007 creates a “renewable fuel standard,” which requires that the volume of renewable fuels used in the U.S. will rise from 4.7 billion gallons in 2007 to 36 billion gallons in 2022. In a similar fashion, Massachusetts’ biofuels law, passed in 2008, instructs the state to pursue development of a “low carbon fuel standard” (LCFS) on a regional basis throughout the Northeast. The LCFS (first developed by California) would require that the average carbon intensity of vehicle fuels fall by a specific percentage compared to petroleum fuels.

Economy-wide GHG emissions reduced in 2020	1.5 million metric tons; 1.6%
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Clean energy economy impacts: To the degree that imported petroleum used in Massachusetts can be replaced by feedstocks such as solid waste, forest residues, and other cellulosic material, money that would otherwise go overseas is retained in the regional economy. If advanced fuels (including electricity powering plug-in hybrid and all-electric vehicles) eventually become less expensive than petroleum fuels, consumer costs are expected to fall. There are significant economic development opportunities in growing feedstocks, converting those into fuel, and in research and development. The report of the Massachusetts Advanced Biofuels Task Force forecast that the sector could employ 2,500 people in the state by 2025.

Rationale: The carbon intensity (or GHG emissions per unit of energy used) of fuel is one of the three main ways that emissions from motor vehicles can be reduced. In theory, if crops or other plants are used to produce fuel, the emissions from burning the fuel can be canceled out by the re-growth of plants on the same land absorbing equal amounts of carbon dioxide during its growth. Given the United States’ large supply of land and agricultural produce, this is a logical method of reducing the use of petroleum. In addition, if electric vehicles become prominent, they would reduce the carbon intensity of fuels, since electric motors are far more efficient at powering motor vehicles than are gasoline engines.

Policy design and issues: Under the Federal RFS, supplies of “advanced biofuel” (including cellulosic) must rise from 0.6 billion gallons in 2009 to 21 billion gallons in 2022, and cellulosic biofuel by itself must rise to 16 billion gallons in 2022. Advanced biofuel excludes ethanol derived from corn starch, and must yield at least a 50 percent lifecycle reduction in GHG emissions, while cellulosic biofuel must achieve a 60 percent reduction. Renewable fuels that don’t qualify as advanced can constitute up to 15 billion out of the 36 billion total gallons of fuel; they must still be produced from renewable biomass, replace other transportation fuel, and achieve at least a 20 percent reduction in GHG emissions on a lifecycle basis for “new facilities.” Existing facilities, and expansion of such facilities, such as those producing corn-based ethanol, are exempt from the GHG criterion, leaving some question as to how much of the non-advanced fuel will actually meet the 20 percent criterion.

As required by the Biofuels Act, during the past two years Massachusetts has been leading an effort by the Northeast and Mid-Atlantic states to develop a Low Carbon Fuel Standard in the region. The LCFS concept originated in California, where regulations require a reduction in the

average carbon content of motor fuel of 10 percent by 2020. Targets and timelines for the Northeast/Mid-Atlantic LCFS are being developed. Unlike the RFS, the LCFS is a “technology neutral” standard — rather than requiring specific volumes of different fuels, it allows fuel suppliers to choose any motor fuel in any quantity — including petroleum, biofuels, natural gas, electricity, and other possibilities. First, the average carbon intensity of each fuel is determined. If the intensity of a particular fuel exceeds the annual target, then suppliers of this fuel have a “deficit” and must purchase credits from sellers of fuels that have a carbon intensity below the annual target.

A major issue for the RFS and the LCFS is calculating the carbon intensity of different fuels. This requires examining the entire lifecycle of a fuel, including, for example, how electricity is generated and how crops are grown — calculations that are difficult to do with any degree of precision. Important numerically, and controversial, are the carbon impacts from what is known as “indirect land use change” (ILUC). When large amounts of food crops are used for fuel (corn for ethanol, soybeans or rapeseed for biodiesel), this may cause the need for more food production. Forests may be cut down to expand the amount of land on which crops can be grown, causing reductions in the CO₂ sequestered by trees and soil. The US EPA and the California Air Resources Board (CARB), along with the European Union and specific European countries, are currently calculating ILUC for each fuel, but each source has published different numbers. The Northeast and Mid-Atlantic states are examining which methodologies and figures are best to use, and these choices substantially affect how much “credit” each fuel would receive under the LCFS.

There are a number of other design issues involved in constructing a regional LCFS for the 11 states currently involved, and an interstate group of agency staff, along with an interstate agency — the Northeast States for Coordinated Air Use Management (NESCAUM) — have been addressing design issues for the past two years.

GHG impact: For purposes of this Plan, the LCFS is estimated conservatively to achieve a 5 percent reduction in the average carbon content of vehicle fuel by 2020, with greater reductions in following years. The LCFS is more specifically focused on GHG reductions than the federal RFS. Without the LCFS, the RFS by itself might yield about a 3 percent reduction, depending on what reductions are actually achieved from corn-based ethanol produced throughout the U.S.

Other benefits: Possible reductions in other air pollutants, depending on which fuels are used in place of petroleum.

Costs: NESCAUM is working on a regional economic analysis which will be available in early 2011. This analysis will include estimates of cost and benefits to the region and to each state.

Equity issues: Any price impacts from the RFS and LCFS will be spread across all drivers in proportion to the amount of fuel that they use.

Experience in other states: California has adopted regulations for implementation of its LCFS, which goes into effect in 2011.

Legal authority: Massachusetts’ biofuels law gives the state the authority to implement the LCFS. In other participating states, new regulations or legislation will be necessary, or both.

Implementation issues: As with any interstate policy, achieving agreement on how to implement a uniform policy among a number of states presents many complexities. The

interstate effort currently underway, led by Massachusetts and NESCAUM, is addressing these. For example, distribution infrastructure for new fuels and vehicles may be needed. This would require large capital investments (e.g., liquid fuel distribution for biofuels, charging stations for electricity, etc.) and it is unclear whether the incentive system created by the LCFS will be sufficient to draw out that investment. Nor is it clear whether the auto manufacturers will develop the vehicles needed to utilize the fuel, particularly in the case of plug-in hybrid and all-electric vehicles. Complementary policies may be necessary for all parts of the system to be developed in tandem.

Uncertainty: As a technology-neutral policy, the LCFS is not picking between the several possibilities for alternatives to petroleum, and it is uncertain at this time which ones will succeed best in terms of eventual cost, and what that cost will be.

New Policy

CLEAN CAR CONSUMER INCENTIVES

Policy summary: There are various means by which the Commonwealth could provide incentives for consumers to shift their vehicle purchases to more fuel-efficient (or lower GHG) models. This includes varying the rates on new car sales taxes, annual auto excise (property) taxes, and registration fees, with rates raised on low-MPG vehicles and reduced on high-MPG ones. The change could be designed to be revenue-neutral to consumers as a whole and to the state.

Economy-wide GHG emissions reduced in 2020	0.2 - 0.4 million metric tons; 0.2% - 0.5%
Motor fuel savings (at \$3.34/gallon ⁵⁰) in 2020	\$110 - \$230 million
Cumulative net benefits (discounted) 2011-2020 for higher end of annual benefits	\$570 million
Jobs gained in 2020 (direct and indirect)	1,700 jobs

Clean energy economy impacts: Large reductions in fuel costs for consumers, and less spending on imported fuel, which keeps more money in the Massachusetts economy and thereby creates jobs. For a tax or fee that varies with CO₂ but is still a percentage of vehicle price or value, and is revenue neutral to the state, costs would fall for a majority of auto buyers or owners (possibly around 60 percent), because the most expensive vehicles also tend to get the worst MPG and these would bring in much greater revenues.

Rationale: Transportation is expected to account for close to 40 percent of total GHG emissions in Massachusetts in 2020, and light vehicles by themselves (cars, SUVs, minivans, pickups) around 28 percent of the total. The efficiency of the vehicles themselves is probably the easiest factor to influence among the several that determine vehicle emissions (the others being miles traveled and carbon content of the fuel). Although the federal government preempts authority over setting efficiency standards for automakers, the state does have the ability to influence consumer choice through tax and fee policies. Given the state's budget realities, a policy that combines incentives and disincentives can be accomplished without a loss of tax revenue.

Design issues: The simplest design, which has been proposed in California and Europe, is a charge measured in cents per gram of carbon per mile driven, or cents per gallon per mile driven, varying linearly from a minimum to a maximum rate. This would provide the strongest incentive, but would not be tied to the price of the vehicle. A tax or fee that varied by carbon emissions but was a percentage of vehicle sales price or current value (for vehicle property taxes or registration fees) would concentrate the impact on buyers of more expensive vehicles, but would provide a weaker incentive to buy fuel-efficient vehicles.

In addition, there could be rate variations designed to assist particular groups of drivers, such as those with large families who need vehicles with seating capacity for six or more, or contractors who need trucks for their businesses.

The tax or fee design could be revenue-neutral to the state and to consumers as a whole, with reductions and increases in payments balancing out. The sales tax on motor vehicles in

⁵⁰ EIA forecast for 2020, in constant 2009 dollars.

Massachusetts is currently 6.25 percent, as for all non-exempt products. Preliminary modeling by the state, with the rates varying from 0 percent to twice the current sales tax rate, found that expensive, low-MPG vehicles would yield a large tax revenue increase. In order to maintain revenue neutrality, the entire tax schedule would shift down, with the most efficient vehicles (hybrids) having a negative rate (receiving a rebate) while the top rate would be significantly below 12.5 percent.

GHG impact: For a variable sales tax, the impact would vary from around 0.2 million to 0.4 million metric tons, due to an improvement of 1 percent to 2 percent in average vehicle fuel efficiency, as estimated by Cambridge Systematics, Inc. For a change to vehicle excise taxes or registration fees, the dollar amounts are lower and the impact would be lower. In the table above, the larger impact is from a straight fee on CO₂ emitted per mile driven, that replaces the current sales tax, as has been proposed by California. The smaller impact is from a fee that varies according to CO₂ emissions but is a percentage of vehicle purchase price.

Other benefits: Fewer large, heavy vehicles on the road will reduce injury and death rates from accidents. Reduced fuel usage will cut emissions of other air pollutants that cause human health damage.

Costs: Minimal costs to administer. The state would devise tax or fee rate schedules and provide these to auto dealers or the Registry of Motor Vehicles (RMV). Dealers already handle the sales tax through an electronic connection to the RMV.

Equity issues: Lower-income households tend to buy used cars, whose sales tax rates will not change under this proposal. For new vehicles, size, weight and gas consumption are highly correlated with purchase price, so the tax increases will tend to be felt by higher-income purchasers, with buyers of smaller, cheaper cars seeing decreases in their sales taxes. Beyond the initial purchase price, virtually all drivers whose vehicle choice is modified by the incentive mechanism will see substantial savings in gasoline costs over time.

Experience in other states: California has proposed a version of the sliding-scale sales tax, with the tax varying directly with CO₂ emissions, in their climate planning process, and legislation is pending.

Legal authority: Legislation is required to change the tax rates. In some cases, fees such as registration fees can be changed by agencies without new legislation. EEA and MassDOT will conduct a study to examine critical implementation challenges and possible regulatory or legislative paths forward.

Implementation issues: Changes will be needed to the RMV's computer systems. In order to maintain revenue neutrality, it will probably be necessary to adjust fees, rebates or tax rates over time.

Uncertainty: The degree of consumer response to changes in taxes or fees is not precisely known, so the gains in reduced emissions and the exact tax revenues will only be seen with experience.

New Policy

PAY AS YOU DRIVE (PAYD) AUTO INSURANCE PILOT

Policy Summary: PAYD would convert a large fixed annual premium into a variable cost based on miles traveled, creating a major incentive to reduce discretionary driving, while cutting the overall cost of insurance due to fewer accidents. Miles driven would fall substantially, along with CO₂ emissions and costs for gasoline, accidents, and congestion. The Commonwealth plans to conduct a PAYD pilot program initially, and, depending on results, consider working with the insurance industry to make this payment method more widely available in future years. Benefits from PAYD would depend on its degree of adoption by insurance companies and consumers.

Benefits from full-scale PAYD implementation

Economy-wide GHG emissions reduced	0.4 - 2.0 million metric tons; 0.4% - 2.1%
Motor fuel savings (at \$3.34/gallon) in 2020	\$160 - \$830 million
Accident savings (medical costs, property damage, etc.) and reductions in insurance premiums in 2020	\$160 - \$800 million
Congestion savings (reduction in lost time) in 2020	\$50 - \$250 million
Total \$ savings 2020	\$370 - \$1,880 million
\$ savings per person in the state 2020	\$60 - \$290
Cumulative net benefits discounted 2011-2020 (for middle option)	\$5.3 billion
Jobs gained in 2020 (middle policy option, direct and indirect)	2,500 jobs

Note: The lower end of the benefits range is for a voluntary system, higher end is for a mandatory system with the entire insurance charge on a per-mile basis. A middle option, with a mandatory system that has a flat charge for the first 2,000 miles and a per-mile charge beyond that, would yield about 1.0 million tons GHG reduction in 2020, from a 5 percent reduction in vehicle miles traveled.

Clean energy economy impacts: For a reduction of 5 percent in VMT (middle policy option), motor fuel spending would fall by \$440 million at 2020 projected gas prices. Less spending on imported fuel will keep more money in the Massachusetts economy and thereby create jobs. A Brookings Institution study estimated that rates would fall for two-thirds of drivers, while rising for one-third. Benefits would accrue particularly to lower-income drivers, who need a vehicle for employment but can save money by controlling non-essential driving. Less congestion will improve quality of life.

Rationale: Transportation is expected to account for close to 40 percent of total GHG emissions in Massachusetts in 2020, and light vehicles by themselves (cars, SUVs, minivans, pickups) around 28 percent of the total. One way to reduce emissions is by reducing VMT. At present, insurance premiums do not vary by VMT (though there is precedent in current discounts for low usage, such as 5,000 miles/year) and so they have little impact on people's driving habits. If insurance were converted into a per-mile charge it would give drivers a new incentive to limit their driving when they can.

Design issues: Design of the program would depend upon the results of the pilot program. It is expected that the per-mile rate would not be uniform, but rather would vary by the traditional

rating factors, including location and driver experience. Thus, miles driven would only be one factor determining rates. For example, an inexperienced driver living in Boston would likely pay a per mile rate substantially higher than that of an experienced driver living in western Massachusetts. Because insurance companies set their rates by accident costs within a geographic area, PAYD would not favor urban residents over suburban or rural ones. PAYD would be “revenue neutral” within a particular area, favoring low-mileage drivers over high-mileage ones.

GHG impact: 0.4 percent to 2.1 percent of statewide GHG emissions in 2020, based on a reduction of 2 percent (for a voluntary system) to 9.5 percent (for a mandatory system with charges entirely by the mile) in vehicle miles traveled. A nationwide study by the Brookings Institution found that PAYD insurance would reduce VMT by 8 percent.

Other benefits: Accidents, and the associated injuries, deaths, and monetary costs, would fall greatly, particularly in congested areas. In the middle policy option, there would be an estimated reduction in crashes of 11,000, 7,000 fewer injuries, and 36 fewer fatalities, yielding \$420 million in total benefits, part of which would accrue to drivers in lower insurance rates. Congestion, and the lost time and money that result, would also fall significantly, particularly in urban areas. Cambridge Systematics, Inc. estimates that statewide congestion would be cut substantially. There would also be reductions in other air pollutants from motor vehicles, which will have health benefits.

Costs: On average, insurance costs would fall across all drivers. Costs would vary by driver, rising for high-mileage drivers who are unable to modify their driving habits. If mileage is monitored through annual safety inspections, as is done at present, there would be little additional cost for either drivers or the state. VMT could also be monitored through telematic devices in cars, which currently cost \$100 to \$200 per unit. These costs will probably fall as the devices become more common, and wouldn’t be needed for vehicles that already have GPS systems. A gradual transition could be made by requiring the devices for new cars, but allowing use of the safety inspection data for older cars.

Equity issues: The MIT study for Massachusetts finds that accident costs are related to miles driven, and therefore having insurance rates tied to VMT improves fairness among drivers. Initially rates would increase for approximately one-third of drivers, but ultimately rates should decline for a higher fraction of all drivers due to reduced accident costs. Relative rates for different population groups — inexperienced drivers, adults, and senior citizens — would not change significantly, nor would relative rates between different areas of the state.

The most recent data available on vehicle miles traveled by income level is for 2001, and only at the national level.⁵¹ It shows that on average middle-income families drive about three-fourths as much as high-income families, and that low-income families drive about half as much as high-income ones. A Brookings Institution study found that, nationwide, lower-income households would generally save money due to PAYD while higher-income households would, on average, pay more, as shown in Figure 7 on page 63.⁵²

⁵¹ Table A2, U.S. Per Household Vehicle-Miles Traveled, Vehicle Fuel Consumption and Expenditures, 2001,” EIA.

⁵² Jason E. Bordoff and Pascal J. Noel *Pay-As-You-Drive Auto Insurance: A Simple Way to Reduce Driving-Related Harms and Increase Equity*, The Brookings Institution, July 2008.

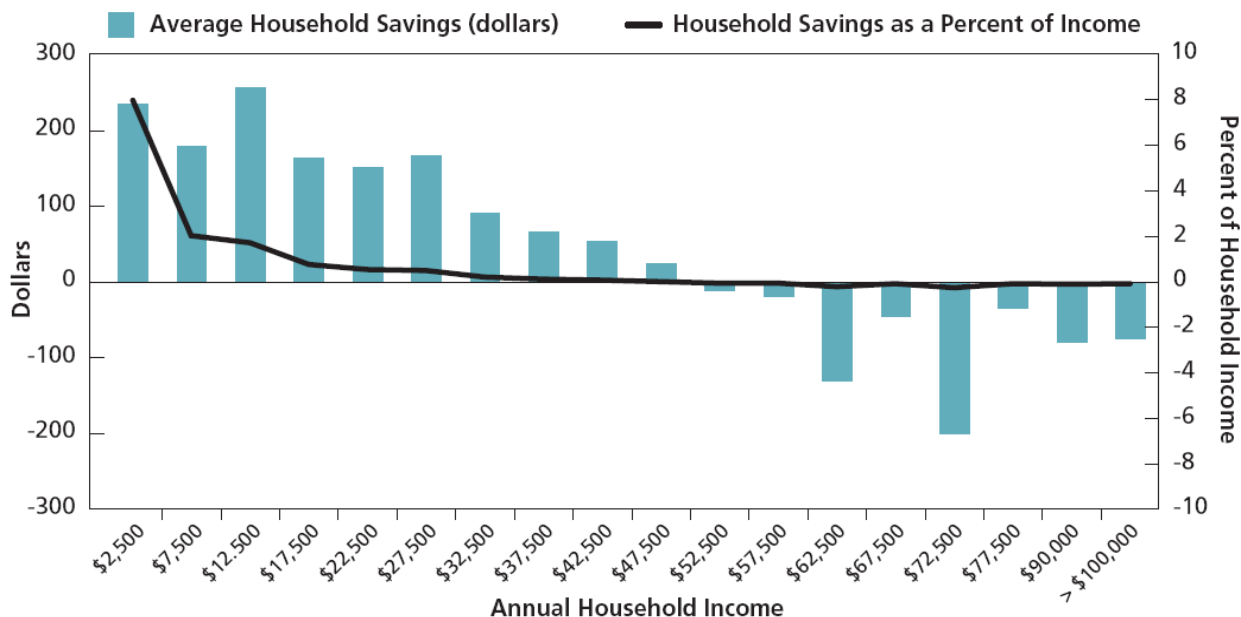


Figure 7. Estimated Household Savings from PAYD, by Annual Household Income (source: Bordoff and Noel)

Experience in other states: PAYD does not exist as a mandatory system anywhere in the U. S., but several insurance companies have pilot programs, including Progressive Insurance and GMAC. Pilots are also taking place in the United Kingdom. Several states are attempting to encourage PAYD, including Texas, California, and Oregon. The Federal Highway Administration is making available about \$10 million for PAYD pilots in the next fiscal year. Fourteen states have PAYD in their climate action plans. Maryland forecasts that PAYD has the potential to reduce GHG emissions there by 1 million tons in 2015 and 4.3 million tons in 2020.⁵³

Legal authority: The state's Division of Insurance has authority over auto insurance rates. At present the Division can allow companies to offer PAYD but cannot require them to do so. Legislation would be needed to require companies to provide PAYD as an option, or to require them to put all policies on a per mile basis.

Implementation issues: If the state does not require insurance companies to offer PAYD, insurance companies are unlikely to do so, as has been the case in other states. If the policy is optional for drivers, only a fraction may choose it, greatly reducing the impacts on GHG emissions and savings for drivers. Monitoring VMT through annual inspections carries the risk of errors, and will significantly reduce the incentive mechanism, by giving drivers feedback only once per year. Use of a telematic device that can be used to bill drivers monthly for their insurance would be more effective in influencing driver behavior. Information on costs could also be provided on a real-time basis through an on-board device or through a web site look-up. Some drivers might have privacy concerns about their driving being monitored telematically, even if the information is limited to VMT. In addition, the Brookings study argues that the cost of the telematic devices exceeds the benefits to the companies, so that incentives may be needed in order to achieve the social benefits of lower pollution, accidents, and congestion.

Uncertainty: Projections of the impact of PAYD on driving may not be correct, with actual VMT reductions lower than expected. In addition, administrative costs could be higher than expected.

⁵³ Center for Climate Strategies, www.climatestrategies.us/, 11/12/10.

Existing Policy

SUSTAINABLE DEVELOPMENT PRINCIPLES

Policy summary: In 2007, the Patrick-Murray Administration updated the Massachusetts *Sustainable Development Principles* to guide creation and implementation of state agency policies and programs, as well as investments in land and infrastructure. Municipalities, through policies like Commonwealth Capital, are also encouraged to modify their planning, regulatory, and funding actions to achieve consistency with the principles. The principles include promoting clean energy, in the form of energy efficiency and renewable power generation, in order to reduce GHG emissions and consumption of fossil fuels. They also encourage reductions in vehicle miles traveled (VMT) through actions such as the creation of “pedestrian-friendly” districts and neighborhoods that mix commercial, civic, cultural, educational, and recreational activities with parks and homes. In regard to housing, the principles call for building homes “near jobs, transit, and available services.”

State investments, particularly those in infrastructure, have an important influence on where and how growth occurs. The principles are intended to guide policies, programs, and expenditures, particularly those that affect where and how development occurs. Making state investments consistent with the principles increases the amount of growth that takes place in locations and densities that reduce VMT and GHG emissions and have other clean energy benefits.

Economy-wide GHG emissions reduced in 2020 (in conjunction with Commonwealth Capital and MEPA)	0.1 million metric tons; 0.1%
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Clean energy economy impacts: *Sustainable Development Principle #9 — Promote Clean Energy* — explicitly encourages clean energy practices, aiding development of clean energy jobs and reduced energy costs. Also, *Sustainable Development Principle #1 — Concentrate Development and Mix Use*, along with *Sustainable Development Principle #7 — Provide Transportation Choice*, can enable significant transportation cost reductions for residents and business due to reduced vehicle ownership and fuel consumption. Finally, Principle #1 will help to increase building efficiency and make district energy and combined heat and power more feasible.

Rationale: The principles provide a value statement and basic guide that state and municipal employees, business interests, land owners, developers, conservation groups, and others can turn to when making choices about their actions and investments. State policies, such as Commonwealth Capital, have the principles as their foundation. These policies expand upon the principles and provide an incentive to implement them.

Policy design: Readily implemented, since legislation is not required and regulatory changes would be minimal. However, improving the consistency of a large number of programs with the principles will require Executive leadership, perseverance, and a willingness to overcome obstacles.

One example of a state program that has utilized the *Sustainable Development Principles* is the Commonwealth Capital Program. More than \$600 million in grants and low interest loans are awarded annually based in part on Commonwealth Capital scoring. Municipal smart growth/smart energy consistency is assessed through a Commonwealth Capital application. Resulting scores are

part of the proposal evaluation process for each grant or loan program. The more smart growth/smart energy oriented a community is, the more likely it is to receive funding. Since 2005, 315 out of 351 of the Commonwealth's communities have applied at least once and hundreds of new plans and regulations have improved municipal consistency with the *Sustainable Development Principles* by 10 percent (the median score has risen from 63 to 76 out of a possible 140).⁵⁴

GHG impact: Existing smart growth policies, including the *Sustainable Development Principles*, are estimated to reduce GHG emissions by 0.1 percent in 2020. Recent studies³ have shown integrated land use strategies can produce GHG reductions of between 2.7 percent and 4.4 percent from the baseline by 2050 depending on how aggressively the Commonwealth implements smart growth policies and practices.

Other benefits: Development consistent with the principles would lower operational and capital costs to government and society, improve energy conservation, better protect natural resources, increase housing and transportation choice, lower housing and transportation costs, improve public health, and enhance social and environmental justice.

Costs: There are predicted to be no incremental costs, as this policy simply requires more consistent decision making, particularly regarding the investment of current state resources in growth inducing infrastructure.

Equity issues: Smart growth increases affordability by reducing housing and transportation costs. It enhances access to jobs and services for those who can't/don't drive and provides a higher percentage of new jobs in urban areas where unemployment tends to be highest. Those who want to build commercial/industrial projects or live in homes in places and patterns that are inconsistent with the principles may pay more as these projects will no longer receive a state subsidy.

Experience in other states: Many states have successfully used sustainable development or smart growth principles to guide policies, programs, and investments.

Legal authority: The principles are presently implemented through an Executive Order. See Smart Growth Package for possible expanded scope of funding subject to principles and codification in legislation.

Implementation issues: Consistency of state policies, programs, and expenditures with the principles is not universal, and consistency is not always a prominent consideration in the decision making process.

Uncertainty: Calculating VMT and GHG benefits requires assumptions about how state policies, programs, and particularly spending will change to conform to the principles, as well as how dependent upon, or influenced by, state investments development is. Also, it is hard to predict how communities and developers will respond to incentives and other policies that encourage them to embrace the *Sustainable Development Principles*.

⁵⁴ See www.mass.gov/commcap for more information, including detailed analyses of past results and the 2011 application.

GREENDOT

Policy summary: GreenDOT is the Massachusetts Department of Transportation’s sustainability initiative, announced through a Policy Directive in June 2010 by the Secretary of Transportation. The Commonwealth’s consultants, Cambridge Systematics, Inc., estimated that, if fully implemented, GreenDOT could achieve 2.1 million tons of GHG reductions in 2020 and the Secretary’s Directive adopts this level as its target.

GreenDOT is intended to fulfill the requirements of several state laws, regulations, Executive Orders, and MassDOT policies, including the Global Warming Solutions Act, the Green Communities Act, the Healthy Transportation Compact, and the “Leading by Example” Executive Order Number 484 by Governor Patrick. MassDOT will work closely with DEP and the Advisory Group in determining the best regulatory and guidance framework for achieving the goals set forth in the Policy. GreenDOT is focused on three related goals: reduce GHG emissions; promote the healthy transportation modes of walking, bicycling, and public transit; and support for smart growth development.

GreenDOT encompasses a number of different program areas, which are described briefly below: statewide and regional long-range transportation planning, transportation project prioritization and selection, “complete streets” design guidelines, rail transportation, bicycle and pedestrian transportation, promotion of eco-driving, sustainable design and construction, system operations, facilities management, and travel demand management.

Transportation long-range planning and project prioritization and selection: Long-range planning documents, including statewide planning documents (e.g. the Strategic Plan, State Freight Plan, and MassDOT Capital Investment Plan), as well as the long-range Regional Transportation Plans from the Metropolitan Planning Organizations (MPO), must address MassDOT’s three sustainability goals and plan for reducing GHG emissions over time. Similarly, the shorter-range regional and state Transportation Improvement Programs (TIPs and STIP), under which particular projects are chosen for funding in the coming four years, must be consistent with the Commonwealth’s GHG reduction target. This will require that the MPOs and MassDOT balance highway system expansion projects with other projects that support smart growth development and promote public transit, walking and bicycling. In addition, the project programming mix included in the RTPs, TIPs and STIP can contribute to GHG reduction through prioritizing roadway projects that enable improved system operational efficiency, without expanding overall roadway system capacity.

Over the long term, both long-range planning and project selection will affect where new development in the Commonwealth is located and how that development is spatially configured. These choices affect the degree to which future development represents “smart growth,” or clustered development patterns that facilitate walking, bicycling, riding public transit and driving shorter distances, which would minimize the number of motor vehicle miles that people must travel in order to go about their lives.

Project design and construction: The MassDOT Highway Division Project Development and Design Guide requires that all projects must adhere to a “complete streets” design approach, meaning that new and redesigned roads must provide appropriate accommodation for all users,

including pedestrians, bicyclists, and public transit riders. These modes of transportation will also be promoted by several other means. These include taking steps to see that more projects move forward through the Transportation Enhancements Program, extending the Bay State Greenway, improving accommodations for bicycles and pedestrians on bridges, and improving bicycle parking facilities at MBTA stations.

Several efforts will continue to improve rail transportation in the state. The MBTA is striving to both improve service on existing subway and commuter rail lines and to develop new service, such as the Green Line Extension and the South Coast Rail Project. Other projects will improve long-distance rail service for both passengers and freight.

MassDOT project design and construction will also reduce GHG impacts through such measures as the use of recycled content in paving materials, use of warm mix asphalt paving, implementation of stormwater remediation and use of best management practices, requirements for diesel engine retrofits for construction contractor vehicles, and other measures.

Travel demand management and travel information: MassDOT will continue to promote and deliver travel demand management (TDM) information and services, including ride-matching, traveler information, real-time bus tracking, and other measures for the general public and among MassDOT employees. MassDOT is currently working to implement a new ride-matching/trip planning system to facilitate carpooling, vanpooling, and mode shifting from automobile travel.

Eco-driving: Fuel efficiency can be improved greatly by maintaining vehicles properly, driving within the speed limit, and accelerating more gently. The EPA estimates that “smart driving” can improve fuel efficiency by up to 33 percent, and EcoDriving USA estimates that Massachusetts’ drivers, with 5.4 million registered autos, could save about 4 million tons of CO₂ emissions annually if eco-driving practices were followed. MassDOT will promote eco-driving through: internal education for staff and contractors; external education of all Commonwealth drivers through website content, RMV manual and testing content, signage, and brochures; and development of a plan to improve tire inflation infrastructure.

System Operations: MassDOT, along with the MBTA and other regional transit authorities, will take a variety of steps to minimize fuel use and GHG emissions from vehicles and facilities. This includes retrofitting diesel buses with emission control devices, truck stop electrification, using solar and wind power at MassDOT facilities and rights-of-way, improving energy efficiency in MassDOT facilities, and increasing the share of low-emission transit vehicles in the MBTA fleet.

MassDOT will also facilitate more efficient roadway system operations; improvements that can reduce GHG emissions by reducing congestion and time spent idling in traffic. MassDOT will do this through the effective management of roadway capacity, using intelligent transportation systems - which may include such measures as real-time traveler information and management of traffic flow through improved traffic signal operations - ramp metering, and variable speed limits. MassDOT will also continue to address roadway system “bottlenecks,” or points of localized capacity constraints, improvements that can reduce GHG emissions when traffic flow is improved without expanding overall system capacity.

Expanded Policy

SMART GROWTH POLICY PACKAGE

Policy summary: Development patterns significantly influence vehicle miles traveled (VMT), which could be substantially reduced by additional “smart growth” that makes it easier for households and businesses to decrease the number and distance of vehicle trips. Diffuse single use development accessed by car results in 30 percent⁵⁵ more VMT than compact mixed-use growth. Massachusetts already has several policies promoting smart growth, but new, complementary policies are necessary to achieve our smart growth targets. Such policies would focus on influencing infrastructure investments by state agencies and planning decisions made by local governments.

Economy-wide GHG emissions reduced in 2020	0.4 million metric tons; 0.4%
Motor fuel cost savings in 2020	\$190 million
Jobs gained in 2020 (direct and indirect)	1,100 jobs

Clean energy economy impacts: Large transportation cost reductions can be expected for residents and business due to reduced vehicle ownership and fuel consumption. High density mixed-used development will increase building efficiency and make district energy and combined heat and power more feasible.

Rationale: Development of forests and open spaces increases GHG emissions in two ways: lost sequestration capacity and released carbon that had been stored in standing trees, and increased VMT due to sprawl. The Patrick-Murray Administration’s historic commitment to land conservation has permanently protected over 72,000 acres from development, preserving one of our most valuable carbon sinks, and this initiative will continue into the future. Meanwhile, better land use patterns will be important for reducing or eliminating projected VMT increases and realizing GHG reductions from the transportation sector, which is expected to account for close to 40 percent of total GHG emissions in Massachusetts in 2020, with light vehicles (cars, SUVs, minivans, pickups) accounting for about 28 percent of the total. The Plan assumes that aggressive implementation of current land use policies can result in a 0.4 million metric tons of GHG reduction in 2020, based on getting 80 percent of new residential development to occur in mixed-use areas that are bike and pedestrian friendly and higher than typical density. Strict adherence to and continued enhancement of current policies, along with the implementation of new policies and programs will be necessary to realize the 2020 and 2050 GHG targets.

Design issues: Existing state policies include (a) GreenDOT — which prioritizes transportation projects that preserve the existing system, support denser “smart growth” development, and promote increased ridership, walking, and biking; (b) the MassWorks Infrastructure Program, that provides a one-stop shop for infrastructure funds via six separate programs, and promotes consistency with other state initiatives such as smart growth, Chapter 40R, and the 43D Expedited Permitting Program; and (c) the South Coast Rail Executive Order, which supports the South Coast Rail Economic Development and Land Use Plan by ensuring that agencies review

⁵⁵ See: Growing Cooler: The Evidence on Urban Development and Climate Change.

their policies, actions and investments to support and implement plan recommendations including priority development and preservation areas. Complementary policies are needed in order to achieve the 80 percent smart growth target. These are:

1. Reform state planning, subdivision, and zoning statutes — Pass the Land Use Partnership Act or similar legislation that provides municipalities a better framework for planning and zoning, enhanced tools to plan for and manage growth, and incentive to reduce VMT and GHG emissions through better development.
2. Provide technical assistance and undertake a smart growth promotional campaign — Expand efforts to help establish zoning and other land use regulations that reduce VMT. Provide direct technical assistance by state employees, tools such as model zoning, and grants to hire professional assistance. Also, use public appearances, the media, etc., to promote smart growth by pointing out its many benefits.
3. Require state infrastructure spending to include smart growth development in the criteria for funding decisions — State investments, particularly those in infrastructure and buildings, influence where and how growth occurs. Enhanced use of these investments to promote mixed-use, high-density development is critical to attainment of targeted VMT reductions resulting from better land use. This could be accomplished either via Executive Order or through legislation that codifies the *Sustainable Development Principles* and requires all agencies permitting, building, or funding infrastructure projects to take into account a set of smart growth criteria.
4. Significantly increase incentives to municipalities to plan and zone for development that reduces VMT — Much as the Green Communities Program has succeeded in persuading many communities to adopt desired practices - including the Stretch Code - strengthening existing incentives and offering new ones can persuade communities to use their regulatory authority in ways that reduce VMT. Enhance existing incentives such as Chapter 40R, Commonwealth Capital, and the Growth District Initiative, and implement new ones such as “Municipal Challenge Grants” that recognize the GHG benefits of development practices that preserve forest cover. Grants could be awarded to communities that institute an open space zoning bylaw that protects 50 percent of a parcel as forest, limits lot clearance to one-third acre per house, and requires best management practices for lot layout and tree preservation.

GHG impact: Existing policies will reduce GHG emissions by 0.23 percent in 2020⁵⁶ and recommended enhancements will realize additional reductions. Recent studies⁵⁷ have shown integrated land use strategies can produce GHG reductions of between 2.7 percent and 4.4 percent from the baseline by 2050, depending on how aggressively the Commonwealth implements smart growth policies and practices.

Equity issues: Smart growth increases affordability by reducing the amount households spend on both housing and transportation. It further reduces housing costs by increasing the variety of housing types available and decreasing the amount of land and infrastructure needed per housing unit, and enhances access to jobs and services for the young and infirmed, as well as those without a car. Finally, smart growth provides a higher percentage of new jobs in urban areas where unemployment tends to be highest.

⁵⁶ See: Eastern Research Group: Final Report to the Climate Protection and Green Economy Advisory Committee.

⁵⁷ See: Moving Cooler: An Analysis of Transportation Strategies for Reducing Greenhouse Gas Emissions

Other benefits: Smart growth is as much as 70 percent cheaper for governments than the same amount of sprawl. It simply costs less to provide infrastructure (streets, schools, sewers, etc.) and services (like police and fire protection) to denser, more contiguous households than to far-flung, low-density communities.⁵⁸ Studies found that New Jersey and Rhode Island would save \$1.3 and \$1.5 billion, respectively, over 20 years.⁵⁹ It enhances public health by reducing air pollution and increasing physical activity, and enhances quality of life by improving neighborhoods, reducing travel times, and lowering costs. This, in turn, enhances economic competitiveness by appealing to prospective employees. Finally, it reduces development of open space, including forested land that sequesters carbon.

Costs: Existing and proposed smart growth policies have little cost as they rely almost entirely on enhanced use of existing funding. For example, state transportation funds should be shifted toward investments in support of desired development, without increasing the amount expended. Similarly, the financial incentives anticipate the use of existing state funding sources rather than creation of new ones. Modest additional funds are needed for technical assistance to municipalities and other entities to implement better zoning and other land use practices.

Experience in other states: Delaware, Maryland, New Jersey, New York, Rhode Island, and others have implemented smart growth programs that have improved growth patterns and thereby reduced VMT.

Legal authority: Legislation is needed to reform state planning, zoning and subdivision statutes and to codify and require agencies to implement the *Sustainable Development Principles*. The Commonwealth may also need to permit certain funding programs to implement municipal incentives and to authorize additional funding for incentives and technical assistance.

Implementation issues: It will be important to achieve high levels of cooperation from all stakeholders, including development interests and local communities.

Uncertainty: Projected VMT and GHG reductions are taken from national level analyses and are not Massachusetts-specific. While state investments in infrastructure and buildings will help to steer growth to desirable locations and forms, developers can still finance their own projects and build in ways that result in excessive VMT. In addition, it is hard to project how many communities will take advantage of state incentives and whether growth will occur in these communities rather than others zoned for sprawl.

⁵⁸ http://www.brookings.edu/opinions/2003/0413metropolitanpolicy_katz.aspx?p=1

⁵⁹ See: Impact Assessment of the New Jersey State Development and Redevelopment Plan.



Non-Energy Emissions

Greenhouse gas emissions from activities not related to energy use represent a small but important part of statewide GHG emissions. Although these sources currently represent only 7 percent of total emissions, many of the gases emitted by these processes have a high global warming potential (GWP), thousands of times greater than CO₂. Furthermore, projections of future emissions, including the Commonwealth's 2020 BAU scenario, show steady growth in industrial emissions while emissions from most energy-related sectors — transportation excepted — are projected to level off or even decline.

Specific industrial processes that emit significant quantities of GHGs in Massachusetts include: leakage of refrigerant chemicals from commercial equipment and motor vehicle air conditioners, leakage of SF₆ from electric power transmission and distribution, and combustion of plastics in solid waste incinerators. The measures proposed in this section of the *Massachusetts Clean Energy and Climate Plan for 2020* address these sources of GHG emissions.

Reducing Leaks and Finding Substitutes for High GWP gases used in Refrigeration and Air Conditioning Units

The Montreal Protocol, which was designed to protect the ozone layer, has led to the substitution of ozone depleting substances

with non-ozone depleters — hydrofluorocarbons (HFCs) and perfluorocarbons (PFCs) — in a range of applications including: insulating foams, refrigeration and air-conditioning, fire suppression, solvent cleaning, and propellants used in aerosols. Unfortunately, HFCs and PFCs are very potent GHGs. EPA has determined that the use of these chemicals comprises the most significant portion of non-energy related industrial emissions. This Plan will address emissions from the use of these chemicals in light duty motor vehicle air conditioning and commercial and industrial refrigeration.

For motor vehicle air conditioning, Massachusetts will adopt the California Air Resources Board (CARB) emissions standards for new motor vehicles (see Transportation). These standards will apply to model year 2017 vehicles and beyond, and include measures to both reduce leaks of high GWP gases and require use of lower GWP refrigerants. These measures are estimated to remove 0.27 MMTCO₂e in 2020.

For refrigerants in stationary commercial and industrial equipment, the focus will be on reducing leaks from, and finding replacements for non-residential refrigeration equipment with units containing at least 50 pounds of refrigerant. It will build on EPA's voluntary program for grocery stores — in which many Massachusetts stores currently participate. CARB's November 2010 regulation phasing in leak detection and repair requirements will serve as a model for this program. The largest of these sources will report their emissions under Massachusetts GHG reporting rule and EPA's November 2010 mandatory reporting rule. The total impact estimated for this program is up to 1.18 MMTCO₂e in 2020.

Reducing Leaks and Finding Substitutes for High GWP Gases Used in Electricity Distribution and Transmission

This policy will reduce emissions of sulfur hexafluoride (SF_6) gas from leakage where it is used to insulate switchgear in electricity transmission and distribution systems. It will build upon EPA's current voluntary program for SF_6 reduction and could ultimately include enforceable limits on leakage rates as well as best management practices. CARB has proposed a similar program. The impact of this policy is up to 0.15 MMTCO_2e reduction by 2020.

Reducing Emissions from Disposal of Plastic Waste

Emissions associated with the combustion of plastics that remain in our solid waste streams can be minimized by greater diversion of plastics to recycling. Plastic recycling is already a priority in the Commonwealth and results in other environmental benefits, including the reduction of toxics in the environment and the growth of green jobs. This policy, implemented through the Massachusetts Solid Waste Master Plan, will aim to minimize the volume of plastic going to disposal in the Commonwealth, and instead divert these materials to recycling. Plastic diversion programs that include increasing assistance to cities and towns, increasing producer responsibility, and building markets for recycled materials are estimated to reduce GHG emissions by 0.3 MMTCO_2e by 2020.

New Policy

REDUCING GHG EMISSIONS FROM MOTOR VEHICLE AIR CONDITIONING

Policy summary: The California Air Resources Board (CARB) is developing regulations to reduce emissions associated with motor vehicle air conditioning (MVAC).⁶⁰ Massachusetts General Law⁶¹ mandates that the Massachusetts Department of Environmental Protection (MassDEP) adopt CARB's emission standards for new motor vehicles if they are more stringent than federal standards. CARB's standard aims to minimize emissions of high GWP refrigerants from MVAC through the adoption of standards for new light-duty vehicles. These standards include measures to reduce direct GHG emissions from MVAC systems, such as by using low GWP refrigerants and reducing leaks, as well as measures to reduce indirect emissions of other pollutants through improvement in the efficiency of the AC system (e.g., more efficient compressors, fans and motors; systems that avoid over-chilling and reheating; and technologies to reduce heat gain in the passenger cabin).

Annual benefits from improved motor vehicle air conditioning

Economy-wide GHG emissions reduced 2020	0.3 million metric tons CO ₂ e; 0.3%
Net cumulative \$ savings statewide 2018-2020 ⁶²	\$50 - \$130 million
Net annual \$ savings per vehicle	\$40 - \$90

Clean energy economy impacts: Several of the measures aimed at reducing refrigerant leakage and making MVAC more efficient also have a positive impact on fuel economy and can be expected to reduce fuel costs for owners. Vehicle owners who pay less for fuel will have more money to spend on other purchases — producing a positive ripple effect on the economy as a whole, including the creation of in-state jobs. Reducing leakage may also reduce the frequency with which vehicles need to be serviced for refrigerant recharge.

Rationale: Transportation is expected to account for close to 40 percent of total GHG emissions in Massachusetts in 2020, and light vehicles by themselves (cars, SUVs, minivans, pickups) are around 28 percent of the total. MVAC emissions account for about 9 percent of GHG emissions from cars and light trucks. Air conditioning use is estimated to account for approximately 5.5 percent to 5.9 percent of vehicle fuel use in the US (although this figure is lower in Massachusetts).

Design issues: CARB is developing draft regulations. After the California rules are finalized and approved by EPA, MassDEP would adopt the CARB regulations if they are more stringent than federal standards.

GHG Impact: 0.27 million metric ton reduction in CO₂e in 2020. The policy applies to new vehicles starting with model year 2017. Since the policy addresses emissions from new motor vehicles, benefits will grow progressively as older vehicles are replaced in the active vehicle stock

⁶⁰ <http://www.arb.ca.gov/cc/hfc-mac/mvac-gwp/mvac-gwp.htm>

⁶¹ <http://www.malegislature.gov/Laws/GeneralLaws/PartI/TitleXVI/Chapter111/Section142K>

⁶² Derived from California cost estimates, given in year 2000 dollars.

(average of 10 years), with greater benefits after 2020 once the fleet has been fully replaced with compliant vehicles.

Other benefits: Between 2018 and 2020, the policy is estimated to save vehicle owners \$50 million to \$130 million statewide, or \$40 to \$90 per vehicle per year. In addition, there will be reductions in tailpipe emissions of non-GHG pollutants due to reduced fuel combustion, which will benefit public health.

Costs: Estimated annual per-vehicle costs and savings from MVAC policy (2000\$).

Item	Values in 2020
Alternative refrigerant	\$30 - \$80
Improved system (leak tightness and efficiency)	\$50
Gross incremental cost (\$/year/vehicle)	\$80 - \$130
Annual fuel and refrigerant savings	\$170
Net annual savings	\$40 - \$90

Equity issues: Incremental savings from the policy are expected to be distributed over all classes of vehicles. However, initially the higher upfront vehicle purchase costs will affect higher income drivers more, since lower income drivers tend to buy used cars. But lower income drivers will enjoy the savings only after compliant vehicles become available in the used car market.

Experience in other states: Fourteen jurisdictions use CARB's auto emission standards, including Maine, Vermont, Massachusetts, Rhode Island, Connecticut, New York, New Jersey, Pennsylvania, Maryland, Oregon, Washington, Arizona, Washington, D.C., and Bernalillo County, New Mexico.

Legal authority: Massachusetts General Law Chapter 111, Section 142K mandates that MassDEP adopt and implement CARB emission standards for new motor vehicles if such standards are more stringent than federal standards.

Implementation issues: Because light-duty vehicle efficiency standards for 2011 through 2020 (CAFE and California's vehicle GHG standards, both accounted for in existing policies) allow manufacturers to meet the standards partly through voluntarily reducing MVAC emissions, this policy discounted the benefits from MVAC emissions reductions. But manufacturers could choose to voluntarily implement even greater MVAC reductions under CAFE than assumed here, which would result in lower combined benefits of the efficiency and MVAC policies.

The policy calls for measures — in particular the switch to substitute refrigerants — that are still in development. While there are strong incentives to develop and refine the necessary technologies to meet existing requirements (e.g., EU regulations, other CA regulations), there is still a risk that estimated reductions may not be achievable.

Uncertainty: At least one study has highlighted the risk that more stringent emissions standards in selected states may reduce scrapping of used non-compliant cars and/or may result in car manufacturers achieving reductions in adopting states while potentially allowing for larger emissions and less efficient vehicles in other states. If so, these dynamics could reduce the effectiveness of the policy in achieving the projected emissions reductions in the short run.

New Policy

STATIONARY EQUIPMENT REFRIGERANT MANAGEMENT

Policy summary: This policy aims to minimize emissions of high Global Warming Potential refrigerants used in stationary non-residential equipment through:

- facility registration, leak detection and monitoring, leak repair, system retrofit and retirement, required service practices, and recordkeeping and reporting; and
- eventual replacement of non-residential refrigeration equipment at the end of its life by equipment using no-GWP or lower GWP substances, where such alternatives are available and practicable.

The policy would affect facilities with refrigeration units containing at least 50 pounds of refrigerant, beginning with a voluntary pilot program focused on leak detection and repair.

Economy-wide GHG emissions reduced 2020	1.2 million metric tons CO ₂ e; 1.3%
Net annual \$ savings statewide	\$1.6 million
Cumulative \$ savings statewide 2012-2020, discounted ⁶³	\$14 million

Clean energy economy impacts: Additional jobs in companies that engage in refrigeration system leak detection and repair. Cost savings to affected facilities from lower use of chemicals to refill systems.

Rationale: Common refrigerants include several types of hydrofluorocarbons (HFC). These chemicals have global warming potentials up to 12,000 times more potent than CO₂. Emissions from this source category have been growing steadily since the 1990s, in part due to the replacement with HFC of ozone depleting refrigerants targeted under the Montreal Protocol.

Design issues: California Air Resources Board (CARB) finalized a regulation⁶⁴ effective November 19, 2010, phasing in requirements for a leak detection and repair program for refrigeration units containing a charge of 50 pounds of refrigerant or greater. Massachusetts could implement a voluntary program that transitions into utilization of California's regulations as a model. Most of the businesses involved have been subject to similar EPA regulation on ozone-depleting chemicals used in refrigeration.

GHG impact: 1.2 million metric ton reduction in CO₂e in 2020.

Implementation issues: Implementing a program to reduce refrigerant emissions requires development of an inventory of facilities using large quantities of refrigerants. The number of facilities can be estimated from the Economic Census 2007,⁶⁵ a profile of U.S. businesses conducted every five years by the US Census Bureau. In addition, MassDEP will receive 2010 refrigerant emission data from large emitters by April 15, 2011, under the mandatory

⁶³ In 2008 dollars, discounted at a 5 percent rate from current year.

⁶⁴ <http://www.arb.ca.gov/regact/2009/gwprmp09/gwprmp09.htm>

⁶⁵ <http://www.census.gov/econ/census07/>, U.S. Census Bureau reporting 1,305 supermarkets and other groceries; 34 warehouse clubs and supercenters; 29 refrigerated warehousing and storage facilities; 523 cold product merchant wholesalers; and 153 cold manufacturing facilities in Massachusetts.

Massachusetts GHG emissions reporting program. MassDEP has already established relationships with larger supermarket store chains through efforts to encourage composting of food waste and reduce use of disposable shopping bags.

A number of Massachusetts grocery stores participate in EPA's voluntary "GreenChill Advanced Refrigeration Partnership,"⁶⁶ including Hannaford Bros., Price Chopper, Shaw's Supermarkets, and Whole Foods. In September 2009, a Star Market in Chestnut Hill became the first U.S. store certified at the Platinum level under EPA's GreenChill Store Certification program, while a Whole Foods store in Dedham received Silver certification in August 2009.⁶⁷

On November 8, 2010, EPA signed final regulation 40 CFR 98 "Mandatory Reporting of Greenhouse Gases," Subpart L "Fluorinated Gas Production" and Subpart Q "Importers and Exporters of Fluorinated GHGs Inside Pre-charged Equipment or Closed-cell Foams,"⁶⁸ which require manufacturers and importers of substances including high GWP refrigerants to report GHG emissions, beginning with 2011 emissions reported by March 31, 2012.

Costs: Costs incurred by regulated entities pertaining to leak detection and repair can be divided into technology costs (equipment upgrades to automatic leak detection), operation and maintenance costs (leak detection, inspection, repair, annual program fee), and recordkeeping costs (data management and reporting). CARB's analysis of a similar policy indicates 2020 compliance costs ranging from \$14 per facility with systems containing 50 to 200 pounds of refrigerant, \$30 per facility with systems containing up to 2,000 pounds, and savings of \$8,700 per facility with systems containing 2,000 pounds or more (net savings for larger facilities, due to economies of scale in reducing leakage).

CARB estimated savings of \$2 per metric ton CO₂e in the year 2020 after the proposed regulation is fully implemented. This estimate may understate the actual net savings, since it does not account for rising refrigerant prices, energy savings due to optimized system operation, or benefits from mitigated climate impacts. Based on the number of facilities estimated to be affected by the policy (about 2,000) and an estimated distribution of the facilities by size, the policy is estimated to provide net savings of \$1.6 million per year statewide.

Legal authority: MassDEP has authority to promulgate a regulation under Massachusetts General Law Chapter 111, Section 142 to create an enforceable refrigerants control program to prevent air pollution.

Uncertainty: Technical risks associated with leak detection and repair are expected to be relatively small. The practices promoted by the policy are already established. Implementation risks relate to the number and diversity of facilities that may be affected by the policy, which could complicate compliance assistance, verification, and enforcement. The effectiveness of the policy depends on facility owners actually implementing the practices called for in the policy, which may in turn depend on ensuring that technicians are trained and aware of the requirement.

⁶⁶ <http://www.epa.gov/ozone/partnerships/greenchill/>

⁶⁷ <http://www.epa.gov/ozone/partnerships/greenchill/certcenter.html>

⁶⁸ <http://www.epa.gov/climatechange/emissions/subpart/dd.html>

New Policy

REDUCING SF₆ EMISSIONS FROM GAS-INSULATED SWITCHGEAR

Policy summary: Through a pilot program, followed by possible regulatory action, this policy aims to minimize emissions of sulfur hexafluoride (SF₆) from leakage of gas insulated switchgear (GIS) used in electricity transmission and distribution systems by setting limits on leakage rates (declining to 1 percent leakage allowed in 2020) and implementing best management practices for the recovery and handling of SF₆.

Economy-wide GHG emissions reduced 2020	0.2 million metric tons CO ₂ e; 0.2%
Net cumulative \$ costs statewide 2011-2020 (2008 \$'s) ⁶⁹	\$0.9 - \$1.5 million

Clean energy economy impacts: There would be an expected increase in in-state employment for companies engaged in SF₆ leak detection and repair and potential for technological innovation, company formation, and jobs in solid-state (non-gas insulated) switch gear.

Rationale: SF₆ is a GHG that is 23,900 times more potent than CO₂ and has an atmospheric life of 3,200 years. One pound of SF₆ has the same global warming impact as 11 tons of CO₂. Approximately 80 percent of SF₆ consumption and emissions are estimated to result from the leakage and handling losses from GIS. Mitigation options for this equipment focus on reducing leakage and handling losses. Best practices include SF₆ leak detection and repair, and recovery and recycling.

Design issues: California Air Resources Board (CARB) has proposed a regulation⁷⁰ requiring GIS owners to reduce SF₆ emissions from electrical equipment throughout California 1 percent per year over a 10-year period. The initial allowed annual emission rate would be set at 10 percent of the total amount of SF₆ that could leak; with the allowed annual rate declining to 1 percent in 2020. Massachusetts could use CARB's regulations as a model.

A number of Massachusetts utilities participate in EPA's voluntary "SF₆ Emission Reduction Partnership for Electric Power Systems,"⁷¹ including: National Grid, NSTAR, and Western Massachusetts Electric Company. EPA does not publish any state- or utility-specific data from its voluntary program. On November 8, 2010, EPA signed final regulation 40 CFR 98 "Mandatory Reporting of Greenhouse Gases," Subpart DD "Use of electric transmission and distribution equipment,"⁷² which requires reporting emissions from GIS, beginning with 2011 emissions reported by March 31, 2012.

As part of its development of a SF₆ emissions reduction program, CARB distributed a survey⁷³ requesting information from stakeholders on SF₆ emissions from the electricity sector "to

⁶⁹ In 2008 dollars, not discounted.

⁷⁰ <http://www.arb.ca.gov/regact/2010/sf6elec/sf6elec.htm>

⁷¹ <http://www.epa.gov/electricpower-sf6/>

⁷² <http://www.epa.gov/climatechange/emissions/subpart/dd.html>

⁷³ <http://www.arb.ca.gov/cc/sf6elec/survey/sf6survey.doc>

determine SF₆ GHG emission reduction potential and to assist ARB staff in developing appropriate control strategies.” After consideration of any 2010 SF₆ emission data MassDEP receives by April 15, 2011 as part of the first mandatory Massachusetts SF₆ emission data reporting, MassDEP could consider whether a survey similar to CARB’s would provide useful information for designing a regulation.

GHG impact: 0.15 million metric ton reduction in CO₂e in 2020.

Costs: According to CARB’s analysis of a similar policy, the expense of compliance ranges from savings of \$1/metric ton CO₂e (in the case of SF₆ recycling) to a cost of \$55/metric ton CO₂e (in the case of GIS repair and replacement), depending on the measure necessary to meet the emission limits in any given year. Entities are assumed to use the cheapest methods first and progressively move to more expensive methods to achieve further reductions. Some entities may not incur a cost for reducing SF₆ emissions for some or all years to 2020, if their leak rates fall below a year’s allowed limit. CARB estimates the cost effectiveness of the policy at about \$18 per metric ton CO₂e reduced in the later years of the policy when the allowed leakage rate has declined to 1 percent. Similar cost effectiveness may be achieved in Massachusetts if the baseline practices and electric infrastructure profiles are comparable.

Equity issues: Full implementation of this policy may impose additional compliance costs on utilities, which could be passed on to customers — although that additional cost would be miniscule. CARB’s analysis of the proposed regulation estimated the incremental cost that could be passed on to electricity ratepayers at \$0.000016 to \$0.000025 per kilowatt-hour as a result of the policy. This represents an increase of less than 0.02 percent relative to average residential electricity rates in Massachusetts, or about 1.5 cents for the average monthly residential electricity bill.

Legal authority: MassDEP would need to promulgate a regulation to create an enforceable SF₆ control program. MassDEP presently has the authority to regulate such air pollutants under Massachusetts General Law Chapter 111, Section 142; and it’s authority over GHG emissions is amplified by the Global Warming Solutions Act.

Implementation issues and uncertainty: The policy promotes greater implementation of current industry best practices that are generally low-cost. The maximum emission rate set in California by CARB for the early years is already being achieved by Massachusetts utilities that have taken voluntary measures to reduce their emissions. Achieving the 1 percent limit in later years may require the use of relatively more expensive measures but these measures already exist.

Expanded Policy

REDUCING GHG EMISSIONS FROM PLASTICS

Policy summary: Solid waste is generated by residences and businesses across Massachusetts. Diverting high-carbon-content materials, such as plastics, from the waste stream can reduce emissions released after materials are discarded, and for some part of the waste stream, incinerated. These diverted materials can then be recycled into other products. Diverting plastics from the waste stream under this Plan will result in materials with a lower carbon content being combusted at Massachusetts municipal waste-to-energy facilities, reducing emissions of CO₂. Looking only at in-state emissions reductions, MassDEP conservatively estimates the reduction potential from diverting a portion of plastics from solid waste disposal in 2020 at 0.3 million metric tons of CO₂e per year.

Economy-wide GHG emissions reduced 2020	0.30 million metric tons CO ₂ e; 0.3%
Annual \$ savings statewide in 2020	\$8 to \$11 million
Cumulative \$ savings statewide 2009-2020 ⁷⁴	\$69 to \$92 million

Clean energy economy impacts: Recycling yields greater local employment than does waste combustion. Currently, industries associated with recycling support 14,000 jobs in Massachusetts, and increased recycling of plastics would spur growth.

Rationale: The Commonwealth periodically prepares a *Solid Waste Master Plan* in accordance with Massachusetts General Law Chapter 16 Section 21. The solid waste sector includes sources of GHG emissions, such as landfills and municipal waste combustors, and plastics constitute a significant portion of the emissions. As detailed in a press release⁷⁵ that accompanied release of the most recent *Draft Solid Waste Master Plan*, "...The main objectives of the draft master plan include maximizing recycling, improving the environmental performance of solid waste facilities and developing integrated solid waste management systems. The draft master plan calls for a dramatic increase in residential, business and institutional recycling and composting, with an emphasis on paper and organics recycling...".

GHG impact: 0.3 million metric ton reduction in CO₂e in 2020.

Costs: According to the *Draft Solid Waste Master Plan*: "Diverting material from disposal, whether through upfront waste reduction, reuse, recycling or composting, can save significant disposal costs. Current disposal fees in Massachusetts typically range from \$60 to \$80 per ton. If we are able to achieve our goal of reducing disposal by 2 million tons per year by 2020, that would result in annual avoided disposal costs of \$120-\$160 million. Plastics diversion alone constitutes some \$8 million to \$11 million of the total \$120 million to \$160 million in annual avoided disposal costs.

Implementation issues: Public hearings have been held on the Commonwealth's *Draft 2010-2020 Solid Waste Master Plan: A Pathway to Zero Waste*.⁷⁶ All public comments have been received and are being reviewed.

⁷⁴ Based only on reduced disposal costs.

⁷⁵ <http://www.mass.gov/dep/public/press/0710swmp.htm>

⁷⁶ <http://www.mass.gov/dep/recycle/priorities/dswmpu01.htm#swmp>



Cross-cutting Policies

Introduction

Several policies do not fit neatly into the categories of buildings, electricity supply, transportation or non-energy emissions. These are state actions that drive clean energy adoption across all of these domains.

The Massachusetts Environmental Policy Act (MEPA) Office, which conducts the environmental review process for all large development projects, requires proponents to assess the environmental impact of a project and analyze alternatives in an effort to avoid, minimize and mitigate damage.

This necessarily includes the buildings, energy supply, and transportation impacts of a project. The state's Leading By Example program, established by Governor Patrick, requires state agencies to reduce energy costs and lower emissions in state buildings, in vehicle fleets, and through green procurement. The Green Communities Division of DOER works closely with municipalities to help cities and towns lower their energy costs and adopt energy efficient technologies, add renewables to their energy mix, and make their fleets more fuel efficient. Though not, for the purposes of the *Massachusetts Clean Energy and Climate Plan for 2020*, discrete policies with their own measurable impacts on GHG emissions, they contribute to (and their impacts are accounted for within) numerous other initiatives contained in this Plan.

Finally, the Global Warming Solutions Act itself requires all state agencies, departments, boards, commissions and authorities to consider climate change impacts, such as GHG emissions, when they issue permits, licenses and other administrative approvals.

Expanded Policy

MEPA GHG POLICY AND PROTOCOL

Policy summary: MEPA requires that all major projects proposed in the Commonwealth that have state involvement (in the form of state permits, land transfers or financial assistance, for example) undertake an assessment of project impacts and alternatives in an effort to avoid, minimize and mitigate damage to the environment to the maximum extent feasible. Building on this general requirement, the MEPA GHG Policy requires that certain projects undergoing review by the MEPA office quantify their GHG emissions and identify measures to avoid, minimize, and mitigate such emissions. In addition to quantifying project-related GHG emissions, the MEPA GHG Policy also requires proponents to evaluate project alternatives that may result in lower GHG emissions and to quantify the impact of proposed mitigation in terms of emissions and energy savings. The MEPA GHG Policy is primarily applied to commercial and residential real estate development projects, but also applies to industrial and energy generation projects.

Clean energy economy impacts: By requiring project proponents to evaluate all feasible measures to reduce their GHG emissions, such as energy efficiency upgrades, fuel switching, incorporation of renewable energy measures and reduction of vehicle miles traveled, the MEPA GHG Policy supports the development of industries and jobs to supply these technologies. In addition, the avoided fuel and electricity use due to enhanced efficiency of projects cuts the long-term operational costs of the projects.

Rationale: The principal purpose of the MEPA GHG Policy is to require project proponents to undertake a thorough analysis of a proposed project's primary sources of GHG emissions at an early stage of project planning and to examine all feasible alternatives that may have lower GHG emissions potential. By conducting this early-stage impacts and alternatives analysis, project proponents can integrate directly into project planning sustainable design considerations that will allow the project to achieve GHG emissions reductions in the most economical manner.

Policy design and issues: For the majority of projects subject to the MEPA GHG Policy, the Policy requires comparison of emissions associated with the proposed project design to the emissions that would result from construction of an identical building code-compliant project. In this way, the MEPA GHG Policy is closely related to issues surrounding the adoption of Advanced Building Energy Codes and other energy efficiency improvements for buildings. Similarly, where the MEPA GHG Policy encourages adoption of renewable energy components, it is closely related to issues involved in the implementation of incentives for generating renewable energy. The MEPA GHG Policy also aims to reduce vehicle miles traveled in coordination with other state policies.

GHG impact: To date, more than 90 projects have been at least partially reviewed in accordance with the MEPA GHG policy, and 32 projects have completed MEPA review with a finding that their GHG analysis adequately complied with the MEPA GHG Policy. Projects that have completed review have achieved an average reduction of 19.5 percent in stationary-source GHGs below an equivalent code-compliant project. Mobile source GHG reductions have ranged from zero to 25 percent, with an average of 5.8 percent. In total, the MEPA GHG Policy has resulted in commitments to reduce GHG emissions by over 70,000 tons per year to date. However, it is likely that a portion of these reductions, and many of the potential future reductions under the MEPA

Policy, may be duplicative of the reductions achieved by other state policies designed to increase efficiency, encourage renewable energy generation, and reduce vehicle miles traveled.

Costs: The upfront costs of incorporating GHG reduction measures will vary widely depending upon the project. Because the MEPA GHG Policy does not mandate a specified level of reductions, but rather asks project proponents to adopt “feasible” measures, measures that are considered infeasible from a cost perspective are eliminated from consideration.

Experience in other states: The MEPA GHG Policy is a nation-leading policy. Other states, including California and New York, have adopted similar policies, and the White House Council on Environmental Quality, which oversees implementation of the National Environmental Policy Act (NEPA) by federal agencies, has also released a draft policy concerning consideration of GHG emissions as part of the NEPA review of individual projects.

Legal authority: The Global Warming Solutions Act specifically amended the MEPA statute to provide that:

In considering and issuing permits, licenses and other administrative approvals and decisions, the respective agency, department, board, commission or authority shall also consider reasonably foreseeable climate change impacts, including additional GHG emissions, and effects, such as predicted sea level rise. See M.G.L. c. 30, §61.

Therefore, implementation of the MEPA GHG Policy is mandatory under the MEPA statute.

Implementation issues: The MEPA GHG Policy has become a routine part of the environmental impact review process. For real estate development projects, the assessment and review of a project’s GHG analysis has become generally accepted by the regulated industry and the public.

LEADING BY EXAMPLE

Policy summary: The Leading by Example (LBE) Program, established in April 2007 by Governor Patrick's Executive Order (EO) No. 484, works to lower costs and reduce environmental impacts at all Executive Branch agencies, as well as the 29 public institutions of higher education and several quasi-public authorities. The program oversees efforts to reduce energy use at the state's 70 million square feet of buildings and fuel use among the thousands of light and heavy duty vehicles, expand recycling programs, reduce water consumption, promote environmentally preferable purchasing, facilitate the construction of high performance state buildings, and reduce carbon emissions across state government. EO 484 sets the following targets for state government: 25 percent reduction from a 2002 baseline in GHG emissions by 2012, 40 percent by 2020, and 80 percent by 2050; 20 percent reduction from a 2004 baseline in energy use intensity by 2012 and 35 percent by 2020; and an increase in consumption of renewable electricity to 15 percent of total electric use by 2012 and 30 percent by 2020. The EO also established a "Massachusetts LEED Plus" building standard for new construction and major renovation projects that requires all state government projects to achieve LEED certification and perform 20 percent better than the Massachusetts energy code.

The LBE Program is overseen by EEA and Administration and Finance, working collaboratively with state agencies such as the DOER (clean energy policies and project implementation), Division of Capital Asset Management (construction and energy projects) and Operational Services Division (procurement) to track state government energy use and GHG emissions, oversee the funding and implementation of dozens of clean energy projects annually, and provide technical assistance and training for dozens of agencies and hundreds of staff each year.

Despite the advances made by the LBE program, there is currently no single entity charged with managing and procuring low-cost, clean energy across all public agencies, authorities, and facilities. The Administration has proposed and will continue to work toward the development of a Commonwealth Energy Solutions program, which will end the separate decision-making by multiple agencies and provide an opportunity for a comprehensive, integrated strategy from procurement (taking advantage of economies of scale) to continuous monitoring and management of energy performance.

Clean energy economy impacts: Leading by Example efforts that include broad and comprehensive energy efficiency projects, as well as small and large-scale renewable project installations, will continue to create significant numbers of clean energy jobs in the construction and retrofit markets. Additionally, these efforts will result in a stabilization and potential reduction of state government energy costs, and will continue to reduce the amount of foreign oil used in public buildings.

Rationale: With approximately 70 million square feet of buildings, state government operations result in significant amounts of fuel consumption annually, including approximately 900 million kWh of electricity, 50 million therms of natural gas, 15 million gallons of fuel oil and more than million gallons of diesel fuel and gasoline. This consumption results in over 800,000 tons of GHG emissions and expenditures exceeding \$220 million. Given this large impact, there is clearly a huge opportunity to reduce energy usage and associated carbon emissions. Such efforts will also demonstrate to other institutions and the private sector that large-scale energy reduction and renewable energy efforts are both feasible and fiscally desirable.

Design issues: Although significant clean energy programs are underway at state facilities, efforts to sustain such programs at the current scale once federal stimulus dollars are no longer present are needed. Also, efforts to streamline and simplify bidding and construction timelines have taken place, but more work will most likely be needed to ensure that projects are undertaken and completed in a timely fashion.

GHG impact: GHG emission impacts are directly related to energy reduction and renewable energy efforts at state facilities. If the 2012 targets in EO 484 are met, this would result in a reduction of approximately 200,000 metric tons of GHGs.

Other benefits: Additional benefits include reduced energy costs for Massachusetts taxpayers. The installation of new equipment also minimizes facility maintenance costs and needs, and improves comfort for the thousands of employees, residents, and visitors who work or live in, or visit, state facilities. LBE projects also provide important piloting for new technologies and system management initiatives that could be adopted by other institutions and cities and town, as well as the private sector.

Costs: Although exact costs are unknown, it is anticipated that over \$200 million worth of clean energy projects will be implemented by 2012. Project costs will, for the most part, be funded through the Massachusetts Clean Energy Investment Program (CEIP), a newly developed program that is designed to provide low-rate bond financing paid for out of project savings. This program results in a positive cash flow early in the project and overall simple paybacks of between 10 and 20 years. Additional financing through 2012 and thereafter will be targeted through 3rd party financing, forward capacity market payments, Renewable Energy Credits, utility incentives, and, where available, renewable energy rebates.

Equity issues: There are no known equity issues.

Experience in other states: Many other states have undertaken “leading by example” efforts, including California, Colorado, Illinois, Indiana, New York, North Carolina, Pennsylvania, and Utah. Success has varied, but all efforts recognize the impact to the state budget of reducing energy costs, as well as how such efforts are critical to the success of statewide clean energy goals, where applicable.

Legal authority: EO 484 provides the legal authority to those entities overseen by the Governor. Other independent entities, such as the MWRA, MassPort, and the Massachusetts Convention Center Authority, frequently participate on a voluntary basis in the LBE Program and undertake similar efforts, but they are not subject to the specific targets in the order.

Implementation issues: Successful implementation is dependent upon state resources, including financial and staffing. LBE staff will continue to work with key agencies, in particular the Division of Capital Asset Management and Executive Office for Administration and Finance, to ensure that such resources are available.

Uncertainty: Given the success of past efforts, current use of federal ARRA funding, and the ongoing collaboration between key agencies, it is likely that a significant number of clean energy projects will be initiated and completed over the next several years. However, meeting the energy and GHG emission reduction targets will depend on the extent to which energy reductions are sufficient to overcome new construction and expansion of services — particularly at the public institutions of higher education, which have seen a significant increase in enrollment and hours of operation. Additionally, ensuring that adequate funding exists to implement large-scale projects is critical to meeting the targets.

Existing Policy

GREEN COMMUNITIES DIVISION

Policy summary: Created by the Green Communities Act of 2008, the Green Communities Division of the DOER is intended to help municipalities become more sustainable, control rising energy costs, and incubate the clean energy technologies and practices that will put Massachusetts cities and towns — and the Commonwealth as a whole — at the center of the 21st century clean energy economy. Envisioned as a way to encourage municipalities to make greener energy decisions, the Division is mandated to offer grant and loan opportunities to municipalities in order to be designated as “Green Communities.”

Clean energy economy impacts: The five required criteria to be designated a Green Community help municipal governments to reduce their own energy costs, and those of local residents and businesses; and help to achieve siting of wind, solar, and other renewable energy installations.

Rationale: Municipal governments are substantial consumers of fossil-fuel energy, primarily for buildings and secondarily from vehicles. The Energy Reduction Plan along with the Fuel Efficient Vehicle Policy required for designation as a Green Community results in municipalities reducing their energy consumption from municipal operations by a minimum of 20 percent. Through zoning they can have a major impact on the ability of renewable energy facilities to find suitable locations. And by deciding to adopt the “stretch” energy code (see Buildings) — another requirement for Green Communities designation — they significantly improve the energy efficiency of new construction and major renovations.

Policy design and issues: The Division provides technical assistance to communities to help them qualify for Green Community designation and state grants. To become Green Communities, municipalities must meet five criteria:

- Adopt a local zoning bylaw or ordinance that allows “as-of-right-siting” of renewable and/or alternative energy R&D facilities, manufacturing facilities or generation units;
- Adopt an expedited permitting process related to the as-of-right facilities;
- Establish a municipal energy use baseline and establishing a program designed to reduce use by 20 percent within five years;
- Purchase only fuel-efficient vehicles for municipal use, whenever such vehicles are commercially available and practicable; and
- Require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to reduce lifecycle energy costs (such as adoption the Stretch Code).

The Green Communities Act allows funding of up to \$10 million per year for the designation and grant program from the proceeds of Regional Greenhouse Gas Initiative (RGGI) allowance auctions and other sources. The Green Communities Division also serves all Massachusetts cities and towns as a one-stop shop for energy efficiency and renewable energy opportunities, helping them understand all the state programs at their disposal and providing streamlined delivery of those programs.

To achieve the goal of serving all 351 cities and towns in Massachusetts, the Green Communities Division offers a number of programs and services in addition to its signature Green Communities Grant Program. Other services include an energy assessment program in collaboration with the investor-owned utilities, technical assistance with energy savings performance contracting, stimulus grant programs and support, an online energy information system for tracking energy consumption and making decisions about how to reduce consumption, webinars and guidance documents and tools, a website and listserv for disseminating information and four Regional Coordinators to provide direct support to cities and towns.

GHG impact: GHG emissions are directly related to energy reduction and renewable energy efforts in municipalities. The first 35 Green Communities committed to reducing their energy consumption by 822,000 MMBTUs in five years. The newest 18 committed to a reduction of 592,000 MMBTUs over five years.

Other benefits: Additional benefits include reduced energy costs and a lower burden on Massachusetts taxpayers. Projects funded through the Green Communities Division can pilot new technologies and system management. In addition, the work done by municipalities to become designated as a Green Community requires buy-in of its residents, with meeting many of the criteria requiring a Town Meeting vote. This has resulted in a major grassroots movement to educate the larger citizenry on the benefits of reducing energy consumption and creating clean, renewable energy projects.

Costs: Up to \$10 million per year, funded through the proceeds of Regional Greenhouse Gas Initiative (RGGI) emissions allowance auctions (see Electricity) and other sources.

Equity issues: There are no known equity issues. Grants are based on a \$125,000 base for each designated Green Community, plus additional amounts tied to per capita income and population, and for municipalities that provide as-of-right siting for renewable energy generation. There are 53 designated communities from the Berkshires to Cape Cod, ranging in population from 990 to 621,000 residents.

Experience in other states: We are aware of no similar programs in other states. The Green Communities Division is believed to be the first of its kind in the nation.

Legal authority: The Green Communities Act of 2008 created the Division and the designation and grant program and authorized funding for it. The Board of Building Regulation and Standards approved the Stretch Code as an option for municipalities to adopt.

Implementation issues: As of December 2010, 53 communities had attained designation as Green Communities, thereby qualifying for funding from the Division. In addition, as of December 2010, 64 cities and towns had passed the Stretch Code.

Uncertainty: The Green Communities Division and Grant program are new and have created considerable excitement among Massachusetts cities and towns. It will be important in going forward to continue engaging municipalities in a manner that maintains that excitement. In addition, proceeds from the RGGI auctions, the main source of funding for the Division, are difficult to predict.

CONSIDERATION OF GHG EMISSIONS IN STATE PERMITTING, LICENSING & ADMINISTRATIVE APPROVALS

Policy Summary and Rationale: Section 7 of the Global Warming Solutions Act states, “In considering and issuing permits, licenses and other administrative approvals and decisions, the respective agency, department, board, commission or authority shall also consider reasonably foreseeable climate change impacts, including additional GHG emissions...” in the context of environmental review. The body of landmark energy legislation that has been passed in the last four years established new expectations for how we manage energy, plan transportation, build our buildings, and generate and distribute electricity. The official approvals by state agencies, departments, boards, commissions and authorities often have implications for clean energy adoption and GHG emissions. EEA, in collaboration with other state and quasi-public agencies, will develop a plan to implement this requirement in selected agency actions.

III. Implementing the Global Warming Solutions Act

Setting the 2020 Limit

Section 4. (a) The secretary shall adopt the 2020 statewide GHG emissions...which shall be between 10 per cent and 25 per cent below the 1990 emissions level ... (Global Warming Solutions Act of 2008; M.G.L. Chapter 21N)

Setting the statewide GHG emissions limit for 2020 was based on two years of analysis and public comment, and followed a process set forth in the Act.

In March 2009, the Executive Office of Energy and Environmental Affairs (EEA) established the Climate Protection and Green Economy Advisory Committee to provide input on the 2020 limit and measures to reduce GHG emissions in accordance with the Global Warming Solutions Act (GWSA). As required by the GWSA, the Advisory Committee included members representing the following sectors: commercial, industrial and manufacturing; transportation; low-income consumers; energy generation and distribution; environmental protection; energy efficiency and renewable energy; local government; and academic institutions. Advisory committee meetings were held throughout 2009 and 2010 and subcommittees were set up to examine technical aspects of possible policies.

In parallel and integrated with the activities of the Advisory Committee, EEA convened a technical working group consisting of staff from EEA, the Department of Environmental Protection (MassDEP), the DOER, the Department of Transportation (MassDOT), and the Executive Office of Housing and

Economic Development (EOHED). This team spearheaded the technical analysis.

Overseen by this state agency technical working group, most of the analytical work was undertaken by a team of consultants, led by Eastern Research Group (ERG) and including several other firms with extensive expertise in specific sectors — Cambridge Systematics, Inc. on transportation, Synapse Energy Economics on electricity supply and energy use in buildings, and Abt Associates on the non-energy emissions sources. A variety of specialized models and data sources were used by the consultants for the various sector analyses. All the supporting data was then entered into the LEAP (long-range energy alternatives planning) model of Stockholm Environment Institute–U.S., another member of our consulting team. LEAP provides a convenient and sophisticated tool for integrating all the sectors and for running various policy scenarios. It was used both for the 2020 analysis and for development of hypothetical scenarios to reach the long-range 2050 reduction mandate. Finally, additional analysis of scenarios for shifting the motor vehicle fleet to lower-carbon alternatives to petroleum fuel was conducted by Ventana Associates, using system dynamics modeling.

The first step in the analysis was to determine what Massachusetts 1990 emissions level was and what the predicted “Business as Usual” (BAU) emissions trajectory to 2020 would be. MassDEP issued its *Statewide Greenhouse Gas Emissions Level: 1990 Baseline and 2020 BAU*

*Projection*⁷⁷ on July 1, 2009. The primary finding of this report was that, despite year-to-year variation, the trend line of GHG emissions has been relatively stable since 1990 and is predicted to remain relatively stable through 2020. Even though there has been robust economic growth in Massachusetts since 1990, GHG emissions have remained stable because the fuel mix in electricity generation shifted toward natural gas (which is less carbon-intensive than coal or oil), the Massachusetts economy shifted toward services, and the limited energy efficiency programs in place during that period moderated growth in energy use. The BAU estimate for 2020 is essentially a straight-line extrapolation of the 1990-2008 stable trend. This approach was chosen because the 1990-2008 period included both recessions and economic booms, and the underlying trends of that period are likely to continue, whereas attempts to create a more dynamic model of GHG trends in the future would unavoidably involve making a wide range of untested assumptions.

The next step in the analysis was to determine the expected GHG reductions by 2020 that would result from the policies and programs implemented or initiated since the beginning of the Patrick-Murray Administration, not including new policies that would be implemented under authority of the GWSA. In April 2010, Eastern Research Group submitted a report to the Advisory Committee, *Initial Estimates of Emissions Reductions from Existing Policies Related to Reducing Greenhouse Gas Emissions*. This report found that the energy efficiency, renewable energy, and transportation measures required by the Green Communities Act, the Advanced

Biofuels Act, various state government executive actions, and the federal government would result in emissions being reduced to approximately 18 percent below 1990 levels by 2020 — roughly the midpoint of the 10 percent to 25 percent range required by the GWSA.

Following that report, EEA issued a Draft Climate Implementation Plan: A framework for meeting the 2020 and 2050 goals of the Global Warming Solutions Act. In the Implementation Plan, Secretary Bowles signaled his intention to set a 2020 emissions reduction requirement of 18 percent to 25 percent below 1990 levels and, for the final plan to achieve this limit, to give greatest consideration to those measures that show potential for significant energy cost savings and/or job creation.

In May 2010, Eastern Research Group submitted an additional report, *Cost-Effective Greenhouse Gas Mitigation in Massachusetts: An Analysis of 2020 Potential*. For this report, the consultants were asked to consider what additional GHG reductions would be technically feasible with cost-effective policies beyond those already in place. This report showed that it would be technically feasible to reduce emissions by up to 35 percent below 1990 levels by 2020 with additional policies that are cost-effective.

Both the draft implementation plan and the analysis of 2020 potential were used to focus a series of eight public hearings that were held in June 2010, as required by the Act. Nearly 200 individuals and organizations provided oral or written comment on the 2020 emissions reduction requirement and on policy measures to meet the requirement. The vast majority of commenters called for the Secretary to set the GHG limit at 25 percent below 1990 levels, the maximum allowed under the statute. A range of suggestions also pointed to a variety of

77 Statewide Greenhouse Gas Emissions Level: 1990 Baseline and 2020 Business As Usual Projection, Massachusetts Dept. of Environmental Protection, July 1, 2009.

different policy mechanisms that EEA should analyze in preparing the final implementation plan.

Following the hearings, EEA further consulted with the Climate Protection and Green Economy Advisory Committee and tasked the Advisory Committee's technical subcommittees, technical staff at EEA agencies, MassDOT, EOHED and other state agencies, and third-party consultants with analyzing a wide range of actions, policies, regulations, and legislation that could achieve additional clean energy gains and emissions reduction by 2020 and beyond. The Secretary then directed the technical teams to conduct in-depth analyses of those additional measures that satisfy criteria of cost-effectiveness while reducing GHG emissions. These in-depth analyses focused on GHG reduction potential; cost; clean energy economy impacts (cost of living, number and quality of jobs, reduced spending on fuel imports, etc.); implementation and design issues; experience in other states or jurisdictions; other co-benefits; equity issues; and uncertainties.

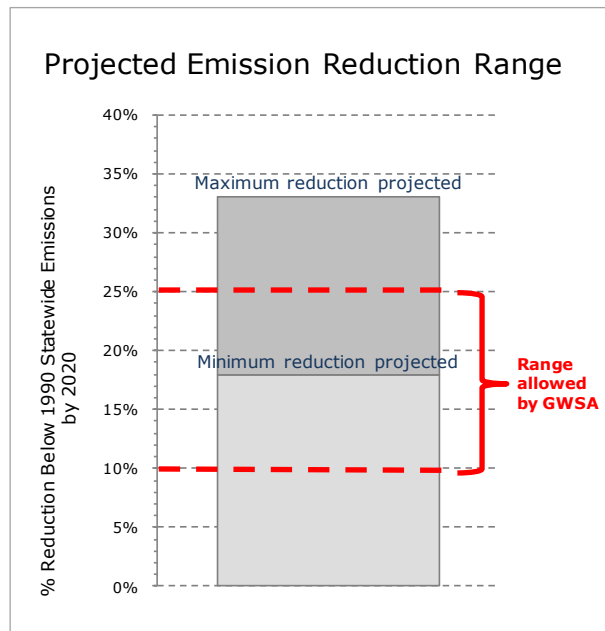


Figure 8. Projected emission reduction range below 1990 by 2020. The range results from uncertainties in Business as Usual (BAU) emissions, policy designs, and impacts of individual policies.

Table 2 (on page 91) displays the portfolio of policies incorporated in the *Massachusetts Clean Energy and Climate Plan for 2020*, and the associated potential contribution to GHG reduction below 1990 levels by 2020 for each policy. In aggregate, these policies, which include measures put in place since 2007 and new initiatives proposed in this Plan, are projected to achieve emissions reductions in the range of 18 percent to 33 percent by 2020 (see Figure 8). The lower end of this range represents a scenario in which Business as Usual (BAU) emissions are higher than projected and actual emission reductions from the policies as implemented are at the low end of estimates. The higher end of the range represents a scenario in which BAU emissions are lower than projected and implementation success is relatively high. A mid-range estimate for the portfolio of policies results in GHG emissions approximately 27 percent below 1990 levels by 2020.

Table 2. The Portfolio of Policies	middle estimate % reduction below 1990
Buildings	9.8%
All cost-effective energy efficiency/RGGI	7.1%
Advanced building energy codes	1.6%
Building energy rating and labeling	---
"Deep" energy efficiency improvements for buildings	0.2%
Expanding energy efficiency programs to C/I heating oil	0.1%
Developing a mature market for solar thermal water/space heating	0.1%
Tree retention and planting to reduce heating and cooling loads	0.1%
Federal appliance and product standards	0.6%
Electricity	7.7%
Expanded Renewable Portfolio Standard (RPS)	1.2%
More stringent EPA power plant rules	1.2%
Clean energy imports	5.4%
Clean energy performance standard (CPS)	---
Transportation	7.6%
Federal and California vehicle efficiency and GHG standards	2.6%
Federal emissions and fuel efficiency standards for medium and heavy-duty vehicles	0.3%
Federal renewable fuel standard and regional low carbon fuel standard	1.6%
Clean car consumer incentives	0.5%
Pay As You Drive (PAYD) auto insurance (pilot program, possible expansion later)	1.1%
Sustainable Development Principles	0.1%
GreenDOT	1.2%
Smart growth policy package	0.4%
Non-Energy Emissions	2.0%
Reducing GHG emissions from motor vehicle air conditioning	0.3%
Stationary equipment refrigerant management	1.3%
Reducing SF ₆ emissions from gas-insulated switchgear	0.2%
Reducing GHG emissions from plastics	0.3%
Cross-cutting Policies	---
MEPA GHG policy and protocol	---
Leading by Example	---
Green Communities Division	---
Consideration of GHG emissions in State permitting, licensing and administrative approvals	---
Overall reductions versus 1990 (adjusted for uncertainty in Business as Usual (BAU) emissions, policy designs, and impacts of individual policies)	
High BAU emissions and low policy impacts	18%
Middle BAU emissions and policy impacts	27%
Low BAU emissions and high policy impacts	33%

Note: the overall reduction is adjusted for overlap among policies, so is smaller than the sum of the individual policies. Individual lines may not sum to subtotals due to rounding.

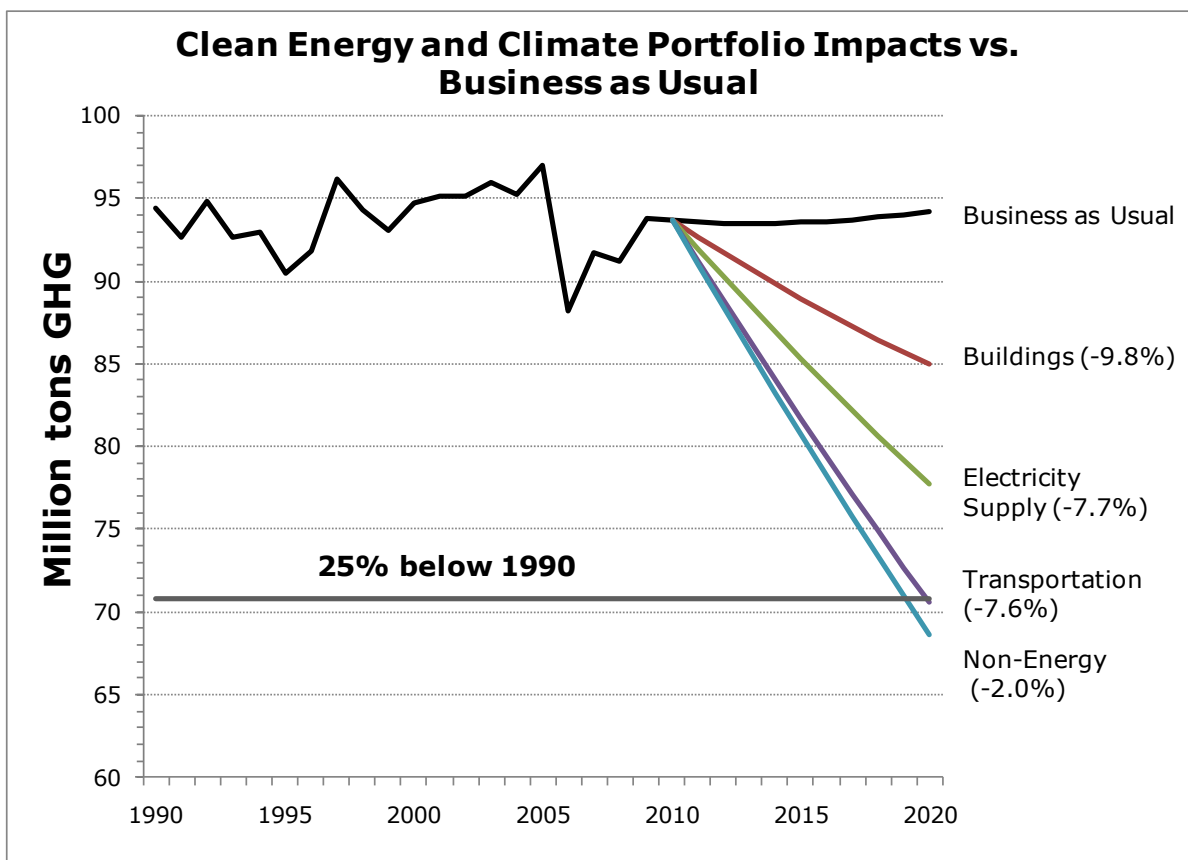


Figure 9. Emissions reductions by sector for the portfolio of policies, at the mid-range estimate of 27 percent below 1990 levels by 2020.

Based on these analyses, input from the Advisory Committee, and full consideration of the public comments received, EEA Secretary Ian Bowles determined that a responsible and achievable GHG emissions reduction limit for 2020 that maximizes opportunities to realize energy cost savings, increase energy independence, and promote growth in clean energy jobs in Massachusetts is 25 percent — the high end of the range for 2020 authorized by GWSA, but the middle of the range of possible outcomes for the policies incorporated in this Plan.

In setting this limit, the Secretary took into account the statutory mandate of 80 percent reduction by 2050, which led him to set the 2020 limit as high as is practical. He also did so based on his understanding that the portfolio of measures outlined in the Integrated Portfolio section of this Plan, discounted for uncertainty and potential implementation constraints, provides enough flexibility and redundancy for the Commonwealth to achieve the 2020 reduction limit of 25 percent.

Putting the Plan into Action

In 2011, state agencies responsible for each new measure will complete program development and consultative processes with stakeholders, in order to create an implementation plan for each policy outlined in this Plan. Given the portfolio nature of the policies included in the Plan, there will naturally be a diversity of processes to move each policy forward. For example, some require pilot programs (such as the Pay As You Drive pilot program that is dependent on Federal Highway funding). Others require expansion of existing programs (such as energy efficiency). Still others may require legislation even as administrative actions move them forward (such as the expansion of renewable energy credits from electricity to include thermal energy).

As part of continued policy development, more detailed cost and benefit information will be analyzed and used to design programs to maximize a cost-effective transition to an equitable clean energy future, which includes well-distributed green jobs and business growth, as well as GHG gas reduction.

In order to monitor progress in implementing the Plan, the Climate Protection and Green Economy Advisory Committee will remain in existence, and the Secretary of EEA will present an annual progress report to the Committee by December 31 of each year. In preparation for that annual report, all responsible agencies (EEA agencies, MassDOT, EOHED, and others) will report to the EEA Secretary by October 31 of each year on their progress toward implementation. The Secretary will, in turn, compile a complete report for the Climate Protection and Green Economy Advisory Committee. The first full progress review required by the Act will be in 2015.

Engaging Citizens to Realize our Clean Energy Future: Individuals, Cities & Towns, and Regional Planning Agencies

Throughout the development of this Plan, there has been ongoing interest on the part of the Advisory Committee and the public concerning the need for continued citizen engagement in reaching the clean energy and climate goals set forth in the Global Warming Solution Act.

During the course of eight public hearings held across the state and in written comments, EEA learned of many projects and activities that Massachusetts citizens, non-governmental organizations (NGOs), universities, business groups, and municipalities are engaged in to reduce GHG emissions and work toward a clean energy future. EEA and the Commonwealth's agencies recognize the value of these efforts and commit to work together and support them as we collectively strive to implement this Plan.

Individuals are already making clean energy decisions such as making their homes more energy efficient, and are eager for information about how they can do so where they work, shop and play.

As of December 2010, 53 communities had attained designation as Green Communities, becoming eligible for funding to go greener as a result; and 64 communities have adopted the "stretch code," a local-option building code that sets a standard of 20 percent to 30 percent more energy efficient than the Commonwealth's recently adopted statewide code. Earlier this year, the city of Boston adopted a wide-ranging climate action plan that was developed through extensive community engagement. In addition, a variety of independent climate and energy initiatives at the municipal level are developing practices and information that state agencies can learn from and support.

Regional planning organizations, in particular, are valuable partners for the state to work with in crafting solutions tailored to the unique challenges and opportunities of their regions. Some already have sustainability and/or smart growth programs that result in GHG reduction. For example, the Pioneer Valley Planning Commission and Franklin Regional Council of Governments recently released a clean energy plan that charts a path toward greater energy independence and the use of cleaner and more efficient energy in the Valley. The process of creating and now implementing the plan has been a prime example of state, regional and local government collaboration, and engagement of citizens, non-governmental organizations (NGOs) and the private sector.

NGOs of all types are making effective use of their community roots to raise consciousness about the risks of climate change and the opportunities for a clean energy future. College and university students are informed, organized and eager to help shape their energy and climate future; these students gave impassioned testimony at every public hearing.

As the Commonwealth agencies responsible for implementing parts of this Plan develop their programs, they will look for opportunities to work with and support these ongoing efforts. Most state agencies have a local presence and networks that can facilitate coordination with local groups; for example, MassDEP has four regional offices and DOER has a Green Communities coordinator located in each of them. MassDOT also has regional offices as well as established relationships with regional planning organizations and regional transit authorities. Pilots and demonstration projects conducted as agencies develop their respective programs under this Plan will provide excellent opportunities to involve local groups in state initiatives.

The work of individuals, municipalities, universities, business organizations, NGOs, and regional planning organizations will be essential to the Commonwealth's success in implementing this Plan and making the transition to a clean energy economy.

IV. Beyond 2020: The Road to 80 Percent Lower Emissions in 2050

Scenarios for a Clean Energy Future

The clean energy economy of 2050 will be very different than the fossil fuel dominated economy of today. With many of the policies embodied in this report in place, 2050 would find a Massachusetts where energy costs are less volatile and comprise a smaller part of budgets. Businesses, households, municipalities and institutions are better able to manage their energy needs. Renewable and alternative sources of energy have largely displaced fossil-based sources, and a smart grid and advanced technology store and release to the grid as needed the electricity generated during the night by massive wind farms off the coast of the Northeast. Both small and large-scale solar installations are ubiquitous across the state.

In this scenario, global geopolitics has dramatically changed also, and United States foreign policy is no longer influenced by the politics of petroleum, natural gas, and coal. National security has been strengthened by an economy driven by homegrown sources of energy that no longer depend on fossil fuel from unstable regions or from countries that do not share the interests of the U.S.

By 2050, the clean energy cluster in Massachusetts has matured, much as the biotechnology and health care sectors matured in the early part of the 21st century. Small entrepreneurial companies and multi-nationals, R&D, manufacturing and service companies make up a varied and dynamic clean energy economic landscape. Massachusetts plays a dominant role in the global market for technologies in offshore wind, solar PV and thermal, electricity

storage and energy management. Massachusetts architects and engineers are leaders internationally in green building design and building energy management. Massachusetts companies that have pioneered battery technology have robust partnerships with American, European, Indian and Chinese car and truck manufacturers.

And, by 2050, GHG emissions will, by law, be 80 percent less than what they were in 1990, and the air will be cleaner.

Even as we chart the course through 2020, it is critical to plan for the path to 2050. Getting to this clean energy future will require significant innovation in policy, technology and business practices. Unlike the 2020 limit, which can be met with actions that we take here in Massachusetts, reaching 80 percent reductions below 1990 emission levels, as required by the Global Warming Solutions Act, will mean broad changes that are beyond the reach of Massachusetts alone. Between 2010 and 2050, much will change — in the economy, in federal regulation, and in technology — that will make possible GHG emission reductions that would be unthinkable today. With the nation-leading requirements of the GWSA, Massachusetts should — and must — stay ahead of the curve. But as it reaches for the more ambitious mandates of 2030, 2040, and 2050 required by the GWSA, Massachusetts can only build on changes percolating throughout the U.S. economy, not strike out entirely on its own.

But in imagining — and planning for — a path to the mandated GHG emissions reduction of 80 percent in 2050, it is important to ask now: How do we get there?

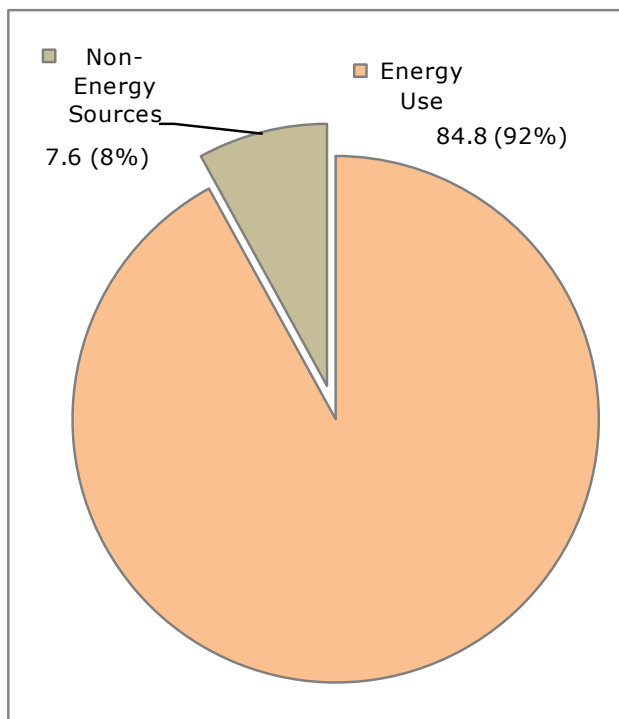


Figure 10. Massachusetts GHG Emissions in 2007 (MMTCo₂e and %)

It helps to consider the sources of GHG emissions in Massachusetts. As Figure 10 shows, the vast majority of our state's emissions come from energy use. Burning carbon intensive fuels for transportation, in buildings, and for electricity generation accounted for about 92 percent of statewide GHG emissions in 2007. The rest of the emissions — a scant 8 percent — were from activities other than fuel combustion, such as wastewater treatment and agriculture (both of which emit methane and other GHGs).

Broadly speaking, it is possible to lower GHG emissions from energy use in three ways:

Efficiency — Finding means to deliver the same services (e.g., miles traveled by passenger vehicles, indoor air temperature) using less energy. Examples include weatherizing buildings so they consume less energy to provide comfortable indoor spaces, and higher fuel efficiency standards for passenger vehicles and light trucks so that less fuel is combusted for every mile traveled.

Conservation — Making lifestyle choices that lower energy use even in the absence of efficiency improvements. An example is reducing non-essential driving.

Cleaner energy sources — Substituting low carbon energy sources for the carbon intensive fuels we use today. An example is generating electricity from wind or solar energy instead of from fossil fuels.

The first two of these approaches target energy demand, while the third focuses on energy supply.

This chapter explores how these approaches could be combined with cuts in non-energy emissions to hit the 2050 target required for Massachusetts. It presents the results of scenario modeling of the state's energy system and economy, conducted to assess conditions that would allow achievement of the 2050 limit. The first part characterizes the modeling process and explains how the two scenarios presented here were devised. A summary of the scenarios and their emissions and energy projections follows, along with implications for Massachusetts clean energy and climate policy. The chapter goes on to review policies which will either have small impacts by 2020 or may not be needed to reach the 2020 emissions limit, but are critical to achieving the 2050 limit.

Scenario Modeling: Purpose and Process

In order to understand the challenges and opportunities of meeting the 80 percent by 2050 goal, the EEA began by modeling scenarios of statewide energy use and GHG emissions. The scenarios comprised all modes of transportation, residential and commercial buildings, electricity generation, and numerous other factors.

Assisted by technical consultants, EEA used the scenarios to project potential futures for Massachusetts that would allow attainment of the 2050 goal. In this sense, the scenarios were not so much predictions or forecasts as thought experiments: they showed possible ways to cut GHG emissions under various conditions. A central consideration in crafting the scenarios was that they be plausible. To that end, the modeling team limited itself to

technology that is currently available or expected to emerge shortly. The team also consulted published scientific and technical literature and other government and academic modeling projects for insights into plausibility.

After experimenting with several scenarios, the modeling team developed two that achieved the 80 percent target (within a reasonable margin of error): one stressing electrification and clean electricity supply; and another prioritizing efficiency and conservation measures. The next sections describe these scenarios. The team also determined that the target could be attainable in a scenario of substituting low carbon biofuels for fossil fuels. However, as such a scenario is basically equivalent to the electrification scenario — replacing clean electricity with clean biofuels — it is not treated here.

Scenario Descriptions: Narratives and Assumptions

SCENARIO 1 — ELECTRIFICATION: A RESIDENT'S VIEW

Houses are better insulated and ventilated than they were 40 years ago. Many houses look like those from the Massachusetts 2010 Zero Energy Challenge — there are a number in your neighborhood. Increasingly, homeowners are turning to electric heat pumps for space and water heating. The cost of these systems has been dropping for a number of years, and it's now standard practice to include them in new houses. Solar hot water and residential photovoltaic (PV) installations are also commonplace. You rented out your rooftop to a solar PV company last year, cutting your electricity bill in half.

You still drive to work each day, but you do it in a highly efficient electric car. When you take public transportation, you're generally in an electric vehicle as well — whether a train, bus, or subway. You hardly see any petroleum-powered vehicles anymore, except for airplanes and some trucks. But even those use a 40 percent biofuel blend.

Most commercial buildings are more energy efficient than they were in 2010; a significant fraction look like the advanced green buildings of that era. Just as in houses, electric heat pumps, solar hot water, and PV arrays are increasingly the norm in commercial buildings.

You work in an industrial setting — at a advanced battery manufacturer that supplies batteries for the new fleets of cars, minivans, and trucks that are coming out of Detroit — and business is booming. Gross state product has more than doubled since 2010, while industry's fraction of it is unchanged. Meanwhile, the energy intensity of industrial operations has been falling, and many firms have retooled their processes around electric power (instead of fossil fuels). Your employer recently replaced most of the equipment on the shop floor with new high-efficiency models, improving productivity and cutting operating expenses.

The electrification scenario meets the challenge of the 2050 goal by pairing widespread electrification in transportation, buildings, and industry (i.e., switching from fossil fuels to electricity) with an extremely clean electricity supply. These changes are backed up by energy efficiency gains throughout the economy and progress toward reducing non-energy GHG emissions. Table 3 lists the major assumptions defining the electrification scenario. The narrative in the sidebar describes what you might experience if you were a resident of Massachusetts in 2050.

Table 3. Electrification Scenario	
Sector	Assumption
Statewide	The population of Massachusetts grows to 7.6 million people by 2050 (about 18% higher than today).
	Gross state product (GSP) grows to \$930 billion (2008\$) by 2050 (approximately 150% higher than today). This increase is based on the historical rate of per capita income growth in Massachusetts.
Transportation	By 2050, 90% of light duty vehicles are pure electric, 5% are plug-in electric, and 5% are hybrids.
	By 2050, passenger and freight vehicle efficiency improves substantially. For example, holding vehicle size constant, the energy intensity of hybrid gasoline cars (energy required per mile traveled) falls about 31% between now and 2050.
	By 2050, transit service doubles and number of people per vehicle increases 20% from today's levels.
	By 2050, commuter rail and intercity rail in Massachusetts are completely electric; 90% of buses are electric.
	By 2050, 40% of commercial aircraft and road freight miles are powered by biofuel that produces 70% fewer GHG emissions than burning gasoline.
	Growth in annual commercial air travel miles stops in 2020.
Residential and Commercial Buildings	By 2050, only 16% of houses have the same energy use profile as a typical house today; 40% match the energy performance of today's advanced green houses. New and upgraded houses mainly use electric heat pumps for space and water heating.
	By 2050, only 20% of commercial buildings have the same energy use profile as a typical commercial building today; 40% match the energy performance of today's advanced green commercial buildings. New and upgraded buildings mainly use electric heat pumps for space and water heating.
Industry	Rising at the same rate as GSP, industrial output in Massachusetts grows to \$162 billion (2008\$) by 2050.
	40% of industrial energy comes from electricity in 2050.
	Between now and 2050, industrial energy intensity (energy required per \$ of output) decreases 2% per year on average.
Electricity Generation	By 2050, 100% of the electricity consumed in Massachusetts comes from near zero carbon sources: renewables, pre-2000 nuclear facilities, and a small amount of biomass, and this constitutes 112% of what total Massachusetts electricity use was in 2007, or 9 times the amount of low-carbon supply in 2007. The state no longer uses any electricity from natural gas, coal, or oil.

Scenario Descriptions: Narratives and Assumptions

SCENARIO 2 — EFFICIENCY AND CONSERVATION SCENARIO: A RESIDENT'S VIEW

Every house in the state uses less energy per square foot than a typical house did 40 years ago. Improved lighting, insulation, appliances, and heating and cooling systems are universal. Houses remaining from 2010 have been equipped with these enhancements (to a greater or lesser degree), and new houses include them as a matter of course. Nearly half of all houses meet efficiency standards only attained by the best “green” prototypes in 2010. Yours is one of them: when you bought it 10 years ago, you had a deep energy improvement performed before moving in. The contractor installed an electric heat pump for heating and cooling, solar hot water collectors, and a PV array, among other improvements. Residents statewide are increasingly choosing these technologies to meet household energy needs. They’re also opting for markedly smaller homes, prompting a reduction in the size of new houses and conversions of large dwellings into multi-family residences.

For several decades, the trend in passenger vehicles has been toward more efficient cars. Light trucks have fallen out of favor except with tradespeople who need them for work, as have SUVs except for those who need true off-road capability, with the number on the road dropping 75 percent since 2010. Drivers are carpooling more, and everyone thinks twice about single-purpose drives to the store or the mall. You still have that hybrid, but your spouse made the switch to an electric car a few years ago, and you take the electric when you travel together. More and more, you use public transportation when you can. It helps that transit service is more widespread and frequent than it used to be. You don’t travel by plane as much as you once did, either; for short and middle distance trips, you go by high-speed train or your car, and you take long trips less often.

Like everyone you know, you work in a building that’s substantially more energy efficient than commercial buildings were in 2010. Half of today’s buildings would have been considered advanced green buildings in 2010, and many use electric heat pumps instead of fossil fuels.

Industrial output in Massachusetts has more than doubled since 2010, while the energy intensity of industrial production has fallen by almost two thirds. Enterprises requiring a skilled, educated workforce continue to locate in the state, contributing to steady economic growth.

The efficiency and conservation scenario achieves the 2050 goal through a combination of maximal efficiency gains in all sectors and consumer choices favoring energy efficiency and conservation. Complementing these developments are some fuel switching toward electricity, a significant (but not total) de-carbonization of the electricity supply, and cuts in non-energy emissions. Table 4 shows the principal assumptions underpinning the efficiency and conservation scenario, and the sidebar provides a parallel narrative — what you might experience under this scenario if you were a resident of Massachusetts in 2050.

Table 4. Efficiency and Conservation Scenario

Sector	Assumption
Statewide	The population of Massachusetts grows to 7.6 million people by 2050 (about 18% higher than today).
	Gross state product (GSP) grows to \$930 billion (2008\$) by 2050 (approximately 150% higher than today). This increase is based on the historical rate of per capita income growth in Massachusetts.
Transportation	By 2050, 60% of light duty vehicles are pure electric, 20% are plug-in electric, and 20% are hybrids.
	By 2050, passenger and freight vehicle efficiency improves even more than in scenario 1, with (for example) the energy intensity of hybrid gasoline cars falling about 36% between now and 2050.
	Consumer preferences shift toward more efficient cars. By 2050, technologies allow cars to use one third less energy than it otherwise would have.
	Apart from those who need special functions, consumers shift away from light trucks and passenger vehicles built on light truck chassis (SUVs). By 2050, the share of trucks in the light duty vehicle fleet drops to 10 percent (from around 40 percent today).
	By 2050, utilization of cars and light trucks rises to 2.0 people/vehicle (compared to 1.6 today).
	By 2050, less non-essential driving causes the total number of miles traveled in light duty vehicles to be 15% lower than it would otherwise have been.
	By 2050, transit service increases 2.5 times and ratio of people-per-vehicle rises 30% from today's levels.
	By 2050, 40% of commercial aircraft and road freight miles are powered by biofuel that produces 70% fewer GHG emissions than gasoline.
	Annual commercial air travel miles drop 50% between 2010 and 2050 as regional and intercity rail increases.
Residential and Commercial Buildings	By 2050, no houses have the energy use profile of a typical house today; 45% match the energy performance of today's advanced green houses. New and upgraded houses mainly use electric heat pumps for space and water heating.
	By 2050, only 5% of commercial buildings have the energy use profile of a typical commercial building today; 50% match the energy performance of today's advanced green commercial buildings. New and upgraded buildings mainly use electric heat pumps for space and water heating.
	In residential buildings, average square footage per household is about 22% lower in 2050 than today.
Industry	Rising at the same rate as GSP, industrial output in Massachusetts grows to \$162 billion (2008\$) by 2050.
	Between now and 2050, industrial energy intensity decreases 2.5% per year on average.
Electricity Generation	By 2050, about 80% of the electricity consumed in Massachusetts comes from near zero carbon sources: renewables, pre-2000 nuclear facilities, and a small amount of biomass used in high efficiency combined-heat-and-power applications. The low-carbon power is about five times the amount used in Massachusetts in 2007 (about half the amount of low-carbon power needed in the electrification scenario). The remainder is from natural gas generation.

Scenario Results

In both the electrification and efficiency and conservation scenarios, Massachusetts reaches the 80 percent target by 2050. Given the first two assumptions in Tables 1 and 2 — of rising population and real income — this achievement is remarkable.

Significant changes in infrastructure, technology, and consumer choices pave the way to the 80 percent reduction. Figure 11 depicts projected statewide GHG emissions under the scenarios, as well as historic emissions and a business-as-usual trajectory.

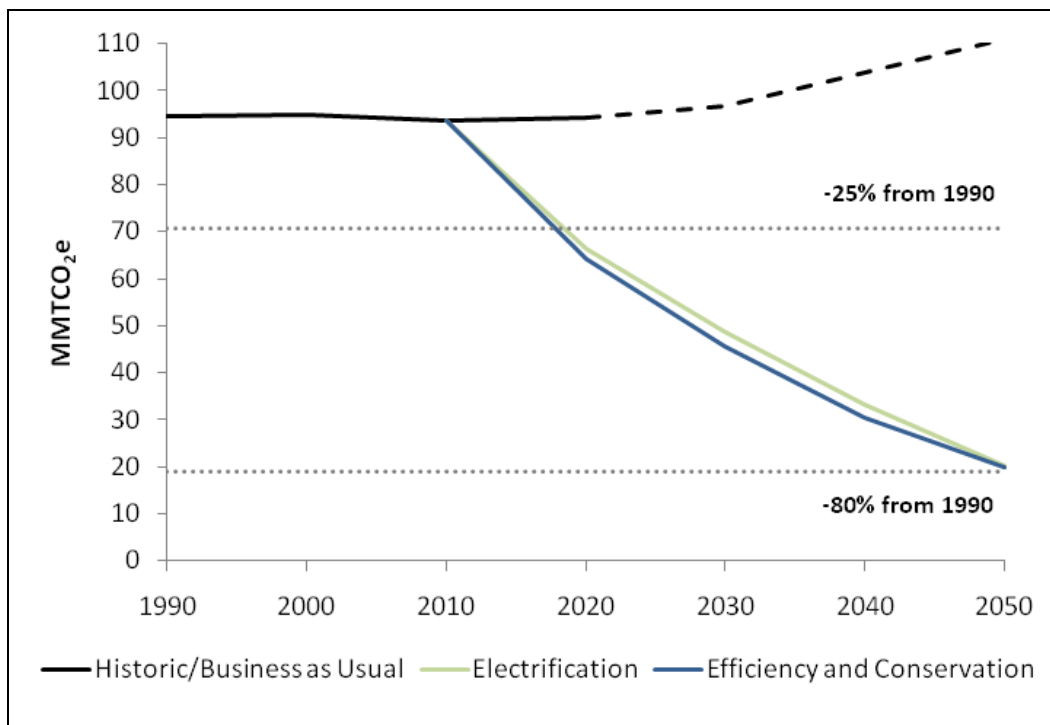


Figure 11. Historic and Projected Massachusetts GHG Emissions

The two scenarios have important commonalities, such as improvements in vehicle and building efficiency, shifts away from fossil fuels in transportation and buildings, and deployment of low carbon electricity generation. But they differ in how they combine demand- and supply-side approaches to reducing GHG emissions from energy use. In the electrification scenario, low-carbon supply rises greatly, to 112 percent of total Massachusetts electric consumption in 2007, or providing nine times the amount of low-carbon supply that Massachusetts consumed in 2007. In the efficiency and conservation scenario, the

low-carbon supply only has to rise to about five times the 2007 amount.

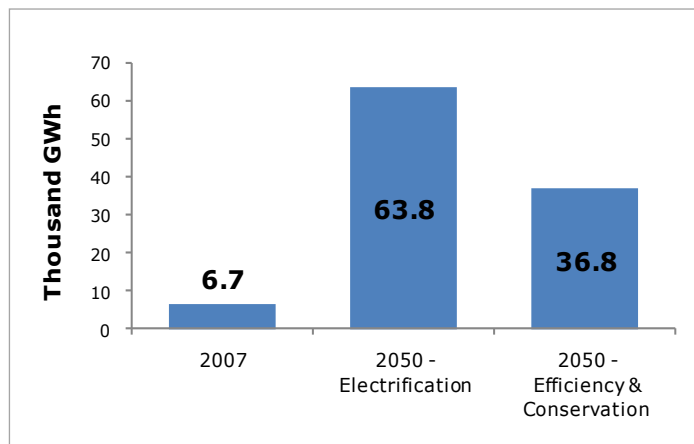


Figure 12. Supply of Near-Zero Carbon Electricity

In the efficiency and conservation scenario, enhanced efficiency measures and consumer choices produce lower transportation and buildings emissions than in the electrification scenario, notwithstanding some continued reliance on fossil fuels. These incremental gains make feasible a somewhat more carbon intensive energy supply. Figure 13 shows that the efficiency and conservation scenario allows for more emissions from electricity generation, whereas more non-emitting electricity sources are needed for the electrification scenario. Both scenarios require dramatic reductions in energy use, but the electrification scenario allows for somewhat greater electricity generation (from clean sources) even compared with today, while the efficiency and conservation scenario requires less energy use (and electricity generation) overall.

efficiency by 2050. These gains go further in the efficiency and conservation scenario, especially for existing houses — more of them are upgraded with energy saving measures and high efficiency mechanical systems. For residential buildings that exist in 2010, the electrification scenario assumes that energy demand per square foot is cut in half by 2050, while in the efficiency and conservation scenario it is cut by two-thirds. Homes that are built between 2010 and 2050 use even less energy, about 50 percent as much per square foot as existing buildings in the efficiency/conservation scenario.

There are three ways that transportation emissions can be reduced — reducing VMT, improving fuel efficiency, and reducing the carbon content of vehicle fuel. To achieve an 80 percent emissions reduction, all of these must achieve large gains relative to Business

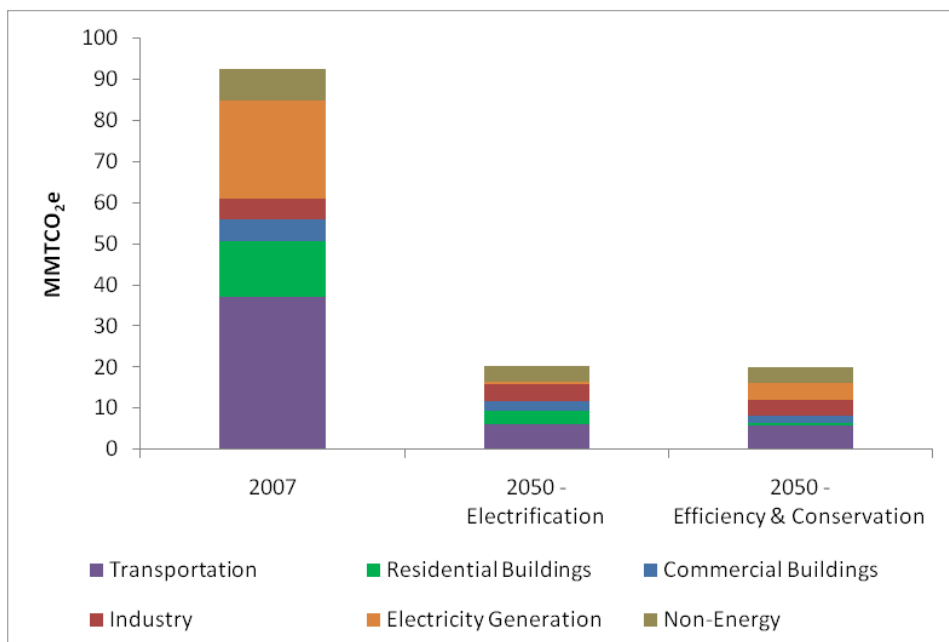


Figure 13. Emissions by sector in two scenarios.

The transportation and buildings sectors are by far the largest end users of energy in Massachusetts. Both scenarios count on considerable gains in building energy

as Usual (BAU). In the electrification scenario, where vehicles are running almost entirely on low-carbon power, VMT for cars and light trucks is able to grow from 51 billion miles to 58 billion, while in the efficiency and conservation scenario it decreases to 48 billion miles, and the share of light trucks in the fleet drops steeply. Vehicle efficiency improves greatly in both scenarios, but more so in the efficiency and conservation scenario. Conversely, carbon

emissions per unit of fuel are only about half as large in the electrification scenario, at 114 grams of CO₂ per kwh of energy input, as they are in the efficiency and conservation scenario (at 217 grams CO₂ per kwh).

Policy Directions to be Developed in Coming Years

As the scenarios show, reducing emissions by 80 percent in 2050 depends on dramatic changes in energy and transportation systems. Some of the policy changes that are critical to reaching the 2050 reduction requirement are included in the 2020 policies discussed earlier in this Plan. But the GHG reductions shown are relatively small, because these policies need long lead times for development and their impacts grow over time, becoming more significant after 2020. In addition, further new policies will be needed that are not necessary to reach the 2020 target, but are essential to reaching the 2050 mandate. Below we briefly review both sets of policy possibilities.

Policies in 2020 Plan that have relatively small impacts in 2020 but are critical for 2050

Buildings — As the scenarios show, on average energy use must drop by at least 42 percent for existing buildings in the electrification scenario and by 69 percent in the efficiency/conservation scenario by 2050. To accomplish this, policies to achieve much deeper reductions in energy use than result from the current utility programs will be needed. For new buildings, this can result largely from code requirements, while for existing buildings it is likely that other forms of incentives and regulatory requirements will be needed. Because buildings are so long-lasting, investments that are made in 2011 and beyond are likely to yield GHG savings for a century or more, while inefficiencies that are not rectified will produce excess emissions for decades. Four of the proposed policies to address this have been discussed in detail earlier in this Plan, but are worth re-emphasizing in their importance for 2050.

Building rating and labeling — At present, the likely energy use of existing buildings, both commercial and residential, is largely unknown to prospective purchasers and tenants. As a result, the built-in efficiency of a building (as distinct from occupant behavior) has little value in the marketplace. Rating the energy performance of buildings relative to an objective standard for others of the same size and type will make it possible for sales and rental prices to take energy use into account, giving owners an incentive to improve performance for resale value. In addition, rating and labeling are prerequisites to instituting performance requirements, which will become necessary over time in order to reduce the average consumption of existing buildings.

Building codes — To achieve the dramatic reductions in energy use that is needed for new buildings, building additions, and major renovations of existing buildings, continual updating of building codes is the most cost-effective policy. This will require conversion of traditional “prescriptive” codes, which dictate specific measures, to performance-based standards, and tightening over time of the energy requirements. Technological development, experience within the industry, and increases in the real cost of energy, along with an eventual price of carbon, should make such tightening cost effective. Recent trends and projections for the next few years in the IECC and American Society of Heating, Refrigerating and Air-Conditioning Engineers, Inc. (ASHRAE) standards show that continual improvement in codes is feasible. Again, because buildings are so long-lasting, it is essential that improvements in the shells of new buildings (insulation and air sealing) be ramped up as quickly as possible.

Deep energy improvements — Today, utility-administered efficiency programs provide incentives for “moderate” retrofits of existing buildings, such as installing insulation in attics and in exterior wall cavities, purchasing compact fluorescent light bulbs and high-efficiency commercial light fixtures, and more efficient appliances. Achieving nearly universal adoption of such items should be sufficient to reach the 2020 GHG target, but not for 2050. “Deeper” retrofits, including such items as rigid insulation on the exterior walls of buildings under new siding, triple-glazed windows, LED lighting, and renewable heating systems, will all be needed.

Tree retention and planting — Because trees grow slowly, planting done in the next decade will have small benefits by 2020, but will contribute greatly to the 2050 target by reducing cooling and heating loads in buildings. In addition, though it is not counted in this Plan due to data limitations, planting more trees will result in greater sequestration of GHGs.

Transportation — to reduce transportation emissions on the order of 80 percent, all three of the primary drivers of emissions will have to be addressed — vehicle efficiency (including driving habits), miles driven, and carbon content of vehicle fuel. The measures below are some of the methods for influencing these three areas.

Smart Growth — To achieve the GHG target, VMT for light vehicles (cars and light trucks) must be reduced by 15 percent in the efficiency/conservation scenario versus the business-as-usual scenario. One of the primary influences on VMT is development pattern, with sprawling business and housing development increasing the amount of non-discretionary driving. This impact can be reduced through smart growth, which concentrates development in and around existing cities and in more compact areas

with mixed residential, shopping, and employment uses to reduce transportation needs. Because development in Massachusetts is occurring slowly, the savings from smart growth are relatively small in 2020 but will be much greater in 2050. Without new development taking place primarily in smart growth fashion, however, it will not be possible to reach the necessary emissions reduction from transportation.

Low Carbon Fuel Standard (LCFS) — To achieve the 80 percent reduction limit, the average carbon content of vehicle fuel falls by 54 percent in the electrification scenario and by 12 percent in the efficiency / conservation scenario. This will require the conversion of a majority of motor vehicles from petroleum to other fuel sources, such as electricity or biofuels. The 2020 Plan anticipates that introduction of a LCFS will mandate a 5 percent reduction in the average carbon content of light vehicle fuel, contributing modestly to the 2020 limit. But for 2050 the LCFS must become far stricter, and be supported by other policies necessary for the LCFS to succeed (such as development of fueling infrastructure).

Policies not in the 2020 Plan that are needed for 2050

Beyond the measures described above and earlier in this Plan, the 2050 scenarios make clear that additional measures will be necessary to achieve an 80 percent GHG reduction at that time:

Decarbonizing the electricity supply — In both scenarios for 2050, the vast majority of electricity supply must be low-carbon (70 or 80 percent lower than the average emissions from the New England grid at present). Less of this supply is needed in the efficiency/lifestyle scenario than in the electrification scenario. The resources to achieve this shift are theoretically available, if not entirely in Massachusetts (given our small size and limited supply of renewable resources), then in imports from the region and beyond. The current RPS requires that the state's distribution utilities supply 15 percent of their power from qualifying renewable sources by 2020. For 2050 we will need far more resources from both RPS-eligible and non-RPS qualified sources. Part of this we expect will be obtained from offshore wind resources, which are ample in federal waters off Massachusetts. Part will come from non-RPS sources such as Canadian hydro and wind power. To ensure

that sufficient supplies are available, new policy mechanisms will need to be developed that go beyond the RPS, such as the Clean Energy Performance Standard discussed earlier in this Plan.

Converting motor vehicles from petroleum to other fuels — The LCFS is the state's primary policy mechanism for encouraging a shift from petroleum to low-carbon vehicle fuels. However, there is evidence that the LCFS may not by itself be sufficient to cause this shift without complementary policies to induce consumers to shift to alternative fuels.⁷⁸ At least in part, this result stems from the difficulty in simultaneously developing alternative fuel sources, the infrastructure to distribute the fuels, and the vehicles that can utilize them. For example, converting a substantial portion of vehicle fuel to electricity requires that electric charging stations be installed at homes and businesses and at public locations, that auto manufacturers produce a variety of plug-in hybrid and all-electric vehicles, and that consumers purchase these vehicles in large numbers at a premium to conventional vehicles (at least in the early years). Substantial incentives for fueling infrastructure and for consumers to purchase the vehicles may be necessary.

⁷⁸ Based on results of system dynamics modeling conducted by Ventana Systems, Inc. on behalf of the state's CPGEA planning team.

V. Appendix

Methodology for Estimating Policy Impacts on Employment in 2020

State government policies affect employment in several ways. First, employment in a particular industry whose development is affected can be raised or lowered. Second, every industry buys goods and services from other industries, thus “indirectly” creating employment. And third, both employees and owners spend their incomes, creating “induced” employment. The size of employment changes depends greatly on what portion of an industry’s income, and of household incomes, are spent within a state (or other geographic area being considered), and the capital- or labor-intensity of an industry, with labor-intensive ones generally yielding larger employment gains.

For purposes of this Plan, we have examined changes in the demand for the products of various industries, mainly those involved in energy production and consumption and in transportation. In general, the Commonwealth’s and the federal government’s energy and climate policies are designed to shift spending away from fossil fuels and toward energy efficiency and renewable energy, causing shifts in spending among industries. For example, federal fuel efficiency/vehicle CO₂ standards cause an increase in the cost of manufacturing autos, but the reduction in spending on gasoline and diesel fuel is several times larger than the higher manufacturing costs. Incomes of Massachusetts households rise by the difference between their savings on fuel and their extra spending on new vehicles, and, when they spend this money in Massachusetts, employment in Massachusetts rises. Income for auto manufacturers rises, but, since there are no auto plants in Massachusetts, almost all of

this goes out of state, except for the small fraction gained by auto dealers. Income to the petroleum industry falls greatly, but this impact is primarily felt out of the state and out of the country, except for the reduced income to retailers. On balance, we estimate that in 2020 federal efficiency standards for light, medium, and heavy-duty vehicles will raise employment in Massachusetts by 7,000 jobs, driven by fuel savings that no longer go outside the Commonwealth, but that can now be spent in Massachusetts.

A similar procedure has been used for most of the major policies included in this Plan, wherever it was possible to make reliable estimates of the impact of a policy on energy production and consumption, and, as a result, on the incomes and expenses of various industries and on households. The first step in each case is to estimate the dollar value of changes in energy usage, and the amounts of higher or lower spending that will occur in each industry. To convert these to employment changes, several different models can be used; we have utilized the RIMS (Regional Input-Output Multiplier System) of the Bureau of Economic Analysis (BEA) in the U.S. Department of Commerce. Specifically, the RIMS Type II multipliers provide an estimate of the number of jobs in Massachusetts that result from an increase in spending of \$1 million on an industry located in the Commonwealth — due to “direct” jobs within the industry itself, “indirect” jobs at suppliers to the industry, and “induced” jobs from spending by employees of the industry. The multipliers must be adjusted for the degree to which spending on an industry, or by an industry, goes out of the state — such as purchases of fuel or equipment from outside the Commonwealth.

When energy costs, such as electricity bills, fall, this is a gain to the incomes of both

households and businesses. To estimate the resulting employment changes, we need to know how much of the savings goes to households and to each type of business, and how each spend their money. The split between households and businesses can be obtained from the state's electric utilities. Then, for households, we have used the Consumer Expenditure Survey of the U.S. Bureau of Labor Statistics as the basis for how families will spend their energy savings. Combining this with the employment multipliers for each industry, we have constructed an employment multiplier for household spending. For businesses, we have used BEA data on the share of Massachusetts Gross Domestic Product coming from each industry, in combination with BEA multiplier data that shows the percentage of each industry's spending that goes to utility costs. These two data sources, then combined with the overall employment multipliers for each industry, give us an estimate of what the employment change will be in Massachusetts for a change of \$1 million in business spending on electricity bills.

This procedure was used for those policies where the dominant change was a reduction in fossil fuel spending, and the changes to other industries in Massachusetts could be predicted with some reliability — which includes federal and state vehicle efficiency policies, policies to affect vehicle miles traveled, utility-administered buildings efficiency policies, building codes, and federal appliance/product efficiency standards. However, for renewable energy policies, more of the employment impact comes from growth in the renewable energy industries themselves, including equipment and fuel supplies. For these, we lack Massachusetts-specific studies on the likely development of relevant businesses within the Commonwealth by 2020 — such as manufacturing of solar photovoltaic panels or

wind turbines, or conversion of biomass into cellulosic biofuels. We have therefore utilized national-level studies of employment changes due to increased reliance on renewable energy (primarily electricity), some of which have provided state-by-state estimates. However, such studies have not, in general, predicted the degree to which renewable energy industries will develop to differing degrees within different states. These studies usually provide results based either on the current status of the industries by state, or simply based on the overall size of a state's economy. For this reason, in our results shown in this Plan, we have given a broad range for possible employment in 2020 from renewable energy industries.

In most cases, policies as they existed prior to 2008 are considered part of the BAU trend for GHG emissions — for example a portion of savings from building codes and federal appliance standards. Only the post-2008 expansion of programs or creation of new programs are counted as causing reductions from the BAU in GHG. Consequently, energy savings, and the resulting jobs, deriving from pre-2008 policies have in most cases not been counted here. However, the Massachusetts DPU requires DOER to report on the impacts of all efficiency spending, including the level that existed prior to 2008. In order to be consistent with the figures reported to the DPU, the employment figures shown here are based on all efficiency spending.

Sources for transportation and buildings efficiency estimates: RIMS II multipliers for Massachusetts, Bureau of Economic Analysis, U.S. Department of Commerce, December 2010; Consumer Expenditure Survey 2009, Northeast states, U.S. Bureau of Labor Statistics; Gross Domestic Product by Industry for Massachusetts 2009, Bureau of Economic Analysis, U.S. Department of Commerce.

Sources for renewable energy

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Acts
2008

CHAPTER 114 AN ACT RELATIVE TO OCEANS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Chapter 10 of the General Laws is hereby amended by inserting after section 35GG the following section:-

Section 35HH. There shall be established and set up on the books of the commonwealth a separate fund to be administered by the secretary of energy and environmental affairs, as trustee, in consultation with the department of environmental protection, to be known as the Ocean Resources and Waterways Trust Fund. There shall be credited to the fund any revenue from appropriations or other monies authorized by the general court and specifically designated to be credited to the fund, any appropriation or grant explicitly made to the fund and any income derived from the investment of amounts credited to the fund and the proceeds from any ocean development mitigation fees established pursuant to section 18 of chapter 132A. The priority for use of funds derived from compensation or mitigation for ocean development projects shall be to restore or enhance marine habitat and resources impacted by the project for which the compensation or mitigation shall have been received. The funds derived from compensation or mitigation related to public navigational impacts shall be dedicated to public navigational improvements; provided, however, that any funds for the enhancement of fisheries resources shall be directed to conduct fisheries restoration and management programs. Any other amounts credited to the fund shall be used, without further appropriation, only for the purposes of environmental enhancement, restoration and management of ocean resources by the secretary pursuant to section 4C of chapter 21A. No expenditure from the fund shall cause the fund to be in deficiency at the close of a fiscal year. Monies deposited in the fund that are unexpended at the end of the fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

SECTION 2. Chapter 21A of the General Laws is hereby amended by inserting after section 4B the following section:-

Section 4C. (a) The ocean waters and ocean-based development of the commonwealth, within the ocean management planning area described in this section, shall be under the oversight, coordination and planning authority of the secretary of energy and environmental affairs, hereinafter referred to as the secretary, in accordance with the public trust doctrine. Notwithstanding any general or special law to the contrary, the secretary, in consultation with the ocean advisory commission established pursuant to subparagraph (c) and the ocean science advisory council established pursuant to

subparagraph (d), shall develop an integrated ocean management plan, which may include maps, illustrations and other media. The plan shall: (i) set forth the commonwealth's goals, siting priorities and standards for ensuring effective stewardship of its ocean waters held in trust for the benefit of the public; and (ii) adhere to sound management practices, taking into account the existing natural, social, cultural, historic and economic characteristics of the planning areas; (iii) preserve and protect the public trust; (iv) reflect the importance of the waters of the commonwealth to its citizens who derive livelihoods and recreational benefits from fishing; (v) value biodiversity and ecosystem health; (vi) identify and protect special, sensitive or unique estuarine and marine life and habitats; (vii) address climate change and sea-level rise; (viii) respect the interdependence of ecosystems; (ix) coordinate uses that include international, federal, state and local jurisdictions; (x) foster sustainable uses that capitalize on economic opportunity without significant detriment to the ecology or natural beauty of the ocean; (xi) preserve and enhance public access; (xii) support the infrastructure necessary to sustain the economy and quality of life for the citizens of the commonwealth; (xiii) encourage public participation in decision-making; (xiv) and adapt to evolving knowledge and understanding of the ocean environment; and (xv) shall identify appropriate locations and performance standards for activities, uses and facilities allowed under sections 15 and 16 of chapter 132A. The division of marine fisheries, pursuant to chapter 130 and any other applicable general or special law, shall have sole responsibility for developing and implementing any fisheries management plans or fisheries regulations. Marine fisheries shall be managed in compliance with the applicable rules and regulations of the division of marine fisheries and federal or interstate fishery management plans issued pursuant to said chapter 130 or any other applicable general or special law and shall be integrated, to the maximum extent practicable, with an ocean management plan.

(b) An ocean management plan shall include any waters and associated submerged lands of the ocean, including the seabed and subsoil, lying between the line designated as the "Nearshore Boundary of the Ocean Management Planning Area", which is depicted on a plan dated January 31, 2006, prepared by the office of coastal zone management and maintained at the executive office of energy and environmental affairs and with the clerks of the house and the senate, and the seaward boundary of the commonwealth, as defined in 43 U.S.C. § 1312. An ocean management plan may take into account the different regional characteristics of the commonwealth's waters. A plan shall include existing municipal, state and federal boundaries and may include recommendations for clarifying those boundaries.

(c)(i) There shall be an ocean advisory commission to assist the secretary in developing the ocean management plan. The commission shall consist of 3 members of the senate, 1 of whom shall be appointed by the minority leader of the senate; 3 members of the house of representatives, 1 of whom shall be appointed by the minority leader of the house of representatives; the director of coastal zone management or his designee; the director of marine fisheries or his designee; the commissioner of environmental protection or his designee; and 8 members to be appointed by the governor, 1 of whom shall be a representative of a commercial fishing organization, 1 of whom shall be a representative of an environmental organization, 1 of whom shall have expertise in the development of offshore

renewable energy, 1 of whom shall be a representative of the Cape Cod commission, 1 of whom shall be a representative of the Martha's Vineyard Commission, 1 of whom shall be a representative of the Merrimack Valley Planning Commission, 1 of whom shall be a representative of the metropolitan area planning council and 1 of whom shall be a representative of the Southeastern Regional Planning and Economic Development District. Members shall be appointed for terms of 3 years, except that, initially, 4 members appointed by the governor shall be appointed for terms of 2 years and 3 members appointed by the governor shall be appointed for terms of 1 year. The appointing authority may fill any vacancy that occurs in an unexpired term. The members of the commission shall be selected with due regard to coastal geographic distribution.

(ii) The commission shall meet at least quarterly and at the discretion of the secretary. The commission shall hold public meetings relative to matters within the jurisdiction of the ocean management plan and shall make recommendations to the secretary for the proper management and development of the plan. The secretary shall consider the recommendations of the commission.

(iii) The office of coastal zone management and division of marine fisheries shall provide technical support to the commission.

(d) There shall be an ocean science advisory council to assist the secretary in creating a baseline assessment and obtaining any other scientific information necessary for the development of an ocean management plan. The council shall consist of 9 members to be appointed by the secretary, 3 of whom shall be scientists from academic institutions, at least 1 of whom shall be from the School for Marine Science and Technology at the University of Massachusetts at Dartmouth and at least 1 of whom shall be from the Department of Environmental, Earth and Ocean Sciences at the University of Massachusetts at Boston; 3 of whom shall be scientists from private, nonprofit organizations, at least 1 of whom shall be a scientist designated by the Massachusetts Fishermen's Partnership; and 3 of whom shall be scientists from government agencies with demonstrated technical training and experience in the fields of marine ecology, geology, biology, ichthyology, mammalogy, oceanography or other related ocean science disciplines, at least 1 of whom shall be from the division of marine fisheries. The secretary shall serve as coordinator of the council. The council shall meet at least quarterly and at any other time that the secretary shall deem necessary to assist him in compiling the scientific information necessary for the development of an ocean management plan.

(e) Upon the secretary's adoption of an ocean management plan, all certificates, licenses, permits and approvals for any proposed structures, uses or activities in areas subject to the ocean management plan shall be consistent, to the maximum extent practicable, with the plan.

(f) The secretary shall develop and implement a public outreach and information program to provide information to the public regarding the ocean management planning process.

(g) The secretary shall, at least 6 months before establishing an ocean management plan pursuant to

this section, provide for public access to the draft plan in electronic and printed copy form and shall provide for a public comment period, which shall include at least 4 public hearings in at least 4 different coastal regions. The secretary shall publish notice of the hearings in the Environmental Monitor within 30 days of the date of the hearing. A notice of the public hearing shall also be placed, at least once each week for the 4 consecutive weeks preceding the hearing, in newspapers with sufficient circulation to notify the residents of the coastal region where the hearing shall be held. The hearing shall be held not sooner than 30 days and not later than 35 days after the notice is published in the Environmental Monitor. The public comment period shall remain open for at least 60 days from the date of the final public hearing. After the close of the public comment period, the secretary shall issue a final ocean management plan and shall file the plan, together with legislation necessary to implement the plan, if any, by filing the same with the clerks of the house of representatives and senate.

(h) The secretary shall promulgate regulations to implement, administer and enforce this section and shall interpret this section and any regulations adopted hereunder consistent with his power to enforce the laws. These regulations shall include provisions for the review of the ocean management plan, its baseline assessment and the enforceable provisions of relevant statutes and regulations at least once every 5 years.

(i) The joint committee on state administration and regulatory oversight, in this subsection called the committee, may review a proposed ocean management plan or regulations proposed or adopted pursuant to this chapter. The committee shall consult with the joint committee on environment, natural resources and agriculture in performing this review. The committee may hold public hearings concerning a proposed ocean management plan or a proposed or existing regulation and may submit to the secretary comments concerning the merit and appropriateness of the plan or regulations to be promulgated and an opinion on whether the proposed plan or regulations are authorized by, and consistent with, this chapter and existing state laws and regulations. The secretary shall respond in writing within 10 days to the committee's written questions relevant to the committee's review of a proposed plan or proposed or existing regulation. The secretary shall provide to the committee, without charge, copies of all public records in the secretary's custody relating to the proposed plan or regulation or action in question within 10 days of a request by the committee. The committee may issue a report with proposed changes to a proposed plan or proposed or existing regulation and shall transmit this report to the secretary. If the secretary does not adopt the proposed changes contained in the committee's report, the secretary shall notify the committee in writing of the reasons why he did not adopt the changes either at the time he adopts a proposed plan or proposed regulation or within 21 days of receiving the committee's report on an existing regulation.

(j) The ocean management plan shall be consistent with this section and all other general and special laws. The ocean management plan shall not be construed to supersede existing general or special laws, or to confer rights and remedies in addition to those conferred by existing general or special

laws.

(k)(1) In the geographic area subject to the ocean management plan, as described in paragraph (b), commercial and recreational fishing shall be allowable uses, subject to the exclusive jurisdiction of the division of marine fisheries. Any component of a plan which regulates commercial or recreational fishing shall be developed, promulgated and enforced by the division of marine fisheries pursuant to its authority under chapter 130.

(2) A component of an ocean management plan which does not have as its primary purpose the regulation of commercial or recreational fishing but which has an impact on such fishing shall minimize negative economic impacts on commercial and recreational fishing. Prior to inclusion in an ocean management plan, a component with such a reasonably foreseeable impact shall be referred to the division of marine fisheries, which shall, in writing and in a timely and efficient manner, evaluate the component for its impact on commercial and recreational fishing and, if possible, develop and recommend to the secretary any suggestions or alternatives to mitigate or eliminate any adverse impacts.

(3) The director of marine fisheries, subject to the approval of the marine fisheries advisory commission, shall have sole authority for the opening and closing of areas within the geographic area described in subsection (b) for the taking of any and all types of fish, pursuant to section 17A of chapter 130. Nothing in this section shall be construed to limit the powers of the director pursuant to section 17 of chapter 130 or any other provision thereto.

SECTION 3. Section 12B of chapter 132A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out the definitions of “Commissioner” and “Department” and inserting in place thereof the following definition:-

“Director”, the director of coastal zone management.

SECTION 4. Said section 12B of said chapter 132A, as so appearing, is hereby further amended by inserting after the definition of “Facilities plan” the following definition:-

“Office”, office of coastal zone management.

SECTION 5. Section 12C of said chapter 132A, as so appearing, is hereby amended by striking out, in lines 1 and 3, the word “department” and inserting in place thereof, in each instance, the following word:- office.

SECTION 6. Section 14 of said chapter 132A, as so appearing, is hereby amended by striking out, in line 2, the word “department” and inserting in place thereof the following word:- office.

SECTION 7. Said chapter 132A, as so appearing, is hereby further amended by striking out section 15 and inserting in place thereof the following section:-

Section 15. Except as otherwise provided in this section, the following activities shall be prohibited in an ocean sanctuary:

- (1) the building of any structure on the seabed or under the subsoil;
- (2) the construction or operation of offshore or floating electric generating stations, except: (a) on an emergency and temporary basis for the supply of energy when the electric generating station is otherwise consistent with an ocean management plan; or (b) for appropriate-scale renewable energy facilities, as defined by an ocean management plan promulgated pursuant to section 4C of chapter 21A, in areas other than the Cape Cod Ocean Sanctuary; provided, however, that (i) the renewable energy facility is otherwise consistent with an ocean management plan; (ii) siting of all such facilities shall take into account all relevant factors, including but not limited to, protection of the public trust, compatibility with existing uses, proximity to the shoreline, appropriateness of technology and scale, environmental protection, public safety and community benefit; and (iii) in regions where regional planning agencies have regulatory authority, a regional planning agency may review the appropriate-scale offshore renewable energy facilities as developments of regional impact and the applicant may seek review pursuant to the authority of the energy facilities siting board to issue certificates of environmental impact and public interest pursuant to sections 69K through 69O of chapter 164;
- (3) the drilling or removal of any sand, gravel or other minerals, gases or oils;
- (4) the dumping or discharge of commercial, municipal, domestic or industrial wastes;
- (5) commercial advertising; or
- (6) the incineration of solid waste or refuse on, or in, vessels moored or afloat within the boundaries of an ocean sanctuary.

SECTION 8. Section 16 of said chapter 132A, as so appearing, is hereby amended by striking out, in lines 14 and 15, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities or the department of telecommunications and cable.

SECTION 9. Said section 16 of said chapter 132A, as so appearing, is hereby further amended by striking out, in line 20 and in lines 28 and 29, the word “department” and inserting in place thereof, in each instance, the following word:- office.

SECTION 10. Said section 16 of said chapter 132A, as so appearing, is hereby further amended by striking out, in lines 29 and 30, the words “fisheries, wildlife and environmental law enforcement” and inserting in place thereof the following words:- fish and game.

SECTION 11. Section 16A of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in line 6, the following words:- of environmental protection.

SECTION 12. Section 16B of said chapter 132A, as so appearing, is hereby amended by striking out, in line 26 and in lines 30 and 31, the words “and the division of water pollution control” and inserting in place thereof the following words:- of environmental protection.

SECTION 13. Section 16C of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in lines 1 and 5, the following words:- of environmental protection.

SECTION 14. Section 16E of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in lines 1 and 2 and line 5, the following words:- of environmental protection.

SECTION 15. Said section 16E of said chapter 132A, as so appearing, is hereby further amended by inserting after the word “commissioner”, in lines 13 and 14, the following words:- of environmental protection.

SECTION 16. Section 16F of said chapter 132A, as so appearing, is hereby amended by inserting after the word “department”, in line 1, the following words:- of environmental protection.

SECTION 17. Said section 16F of said chapter 132A, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 18. Section 18 of said chapter 132A, as so appearing, is hereby amended by inserting, after the word “of”, in line 2, the following words:-energy and.

SECTION 19. Said section 18 of said chapter 132A, as so appearing, is hereby further amended by striking out, in lines 7 and 8 and line 9, the word “department” and inserting in place thereof, in each instance, the following word:- office.

SECTION 20. Said section 18 of said chapter 132A, as so appearing, is hereby further amended by adding the following paragraph:-

Any permit or license issued by a department, division, commission, or unit of the executive office of energy and environmental affairs and other affected agencies or departments of the commonwealth for activities or conduct consistent with this chapter shall be subject to an ocean development mitigation fee as shall be established by the secretary of energy and environmental affairs; provided, however, that no fee shall be assessed on commercial and recreational fishing permits or licenses. All

the proceeds of the ocean development mitigation fee shall be deposited in the Ocean Resources and Waterways Trust Fund established pursuant to section 35HH of chapter 10.

SECTION 21. Nothing in this act shall be construed to alter the jurisdictional authority of the division of marine fisheries. Nothing in this act shall be construed to prohibit the transit of commercial fishing vessels and recreational vessels in state ocean waters.

SECTION 22. Any project that, before the effective date of this act, has: (1) filed a license application under chapter 91 of the General Laws and received a written determination of completeness from the department of environmental protection; (2) if subject to section 61 of chapter 30 of the General Laws, received a certificate of adequacy regarding a final environmental impact report; or (3) if the project is subject to the jurisdiction of the energy facilities siting board, received both a final decision from the energy facilities siting board and a certificate of adequacy regarding a draft environmental impact report, shall not be subject to the requirements of said ocean management plan.

SECTION 23. The secretary of energy and environmental affairs shall promulgate a final ocean management plan by December 31, 2009. Upon adoption, an ocean management plan shall formally be incorporated into the Massachusetts coastal zone management program, as referenced in section 4A of chapter 21A of the General Laws.

SECTION 24. Section 8 of this act shall take effect upon the adoption of an ocean management plan or by December 31, 2009, whichever occurs first.

SECTION 25. The secretary of energy and environmental affairs shall convene an advisory committee for the purpose of reviewing section 16 of chapter 132A of the General Laws and regulations promulgated pursuant thereto. The advisory committee shall review the regulatory definitions of “public necessity and convenience” and “significant alteration”. The secretary shall submit a report, together with legislative recommendations, if any, to the joint committee on environment, natural resources and agriculture by December 31, 2009.

Approved May 28 , 2008



Acts
2008

CHAPTER 169 AN ACT RELATIVE TO GREEN COMMUNITIES.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for renewable and alternative energy and energy efficiency in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. [Section 9A of chapter 7](#) of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by adding the following 4 paragraphs:-

When purchasing new motor vehicles, the commonwealth shall purchase hybrid or alternative fuel vehicles, as defined in section 1 of chapter 90, to the maximum extent feasible and consistent with the ability of such vehicles to perform their intended functions, at a rate of not less than 5 per cent annually for all new motor vehicle purchases so that, taking into account the existing number of such vehicles owned and operated by the commonwealth, not less than 50 per cent of the motor vehicles owned and operated by the commonwealth shall be hybrid or alternative fuel vehicles by the year 2018.

The division of operational services shall forward to the department of energy resources all requests for motor vehicle acquisitions by agencies of the commonwealth. The department of energy resources shall thereafter report to the division of operational services regarding the availability of a hybrid or alternative fuel vehicle that shall achieve the intended use designated by the requesting agency. The division of operational services, in consultation with the departments of energy resources and environmental protection, shall adopt a fuel efficiency standard for passenger vehicles owned or operated by the commonwealth.

The division of capital asset management and maintenance, in consultation with the department of energy resources, shall develop a system of protocols for the acquisition of alternative fuel vehicles and hybrids, including identifying the potential for acquisition of heavy, medium and light-duty vehicles, based on the anticipated mileage and usage of such vehicles, and the effectiveness of single-fuel or dual-fuel alternative fuel vehicles for the particular purpose identified.

The division of operational services, jointly with the department of energy resources, and the executive office of energy and environmental affairs shall submit to the secretary of administration and finance, the clerks of the senate and house of representatives and the joint committee on state

administration and regulatory oversight an annual statement on or before July 1 each year detailing the progress in meeting the requirements of this section. This report shall include the percentage of fuel used for the alternative fuel vehicles owned and operated by the commonwealth that qualifies as alternative fuel, as defined in section 1 of chapter 90, and the amount and cost of non-alternative fuel foregone as a consequence of the use of alternative fuel.

SECTION 2. Said chapter 7 is hereby further amended by inserting after section 39C the following section:-

Section 39D. (a) The commissioner shall require a state agency that initiates the construction of a new facility owned or operated by the commonwealth or a renovation of an existing facility owned or operated by the commonwealth when the renovation costs exceed \$25,000 and includes the replacement of systems, components or other building elements which affect energy or water consumption to design and construct or renovate the facility in a manner that minimizes the life-cycle cost of the facility by utilizing energy efficiency, water conservation or renewable energy technologies under the following criteria:

(1) the state agency shall utilize alternate technologies when the life-cycle cost analysis conducted under subsection (b) shows that such systems are economically feasible;

(2) each new educational facility, including a municipal educational facility financed through the school building assistance program, for which the projected demand for hot water exceeds 1,000 gallons per day or which operates a heated swimming pool, shall be constructed, whenever economically and physically feasible, with a solar or other renewable energy system as the primary energy source for the domestic hot water system or swimming pool of the facility;

(3) the division of capital asset management and maintenance or the state agency shall, in the design, construction, equipping and operation of such facilities, coordinate these efforts with the department of energy resources in order to maximize reliance on, and the benefits of, renewable energy research and investment activities; and

(4) all higher education construction projects shall, at a minimum incorporate the MA-CHPS Green Schools Guidelines standards or an equivalent standard.

(b) The division of capital asset management and maintenance or the state agency initiating the construction or renovation of a facility as described in subsection (a) shall conduct a life-cycle cost analysis of any such facility's proposed design that evaluates the short-term and long-term costs and the technical feasibility of using alternate technologies to provide lighting, heat, water heating, air conditioning, refrigeration, gas or electricity. In calculating life-cycle costs, a state agency shall include the value of avoiding carbon emissions, creating renewable energy certificates and other environmental and associated benefits created from the utilization of alternate technologies, as

applicable. This value shall be equal to the bid price of the published market value of any such benefit and shall increase or decrease at a projected rate determined by the department of energy resources. To calculate life-cycle costs, a state agency shall use a discount rate equal to the rate that the commonwealth's tax-exempt long-term bonds are yielding at the time of said calculation and shall assume that the cost of fossil fuels and electricity will increase at the rate of 3 per cent per year above the estimated rate of inflation or at a rate determined by the department of energy resources.

(c) Notwithstanding sections 11C and 11I of chapter 25A or any regulations issued thereunder, the division of capital asset management and maintenance may procure energy management services jointly with a state agency or a building authority that is procuring energy or related services. Said sections 11C and 11I shall apply to the extent feasible as determined by the commissioner of energy resources.

(d) For purposes of this section, the term "economically feasible" shall mean that the cost of installing and operating an alternate technology is lower than the cost of installing and operating the energy, energy-using technology or water-using technology that would otherwise be installed, as determined by a life-cycle cost analysis.

(e) The division of capital asset management and maintenance or the state agency initiating the construction or renovation of a facility subject to the requirements of subsection (a) shall file with the department of energy resources a report detailing the agency's compliance with this section with respect to each such facility.

(f) The department of energy resources shall issue an annual report to the general court detailing the compliance record of all state agencies with the construction and renovation provisions of this section.

SECTION 3. Chapter 10 of the General Laws is hereby amended by inserting after section 35HH the following section:-

Section 35II. There shall be established and set up on the books of the commonwealth a separate fund to be known as the RGGI Auction Trust Fund. The fund shall consist of amounts credited to the fund in accordance with section 22 of chapter 21A and expended exclusively for the purposes of said section 22 of said chapter 21A. The fund shall be administered by the commissioner of energy resources, subject to the approval of the secretary of energy and environmental affairs. The fund shall be an expendable trust fund and shall not be subject to appropriation or allotment. The commissioner shall report monthly by source all amounts credited to the fund and all expenditures by subsidiary made from the fund on the Massachusetts management and accounting reporting system. Amounts remaining in the fund at the end of a fiscal year shall not revert to the General Fund and shall be available for expenditure in the next fiscal year and thereafter.

SECTION 4. Chapter 12 of the General Laws is hereby amended by striking out section 11E, as appearing in the 2006 Official Edition, and inserting in place thereof the following section:-

Section 11E. (a) There shall be within the office of the attorney general, an office of ratepayer advocacy. The attorney general, through the office of ratepayer advocacy, may intervene, appear and participate in administrative, regulatory, or judicial proceedings on behalf of any group of consumers in connection with any matter involving rates, charges, prices and tariffs of an electric company, gas company, generator, transmission company, telephone company and telegraph company doing business in the commonwealth and subject to the jurisdiction of the department of public utilities or the department of telecommunications and cable. In addition, the attorney general may intervene, appear and participate in federal energy regulatory commission or other federal energy proceedings on behalf of ratepayers in the commonwealth.

The office of the ratepayer advocacy shall be under the direction of an assistant attorney general appointed under section 2. The assistant attorney general shall devote his full time and attention to the duties of the office.

For the purpose of such an intervention, appearance or participation, the attorney general may expend such funds as may be appropriated. These expenditures shall not exceed annually the amount assessed against such electric, gas, telephone and telegraph company under section 3 of chapter 24A, notwithstanding subsection (b). The attorney general shall not expend any of such funds if the expenditure shall conflict with his duties under section 3.

(b) In the performance of his duties under this section, the attorney general may retain an expert or a consultant to assist in proceedings before the department of public utilities or the department of telecommunications and cable. If the attorney general determines that the services of an expert or a consultant are necessary in a proceeding, he shall file notice in the proceeding that includes the type of expert or consultant sought and the anticipated cost. Upon the filing of such notice, the department before which the proceeding is commencing shall allow full parties to the proceeding the opportunity to comment regarding the necessity or desirability of such services. Absent a showing that the costs proposed are unnecessary for the attorney general to represent ratepayer interests in the proceeding or that such costs are not reasonable or proper, the use of the expert or consultant shall be approved. Costs for an expert or a consultant shall not exceed \$150,000 per proceeding unless approved by the department based upon exigent circumstances, including the complexity of the proceeding. All reasonable and proper expenses, as defined in this section, shall be borne by the affected party in the proceeding and shall be paid by such party at such times and in such manner as the attorney general directs. All reasonable and proper costs and expenses, as defined in this section, shall be recognized by the departments for all purposes as proper business expenses of the affected party, recoverable through rates without further approval from the departments.

(c) The attorney general may request, orally or in writing, that any company subject to the

jurisdiction of the department of public utilities or the department of telecommunications and cable respond to not more than 15 information requests, including subparts, per calendar month regarding any matter related to the rates, charges, tariffs, books or service quality of the company, and the company shall answer these information requests fully and completely in a reasonably prompt manner, not to exceed 30 calendar days from the date of issuance, regarding any issue that is within the jurisdiction of the department. Department rules pertaining to the scope of questions and objections to discovery shall apply to any such request and the department shall have jurisdiction to rule on any objections or motions to compel. If the company fails to answer the information requests in a reasonably prompt manner, the attorney general may request enforcement of this subsection from the department having jurisdiction over the company.

SECTION 5. Chapter 13 of the General Laws is hereby amended by inserting after section 97 the following section:-

Section 97A. The board of registration of home inspectors, in consultation with the state board of building regulations and standards, the executive office of energy and environmental affairs and the energy efficiency advisory council, shall develop requirements and adopt regulations to require documents to be provided to a buyer of a single-family residential dwelling or a multiple-family residential dwelling with less than 5 dwelling units, or a condominium unit at the time of closing, outlining the procedures and benefits of a home energy audit; provided however, that no additional fees shall be imposed or collected in connection with the provision of such documents.

SECTION 6. Section 7 of chapter 21A of the General Laws, as so appearing, is hereby amended by striking out, in the first sentence, the word "division" and inserting in place thereof the following word:- department.

SECTION 7. Said chapter 21A is hereby further amended by adding the following 2 sections:-

Section 21. The secretary, in conjunction with the secretary of administration and finance, shall design and implement a bidding process for the competitive procurement of electric generation on behalf of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth procuring electricity from a local distribution company via basic service under section 1B of chapter 164. Any such competitive bid received shall include payment options with rates that remain uniform for a minimum period of 1 year. In lieu of designing and implementing a competitive bidding process as required by this section, the secretary may become a member of programs organized and administered by the Health and Educational Facilities Authority or its subsidiary organization for the purpose of such competitive group purchasing of electricity.

Section 22. (a) As used in this section, the following words shall have the following meanings, unless the context clearly requires otherwise:

“Allowance”, an authorization to emit a fixed amount of carbon dioxide.

“Cap and trade program”, a policy approach for controlling emissions from a group of emitting sources, such as electric generating stations, at a total cost that is expected to be lower than if sources were regulated individually by setting an overall cap or maximum amount of emissions from all regulated sources per compliance period that will achieve the desired environmental effects; provided, however, that a certain number of authorizations to emit in the form of emissions allowances shall be created, issued and made available to persons, companies, organizations or other entities through a sale by auction or direct allocation; and provided further that the total number of allowances made available in a compliance period shall not exceed the cap.

“Department”, department of environmental protection.

“RGGI” or “Regional Greenhouse Gas Initiative”, the Memorandum of Understanding dated December 20, 2005 , and any amendments thereto and the corresponding Model Rule and any amendments thereto that establishes a cap and trade program within the northeast region of the United States and other regions to the extent that the Memorandum of Understanding is amended.

(b) The department, in consultation with the department of energy resources, shall adopt rules and regulations establishing a carbon dioxide cap and trade program to limit and reduce the total carbon dioxide emissions released by electric generating stations that generate electric power. The rules and regulations shall comply with RGGI and permit the holders of carbon dioxide allowances to trade them in a regional market to be established through the RGGI.

(c)(1) The department shall provide, by regulation that all allowances issued under the program shall be offered for sale by auction. The proceeds recovered from the allowance auctions shall be deposited in the RGGI Auction Trust Fund established in section 35II of chapter 10. The proceeds shall be used without further appropriation for the following purposes only and shall be in a proportion to be determined by the department of energy resources with the approval of the secretary:

(i) to reimburse a municipality in which the property tax receipts, including, for the purposes of this clause, payments in lieu of taxes, are reduced as a result of the mandates of RGGI or the regulation of carbon dioxide emissions from electric generating stations; provided, however, that the amount of the payment shall be the difference between the amount of the tax receipts in the current tax year and the amount of the tax receipts in the year before implementation of RGGI; provided further, that no reimbursement shall be made if, in a tax year, the aggregate amount paid to a municipality by the owner of an electric generating station including, but not limited to, payments in lieu of taxes and property taxes, exceeds the aggregate amount paid to that municipality by that owner in the year before implementation of RGGI; and provided further, that payments from the fund shall be prioritized so that the first payments from the fund shall be made to municipalities under this clause;

(ii) to fund the green communities program established in section 10 of chapter 25A;

(iii) to provide zero interest loans to municipalities, which are not green communities under section 10 of chapter 25A for energy efficiency projects;

(iv) to promote energy efficiency, conservation and demand response; and

(v) to reimburse the commonwealth for costs associated with the administration of the cap and trade program.

(2) Notwithstanding this section, the department may set aside up to 1 per cent of the commonwealth's annual allocation of allowances to support the voluntary green power market which enables electricity consumers to support the development of renewable resources.

(d) The department of energy resources shall adopt regulations governing the auction of allowances. The department of energy resources may hire an independent contractor determined by the office to be qualified to conduct the auction in a manner that ensures the efficiency of the auction, or may provide for participation in a regional auction.

(e) The responsibilities created by establishing a carbon dioxide cap and trade program shall be in addition to any other responsibilities imposed by any other general or special law or rule or regulation and shall not diminish or reduce any power or authority of the department, including the authority to adopt standards and regulations necessary for the commonwealth to join and fully participate in a multistate program at any stage in the development and implementation of such a program intended to control emissions of carbon dioxide or other substances that are determined by the department to be damaging or altering the climate.

(f) Notwithstanding any general or special law or rule or regulation to the contrary, the state comptroller shall grant a permanent waiver or exemption from any applicable charges or assessments made against the proceeds from the auction of allowances under this section by the office of the comptroller under its authority under sections 5D of chapter 29.

(g) Notwithstanding any general or special law or regulation to the contrary, any information required by the department of energy resources or the department of any party participating in the cap and trade program, with the exception of any emission, offset and allowance tracking information required for compliance with the cap and trade program, shall be maintained for the sole and confidential use of the commonwealth, the department, the department of energy resources and their agents. This information shall not be deemed to be a public record as defined in clause Twenty-sixth of section 7 of chapter 4 and shall not be subject to demand for production under section 10 of chapter 66. Aggregates of such information may be prepared and such aggregates shall be public records. All information collected under this section may be shared with other states which afford such information

similar protection from public disclosure.

SECTION 8. Clause (ii) of subsection (a) of section 3D of chapter 23A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 50, the word “space.” and inserting in place thereof the following:- space;

(K) the area has been designated by the municipality as an area with potential for the development of a Class I renewable energy generating sources, as defined by section 11F of chapter 25A.

SECTION 9. Chapter 25 of the General Laws is hereby amended by inserting after section 5D the following section:-

Section 5E. The department may, from time to time, audit all companies subject to its jurisdiction, except steam distribution companies. Such audits may include, but shall not be limited to, review of the following documents: (a) all financial statements, the balance sheet, the income statement, the statement of cash flows, the statement of retained earnings, the notes to the financial statements, and the information in the annual return to the department; (b) all documents concerning reconciling mechanisms related to rates, prices, charges, or costs and savings related to a merger, acquisition or consolidation within 3 years after the merger, acquisition or consolidation; and (c) documents concerning service quality measure statistics and service quality performance at least every 3 years or whenever service quality penalties equal to or exceed 50 per cent of the maximum.

Upon written complaint of the attorney general requesting an independent audit of a company subject to the department’s jurisdiction, the department shall commence a proceeding within 30 days of receipt of the complaint for the purpose of ordering the requested audit in a reasonable time. The results of any audit so ordered shall be filed promptly with the department and each audit shall be paid for by the company that is the subject of the audit.

SECTION 10. Said chapter 25 is hereby further amended by inserting after section 18 the following section:-

Section 18A. The commission may make an assessment against each steam distribution company under the jurisdictional control of the department. Each steam distribution company shall annually report by March 31 its intrastate operating revenues for the previous calendar year to the department. The assessments shall be apportioned according to each steam distribution company’s intrastate operating revenues, to produce an annual amount not greater than \$600,000, as shall be determined and certified annually by the commission as sufficient to reimburse the commonwealth for funds appropriated by the general court for the operation and general administration of the department and for the cost of fringe benefits as established by the commissioner of administration under section 5D of chapter 29, including group life and health insurance, retirement benefits, paid vacations,

holidays and sick leave.

Each company shall pay the amount assessed against it within 30 days after receipt of the notice of assessment from the department. Such assessments collected by the department shall be credited to the General Fund. Any funds unexpended in any fiscal year for the purposes for which such assessments were made shall be credited against the assessment to be made in the following fiscal year and the assessment in the following fiscal year shall be reduced by any such unexpended amount.

SECTION 11. Said chapter 25 is hereby further amended by striking out sections 19 and 20, as appearing in the 2006 Official Edition, and inserting in place thereof the following 4 sections:-

Section 19. (a) The department shall require a mandatory charge of 2.5 mills per kilowatt-hour for all consumers, except those served by a municipal lighting plant, to fund energy efficiency programs including, but not limited to, demand side management programs. The programs shall be administered by the electric distribution companies and by municipal aggregators with energy plans certified by the department under subsection (b) of section 134 of chapter 164. In addition to the aforementioned mandatory charge, such programs shall also be funded, without further appropriation, by: (1) amounts generated by the distribution companies and municipal aggregators under the Forward Capacity Market program administered by ISO -NE, as defined in section 1 of chapter 164; and (2) cap and trade pollution control programs, including, but not limited to, and subject to section 22 of chapter 21A, not less than 80 per cent of amounts generated by the carbon dioxide allowance trading mechanism established under the Regional Greenhouse Gas Initiative Memorandum of Understanding, as defined in subsection (a) of section 22 of chapter 21A, and the NOx Allowance Trading Program; and (3) other funding as approved by the department after consideration of: (i) the effect of any rate increases on residential and commercial consumers; (ii) the availability of other private or public funds, utility administered or otherwise, that may be available for energy efficiency or demand resources; and (iii) whether past programs have lowered the cost of electricity to residential and commercial consumers. In authorizing such programs, the department shall ensure that they are delivered in a cost-effective manner capturing all available efficiency opportunities, minimizing administrative costs to the fullest extent practicable and utilizing competitive procurement processes to the fullest extent practicable.

(b) The department may approve and fund gas energy efficiency programs proposed by gas distribution companies including, but not limited to, demand side management programs. Energy efficiency activities eligible for funding under this section shall include combined heat and power and geothermal heating and cooling projects. Funding may be supplemented by funds authorized by section 21. The programs shall be administered by the gas distribution companies. In authorizing such programs, the department shall ensure that they are delivered in a cost-effective manner capturing all available efficiency opportunities, minimizing administrative costs to the fullest extent practicable and utilizing competitive procurement processes to the fullest extent practicable.

(c) Electric and gas energy efficiency program funds shall be allocated to customer classes, including the low-income residential subclass, in proportion to their contributions to those funds; provided, however, that at least 10 per cent of the amount expended for electric energy efficiency programs and at least 20 per cent of the amount expended for gas energy efficiency programs shall be spent on comprehensive low-income residential demand side management and education programs. The low-income residential demand side management and education programs shall be implemented through the low-income weatherization and fuel assistance program network and shall be coordinated with all electric and gas distribution companies in the commonwealth with the objective of standardizing implementation. Such programs shall be screened only through cost-effectiveness testing which compares the value of program benefits to program costs to ensure that a program is designed to obtain energy savings and system benefits with value greater than the costs of the program.

Section 20. (a) The department shall require a mandatory charge of 0.5 mill per kilowatt-hour for all electricity consumers, except those served by a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition at the retail level, to support the development and promotion of renewable energy projects. All revenues generated by the mandatory charge shall be deposited into the Massachusetts Renewable Energy Trust Fund, established under section 4E of chapter 40J.

(b) Notwithstanding any general or special law to the contrary: (1) a municipal lighting plant which does not supply generation service outside its own service territory or does not open its service territory to competition may elect to assess and remit a mandatory charge per kilowatt-hour upon its electricity consumers on the same terms and conditions as apply to the charge imposed on consumers residing in competitive distribution service territories under this section; provided, however, that such an election by a municipal lighting plant shall be irrevocable and such a municipal lighting plant shall not be deemed to be supplying generation service outside its service territory or opening its service territory to competition at the retail level for the purposes of the first sentence of subsection (a); and (2) in administering the Massachusetts Renewable Energy Trust Fund, the Massachusetts Technology Park Corporation, doing business as the Massachusetts Technology Collaborative, or the governing board, as applicable, shall not make any grant or loan or provide any subsidy from the trust fund to any municipal lighting plant or consumer residing in the distribution service territory of such municipal lighting plant unless: (A) a mandatory charge per kilowatt-hour is assessed against all consumers residing in the distribution service territory and remitted to the collaborative under the first sentence of subsection (a) or clause (1); or (B) the board of directors of the collaborative, as a condition precedent to any such grant, loan or subsidy, shall have determined and incorporated into the minutes of its proceedings findings that: (i) any such grant, loan or subsidy is intended for the principal purpose of generating public benefits for those consumers who reside in distribution service territories in which the mandatory charge is so imposed and remitted and will generate only incidental private benefits to the recipient or others residing in a distribution service territory in which the mandatory charge is not so imposed and remitted; and (ii) the facts and circumstances associated

with the recipient or the residence of the recipient provide unique or extraordinary opportunities to advance the public purposes of the trust fund over those opportunities available through grants or subsidies made to recipients residing in distribution service territories in which such a mandatory charge is assessed and remitted.

Section 21. (a) To mitigate capacity and energy costs for all customers, the department shall ensure that, subject to subsection (c) of section 19, electric and natural gas resource needs shall first be met through all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply. The cost of supply shall be determined by the department with consideration of the average cost of generation to all customer classes over the previous 24 months.

(b)(1) Every 3 years, on or before April 30, the electric distribution companies and municipal aggregators with certified efficiency plans shall jointly prepare an electric efficiency investment plan and the natural gas distribution companies shall jointly prepare a natural gas efficiency investment plan. Each plan shall provide for the acquisition of all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply and shall be prepared in coordination with the energy efficiency advisory council established by section 22. Each plan shall provide for the acquisition, with the lowest reasonable customer contribution, of all of the cost effective energy efficiency and demand reduction resources that are available from municipalities and other governmental bodies.

(2) A plan shall include: (i) an assessment of the estimated lifetime cost, reliability and magnitude of all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply; (ii) the amount of demand resources, including efficiency, conservation, demand response and load management, that are proposed to be acquired under the plan and the basis for this determination; (iii) the estimated energy cost savings that the acquisition of such resources will provide to electricity and natural gas consumers, including, but not limited to, reductions in capacity and energy costs and increases in rate stability and affordability for low-income customers; (iv) a description of programs, which may include, but which shall not be limited to: (A) efficiency and load management programs; (B) demand response programs; (C) programs for research, development and commercialization of products or processes which are more energy-efficient than those generally available; (D) programs for development of markets for such products and processes, including recommendations for new appliance and product efficiency standards; (E) programs providing support for energy use assessment, real time monitoring systems, engineering studies and services related to new construction or major building renovation, including integration of such assessments, systems, studies and services with building energy codes programs and processes, or those regarding the development of high performance or sustainable buildings that exceed code; (F) programs for the design, manufacture, commercialization and purchase of energy-efficient appliances and heating, air conditioning and lighting devices; (G) programs for planning and evaluation; (H) programs providing commercial, industrial and institutional customers with greater flexibility and control over demand side investments funded by the programs at their facilities; and (I) programs for

public education regarding energy efficiency and demand management; provided, however, that not more than 1 per cent of the fund shall be expended for items (C) and (D) collectively, without authorization from the advisory council; (v) a proposed mechanism which provides performance incentives to the companies based on their success in meeting or exceeding the goals in the plan; (vi) the budget that is needed to support the programs; (vii) a fully reconciling funding mechanism which may include, but which shall not be limited to, the charge authorized by section 19; (viii) the estimated amount of reduction in peak load that will be reduced from each option and any estimated economic benefits for such projects, including job retention, job growth or economic development; and (ix) data showing the percentage of all monies collected that will be used for direct consumer benefit, such as incentives and technical assistance to carry the plan. With the approval of the council, the plan may also include a mechanism to prioritize projects that have substantial benefits in reducing peak load, reducing the energy consumption or costs of municipalities or other governmental bodies, or that have economic development, job creation or job retention benefits.

(3) A program included in the plan shall be screened through cost-effectiveness testing which compares the value of program benefits to the program costs to ensure that the program is designed to obtain energy savings and system benefits with value greater than the costs of the program. Program cost effectiveness shall be reviewed periodically by the department and by the energy efficiency advisory council. If a program fails the cost-effectiveness test as part of the review process, it shall either be modified to meet the test or shall be terminated.

(c) Each plan prepared under subsection (b) shall be submitted for approval and comment by the energy efficiency advisory council every 3 years on or before April 30. The electric and natural gas distribution companies and municipal aggregators shall provide any additional information requested by the council that is relevant to the consideration of the plan. The council shall review the plan and any additional information and shall submit its approval or comments to the electric and natural gas distribution companies and municipal aggregators not later than 3 months after submission of the plan. The electric and natural gas distribution companies and municipal aggregators may make any changes or revisions to reflect the input of the council.

(d)(1) The electric and natural gas distribution companies and municipal aggregators shall submit their respective plans, together with the council's approval or comments and a statement of any unresolved issues, to the department every 3 years on or before October 31. The department shall consider the plans and shall provide an opportunity for interested parties to be heard in a public hearing.

(2) Not later than 90 days after submission of a plan, the department shall issue a decision on the plan which ensures that the electric and natural gas distribution companies have identified and shall capture all energy efficiency and demand reduction resources that are cost effective or less expensive than supply and shall approve, modify and approve, or reject and require the resubmission of the plan accordingly. The department shall approve a fully reconciling funding mechanism for the

approved plan and, in the case of municipal aggregators, a fully reconciling funding mechanism that requires coordination between the distribution company and municipal aggregator to ensure that program costs are collected, allocated and distributed in a cost effective, fair and equitable manner. The department shall determine the effectiveness of the plan on an annual basis.

(3) Each electric and natural gas plan shall be in effect for 3 years.

(e) If an electric or natural gas distribution company or municipal aggregator has not reasonably complied with the plan, the department may open an investigation. In any such investigation, the utility company or aggregator shall have the burden of proof to show whether it had good cause for failing to reasonably comply with the plan. If the utility company or aggregator does not meet its burden, the department may levy a fine of not more than the product of \$0.05 per kilowatt-hour or \$1 per therm times the shortfall of kilowatt-hours saved or therms saved, as applicable, depending upon the facts and circumstances and degree of fault, which shall be paid to the Massachusetts Technology Park Corporation within 60 days after the end of the year in which the department levies the fine. The fine shall not impact ratepayers. The department of energy resources shall oversee the use of the funds held by the Massachusetts Technology Park Corporation under this subsection so as to maximize the amount of energy efficiency achieved.

Section 22. (a) The department shall appoint and convene an energy efficiency advisory council which shall consist of 11 members, including 1 person representing each of the following: (1) residential consumers, (2) the low-income weatherization and fuel assistance program network, (3) the environmental community, (4) businesses, including large C&I end-users, (5) the manufacturing industry, (6) energy efficiency experts, (7) organized labor, (8) the department of environmental protection, (9) the attorney general, (10) the executive office of housing and economic development, and (11) the department of energy resources. Interested parties shall apply to the department for designation as members. Members shall serve for terms of 5 years and may be reappointed. The commissioner of energy resources shall serve as chair of the council. A member who is a representative of energy efficiency experts shall not have a contractual relationship with an electric or natural gas distribution company doing business in the commonwealth or any affiliate of such company, or any municipal aggregator. There shall be 1 non-voting, ex-officio member from each of the electric and natural gas distribution companies, 1 from each of the approved municipal aggregators, 1 from the heating oil industry and 1 from energy efficiency businesses.

(b) The council shall, as part of the approval process by the department, seek to maximize net economic benefits through energy efficiency and load management resources and to achieve energy, capacity, climate and environmental goals through a sustained and integrated statewide energy efficiency effort. The council shall review and approve demand resource program plans and budgets, work with program administrators in preparing energy resource assessments, determine the economic, system reliability, climate and air quality benefits of efficiency and load management resources, conduct and recommend relevant research, and recommend long term efficiency and load

management goals to maximize economic savings and achieve environmental goals. Approval of efficiency and demand resource plans and budgets shall require a two-thirds majority vote. The council shall, as part of its review of plans, examine opportunities to offer joint programs providing similar efficiency measures that save more than 1 fuel resource or to coordinate programs targeted at saving more than one fuel resource. Any costs for joint programs shall be allocated equitably among the efficiency programs.

(c) The council may retain expert consultants; provided, however, that such consultants shall not have any contractual relationship with an electric or natural gas distribution company doing business in the commonwealth or any affiliate of such company.

The council shall annually submit to the department a proposal regarding the level of funding required for the retention of expert consultants and reasonable administrative costs. The proposal shall be approved by the department either as submitted or as modified by the department. The department shall allocate funds sufficient for these purposes from the natural gas and electric efficiency funding authorized under section 19; provided, however, that such allocation shall not exceed 1 per cent of such funding on an annual basis. The consultants used under this section shall be experts in energy efficiency and shall be independent.

(d) The electric and natural gas distribution companies and municipal aggregators shall provide quarterly reports to the council on the implementation of their respective plans. The reports shall include a description of the program administrator's progress in implementing the plan, a summary of the savings secured to date and such other information as the council shall determine. The council shall provide an annual report to the department and the joint committee on telecommunications, utilities and energy on the implementation of the plan which includes descriptions of the programs, expenditures, cost-effectiveness and savings and other benefits during the previous year.

SECTION 12. Chapter 25A of the General Laws, as so appearing, is hereby amended by striking out sections 1 to 3, inclusive, as amended by section 28 of chapter 19 of the acts of 2007, and inserting in place thereof the following 3 sections:-

Section 1. There shall be within the executive office of energy and environmental affairs a department called the department of energy resources, under the supervision of a commissioner of energy resources, hereinafter the commissioner. The duties given to the commissioner in this chapter and in any other general or special law shall be exercised and discharged subject to the direction, control and supervision of the secretary of energy and environmental affairs. The commissioner shall be appointed by the secretary of energy and environmental affairs, with the approval of the governor, and may, with like approval, be removed. The commissioner shall be a person of skill and experience in the field of energy regulation or policy and shall serve a term coterminous with that of the governor. The position of commissioner shall be classified in accordance with section 45 of chapter 30 and the salary shall be determined in accordance with section 46C of said chapter 30. The commissioner shall

devote full time during business hours to the duties of the office. In the case of an absence or vacancy in the office of the commissioner, or in the case of disability as determined by the secretary, the secretary may designate an acting commissioner to serve as commissioner until the vacancy is filled or the absence or disability ceases. The acting commissioner shall have all the powers and duties of the commissioner and shall have similar qualifications as the commissioner.

Section 2. The commissioner shall be the executive and administrative head of the department of energy resources and shall be responsible for administering and enforcing the provisions of law relative to the division and to each administrative unit thereof.

There shall be within the department 3 divisions: (i) a division of energy efficiency, which shall work with the department of public utilities regarding energy efficiency programs; (ii) a division of renewable and alternative energy development, which shall oversee and coordinate activities that seek to maximize the installation of renewable and alternative energy generating sources that will provide benefits to ratepayers, advance the production and use of biofuels and other alternative fuels as the division may define by regulation, and administer the renewable portfolio standard and the alternative portfolio standard; and (iii) a division of green communities, which shall serve as the principal point of contact for municipalities and other governmental bodies concerning all matters under the jurisdiction of the department of energy resources. Each division shall be headed by a director who shall be appointed by the commissioner and who shall be a person of skill and experience in the field of energy efficiency, renewable energy or alternative energy, and energy regulation or policy, respectively. The directors shall be the executive and administrative heads of their respective divisions and shall be responsible for administering and enforcing the law relative to such division and to each administrative unit thereof under the supervision, direction and control of the commissioner. The directors shall serve at the pleasure of the commissioner, shall receive such salary as may be determined by law and shall devote full time during business hours to the duties of the office. In the case of an absence or vacancy in the office of the director, or in the case of disability as determined by the commissioner, the commissioner may designate an active director to serve as director until the vacancy is filled or the absence or disability ceases. The acting director shall have all the powers and duties of the director and shall have similar qualifications as the director.

The commissioner may, from time to time, subject to appropriation, establish within the department such administrative units as may be necessary for the efficient and economical administration of the department and, when necessary for such purpose, may abolish any such administrative unit, or may merge any 2 or more of them, as the commissioner deems advisable. The commissioner shall prepare and keep current a statement of the organization of the department, of the assignment of its functions to its various administrative units, offices and employees, and of the places at which and the methods whereby the public may receive information or make requests. Such statement shall be known as the department's description of organization. A current copy of the description of organization shall be kept on file in the office of the secretary of state and in the office of the secretary of administration.

Section 3. For the purposes of this chapter the following words shall have the following meanings:-

“Alternative energy development”, shall include but not be limited to solar energy, wood, alcohol, hydroelectric, biomass energy systems, renewable non-depletable and recyclable energy sources.

“Alternative energy property”, any property powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, or any renewable, non-depletable or recyclable fuel, and property related to the exploration, development, processing, transportation and distribution of the aforementioned energy resources.

“Building authority”, the University of Massachusetts Building Authority , the State College Building Authority or any other building authority which may be established for similar purposes.

“Commissioner”, the commissioner of energy resources.

“Department”, the department of energy resources.

“Eligible”, able to meet all requirements for offerors or bidders set forth in section 11C or 11I and section 44D of chapter 149 and not barred from bidding under section 44C of said chapter 149 or any other applicable law, and who shall certify that he is able to furnish labor that can work in harmony with all other elements of labor employed or to be employed on the work.

“End-user”, any individual, corporation, firm or subsidiary of any firm that is an ultimate consumer of petroleum products and which, as part of its normal business practices, purchases or obtains petroleum products from a wholesaler or reseller and receives delivery of that product.

“Energy audit”, a determination of the energy consumption characteristics of a building or facility which: (a) identifies the type, size and rate of energy consumption of such building or facility and the major energy using systems of such building or facility; (b) determines appropriate energy conservation maintenance and operating procedures; and (c) indicates the need, if any, for the acquisition and installation of energy conservation measures or alternative energy property.

“Energy conservation”, shall include but not be limited to the modification of or change in the operation of real or personal property in a manner likely to improve the efficiency of energy use, and shall include energy conservation measures and any process to audit or identify and specify energy and cost savings.

“Energy conservation measures”, measures involving modifications of maintenance and operating procedures of a building or facility and installations therein, which are designed to reduce energy consumption in such building or facility, or the installation or modification of an installation in a

building or facility which is primarily intended to reduce energy consumption.

“Energy conservation projects”, projects to promote energy conservation, including but not limited to energy conserving modification to windows and doors; caulking and weatherstripping; insulation, automatic energy control systems; hot water systems; equipment required to operate variable steam, hydraulic and ventilating systems; plant and distribution system modifications, including replacement of burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions; replacement or modification of lighting fixtures; energy recovery systems; on-site electrical generation equipment using new renewable generating sources as defined in section 11F; and cogeneration systems.

“Energy management services”, a program of services, including energy audits, energy conservation measures, energy conservation projects or a combination thereof, and building maintenance and financing services, primarily intended to reduce the cost of energy and water in operating buildings, which may be paid for, in whole or in part, by cost savings attributable to a reduction in energy and water consumption which result from such services.

“Energy savings”, a measured reduction in fuel, energy, operating or maintenance costs resulting from the implementation of energy conservation measures or projects; provided, however, that any payback analysis to evaluate the energy savings of a geothermal energy system to provide heating, cooling or water heating over its expected lifespan shall include gas and electric consumption savings, maintenance savings and shall use an average escalation rate based on the most recent information for gas and electric rates compiled by the Energy Information Administration of the United States Department of Energy.

“Local governmental body”, a city, town, district, regional school district or county, or an agency or authority thereof, including a housing authority, board, commission, department or instrumentality of a city, town district, regional school district or county, and any other agency which is not a state agency or building authority; or a combination of 2 or more such cities, towns, districts, regional school districts or counties, or agencies or authorities thereof.

“Marine or hydrokinetic energy”, electrical energy from: (a) waves, tides and currents in oceans, estuaries and tidal areas; (b) free-flowing water in rivers, lakes and streams; (c) free-flowing water in man-made channels; or (d) differentials in ocean temperature, called ocean thermal energy conversion.

“Minor informalities”, minor deviations, insignificant mistakes and matters of form rather than substance of the proposal or contract document which may be waived or corrected without prejudice to other offerors, potential offerors or the public agency.

“Non-renewable energy supply and resource development”, shall include but not be limited to

gasoline, natural gas, coal, nuclear energy, offshore and onshore petroleum, and facilities related to the exploration, development, processing, transportation and distribution of such resources and programs established for the allocation of supplies of such resources and the development of supply shortage contingency plans.

“Person”, any natural person, business, partnership, corporation, union, committee, club, or other organization, entity or group of individuals.

“Petroleum products”, propane, gasoline, unleaded gasoline, kerosene, #2 heating oil, diesel fuel, kerosene base jet fuel, and #4, 5, and 6 residual oil for utility and non-utility uses, and all petroleum derivatives, whether in bond or not, which are commonly burned to produce heat, power, electricity or motion or which are commonly processed to produce synthetic gas for burning.

“Qualified provider”, responsible and eligible person able to meet all requirements set forth in section 11C or 11I, and not barred from bidding under section 44C of chapter 149 or any other applicable law and experienced in the design, implementation and installation of energy savings measures.

“Reseller”, any person, corporation, firm or subsidiary of any firm that carries on the trade or business of purchasing petroleum products and reselling them without substantially changing their form or any wholesaler or retail seller of electricity or natural gas.

“Responsible”, demonstrably possessing the skill, ability and integrity necessary to faithfully perform the work required by a particular contract, based upon a determination of competent workmanship and financial soundness in accordance with section 11C or 11I and section 44D of chapter 149.

“Responsive offeror”, a person who has submitted a proposal which conforms in all respects to the requests for proposals.

“State agency”, any agency, authority, board, bureau, commission, committee, council, department, division, institution, officer or other agency of the commonwealth, including quasi-public agencies.

“Wholesaler”, any person, corporation, firm or any part or subsidiary of any firm which supplies, sells, transfers or otherwise furnishes petroleum products to resellers or end-users.

SECTION 13. Section 5 of said chapter 25A, as appearing in the 2006 Official Edition, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The commissioner shall file an annual report with the clerks of the senate and the house of representatives, the joint committee on telecommunications, utilities and energy and the senate and

house committees on ways and means: (a) listing the number of employees of the department of energy resources, the salaries and titles of each employee, the source of funding for the salaries of said employees and the projected date when federal funds for such positions are expected to terminate; (b) listing and describing grant programs of the department funded by the federal government, including the amount of funding by grant; (c) listing and describing other programs of the department, including the amount and source of funding by program; and (d) describing the energy audit, energy conservation and alternative energy bond programs by categories of projects, prospective grantees under each category, if known, and amounts to be spent by category and grantee.

SECTION 14. Section 6 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 1, the words “division of energy resources” and inserting in place thereof the following word:- department.

SECTION 15. Said section 6 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 38, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 16. Section 7 of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 1, in lines 21 and 22, and in line 29, the words “division of energy resources” and inserting in place thereof, in each instance, the following word:- department.

SECTION 17. Said section 7 of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 8, 22, 30, 32, 39, 49 and 50 the word “division” each time it appears, and inserting in place thereof the following word:- department.

SECTION 18. Said section 7 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 40, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 19. Section 8 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 12, the words “division of energy resources” and inserting in place thereof the following word:- department.

SECTION 20. Section 9 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 2, the words “of energy resources”.

SECTION 21. Said section 9 of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 9 and 10, the words “division of energy resources” and inserting in place thereof the following word:- department.

SECTION 22. Said chapter 25A is hereby amended by striking out section 10, as so appearing, and inserting in place thereof the following 2 sections:-

Section 10. (a) The division of green communities shall assist the commonwealth's municipalities and other local governmental bodies to: reduce energy consumption and costs, reduce pollution, facilitate the development of renewable and alternative energy resources, and create local jobs related to the building of renewable and alternative energy facilities and the installation of energy-efficient equipment. The director of the division shall be responsible for the administration and oversight of the green communities program and shall apply and disburse monies and revenues as provided in this section.

(b) The division shall establish a green communities program. The purpose of the program shall be to provide technical and financial assistance, in the form of grants and loans, to municipalities and other local governmental bodies that qualify as green communities under this section. These loans and grants shall be used to finance all or a portion of the costs of studying, designing, constructing and implementing energy efficiency activities, including but not limited to, energy conservation measures and projects; procurement of energy management services; installation of energy management systems; adoption of demand side reduction initiatives; and the adoption of energy efficiency policies. They shall also be used to finance the siting and construction of renewable and alternative energy projects on municipally-owned land.

(c) To qualify as a green community, a municipality or other local governmental body shall: (1) file an application with the division in a form and manner to be prescribed by the division; (2) provide for the as-of-right siting of renewable or alternative energy generating facilities, renewable or alternative energy research and development facilities, or renewable or alternative energy manufacturing facilities in designated locations; (3) adopt an expedited application and permitting process under which these energy facilities may be sited within the municipality and which shall not exceed 1 year from the date of initial application to the date of final approval; (4) establish an energy use baseline inventory for municipal buildings, vehicles and street and traffic lighting, and put in place a comprehensive program designed to reduce this baseline by 20 per cent within 5 years of initial participation in the program; (5) purchase only fuel-efficient vehicles for municipal use whenever such vehicles are commercially available and practicable; and (6) require all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction to minimize, to the extent feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies. The secretary may waive these requirements based on a written finding that due to unusual circumstances, a municipality cannot reasonably meet all of the requirements and the municipality has committed to alternative measures that advance the purposes of the green communities program as effectively as adherence to the requirements.

(d) Funding for the green communities program in any single fiscal year shall be available, without the need for further appropriation, in a total amount of not more than \$10 million from: (1) monies generated by all cap and trade pollution control programs, including, but not limited to, the cap and trade program established under the NOx Allowance Trading Program and the carbon dioxide allowance trading mechanism established under the Regional Greenhouse Gas Initiative, as defined in subsection (a) of section 22 of chapter 164; (2) such amounts as may be directed to municipalities or other governmental bodies under section 19 of chapter 25; (3) amounts from alternative compliance payments established and administered under 225 CMR 14.00 adopted under section 11F; and (4) other funds as the governing board of the Massachusetts Renewable Energy Trust Fund established under section 4E of chapter 40J, may provide.

(e) The division shall adopt rules, regulations and guidelines for the administration and enforcement of this section, including, but not limited to, establishing applicant criteria, funding priority, application forms and procedures, and energy efficiency product requirements. The division shall also adopt regulations providing for a separate green communities program for those communities served by municipal lighting plants that have chosen to adopt the renewable energy charge under section 20 of chapter 25.

(f) The division shall annually, not later than April 1, submit a report to the clerks of the senate and the house of representatives, the joint committee on telecommunications, utilities and energy, the joint committee on state administration and regulatory oversight, and the senate and house committees on ways and means detailing the expenditures and results relative to the green communities program.

Section 10A. The division shall design and implement a competitive bidding procedure for the procurement of electric generation from renewable and alternative generating facilities on behalf of municipalities certified as green communities under section 10. Any competitive bids received shall include payment options with rates that remain uniform for a minimum of 5 years. In lieu of designing and implementing a competitive bidding process as required by this section, the director may become a member of programs organized and administered by the Health and Educational Facilities Authority or its subsidiary organization for the purpose of such competitive group purchasing of electricity.

SECTION 23. Said chapter 25A is hereby further amended by striking out section 11C, as so appearing, and inserting in place thereof the following section:-

Section 11C. (a) A state agency or building authority may, in the manner provided by this section, contract for the procurement of energy management services. Such contracts may include terms of not more than 20 years. The state agency or building authority shall solicit competitive sealed proposals through a request for proposals. At least 1 week prior to soliciting proposals for a contract under this section, the agency or authority shall notify the commissioner in writing, in such form and including such information as the commissioner shall prescribe by regulation, of the intent to solicit

proposals. Such notification shall, at a minimum, include a complete copy of the request for proposals. An acknowledgment of receipt, in such form and including such information as the commissioner shall prescribe by regulation, shall be issued to the state agency or building authority upon successful compliance with the requirements of this paragraph.

Requests for proposals for an energy management services contract to be entered into on behalf of a state agency or a building authority, except a quasi-public agency, shall be developed jointly by the division of capital asset management and maintenance and the using agency. Such proposals shall only be solicited by the division of capital asset management and maintenance after the commissioner of the division has given prior written approval, and no contract for energy management services shall be valid unless approved and signed by that commissioner. A quasi-public agency may develop a request for proposal and enter into a contract for energy management services independently. The commissioner of capital asset management and maintenance may delegate to state agencies and building authorities the authority to enter into such contracts with an estimated construction cost of less than \$1 million. The delegation shall be in writing from the commissioner to the using agency or building authority.

The request for proposals published by a state agency or building authority shall include: (1) the time and date for receipt of proposals and the address of the office to which the proposals shall be delivered; (2) a description of the services to be procured, including specific requirements and all evaluation criteria that will be utilized by the state agency or building authority; and (3) proposed contract terms and conditions and an identification of such terms and conditions which shall be deemed mandatory and non-negotiable. The request for proposals may incorporate documents by reference, provided that the request for proposals specifies where prospective offerors may obtain the documents. The state agency or building authority shall make copies of the request for proposals available to all persons on an equal basis. Public notice of the request for proposals shall conform to the procedures set forth in subsection (1) of section 44J of chapter 149. Proposals shall be opened publicly, in the presence of 2 or more witnesses, at the time specified in the request for proposals, and shall be available for public inspection.

Sections 44A, 44B and 44E through 44H, inclusive, of chapter 149 shall not apply to contracts procured under this section. Section 44D of chapter 149 shall apply as appropriate to proposals submitted for contracts under this section, and every such proposal shall be accompanied by: (1) a copy of a certificate of eligibility issued by the commissioner of the division of capital asset management and maintenance; and (2) an update statement. The offeror's qualifications shall be evaluated by the division of capital asset management and maintenance in a manner designated by the commissioner of that division. If the state agency or building authority determines that any offeror is not responsible or eligible, the agency or authority shall reject the offeror, and shall give written notice of such action to the division of capital asset management and maintenance.

State agencies and building authorities shall award contracts under this section to the lowest

offeror demonstrably possessing the skill, ability and integrity necessary to perform faithfully energy management services.

Payments under a contract for energy management services may be based in whole or in part on any cost savings attributable to a reduction in energy and water consumption due to the contractor's performance or revenues gained due to the contractor's services which are aimed at energy and water cost savings.

(b) A local governmental body may, in the manner provided in this subsection, contract for the procurement of energy management services. Unless no other manner of description suffices, and the local governmental body so determines in writing, setting forth the basis for the determination, all requirements shall be written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary supply or service, or a procurement from a sole source.

Subject to a local governmental body's authority to reject, in whole or in part, any and all proposals, as provided in this section, a local governmental body shall unconditionally accept a proposal without alteration or correction, except as provided in this paragraph. An offeror may correct, modify or withdraw a proposal by written notice received in the office designated in the request for proposals prior to the time and date set for opening the proposals. After proposal opening, an offeror may not change any provisions of the proposal in a manner prejudicial to the interests of the local governmental body or fair competition. The local governmental body shall waive minor informalities or allow the offeror to correct them. If a mistake and the intended meaning of the proposal are clearly evident on the face of the proposal document, the local governmental body shall correct the mistake to reflect the intended meaning and so notify the offeror in writing, and the offeror may not withdraw the proposal. An offeror may withdraw a proposal if a mistake is clearly evident on the face of the proposal but the intended meaning is not similarly evident.

The local governmental body shall evaluate each proposal and award each contract based solely on the criteria set forth in the request for proposals. Such criteria shall include, but not be limited to, all standards by which the local governmental body shall evaluate responsiveness, responsibility, qualifications of the offeror, technical merit and cost to the local governmental body. The request for proposals shall specify the method for comparing proposals to determine the proposal offering the lowest overall cost to the local governmental body, taking into consideration comprehensiveness of services, energy or water cost savings, costs to be paid by the local governmental body, and revenues to be paid to the local governmental body. If the local governmental body awards the contract to an offeror who did not submit the proposal offering the lowest overall cost, the governmental body shall explain the reason for the award in writing.

The evaluations shall specify revisions, if needed, to each proposal which should be obtained by negotiation before the contract shall be awarded to the offeror of the proposal. The local governmental body may condition an award on successful negotiation of the revisions specified in the evaluation and

shall explain in writing the reasons for omitting any such revision from a plan incorporated by reference in the contract.

(c) The state agency, building authority or local governmental body may cancel a request for proposals or may reject in whole or in part any and all proposals when the state agency, building authority or local governmental body determines that cancellation or rejection serves the best interests of the state agency, building authority or local governmental body. The state agency, building authority or local governmental body shall state in writing the reason for a cancellation or rejection. The state agency, building authority or local governmental body shall promptly publish in the central register notice of the offeror awarded the contract. The state agency, building authority or local governmental body shall, within 30 days, file a copy of the contract with the commissioner.

The commissioner, in consultation with the commissioner of capital asset management and maintenance, shall adopt regulations for the procurement of energy management services under this section for local government bodies. The commissioner of capital asset management and maintenance shall adopt regulations for services to be procured for state agencies and building authorities, and shall adopt regulations, in consultation with the director of housing and community development, for the operations of housing authorities. Such regulations may limit the scope of services procured and the duration of contracts, and shall include any requirements that the commissioner or the commissioner of capital asset management and maintenance deems necessary to promote prudent management of such contracts at the appropriate facilities. Such regulations shall require the submission, at least annually, of such information as the commissioner or the commissioner of capital asset management and maintenance may deem necessary to monitor the costs and benefits of contracts for energy management services.

(d) The commissioner shall enforce the requirements of this section and regulations adopted hereunder as they relate to local governmental bodies and shall have all the necessary powers to require compliance. The commissioner of capital asset management and maintenance shall enforce all such regulations as they relate to state agencies and building authorities, except quasi-public agencies. An order of the commissioner under this subsection shall be effective and may be enforced according to its terms, and enforcement thereof shall not be suspended or stayed by the entry of an appeal therefrom. The superior court for Suffolk county shall have jurisdiction over appeals of orders of the commissioner under this subsection, and shall also have jurisdiction upon application of the commissioner to enforce all orders of the commissioner under this subsection. The burden of proof shall be upon the appealing party to show that an order of the commissioner is invalid. An aggrieved person shall not be required to seek an order from the commissioner as a condition precedent to seeking any other remedy.

SECTION 24. Section 11D of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 25, 39, 44 and 45, 52, 56, 60 and 62, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 25. Said section 11D of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 30, 39 and 47, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 26. Said section 11D of said chapter 25A, as so appearing, is hereby further amended by inserting after the word “department”, in lines 34 and 51, the following words:- of public utilities.

SECTION 27. Said section 11D of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 56, the words “government regulations”, and inserting in place thereof the following words:- telecommunications, utilities and energy.

SECTION 28. Section 11E of said chapter 25A, as so appearing, is hereby amended by striking out, in line 1, the words “division of energy resources” and inserting in place thereof the following word:- department.

SECTION 29. Said section 11E of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 3 and 4, and in lines 7, 9, 13, 16, 20, 23 and 45, the word “division” and inserting in place thereof, in each instance, the following word:- department.

SECTION 30. Said section 11E of said chapter 25A, as so appearing, is hereby further amended by striking out, in lines 7, 10 and 43, the words “telecommunications and energy” and inserting in place thereof, in each instance, the following words:- public utilities.

SECTION 31. Said section 11E of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 46, the words “committees on government regulations and energy, respectively,” and inserting in place thereof the following words:- committee on telecommunications, utilities and energy.

SECTION 32. Said chapter 25A is hereby further amended by striking out section 11F, as so appearing, and inserting in place thereof the following 2 sections:-

Section 11F. (a) The department shall establish a renewable energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. By December 31, 1999 , the department shall determine the actual percentage of kilowatt-hours sales to end-use customers in the commonwealth which is derived from existing renewable energy generating sources. Every retail supplier shall provide a minimum percentage of kilowatt-hours sales to end-use customers in the commonwealth from new renewable energy generating sources, according to the following schedule: (1) an additional 1 per cent of sales by December 31, 2003 , or 1 calendar year from the final day of the first month in which the average cost of any renewable technology is found to be within 10 per cent of the overall average spot-market price per kilowatt-hour for electricity in the commonwealth, whichever is sooner; (2) an additional one-half of 1 per cent of sales each year

thereafter until December 31, 2009 ; and (3) an additional 1 per cent of sales every year thereafter. For the purpose of this subsection, a new renewable energy generating source is one that begins commercial operation after December 31, 1997 , or that represents an increase in generating capacity after December 31, 1997 , at an existing facility. Commencing on January 1, 2009 , such minimum percentage requirement shall be known as the “Class I” renewable energy generating source requirement.

(b) For the purposes of this subsection, a renewable energy generating source is one which generates electricity using any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3) ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (7) naturally flowing water and hydroelectric; (8) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; or (9) geothermal energy; provided, however, that the calculation of a percentage of kilowatt-hours sales to end-use customers in the commonwealth from new renewable generating sources shall exclude clauses (6) and (7). The department may also consider any previously operational biomass facility retrofitted with advanced conversion technologies as a renewable energy generating source. A renewable energy generating source may be located behind the customer meter within the ISO -NE, as defined in section 1 of chapter 164, control area if the output is verified by an independent verification system participating in the New England Power Pool Generation Information System, in this section called NEPOOL GIS , accounting system and approved by the department.

(c) New renewable energy generating sources meeting the requirements of this subsection shall be known as Class I renewable energy generating sources. For the purposes of this subsection, a Class I renewable energy generating source is one that began commercial operation after December 31, 1997, or represents the net increase from incremental new generating capacity after December 31, 1997 at an existing facility, where the facility generates electricity using any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3) ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) energy generated by new hydroelectric facilities, or incremental new energy from increased capacity or efficiency improvements at existing hydroelectric facilities; provided, however, that (i) each such new facility or increased capacity or efficiency at each such existing facility must meet appropriate and site-specific standards that address adequate and healthy river flows, water quality standards, fish passage and protection measures and mitigation and enhancement opportunities in the impacted watershed as determined by the department in consultation with relevant state and federal agencies having oversight and jurisdiction over hydropower facilities; (ii) only energy from new facilities having a capacity up to 25 megawatts or attributable to improvements that incrementally increase capacity or efficiency by up to 25 megawatts at an existing hydroelectric facility shall qualify; and (iii) no such facility shall involve pumped storage of water or construction of any new dam or water diversion structure constructed later

than January 1, 1998; (7) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; (8) marine or hydrokinetic energy as defined in section 3; or (9) geothermal energy. A Class I renewable generating source may be located behind the customer meter within the ISO -NE control area if the output is verified by an independent verification system participating in the NEPOOL GIS accounting system and approved by the department.

(d) Every retail electric supplier providing service under contracts executed or extended on or after January 1, 2009 , shall provide a minimum percentage of kilowatt-hour sales to end-use customers in the commonwealth from Class II renewable energy generating sources. For the purposes of this section, a Class II renewable energy generating source is one that began commercial operation before December 31, 1997 and generates electricity using any of the following: (1) solar photovoltaic or solar thermal electric energy; (2) wind energy; (3) ocean thermal, wave or tidal energy; (4) fuel cells utilizing renewable fuels; (5) landfill gas; (6) energy generated by existing hydroelectric facilities, provided that such existing facility shall meet appropriate and site-specific standards that address adequate and healthy river flows, water quality standards, fish passage and protection measures and mitigation and enhancement opportunities in the impacted watershed as determined by the department in consultation with relevant state and federal agencies having oversight and jurisdiction over hydropower facilities; and provided further, that only energy from existing facilities up to 5 megawatts shall be considered renewable energy and no such facility shall involve pumped storage of water nor construction of any new dam or water diversion structure constructed later than January 1, 1998; (7) waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; (8) low emission advanced biomass power conversion technologies using fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; (9) marine or hydrokinetic energy as defined in section 3; or (10) geothermal energy. A facility in clause (7) shall not be a Class II renewable generating source unless it operates or contracts for one or more recycling programs approved by the department of environmental protection. At least 50 per cent of any revenue received by the facility through the sale of Massachusetts RPS-eligible renewable energy certificates shall be allocated to such recycling programs. A Class II renewable generating source may be located behind the customer meter within the ISO -NE control area provided that the output is verified by an independent verification system participating in the NEPOOL GIS accounting system and approved by the department.

(e) Every retail supplier shall annually provide to end-use customers in the commonwealth generation attributes from Class II energy facilities in an amount approved by the department; provided, however, that the department shall specify that a certain percentage of these requirements shall be met through energy generated from a specific technology or fuel type in subsection (d). Such minimum percentage requirement for kilowatt-hour sales from Class II energy generating sources may be adjusted by the department as necessary to promote the continued operation of existing energy

generating resources that meet the requirements of said subsection (d), and may be met through kilowatt-hour sales to end-use customers from any energy generating source meeting the requirements of said subsection (d).

(f) After conducting administrative proceedings, the department may add technologies or technology categories to any list; provided, however, that the following technologies shall not be considered renewable energy supplies: coal, oil, natural gas and nuclear power. The department shall establish and maintain regulations allowing for a retail supplier to discharge its obligations under this section by making an alternative compliance payment in an amount established by the department for Class I and Class II renewable energy generating sources. The department shall establish and maintain regulations outlining procedures by which each retail supplier shall annually submit for the department's review a filing illustrating the retail supplier's compliance with the requirements of this section.

(g) In satisfying its annual obligations under subsection (a), each retail supplier shall provide a portion of the required minimum percentage of kilowatt-hours sales from new on-site renewable energy generating sources located in the commonwealth and having a power production capacity of not more than 2 megawatts which began commercial operation after December 31, 2007 , including, but not limited to, behind the meter generation and other similar categories of generation determined by the department. The portion of the required minimum percentage required to be supplied by such on-site renewable energy generating sources shall be established by the department; provided, however, that the department may specify that a certain percentage of these requirements shall be met through energy generated from a specific technology or fuel type.

(h) The department shall adopt regulations allowing for a retail supplier to discharge its obligations under subsection (g) by making an alternative compliance payment in an amount established by the department; provided, however, that the department shall set on-site generation alternative compliance payment rates at levels that shall stimulate the development of new on-site renewable energy generating sources.

(i) A municipal lighting plant shall be exempt from the obligations under this section so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply under section 47A of chapter 164.

Section 11F1/2. (a) The department shall establish an alternative energy portfolio standard for all retail electricity suppliers selling electricity to end-use customers in the commonwealth. Every retail electric supplier providing service under contracts executed or extended on or after January 1, 2009 shall provide a minimum percentage of kilowatt-hour sales, as determined by the department, to end-use customers in the commonwealth from alternative energy generating sources and the department shall annually thereafter determine the minimum percentage of kilowatt-hour sales to end-use customers in the commonwealth which shall be derived from alternative energy generating sources.

For the purposes of this section, an alternative energy generating source is one which generates electricity using any of the following: (1) gasification with capture and permanent sequestration of carbon dioxide; provided, however, that the fuel shall be purchased by, and contractually transported to, the alternative energy generating source in ISO -NE, as defined in section 1 of chapter 164; (2) combined heat and power; (3) flywheel energy storage; (4) any facility which substitutes any portion of its fossil fuel source with an equal to or greater portion of an alternative, paper-derived fuel source approved by the department of environmental protection through a beneficial use determination for the production of heat or power; (5) energy efficient steam technology; or (6) any other alternative energy technology approved by the department under an administrative proceeding conducted under chapter 30A; provided, however, that the following technologies shall not be considered alternative energy supplies: coal, except when used in gasification; petroleum coke, except when used in gasification; oil; natural gas, except when used in gasification or combined heat and power; and nuclear power.

(b) The department, in consultation with the department of environmental protection, shall set: (1) emission performance standards, including standards for carbon dioxide emissions, permanent sequestration definitions and standards, and fuel conversion efficiency standards for all technologies included in this section such that in the case of gasification, the total overall fuel conversion efficiency from feedstock to final combustible fuel shall not be less than 70 per cent, consistent with the commonwealth's environmental goals, including, but not limited to, the reduction of greenhouse gas emissions; and (2) a net carbon dioxide emissions rate not to exceed the average emissions rate of existing natural gas plants in the commonwealth, which shall include all emissions related to combustion, gasification, fuel processing and sequestration, whether or not such activities occur at the alternative generating source or at another location, and in the case of combined heat and power shall also include thermal delivery. At least once every 2 years the department shall review and update all standards for new alternative energy generating sources to strengthen them, as appropriate, as technology improvements occur.

(c) The department shall adopt regulations allowing for a retail supplier to discharge its obligations under this section by making an alternative compliance payment in an amount established by the department. Such regulations shall outline procedures by which each retail supplier shall annually submit for the department's review a filing illustrating the retail supplier's compliance with the requirements of this section.

(d) A municipal lighting plant shall be exempt from the obligations under this section so long as and insofar as it is exempt from the requirements to allow competitive choice of generation supply under section 47A of chapter 164.

SECTION 33. Section 11G of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 1, 3 and 11, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 34. Said section 11G of said chapter 25A, as so appearing, is hereby further amended by inserting after the word "department", in lines 13 and 14, the following words:- of public utilities.

SECTION 35. Said section 11G of said chapter 25A, as so appearing, is hereby further amended by striking out the last 2 sentences and inserting in place thereof the following sentence:- The department shall adopt rules and regulations necessary to implement this section.

SECTION 36. Section 11H of said chapter 25A, as so appearing, is hereby amended by striking out, in lines 1, 6, 12 and 31, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 37. Said chapter 25A is hereby amended by striking out section 11I and inserting in place thereof the following section:-

Section 11I. (a) A state agency, local governmental body or building authority may use this section in the procurement of energy management services as an alternative to the procedures in section 11C. Nothing in this section shall preclude any such agency, body or authority from proceeding under section 11C.

(b) An agency, local governmental body or building authority may enter into an energy management services contract in order to achieve energy savings at facilities in accordance with this section. All energy savings measures under the contract shall comply with current local, state and federal construction and environmental codes and regulations.

(c) Before entering into an energy management services contract, a state agency, local governmental body or building authority shall issue a request for qualifications. Public notice of the request for qualifications shall conform to the procedures set forth in subsection (1) of section 44J of chapter 149. At least 1 week before soliciting a request for qualifications for an energy management services contract, an agency, body or authority shall notify the commissioner in writing, in a form and including information as the commissioner of capital asset management and maintenance shall prescribe by regulation, of the entity's intent to solicit qualifications. The notification, at a minimum, shall include a copy of the request for qualifications. An acknowledgment of receipt, in a form and including information as the commissioner of capital asset management and maintenance shall prescribe by regulation, shall be issued by the commissioner to the agency, body or authority upon compliance with the requirements of this subsection.

The request for qualifications published by a state agency, local governmental body or building authority shall include the following: (1) the name and address of the agency, body or authority; (2) The name, address, title and phone number of a contact person; (3) the date, time and place where qualifications shall be received; (4) a description of the services to be procured, including a facility profile with a detailed description of each building involved and accurate energy consumption data for the most recent 2-year period, stated objectives for the program, a list of building improvements to be considered or

required and a statement as to whether the proposed improvements will generate sufficient energy savings to fund the full cost of the program; (5) the evaluation criteria for assessing the qualifications; (6) a statement that the agency, body or authority may cancel the request for qualifications, or may reject in whole or in part any and all energy savings measures, when it determines that cancellation or rejection serves the best interests of the public; and (7) any other stipulations and clarifications the agency, body or authority may require, which shall be clearly identified in the request for qualifications.

Qualifications shall be opened publicly, in the presence of 2 or more witnesses, at the time specified in the request for qualifications, and shall be available for public inspection. The provisions of sections 44A, 44B and 44E to 44H, inclusive, of chapter 149 shall not apply to contracts procured under this section. Section 44D of said chapter 149 shall apply as appropriate to qualifications submitted for contracts under this section, and every such qualification shall be accompanied by (1) a copy of a certificate of eligibility issued by the commissioner of capital asset management and maintenance, and (2) by an update statement.

The state agency, local governmental body or building authority shall evaluate the qualified providers to determine which best meets the needs of the public agency by reviewing the following:

- (1) references of other energy savings contracts performed by the qualified providers;
- (2) the certificate of eligibility and update statement provided by the qualified providers;
- (3) quality of the products proposed;
- (4) methodology of determining energy savings;
- (5) general reputation and performance capabilities of the qualified providers;
- (6) substantial conformity with the specifications and other conditions set forth in the request for qualifications;
- (7) time specified in the qualifications for the performance of the contract; and
- (8) any other factors the agency, body, or authority considers reasonable and appropriate, which factors shall be made a matter of record.

Respondents shall be evaluated only on the criteria set forth in the request for qualifications.

The state agency, local governmental body or building authority shall conduct discussions with, and may require public presentations by, each person who submitted qualifications in response to the request for qualifications regarding his qualifications, approach to the project and ability to furnish the required services. The agency, body or authority shall select in order of preference 3 such persons, unless fewer persons respond, it considers to be the most highly qualified to perform the required services. The agency, body or authority may request, accept and consider proposals for the compensation to be paid under the contract only during competitive negotiations conducted under subsection (e).

(d) The state agency, local governmental body or building authority may cancel a request for qualifications, or may reject in whole or in part any and all proposals when it

determines that cancellation or rejection serves its best interests. The agency, body or authority shall state in writing the reason for a cancellation or rejection.

(e) The state agency, local governmental body or building authority shall negotiate a contract with the most qualified person at compensation which it determines is fair, competitive and reasonable. If the agency, body or authority is unable to negotiate a satisfactory contract with the person considered to be the most qualified at a price the agency, body or authority determines to be fair, competitive and reasonable, negotiations with that person shall be formally terminated. The agency, body or authority shall then undertake negotiations with the second most qualified person. Failing accord with the second most qualified person, the agency, body or authority shall terminate those negotiations and then undertake negotiations with the third most qualified person. Should the agency, body or authority be unable to negotiate a satisfactory contract with any of the selected persons, it may select additional qualified providers who responded to the request for qualifications, in the order of their competence and qualification, and continue negotiations in accordance with this subsection until either an agreement is reached or the agency, body or authority cancels the request for qualifications.

(f) The decision of the state agency, local governmental body or building authority regarding the selection of a qualified provider shall be final and not subject to appeal except on the grounds of fraud or collusion.

(g) The state agency, local governmental body or building authority shall provide public notice of the meeting at which it proposes to award the energy management services contract, of the name of the parties to the proposed contract and of the purpose of the contract. The public notice shall be made at least 10 days before the meeting. The agency, body or authority shall promptly publish in the central register notice of the award and shall notify the commissioner of the award and provide to him a copy of the energy management services contract.

(h) The energy management services contract shall include a written guarantee of the qualified provider that either the amount of energy savings guaranteed shall be achieved or the qualified provider shall reimburse the state agency, local governmental body or building authority for the shortfall amount. Methods for measurement and verification of energy savings shall conform to the most recent standards established by the Federal Energy Management Program of the United States Department of Energy.

(i) The commissioner, in consultation with the commissioner of capital asset management and maintenance, shall adopt regulations for the procurement of energy management services under this section for local government bodies. The commissioner shall enforce the requirements of this section and regulations adopted as they relate to local governmental bodies and shall have all the necessary powers to require compliance. The commissioner of capital asset management and maintenance shall adopt regulations for services to be procured for state agencies and building authorities. The commissioner of capital asset management and maintenance shall enforce the regulations as they relate to state agencies and building authorities. An order of the commissioner under this subsection shall be effective and may

be enforced according to its terms, and enforcement shall not be suspended or stayed by the entry of an appeal. The superior court for Suffolk county shall have jurisdiction over appeals of orders of the commissioner under this subsection, and shall also have jurisdiction upon application of the commissioner to enforce all orders of the commissioner under this subsection. The burden of proof shall be upon the appealing party to show that an order of the commissioner is invalid. An aggrieved person shall not be required to seek and order from the commission as a condition precedent to seeking any other remedy.

(j) Payments under a contract for energy management services may be based in whole or in part on any cost savings attributable to a reduction in energy and water consumption due to the contractor's performance or revenues gained due to the contractor's services which are aimed at energy and water cost savings.

(k) Unless no other manner of description suffices, and the state agency, local governmental body or building authority so determines in writing, setting forth the basis for the determination, all requirements shall be written in a manner which describes the requirements to be met without having the effect of exclusively requiring a proprietary supply or service, or a procurement from a sole source.

(l) Before entering into a energy management services contract, the state agency, local governmental body or building authority shall require the qualified provider to file with the agency, body or authority a payment or a performance bond relating to the installation of energy savings measures in an amount equal to 100 per cent of the estimated contract value from a surety company licensed to do business in the commonwealth and whose name appears on United States Treasury Department Circular 570.

(m) An energy management services contract may extend beyond the fiscal year in which it became effective.

SECTION 38. Section 12 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 15, the word "energy" and inserting in place thereof the following words:- telecommunications, utilities and energy.

SECTION 39. Said section 12 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 21, the words "said chairmen" and inserting in place thereof the following word:- committee.

SECTION 40. Section 13 of said chapter 25A, as so appearing, is hereby amended by striking out, in line 2 and in lines 16 and 17, the word "division" and inserting in place thereof, in each instance, the following word:- department.

SECTION 41. Said section 13 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 16, the words "division of energy resources" and inserting in place thereof the following word:- department.

SECTION 42. Said section 13 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 10, the word "Division", and inserting in place thereof the following word:- Department.

SECTION 43. Said section 13 of said chapter 25A, as so appearing, is hereby further amended by striking out, in line 15, the words "subject to" and inserting in place thereof the following words:- without further.

SECTION 44. Said chapter 25A is hereby further amended by adding the following 2 sections:-

Section 14. (a) A state agency, building authority or local governmental body may contract for energy conservation projects that have a total project cost of \$100,000 or less, directly and without further solicitation, with electric and gas utilities, their subcontractors and other providers of such energy conservation projects authorized under sections 19 and 21 of chapter 25 and section 11G.

(b) For purposes of this section, "total project cost" shall mean all construction costs of an energy conservation project, whether borne by the utility, agency, authority or body including, without limitation, the costs associated with equipment purchase and installation of such equipment. Ancillary services provided at no cost by utilities, such as auditing and design, shall not be considered part of project cost.

(c) A state agency, building authority or local governmental body may pay for such energy conservation projects through additions to their monthly utility bills.

(d) Sections 44A to 44M, inclusive, of chapter 149 and section 39M of chapter 30 shall not apply to contracts entered into under this section.

Section 15. (a) For solar photovoltaic projects with a total project cost that is less than \$100,000, a state agency, building authority or local governmental body may acquire photovoltaic panels and associated equipment for onsite use of the energy generated by these panels from contracts procured by the operational services division under section 22 of chapter 7 and sections 51 and 52 of chapter 30.

(b) For purposes of this section, "total project cost" shall mean all construction costs of a photovoltaic project, whether borne by the utility, agency, authority or body or other sources, including, without limitation, the costs associated with equipment purchase and installation of such equipment. Ancillary services provided at no cost, such as auditing and design, shall not be considered part of project cost.

(c) Sections 44A to 44M, inclusive, of chapter 149 and section 39M of chapter 30 shall not apply to contracts entered into under this section.

SECTION 45. Section 2 of chapter 25B of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 11, the words “of the division”

SECTION 46. Section 1 of chapter 30B of the General Laws, as so appearing, is hereby amended by striking out, in line 96, the words “telecommunications and energy” and inserting in place thereof the following words:- public utilities.

SECTION 47. Said section 1 of said chapter 30B of the General Laws, as so appearing, is hereby further amended by striking out, in line 97, the word “division” and inserting in place thereof the following word:- department.

SECTION 48. Section 3 of chapter 40J of the General Laws, as so appearing, is hereby amended by inserting after the word “designee”, in line 14, the following words:- , the secretary of energy and environmental affairs or a designee,.

SECTION 49. Said chapter 40J is hereby amended by striking out section 4E, as so appearing, and inserting in place thereof the following section:-

Section 4E. (a)(1) There is hereby established and set up on the books of the corporation a separate trust fund to be known as the Massachusetts Renewable Energy Trust Fund, hereinafter referred to as the fund. The corporation shall hold the fund in an account or accounts separate from other funds. There shall be credited to the fund all amounts collected under section 20 of chapter 25 and any income derived from the investment of amounts credited to the fund. All amounts credited to the fund shall be held in trust and used solely for activities and expenditures consistent with the public purpose of the fund as set forth in subsection (b) of this section, including the ordinary and necessary expenses of administration and operation associated with the fund. Unless otherwise specified, all monies of the corporation, from whatever source derived, shall be paid to the treasurer of the corporation. Said monies shall be deposited in the first instance by the treasurer in national banks, trust companies or banking companies in compliance with section 34 of chapter 29. Funds in such accounts shall be paid out on the warrant or other order of the treasurer of the corporation or other person as the board may authorize to execute warrants.

(a)(2) A governing board of not less than 9 individuals with an interest in matters relating to the general purpose of the fund shall assist the corporation in matters related to the fund and in the implementation of this section. The governing board shall include: the commissioner of energy resources, who shall serve as chair; the secretary of energy and environmental affairs or a designee, the secretary of housing and economic development or a designee; the secretary of administration and finance or a designee; 1 member of the board to be appointed by the chair of the board; and 4 members to be appointed by the governor, who shall have knowledge and experience in the following areas: electricity distribution, generation, supply or power marketing; the concerns of commercial and industrial ratepayers; the concerns of residential ratepayers, including low-income ratepayers;

economics, financial or investment consulting relative to the fund; regional environmental concerns; academic issues related to power generation, distribution or the development or commercialization of renewable energy sources; institutions of higher education; municipal or regional aggregation matters; and renewable and alternative energy and energy efficiency issues. The members of the governing board shall be deemed to be directors for the purposes of the fourth paragraph of section 3. Each appointed member of the governing board shall serve for a term of 3 years and thereafter until such member's successor is appointed, and shall be eligible for reappointment. A person appointed to fill a vacancy on the governing board shall be appointed in a like manner as the vacating member shall have been appointed and shall be eligible for reappointment. A member of the governing board appointed by the governor may be removed by the governor for cause. The members of the governing board shall serve without compensation, but each member shall be entitled to reimbursement for actual and necessary expenses incurred in the performance of official duties. The governing board may meet as often as the members shall decide; provided, however, that it shall meet at least quarterly. The governing board may, by majority vote, delegate any amount of its authority to an executive committee comprised of members of the governing board, the board or the staff of the corporation. Any such delegation of authority may be revoked at any time by majority vote of the governing board.

The governing board shall adopt and submit to the board for approval detailed 5-year strategic plans and annual operational plans for the application of the fund in support of the design, implementation, evaluation and assessment of renewable energy programs for the commonwealth that ensure that the fund shall be employed to provide financial and non-financial resources to overcome barriers facing renewable energy enterprises, institutions and projects in a prudent manner consistent with the public purposes and interests set forth in this section. The strategic plan shall include consideration of, and be consistent with, plans, regulations and policies issued by the executive office of energy and environmental affairs and, to the extent practicable, shall consist of at least 4 components: (i) product and market development to establish a foundation for growth and expansion of the commonwealth's renewable energy enterprises, institutions and projects, including pilot and demonstration projects, production incentives, and other activities designed to increase the use and affordability of renewable energy in the commonwealth; (ii) training and public information to allow for the development and dissemination of complete, objective and timely information, analysis and policy recommendations related to the advancement of the public purposes and interests of the renewable energy fund; (iii) investment to support the growth and expansion of renewable energy enterprises, institutions and projects; and (iv) research and development within the commonwealth and the New England region related to renewable energy matters. The strategic plans and annual operational plans shall also allocate a portion of the fund to the green communities program to provide technical assistance to municipalities certified as green communities under section 10 of chapter 25A. The strategic plans and annual operational plans shall provide detailed budget and staffing levels and specify the expenditure of such monies from the fund to each of these component activities; provided, however, that monies so expended shall be used to develop such renewable energy projects with priority given to projects, institutions, and enterprises, first, within the commonwealth; next, to such

activities within New York and the New England region which serve the regional power grid; and finally, all other such activities regardless of location. In developing the strategic plans and yearly operational plans, the governing board shall consult with and utilize the services of the department of public utilities and the department of energy resources for such technical assistance as the governing board deems necessary or appropriate to the effective discharge of the governing board's responsibilities and duties relative to the fund.

The 5-year strategic plans and annual operational plans shall be deemed approved unless they are rejected by a majority vote of the board within 60 days of the plan's referral to the board. If the board rejects any submitted plan, the board shall, within 10 days of such action, provide the governing board with a written explanation of the denial, including any proposed recommendations to the submitted plan. Upon approval by the board of any plan, the board shall delegate authority to the governing board to implement the plan. The delegated authority shall include, but not be limited to, the approval and implementation of budget and staffing projections set forth in the plan, the hiring of an executive director to administer the fund at the direction of the governing board, and the hiring of outside consultants or other professionals to assist in the implementation of the plan. The governing board shall present any subsequent strategic plans and annual operational plans, or substantial modifications of any approved plan, to the board for approval. The board shall not be liable for any claims arising out of or related to the implementation of any approved plan, or any other decisions of the governing board relating to administration of the fund.

(b) The board shall draw upon monies in the fund for the public purpose of generating the maximum economic and environmental benefits over time from renewable energy to the ratepayers of the commonwealth through a series of initiatives which exploit the advantages of renewable energy in a more competitive energy marketplace by promoting the increased availability, use and affordability of renewable energy, by making operational improvements to existing renewable energy projects and facilities which, in the determination of the governing board, would yield more significant results in the development of renewable energy if said funds were made available for the creation of new renewable energy facilities, and by fostering the formation, growth, expansion and retention within the commonwealth of preeminent clusters of renewable energy and related enterprises, institutions and projects, which serve the citizens of the commonwealth consistent with a strategic plan or annual operational plan.

(c) Public interests to be advanced through the governing board's actions shall include, but not be limited to, the following: (i) the development and increased use and affordability of renewable energy resources in the commonwealth and the New England region; (ii) the protection of the environment and the health of the citizens of the commonwealth through the prevention, mitigation and alleviation of the adverse pollution effects associated with certain electricity generation facilities; (iii) the maximization of benefits to consumers of the commonwealth resulting from increased fuel and supply diversity; (iv) the creation of additional employment opportunities in the commonwealth through the development of renewable technologies; (v) the stimulation of increased public and private sector

investment in, and competitive advantage for, renewable energy and related enterprises, institutions and projects in the commonwealth and the New England region; and (vi) the stimulation of entrepreneurial activities in these and related enterprises, institutions and projects.

(d) In furtherance of any strategic and operational plans, and other public purposes and interests, the board may expend monies from the fund to make grants, contracts, loans, equity investments, energy production credits, bill credits, or rebates to customers; to provide financial or debt service obligation assistance; or to take any other actions, in such forms, under such terms and conditions and under such selection procedures as the board deems appropriate and otherwise in a manner consistent with good business practices; provided, however, that the board shall generally employ a preference for competitive procurements; provided further, that the board shall endeavor to leverage the full range of the resources, expertise and participation of other state and federal agencies and instrumentalities in the design and implementation of programs under this section; and provided further, that the board has determined and incorporated into the minutes of its proceedings a finding that such actions are calculated to advance the public purpose and public interests set forth in this section, including, but not limited to, the following: (i) the growth of the renewable energy-provider industry; (ii) the use of renewable energy by electricity customers in the commonwealth; (iii) public education and training regarding renewable energy; (iv) product and market development; (v) pilot and demonstration projects and other activities designed to increase the use and affordability of renewable energy resources by and for consumers in the commonwealth; (vi) the provision of financing in support of the development and application of related technologies at all levels, including, but not limited to, basic and applied research and commercialization activities; (vii) the design and making of improvements to existing renewable energy projects and facilities as defined herein which were in operation as of December 31, 1997 ; and (viii) matters related to the conservation of scarce energy resources.

(e) Subject to the approval of the board, and not inconsistent with any strategic or annual operational plans, investment activity of monies from the fund may consist of the following: (i) an equity fund, to provide risk capital to renewable energy enterprises, institutions and projects; (ii) a debt fund, to provide loans to energy enterprises, institutions, projects, intermediaries and end-users; and (iii) a market growth assistance fund, to be used to attract private capital to the equity and debt funds. To implement these investment activities, the corporation may retain, through a bid process, public or private sector investment fund managers, who shall have prior knowledge and experience in fund management and possess related skills in renewable energy and related technologies development, to direct the investment activity described in this section and to seek other fund co-sponsors to contribute public and private capital from the commonwealth and other states; provided, however, that such capital shall be appropriately segregated. The managers, subject to the approval of the board, may retain necessary services and consultants to carry out the purposes of the fund. The managers shall develop a business plan to guide investment decisions, which shall be approved by the board before any expenditures from the trust fund and which shall be consistent with the provisions of the plan for the fund as adopted by the board.

(f) For the purposes of expenditures from the fund, renewable energy technologies eligible for assistance shall mean technologies eligible as Class I or Class II renewable energy generating sources under section 11F of chapter 25A, micro-combined heat and power units less than 60 kilowatts, solar hot water, geothermal heating and cooling projects, biomass thermal and storage and conversion technologies connected to qualifying generation projects; provided, however, that the board may make grants from the fund, not to exceed a total of \$4 million annually, in support of Massachusetts-based public and private enterprises developing new technologies to significantly increase the efficiency of the internal combustion engine. The board shall make grants, loans or other support from the fund, not to exceed \$3 million annually for hydroelectric facilities, other than pumped storage facilities in the commonwealth, constructed before December 31, 1997 for upgrades to increase efficiency or capacity and to reduce environmental impacts. Such funds may also be used for appropriate joint energy efficiency and renewable projects, as well as for investment by distribution companies in renewable energy and distributed generation opportunities, if consistent with this section. The following technologies or fuels shall not be considered renewable energy supplies: coal, oil, natural gas except when used in fuel cells or micro-combined heat and power, and nuclear power.

(g) The use by the corporation and governing board of monies to implement this section shall be deemed to be an essential governmental function. Notwithstanding any general or special law to the contrary, clause (a) of section 4A shall apply to expenditures made from the fund; provided, however, that no such expenditure shall be deemed to involve a capital facility project; provided further, that no lease or license executed in furtherance of the public purpose and interests of the fund shall exceed 30 years in duration, and the duration and terms shall be developed in a manner consistent with good business practices; and provided further, that the corporation or governing board shall take no action which contravenes the commonwealth's reversionary interest in any of its real property. The corporation, any purchasing cooperative established thereby and all members of any such purchasing cooperative may participate in any energy-related purchasing, aggregating or similar program established and operated by the Health and Educational Facilities Authority and such participation shall be deemed to be in furtherance of an essential governmental function.

(h) Clause (k) of section 4 shall not apply to disbursements from the trust fund.

(j) The books and records of the corporation and governing board relative to expenditures and investments of monies from the fund shall be subject to a biennial audit by the auditor of the commonwealth.

(k) Not later than August 15th of each year, the board, in conjunction with the governing board, shall annually submit to the governor, the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means a report detailing the expenditure and investment of monies from the fund over the previous fiscal year, the ability of the fund to meet the requirements in this section, and any recommendations for improving the ability of the governing board, the board, the corporation and the fund to meet such requirements.

(l) Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, the board shall, upon the written request of the governor, transfer moneys in the fund, in an amount not exceeding \$17 million in the aggregate, to the commonwealth for deposit in the General Fund. As a condition subsequent to any such transfer, the commonwealth, acting by and through the department of energy resources or a successor agency, shall enter into an agreement with the corporation under which the commonwealth, at the direction of the corporation, shall enter into contracts, for terms not to exceed 20 years, with owners of facilities that generate electricity using renewable energy technologies, wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The corporation shall determine the particular types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the corporation and the commonwealth, of such amount as shall be transferred under the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. The maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5 million. The commonwealth shall be indemnified under such contracts by the owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 20 of chapter 25 shall be impressed with a trust for the benefit of the fund. To facilitate the purchase by the corporation of electricity produced by renewable energy technologies or of certificates produced under the renewable energy portfolio standard regulations of the department of energy resources representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth shall covenant with the sellers of such electricity or certificates that the amounts collected under said section 20 shall not be diverted from the fund and that the rates of the mandatory charges under said section 20 shall not be reduced during the term, which shall not exceed 20 years, of any contract entered into by the corporation for the purchase of such electricity or certificates below a level which shall enable the corporation to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under said section 20 shall be expended by the corporation as provided in subsection (a) and, in the discretion of the corporation, in furtherance of the public purposes of the corporation and for such costs of departments and agencies that support or are otherwise consistent with the purposes of the fund.

SECTION 50. Section 7 of chapter 44 of the General Laws, as so appearing, is hereby amended by striking out clause (3B) and inserting in place thereof the following clause:-

(3B) For energy conservation, alternative energy or renewable energy improvements to public buildings or facilities owned or leased by the city or town, or on property owned or leased by the city or town, 20 years.

SECTION 51. Section 1 of chapter 90 of the General Laws, as amended by section 1 of chapter 79 of the acts of 2008, is hereby further amended by inserting before the definition of "Ambulance" the following 2 definitions:-

"Alternative fuel", an energy source used to power a vehicle that does not meet the definition of fuel in section 1 of chapter 64A and is not diesel motor fuel.

"Alternative fuel vehicle", a vehicle powered by alternative fuel with the following attributes:

(a) the capability of operating only on alternative fuel;

(b) its original use was commenced with the taxpayer;

(c) acquired by the taxpayer for use or lease, but not for resale;

(d) is designed to use and uses alternative fuel for a significant portion of the total fuel used for propulsion energy for the vehicle; and

(e) when operating on petroleum fuel, the vehicle model's miles per gallon rating from the United States Environmental Protection Agency exceeds the agency's corporate average fuel economy requirement for the class of vehicles, whether cars or light trucks, in which the vehicle model is classified. The model specification shall include characteristics that affect fuel economy and for which the United States Environmental Protection Agency issues distinct miles per gallon ratings, such as transmission type and engine size.

SECTION 52. Said section 1 of said chapter 90, as so appearing, is hereby further amended by inserting after the definition of "House trailer" the following definition:-

"Hybrid vehicle", a vehicle (a) which draws propulsion energy from onboard sources of stored energy which are both: (1) an internal combustion or heat engine using combustible fuel; and (2) a rechargeable energy storage system; or (b) which, in the case of a passenger vehicle, medium duty passenger vehicle or light truck: (1) for model year 2002 and later model year vehicles, has received a certificate of conformity under the Clean Air Act and meets or exceeds the equivalent qualifying California low emission vehicle standard adopted under section 243(e)(2) of said Clean Air Act for that make and model year; (2) for model year 2004 and later model vehicles, has received a certificate that the vehicle meets or exceeds the Tier II Bin 5 emission level established in regulations prescribed by the Administrator of the United States Environmental Protection Agency under section 202(i) of said Clean Air Act for that make and model year vehicle; and (3) achieves an increase of 10 per cent fuel

efficiency as compared to the average vehicle of its class as defined by the United States Environmental Protection Agency.

SECTION 53. Subclause (3) of clause (b) of the definition of “hybrid vehicle” in said section 1 of said chapter 90, as appearing in section 52, is hereby amended by striking out the figure “10” and inserting in place thereof the following figure:- 25.

SECTION 54. Section 3 of chapter 143 of the General Laws, as so appearing, is hereby amended by inserting after the word “structure”, in line 55, the following words:- , and the energy requirements imposed by clause (p) of section 94.

SECTION 55. Said section 94 of said chapter 143, as amended by section 1 of chapter 78 of the acts of 2008, is hereby further amended by adding the following 4 clauses:-

(o) To adopt and fully integrate the latest International Energy Conservation Code as part of the state building code, together with any more stringent energy-efficiency provisions that the board, in consultation with the department of energy resources, concludes are warranted. The energy provisions of the state building code shall be updated within 1 year of any revision to the International Energy Conservation Code.

(p) In consultation with the department of energy resources, to develop requirements and promulgate regulations as part of the state building code for the training and certification of city and town inspectors of buildings, building commissioners and local inspectors regarding the energy provisions of the state building code, and to require that all new construction and any major reconstruction, alteration or repair of residential and non-residential buildings pass inspection by inspectors who have been trained and certified, demonstrating full compliance with the energy provisions of the state building code.

(q) In consultation with the department of energy resources, to develop requirements and promulgate regulations as part of the state building code, in addition to the requirements of the latest International Energy Conservation Code, requiring a process to ensure that all new non-residential buildings larger than 10,000 square feet and any major reconstruction, alteration or repair of all such buildings perform as designed with respect to energy consumption by undergoing building commissioning or acceptance testing. Such commissioning must be completed before the issuance of a certificate of occupancy.

(r) In consultation with the department of energy resources, professional organizations and other stakeholders, to prepare a report evaluating the advisability of a requirement of periodic commissioning for large non-residential buildings and, if such a requirement is deemed advisable, evaluating possible approaches to periodic commissioning.

SECTION 56. Chapter 159 of the General Laws is hereby amended by striking out section 10, as amended by section 30 of chapter 19 of the acts of 2007, and inserting in place thereof the following section:-

Section 10. The department of telecommunications and cable shall enforce this chapter to the extent that it relates to telecommunications. The department of public utilities shall enforce all other provisions.

SECTION 57. Chapter 164 of the General Laws is hereby amended by striking out section 1, as amended by section 36 of said chapter 19, and inserting in place thereof the following section:-

Section 1. In this chapter, unless the context otherwise requires, the following words shall have the following meanings:

“Aggregator”, an entity which groups together electricity customers for retail sale purposes, except for public entities, quasi-public entities or authorities, or subsidiary organizations thereof, established under the laws of the commonwealth.

“Alternative energy development”, shall include, but shall not be limited to, solar energy, wind, wood, alcohol, hydroelectric, biomass energy systems, renewable non-depletable and recyclable energy sources.

“Alternative energy producer”, a person, firm, partnership, association, public or private corporation, or an agency, department, board, commission or authority of the commonwealth or of a subdivision of the commonwealth, that owns or operates a cogeneration facility or small power production facility as defined in this section, and does not engage in the retail sale of electricity other than sales to customers that are within the confines of an industrial park, which existed before March 1, 1982, and in which there existed as of said date electrical generating capacity of more than 15 megawatts.

“Alternative energy property”, any property powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, or any renewable, non-depletable or recyclable fuel, and property related to the exploration, development, processing, transportation and distribution of the aforementioned energy resources.

“Ancillary services”, those functions which support generation, transmission, and distribution, and which shall include the following services: (1) reactive power or voltage control; (2) loss compensation; (3) scheduling and dispatch; (4) load following; (5) system protection service; and (6) energy imbalance service.

“Articles of organization”, (i) the articles of organization of a corporation which were filed after

October 1, 1973 ; (ii) an agreement of association, special act of incorporation and other charter documents, including by-law provisions and stockholder votes in effect before October 1, 1973 , which, after that date, would be included in articles of organization, and all amendments thereto, effective before October 1, 1973 ; and (iii) any of the following amendments made or filed from time to time subsequent to October 1, 1973 :

- (1) a certificate of a vote establishing a series filed under section 26 of chapter 156B;
- (2) articles of amendment filed under section 8B;
- (3) restated articles of organization filed under section 8C;
- (4) certificates of confirmation of proceedings filed under section 8D;
- (5) articles of consolidation or merger filed under section 102A;
- (6) articles of dissolution filed under section 100 of chapter 156B;
- (7) a certificate as to the revival of a corporation filed under section 108 of chapter 156B.

“Basic service”, the electricity services provided to a retail customer upon either: (i) the inability of a customer to receive competitive supply from a supplier under subsection (d) of section 1B; (ii) the failure of the retail customer to elect competitive supply from a supplier under said subsection (d) of said section 1B; or (iii) upon the expiration of and the retail customer’s failure to renew a competitive supply contract under said subsection (d) of said section 1B or other means.

“Cogeneration facility”, any electrical generating unit having a power production capacity which, together with any other facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating or cooling purposes, and employs a fuel other than oil as its primary energy source, except that oil may be used: (1) in combination with coal, in a mixture not exceeding 70 per cent oil; or (2) during any modifications to any existing electrical generating facility undertaken for the purpose of enabling such facility to employ, except during any periods of maintenance or repair, a fuel other than oil as its primary energy source; provided, however, that cogeneration facility shall also include any electric generating unit having a power production capacity which, together with any other facilities located at the same site, is not greater than 30 megawatts and which produces electric energy and steam or other form of useful energy utilized for industrial, commercial, heating or cooling purposes that is within the confines of an industrial park, which existed before March 1, 1982 and, in which park there existed, as of said date, electrical generating capacity of more than 15 megawatts, and in which there existed, since said date, a cogeneration facility or a small power production facility.

“Contract termination fee”, the fees owed by the distribution company to its wholesale power

supplier, as determined and approved by the department of public utilities.

“Corporation”, a corporation to which this chapter applies, as set forth in section 3.

“Default Service”, the electricity services provided to a retail customer upon: (i) the failure of a distribution company or supplier to provide such electricity services as required by law or as contracted for under the standard service offer; (ii) the completion of the term of the standard service offer; or (iii) the inability of a customer to receive standard service transition rates during the term of the standard service offer under section 1B.

“Department”, the department of public utilities.

“Distributed generation”, a generation facility or renewable energy facility connected directly to distribution facilities or to retail customer facilities which alleviate or avoid transmission or distribution constraints or the installation of new transmission facilities or distribution facilities.

“Distribution”, the delivery of electricity over lines which operate at a voltage level typically equal to or greater than 110 volts and less than 69,000 volts to an end-use customer within the commonwealth. The distribution of electricity shall be subject to the jurisdiction of the department of public utilities.

“Distribution company”, a company engaging in the distribution of electricity or owning, operating or controlling distribution facilities; provided, however, that a distribution company shall not include any entity which owns or operates plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and non-profit educational institutions, and where such plant or equipment was in operation before January 1, 1986 .

“Distribution facility”, a plant or equipment used for the distribution of electricity and which is not a transmission facility, a cogeneration facility or a small power production facility.

“Distribution service”, the delivery of electricity to the customer by the electric distribution company from points on the transmission system or from a generating plant at distribution voltage.

“Electric company”, a corporation organized under the laws of the commonwealth for the purpose of making by means of water power, steam power or otherwise and for selling, transmitting, distributing, transmitting and selling, or distributing and selling, electricity within the commonwealth, or authorized by special act so to do, even though subsequently authorized to make or sell gas; provided, however, that electric company shall not mean an alternative energy producer; provided further, that a distribution company shall not include an entity which owns or operates a plant or equipment used to produce electricity, steam and chilled water, or an affiliate engaged solely in the

provision of such electricity, steam and chilled water, where the electricity produced by such entity or its affiliate is primarily for the benefit of hospitals and nonprofit educational institutions, and where such plant or equipment was in operation before January 1, 1986 ; and provided further, that electric company shall not mean a corporation only transmitting and selling, or only transmitting, electricity unless such corporation is affiliated with an electric company organized under the laws of the commonwealth for the purpose of distributing and selling, or distributing only, electricity within the commonwealth.

“Electric service”, the provision of generation, transmission, distribution or ancillary services.

“End user”, any individual, corporation, firm or subsidiary of a firm that is an ultimate consumer of petroleum products and which, as part of its normal business practices, purchases or obtains petroleum products from a wholesaler or reseller and receives delivery of that product.

“Energy audit”, a determination of the energy consumption characteristics of a building or facility which identifies the type, size and rate of energy consumption of such building or facility and the major energy using systems of such building or facility; determines appropriate energy conservation maintenance and operating procedures; and indicates the need, if any, for the acquisition and installation of energy conservation measures or alternative energy property.

“Energy conservation”, shall include, but shall not be limited to, the modification of or change in the operation of real or personal property in a manner likely to improve the efficiency of energy use, energy conservation measures and any process to audit or identify and specify energy and cost savings.

“Energy conservation measures”, measures involving modifications of maintenance and operating procedures of a building or facility and installations therein, which are designed to reduce energy consumption in such building or facility, or the installation or modification of an installation in a building or facility which is primarily intended to reduce energy consumption.

“Energy conservation projects”, projects to promote energy conservation, including but not limited to, energy conserving modification to windows and doors; caulking and weatherstripping; combined heat and power facilities; insulation; automatic energy control systems; hot water systems; equipment required to operate variable steam, hydraulic and ventilating systems; plant and distribution system modifications including replacement of burners, furnaces or boilers; devices for modifying fuel openings; electrical or mechanical furnace ignition systems; utility plant system conversions; replacement or modification of lighting fixtures; energy recovery systems; and cogeneration systems.

“Energy efficiency”, the implementation of an action, policy or measure which entails the application of the least amount of energy required to produce a desired or given output.

“Energy management services”, a program of services, including energy audits, energy conservation measures, energy conservation projects or a combination thereof, and building maintenance and financing services, primarily intended to reduce the cost of energy and water in operating buildings, which may be paid for in whole or in part, by cost savings attributable to a reduction in energy and water consumption which result from such services.

“FERC”, the federal energy regulatory commission.

“Gas company”, a corporation organized for the purpose of making and selling or distributing and selling, gas within the commonwealth, even though subsequently authorized to make or sell electricity; provided, however, that gas company shall not mean an alternative energy producer.

“Generation”, the act or process of transforming other forms of energy into electric energy or the amount of electric energy so produced.

“Generation company”, a company engaged in the business of producing, manufacturing or generating electricity or related services or products, including but not limited to, renewable energy generation attributes for retail sale to the public.

“Generation facility”, a plant or equipment used to produce, manufacture or otherwise generate electricity and which is not a transmission facility.

“Generation service”, the provision of generation and related services to a customer.

“Green building”, a building, including but not limited to, homes, offices, schools, and hospitals constructed or renovated to incorporate design techniques, technologies, and materials that lessen its dependence on fossil fuels and minimize its overall negative environmental impact.

“Horizontal market power”, a situation in which 1 or a few market participants combined have undue concentration in the ownership of facilities at the same level in the chain of production resulting in the ability to influence price to his or their own benefit.

“ ISO -NE”, the independent system operator for New England .

“Mitigation”, all actions or occurrences which reduce the amount of money that a distribution company seeks to collect through the transition charge, including those amounts resulting from both matters within the company's control and from matters not wholly within the company's control; provided, however, that mitigation shall, in accordance with section 1G, include, but not be limited to, the following: (1) sales of capacity, energy, ancillary services, reserves, and emission allowances from generating facilities that are wholly or partly owned by the company; (2) sales of capacity, energy, ancillary services, reserves and emission allowances from generating facilities with which the

company has a power purchase agreement; (3) adjustments to the company's minimum obligations under purchase power agreements that decrease such obligations, such as those that may be obtained through contract buy-out or renegotiation; (4) residual value; (5) sales and voluntary write downs of company generation-related assets; (6) any market value in excess of net book value associated with the sale, lease, transfer or other use of the assets of the company unrelated to the provision of transmission service or distribution service at regulated prices, including, but not limited to, rights-of-way, property and intangible assets when the costs associated with the acquisition of those assets have been reflected in the company's rates for regulated service; provided, however, that the department of public utilities shall determine the market values based on the highest prices that such assets could reasonably realize after an open and competitive sale; and (7) any allowed refinancing of stranded assets or other debt obligations as provided by law.

"Non-renewable energy supply and resource development", shall include, but shall not be limited to, gasoline, natural gas, coal, nuclear energy, offshore and onshore petroleum and facilities related to the exploration, development, processing, transportation and distribution of such resources and programs established for the allocation of supplies of such resources and the development of supply shortage contingency plans.

"Petroleum products", propane, gasoline, unleaded gasoline, kerosene, #2 heating oil, diesel fuel, kerosene base jet fuel, and #4, 5 and 6 residual oil for utility and non-utility uses, and all petroleum derivatives, whether in bond or not, which are commonly burned to produce heat, power, electricity or motion or which are commonly processed to produce synthetic gas for burning.

"Primary energy source", fuels used, except during periods of maintenance or repair, for the generation of electric energy; provided, however, that primary energy source shall not include the minimum amounts of fuel required for ignition, start-up, testing, flame stabilization, and control uses, and minimum amounts of fuel required to alleviate or prevent unanticipated equipment outages and emergencies declared by the governor, directly affecting the public health, safety and welfare which would result from electric power outages.

"Renewable energy", (i) resources whose common characteristic is that they are nondepletable or are naturally replenishable but flow-limited; or (ii) existing or emerging non-fossil fuel energy sources or technologies, which have significant potential for commercialization in New England and New York, and shall include the following: solar photovoltaic or solar thermal electric energy; wind energy; ocean thermal, wave, or tidal energy; geothermal; fuel cells; landfill gas; waste-to-energy which is a component of conventional municipal solid waste plant technology in commercial use; naturally flowing water and hydroelectric; and low emission advanced biomass power conversion technologies using such fuels such as wood, by-products or waste from agricultural crops, food or animals, energy crops, biogas, liquid biofuel including but not limited to biodiesel, organic refuse-derived fuel, or algae; provided, however, that renewable energy supplies shall not include coal, oil, natural gas except when used in fuel cells, and nuclear power.

“Reseller”, a person, corporation, firm or subsidiary of any firm that carries on the trade or business of purchasing petroleum products and reselling them without substantially changing their form, or any wholesaler or retail seller of electricity or natural gas.

“Residual value”, the value of electric company assets, not including the income which may be obtained through generation facility operation.

“Retail access”, the use of transmission and distribution facilities owned by a transmission company or a distribution company to transmit or distribute electricity from a generation company, supplier or aggregator to retail customers.

“Retail customer”, a customer who purchases electricity for its own consumption.

“Securitization”, the use of rate reduction bonds to refinance debt and equity associated with transition costs under section 1H.

“Service territory”, the geographic area in which a distribution company provided distribution service on July 1, 1997 .

“Small power production facility”, a facility which is any electrical generating unit which produces electric energy solely by the use, as a primary energy source, of biomass, waste, wind, water, wood, geothermal, solar energy or any combination thereof, or produces gas if it is produced from coal, biomass, solid waste or wood, and has a power production capacity which, together with any other facilities located at the same site, is not greater than 30 megawatts.

“Steam distribution company”, a person, firm, partnership, association or private corporation organized or operating under the laws of the commonwealth with the primary purpose of operating a plant, equipment or facilities for the manufacture, production, transmission, furnishing or distribution of steam to or for the public for compensation within the commonwealth; provided, however, that steam distribution company shall not include: (i) an entity producing or distributing steam exclusively on private property and solely for use by the entity or the entity's tenant, and not for distribution or sale; or (ii) a company that produces and sells steam as a by-product of the production of electricity for sale in the wholesale electricity markets and does not own or operate pipelines off site of the generating facility for the distribution of steam.

“Supplier”, a supplier of generation service to retail customers, including power marketers, brokers and marketing affiliates of distribution companies, except that no electric company shall be considered a supplier.

“Supplying electricity in bulk”, engaging in the business of making and selling or distributing and selling electricity to electric companies, railroads, street railways or electric railroads, or to municipalities for municipal use or re-sale to their inhabitants, or to persons, associations or corporations under limitations imposed by special law or under section 90 or corresponding provisions of earlier laws.

“Transition charge”, the charge that provides the mechanism for recovery of an electric company's transition costs.

“Transition costs”, the embedded costs as determined under section 1H which remain after accounting for maximum possible mitigation, subject to determination by the department of public utilities.

“Transmission”, the delivery of power over lines that operate at a voltage level typically equal to or greater than 69,000 volts from generating facilities across interconnected high voltage lines to where it enters a distribution system.

“Transmission company”, a company engaging in the transmission of electricity or owning, operating or controlling transmission facilities; provided, however, that a transmission company shall provide transmission service to all generation companies, municipal lighting plants, suppliers and load aggregators in the commonwealth, whether affiliated or not, on comparable, nondiscriminatory prices and terms, under federal law and regulation.

“Transmission facility”, plant or equipment used for the transmission of electricity, as determined by the FERC under federal law and regulation.

“Transmission service”, the delivery of electricity to a retail customer, supplier, distribution company or wholesale customer by a transmission company.

“Unbundled rates”, rates designed to separate the costs of providing generation, the costs of transmission and distribution services, and transition and general access charges.

“Vertical market power”, a situation in which 1 or a few market participants, having joint ownership of facilities at differing levels of the chain of production, such as generation, transmission and distribution, possess the ability to use such joint ownership to influence price to his or their own benefit.

“Wholesaler”, a person, corporation, firm or any part or subsidiary of any firm which supplies, sells, transfers or otherwise furnishes petroleum products to resellers or end-users.

“Wholesale generation company”, a company engaged in the business of producing,

manufacturing or generating electricity for sale at wholesale only.

SECTION 58. Said section 1A of said chapter 164, as appearing in the 2006 Official Edition, is hereby amended by adding the following subsection:-

(f) Neither this section nor sections 1B to 1H, inclusive, shall preclude an electric company or a distribution company from constructing, owning and operating generation facilities that produce solar energy; provided, however, that such company shall not own or operate more than 25 megawatts of such facilities before January 1, 2009 , and 50 megawatts of such a facility after January 1, 2010 . No electric company or distribution company may recover costs associated with the construction of a generating facility producing solar energy without obtaining prior approval for the costs from the department. Upon the filing by an electric company or a distribution company of a petition for pre-approval of cost recovery for a solar energy generating facility, the department shall determine whether the proposal is consistent with the commonwealth's energy policy and could be used to satisfy, in part, the renewable energy portfolio standard requirements set forth in section 11F of chapter 25A. The department shall issue an order within 6 months after the date of filing by the electric company or distribution company. The department may adopt such rules and regulations as may be necessary to implement this subsection.

SECTION 59. Subsection (f) of section 1A of chapter 164 of the General Laws is hereby repealed.

SECTION 60. Section 1D of said chapter 164, as so appearing, is hereby amended by adding the following 3 paragraphs:-

Residential or small commercial customers: (a) initiating new utility service; (b) reinstating service following a change of residence or business location; (c) making an inquiry regarding their rates; or (d) seeking information regarding energy efficiency shall be offered the option to learn about their ability to enroll with a participating non-utility competitive supplier of energy. Customers expressing an interest in learning about their electric supply options shall be informed of offers available by participating non-utility competitive suppliers. The electric distribution company shall describe then available offers available through a method approved by the department.

Participating non-utility competitive suppliers of energy may list qualifying electric offers to provide electric generation service to residential and small commercial customers in each customer's utility bill. The department shall determine the manner such information is presented in customers' utility bills.

For electric suppliers who have chosen the complete billing method, the electric distribution company shall make timely payments to such suppliers in accordance with this paragraph. The distribution company shall: (a) bill all of the electric supplier's customers in a service class according to

complete billing; (b) pay such suppliers the full amounts due from customers for generation services in a time period consistent with the average payment period of the participating class of customer, less a percentage of such amounts that reflects the average of the uncollectible bills for the participating customer classes of the electric distribution company and other reasonable development, operating or carrying costs incurred, as approved by the department.

SECTION 61. Subsection (c) of section 1E of said chapter 164, as so appearing, is hereby amended by striking out, in line 34, the figure "2" and inserting in place thereof the following figure:- 2.5.

SECTION 62. Section 1F of said chapter 164, as so appearing, is hereby amended by striking out, in line 90, the word "division" and inserting in place thereof the following word:- department.

SECTION 63. Subparagraph (i) of paragraph (4) of section 1F of said chapter 164, as so appearing, is hereby amended by striking out the second paragraph.

SECTION 64. Said paragraph (4) of said section 1F of said chapter 164, as so appearing, is hereby further amended by striking out subparagraphs (ii) and (iii) and inserting in place thereof the following subparagraph:-

(ii) A residential customer eligible for low-income discount rates shall receive the service on demand. Each distribution company shall periodically notify all customers of the availability and method of obtaining low-income discount rates. An existing residential customer eligible for a low-income discount on the date of the start of retail access who orders service for the first time from a distribution company shall be offered basic service by that distribution company.

SECTION 65. Section 1G of said chapter 164, as so appearing, is hereby amended by striking out, in lines 366 and 367, the words "government regulations" and inserting in place thereof the following words:- telecommunications, utilities and energy.

SECTION 66. Section 47C of said chapter 164, as so appearing, is hereby amended by adding the following subsection:-

(l) The activities of a municipal lighting plant cooperative shall not be imputed to its individual members and the provision of energy brokering and other energy-related services by a municipal lighting plant cooperative to retail customers without any accompanying sale of electricity to such retail customers shall not constitute the supply of generation services by its members for the purposes of subsection (b) of section 47A.

SECTION 67. Section 76D of said chapter 164, as so appearing, is hereby amended by inserting after the word "companies", in lines 1 and 2, in line 14, the third time it appears, and in line 20, the

second time it appears, the following words:- , steam distribution companies.

SECTION 68. Said section 76D of said chapter 164, as so appearing, is hereby amended by inserting after the word “company”, in line 9, the following words:- , steam distribution company.

SECTION 69. Said chapter 164 is hereby further amended by striking out section 96, as so appearing, and inserting in place thereof the following section:-

Section 96. Companies, except steam distribution companies, subject to this chapter and their holding companies may, notwithstanding any other provisions of this chapter or of any general or special law, consolidate or merge with one another, or may sell and convey their properties to another of such companies or to a wholesale generation company and such other company may purchase such properties if such purchase, sale, consolidation or merger, and the terms thereof, have been approved, at meetings called therefor, by vote of the holders of at least two-thirds of each class of stock outstanding and entitled to vote on the question of each of the contracting companies, and that the department, after notice and a public hearing, has determined that such purchase and sale or consolidation or merger, and the terms thereof, are consistent with the public interest; provided, however, that in making such a determination the department shall at a minimum consider: proposed rate changes, if any; the long term strategies that will assure a reliable, cost effective energy delivery system; any anticipated interruptions in service; or other factors which may negatively impact customer service; and provided further, that the purchase or sale of properties by, or the consolidation or merger of, wholesale generation companies shall not require departmental approval.

SECTION 70. Section 116 of said chapter 164, as so appearing, is hereby amended by inserting after the word “secretary”, in line 2, the following words:- or municipal lighting plant manager.

SECTION 71. Said section 116 of said chapter 164, as so appearing, is hereby further amended by inserting after the word “removal,”, in lines 11 and 12, the following words:- the gas or electric company employing.

SECTION 72. Said section 116 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 16, the word “such” and inserting in place thereof the following words:- a duly authorized.

SECTION 73. Said section 116 of said chapter 164, as so appearing, is hereby further amended by adding the following sentence:- A gas or electric company may direct a duly authorized employee to restore meters, pipes, wires, fittings, works or service, consistent with the local bargaining agreement entered into by the company and the local bargaining unit to which the employee belongs.

SECTION 74. Section 134 of said chapter 164, as so appearing, is hereby amended by striking out, in lines 31, 51 and 75, the word “division” and inserting in place thereof, in each instance, the

following word:- department.

SECTION 75. The fourth paragraph of section 134 of said chapter 164, as so appearing, is hereby amended by striking out the last sentence.

SECTION 76. Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in lines 56 and 64, the words “standard offer” and inserting in place thereof, in each instance, the following word:- basic.

SECTION 77. Said section 134 of said chapter 164, as so appearing, is hereby further amended by striking out, in line 74, the words “standard offer” and inserting in place thereof the following words:- basic service.

SECTION 78. Said chapter 164 is hereby further amended by adding the following 6 sections:-

Section 138. As used in this section and sections 139 and 140, the following words shall, unless the context otherwise requires, have the following meanings:-

“Agricultural net metering facility”, a renewable energy generating facility operated as part of an agricultural business that generates electricity that does not have a generation capacity of more than 2 megawatts and is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the business.

“Agriculture”, the same meaning as provided in section 1A of chapter 128; provided, however, that when necessary, the commissioner of agricultural resources shall determine if a business is an agricultural business.

“Class I net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-hour charge in the ISO -NE load zone where the customer is located; (ii) distribution kilowatt-hour charge; (iii) transmission kilowatt-hour charge; and (iv) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25; and provided further, that credit for a Class I net metering facility not using solar or wind as its energy source shall be the average monthly clearing price at the ISO -NE.

“Class I net metering facility”, a plant or equipment that is used to produce, manufacture or otherwise generate electricity and that is not a transmission facility and that has a design capacity of 60 kilowatts or less.

“Class II net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-

hour charge in the ISO -NE load zone where the customer is located; (ii) distribution kilowatt-hour charge; (iii) transmission kilowatt-hour charge; and (iv) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

“Class II net metering facility”, an agricultural net metering facility, solar net metering facility, or wind net metering facility with a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt; provided, however, that a Class II net metering facility owned or operated by a customer which is a municipality or other governmental entity may have a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt per unit.

“Class III net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-hour charge in the ISO -NE load zone where the customer is located; (ii) transmission kilowatt-hour charge; and (iii) transition kilowatt-hour charge; provided, however, that if a customer is a municipality or other governmental entity, the credit shall be equal to the excess kilowatt-hours multiplied by the sum of (i), (ii) and (iii) and the distribution kilowatt-hour charge; and provided further, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

“Class III net metering facility”, an agricultural net metering facility, solar net metering facility, or wind-net-metering facility with a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts; provided, however, that a Class III net metering facility owned or operated by a customer which is a municipality or other governmental entity may have a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts per solar net metering or wind net metering unit.

“Customer”, a customer of a distribution company that is entitled to the net metering credits, including net metering facilities.

“Neighborhood”, a geographic area including and limited to a unique community of interests that is recognized as such by residents of such area and which, in addition to residential and undeveloped properties, may encompass commercial properties.

“Neighborhood net metering credit”, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company’s: (i) default service kilowatt-hour charge in the ISO -NE load zone where the customer is located; (ii) transmission kilowatt-hour charge; and (iii) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

“Neighborhood net metering facility”, a Class I, II or III net metering facility that: (i) is owned by, or serves the energy needs of, a group of 10 or more residential customers that resides in a single neighborhood and is served by a single distribution company; and (ii) is located within the same neighborhood as the customers that own or are served by the facility.

“Net metering”, the process of measuring the difference between electricity delivered by a distribution company and electricity generated by a Class I, Class II, Class III or neighborhood net metering facility and fed back to the distribution company.

“Renewable energy”, energy generated from any source that qualifies as a Class I or Class II renewable energy generating source under section 11F of chapter 25A; provided, however, that after conducting administrative proceedings, the department of energy resources, in consultation with the department of agriculture, may add technologies or technology categories.

“Solar net metering facility”, a facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a distribution company.

“Wind net metering facility”, a facility for the production of electrical energy that uses wind to generate electricity and is interconnected to a distribution company.

Section 139. (a) A distribution company customer that uses electricity generated by a Class I or Class II net metering facility may elect net metering as follows:

(1) If the electricity generated by the Class I or Class II net metering facility during a billing period exceeds the customer’s kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess Class I or Class II net metering credits shall be credited to the customer’s account. Credits may be carried forward from month to month. A Class I or Class II wind or solar net metering facility may designate customers of the same distribution company to which the Class I or Class II wind or solar net metering facility is interconnected and that are located in the same ISO -NE load zone to receive such credits in amounts attributed by the Class I or Class II wind or solar net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to such customers shall be in a form as the distribution company shall reasonably require.

(2) If the customer’s kilowatt-hour usage exceeds the electricity generated by the Class I or Class II net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company’s applicable rate.

(b) A distribution company customer that uses electricity generated by a Class III net metering facility may elect net metering as follows:

(1) If the electricity generated by the Class III net metering facility during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess Class III net metering credits shall be credited to the customer's account. Credits may be carried forward from month to month. A Class III net metering facility may designate customers of the same distribution company to which the Class III net metering facility is interconnected and that are located in the same ISO -NE load zone to receive such credits in amounts attributed to such customers by the Class III net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to such customers shall be in a form as the distribution company shall reasonably require. A distribution company may elect not to allocate such credits and instead may purchase net metering credits from the facility at the rates provided for in this subsection.

(2) If the customer's kilowatt-hour usage exceeds the electricity generated by the Class III net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company's applicable rate.

(c) The distribution portion of any Class I, Class II or Class III net metering credits and distribution company delivery charges displaced by a Class I, Class II or Class III net metering facility shall be aggregated by the distribution company and billed to all customers on an annual basis through a uniform per kilowatt-hour surcharge or surcharges.

(d) The distribution company shall impose tariffs, as may be approved from time to time by the department, regarding necessary interconnection studies and the type, costs and timeframe for installing metering and distribution system upgrades to accommodate these installations. Such tariffs shall require that all facilities maintain adequate insurance. Distribution companies shall be prohibited from imposing special fees on Class I net metering facilities, such as backup charges and demand charges, or additional controls or liability insurance, as long as the facility meets the other requirements of the interconnection tariff and all relevant safety and power quality standards.

Before providing net metering service under this section, a Class II or III net metering facility shall provide all necessary information to, and cooperate with, the distribution utility to which it is interconnected to enable the distribution utility to obtain the appropriate asset identification for reporting generation to ISO -NE.

(e) A Class I, II or III net metering facility or net metering customer shall not be: an electric utility, generation company, aggregator, supplier, energy marketer or energy broker, within the meaning of those terms as defined in sections 1 and 1F.

(f) The aggregate capacity of net metering shall not exceed 1 per cent of the distribution company's peak load. For the purpose of calculating the aggregate capacity, the capacity of a solar net metering facility shall be 80 per cent of the facility's direct current rating at standard test conditions

and the capacity of a wind net metering facility shall be the nameplate rating.

(g) The department shall adopt rules and regulations necessary to carry out this section.

Section 140. A neighborhood net metering facility shall elect net metering as follows:

(a) If the electricity generated by the neighborhood net metering facility during a billing period exceeds its kilowatt-hour usage during the billing period, the neighborhood net metering facility shall be billed for 0 kilowatt-hour usage and the excess neighborhood net metering credits shall be credited to those customers identified by the neighborhood net metering facility as being served by the same company to which the neighborhood net metering facility is interconnected, residing in the same neighborhood in which the neighborhood net metering facility is located and having an ownership interest in the neighborhood net metering facility. The amount of the excess neighborhood net metering credits to be attributed to each such customer shall be determined by the allocation provided by the neighborhood net metering facility. Credits may be carried forward by such customers from month to month. Written notice of the identity of the customers so designated and the allocation of the credits to be attributed to such customers shall be in such form as the distribution company shall reasonably require.

(b) The department shall adopt rules and regulations necessary to carry out this section, including, but not limited to, further defining the term “neighborhood” and limiting the number of customers that may be designated by neighborhood net metering facilities to receive neighborhood net metering credits.

Section 141. In all decisions or actions regarding rate designs, the department shall consider the impacts of such actions, including the impact of new financial incentives on the successful development of energy efficiency and on-site generation. Where the scale of on-site generation would have an impact on affordability for low-income customers, a fully compensating adjustment shall be made to the low-income rate discount.

Section 142. The department shall continue to remove any impediments to the development of efficient, low-emissions distributed generation, including combined heat and power, taking into account the need to appropriately allocate any associated costs in a fair and equitable manner. For the purposes of this section, “efficient, low-emissions” shall mean an efficiency of 60 per cent or greater on an annual basis and emissions lower than required by the department of environmental protection.

Section 143. (a) For the purposes of this section, the term “small municipal renewable energy generating facility” shall mean a generating unit that is designed for, or capable of, operating at a gross capacity of less than 10 megawatts and that qualifies as a Class I renewable energy generating source under section 11F of chapter 25A.

(b) Notwithstanding any general or special law to the contrary, a municipality may design, install, own and operate small municipal renewable energy generating facilities, sell any electricity generated from such facilities and sell any other marketable products resulting from its generation of renewable energy at such facilities, including electronic certificates created to represent the generation attributes, as defined in 225 CMR 14.02, of each megawatt hour of energy generated by the renewable energy facilities; provided, however, that no later than 15 days after the initiation of a procurement of services, equipment or materials related to a small municipal renewable energy generating facility and again no later than 15 days after the date that such small municipal renewable energy generating facility first produces electrical energy, said municipality shall submit a report to the department of public utilities and the department of energy resources detailing the costs of the small municipal renewable energy generating facility and a plan and forecast for the disposition of the facility's products. The department of energy resources shall annually issue a report containing information on small municipal renewable energy generating facilities, including the number, capacity, production and performance of such facilities and recommendations, if any, for additional legislative action to increase the benefits available to municipalities through ownership of renewable energy generating facilities. The department of energy resources shall submit such report, including drafts of legislation to implement recommendations within such report, to the joint committee on telecommunications, utilities and energy and the senate and house committees on ways and means not later than April 30 of each year.

(c) A municipality may issue from time to time bonds or notes in order to finance all or a portion of the costs of small municipal renewable energy generating facility projects authorized under this section. Notwithstanding any provision of chapter 44 to the contrary, the maturities of any such bonds issued by a municipality hereunder either shall be arranged so that for each issue the annual combined payments of principal and interest payable in each year, commencing with the first year in which a principal payment is required, shall be as nearly equal as practicable in the opinion of the municipal treasurer or shall be arranged in accordance with a schedule providing for a more rapid amortization of principal. The first payment of principal of each issue of bonds or of any temporary notes issued in anticipation of the bonds shall be not later than 5 years after the anticipated date of commencement of the regular operation of the small municipal renewable energy generating facilities financed thereby, as determined by the municipal treasurer, and the last payment of principal of the bonds shall be not later than 25 years from the date of the bonds. Indebtedness incurred under this section shall not be included in determining the limit of indebtedness of a municipality under section 10 of said chapter 44 but, except as otherwise provided in this subsection, shall be subject to the provisions of said chapter 44.

(d) A municipality shall procure any services required for the design, installation, improvement, repair and operation of small municipal renewable energy generating facilities authorized under this section, and acquire any equipment necessary in connection therewith, in accordance with the procurement requirements of chapter 30B as applicable. A municipality may procure any such services and equipment together as 1 procurement or as separate procurements thereunder.

(e) A municipality may establish an enterprise fund under section 53F1/2 of chapter 44 for the receipt of all revenues from the operation of small municipal renewable energy generating facilities authorized under this section to operate and all moneys received for the benefit of such small municipal renewable energy generating facilities, other than the proceeds of bonds or notes issued therefor. Such receipts shall be used to pay the costs of operation and maintenance of the small municipal renewable energy generating facilities, to pay the costs of future improvements and repairs thereto and to pay the principals and interest on any bonds or notes issued therefor.

SECTION 79. The General Laws are hereby further amended by inserting after chapter 164A the following chapter:-

CHAPTER 164B.

REGULATION OF STEAM DISTRIBUTION COMPANIES.

Section 1. For purposes of this chapter, the term “department” shall refer to the department of public utilities. The department shall have supervision of facilities operated by steam distribution companies for the sole purpose of ensuring public safety and shall establish reasonable rules and regulations pertaining to the construction and operation of steam distribution facilities and equipment used in manufacturing and transporting steam. The department shall keep itself informed as to the methods, practices, and condition of all facilities and equipment associated with the distribution of steam, including ducts and conduits, and shall make such examinations and investigations of the steam distribution system as necessary, including the adequacy of operation, maintenance and capital improvements to insure safe operation of facilities operated by a steam distribution company.

Section 2. Each steam distribution company shall file a certified copy of its certificate of incorporation and bylaws with the department. By March first of each year each company shall file a report on safety related matters as the department may specify, including but not limited to number, duration and causes of all steam leakage incidents, distribution system accidents and service outages, time elapsed between the incident and the return to service following a repair. The department may levy fines against a steam distribution company for failure to comply with regulations promulgated by the department. In determining the appropriateness of any fine, the department shall consider the seriousness of the violation and the good faith compliance efforts of the steam distribution company.

Section 3. The department shall provide written notice to the attorney general of any violation of this chapter. The department’s authority shall not diminish the authority of any municipality to regulate steam distribution, nor shall it diminish the authority of the department of public safety under chapter 146.

Section 4. Any entity operating a steam distribution system that does not meet the definition of a steam distribution company set forth in section 1 of chapter 164 shall be exempt from the

requirements of this chapter and section 18A of chapter 25 if the entity files a detailed inspection and maintenance plan with the department every 2 years.

SECTION 80. Section 17B of chapter 271 of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words “energy, as defined in paragraph (d) of section twelve of chapter one hundred and fifty-nine” and inserting in place thereof the following words:- cable or the department of public utilities.

SECTION 81. Section 22 of chapter 140 of the acts of 2005 is hereby amended by striking out the words “11C of chapter 25” and inserting in place thereof the following words:- 11I of chapter 25A.

SECTION 82. Section 23 of said chapter 140 is hereby amended by striking out the words “11C of chapter 25” and inserting in place thereof the following words:- 11I of chapter 25A.

SECTION 83. Commencing on July 1, 2009 , and continuing for a period of 5 years thereafter, each distribution company, as defined in section 1 of chapter 164 of the General Laws, shall be required twice in that 5 year period to solicit proposals from renewable energy developers and, provided reasonable proposals have been received, enter into cost-effective long-term contracts to facilitate the financing of renewable energy generation within the jurisdictional boundaries of the commonwealth, including state waters, or in adjacent federal waters. Distribution companies may also voluntarily solicit additional proposals over the 5 year period. The timetable and method for solicitation and execution of such contracts shall be proposed by the distribution company in consultation with the department of energy resources and shall be subject to review and approval by the department of public utilities. This long-term contracting obligation shall be separate and distinct from the electric distribution companies’ obligation to meet applicable annual renewable portfolio standard, hereinafter referred to as RPS, requirements, set forth in section 11F of chapter 25A of the General Laws.

For purposes of this section, a long-term contract is defined as a contract with a term of 10 to 15 years. In developing the provisions of proposed long term contracts, the distribution company shall consider multiple contracting methods, including long-term contracts for renewable energy certificates, hereinafter referred to as RECs, for energy, and for a combination of both RECs and energy. The electric distribution company shall select a reasonable method of soliciting proposals from renewable energy developers, which may include public solicitations, individual negotiations or other methods. The distribution company may decline to consider contract proposals having terms and conditions that it determines would require the contract obligation to place an unreasonable burden on the distribution company’s balance sheet. The distribution company shall consult with the department of energy resources regarding its choice of contracting methods and solicitation methods. All proposed contracts shall be subject to the review and approval of the department of public utilities.

The department of public utilities and the department of energy resources each shall adopt regulations consistent with this section. The regulations shall: (a) allow renewable energy developers

to submit proposals for long-term contracts conforming to the contracting methods specified in the second paragraph; (b) require that contracts executed by the distribution company under such proposals are filed with, and approved by, the department of public utilities before they become effective; (c) provide for an annual remuneration for the contracting distribution company equal to 4 per cent of the annual payments under the contract to compensate the company for accepting the financial obligation of the long-term contract, such provision to be acted upon by the department of public utilities at the time of contract approval; and (d) require that the renewable energy generating source to be used by a developer under the proposal meet the following criteria: (1) have a commercial operation date, as verified by the department of energy resources, on or after January 1, 2008; (2) be qualified by the department of energy resources as eligible to participate in the RPS program, under said section 11F of chapter 25A, and to sell RECs under the program; and (3) be determined by the department of public utilities to: (i) provide enhanced electricity reliability within the commonwealth; (ii) contribute to moderating system peak load requirements; (iii) be cost effective to Massachusetts electric ratepayers over the term of the contract; and (iv) where feasible, create additional employment in the commonwealth. As part of its approval process, the department of public utilities shall consider the attorney general's recommendations, which shall be submitted to the department of public utilities within 45 days following the filing of such contracts with the department of public utilities. The department of public utilities shall take into consideration both the potential costs and benefits of such contracts, and shall approve a contract only upon a finding that it is a cost effective mechanism for procuring renewable energy on a long-term basis.

Distribution companies shall not be obligated to enter into long-term contracts under this section that would, in the aggregate, exceed 3 per cent of the total energy demand from all distribution customers in the service territory of the distribution company. As long as the electric distribution company has entered into long term contracts in compliance with this section, it shall not be required by regulation or order to enter into contracts with terms of more than 3 years in meeting its applicable annual RPS requirements set forth in said section 11F of said chapter 25A, unless the department of public utilities finds that such contracts are in the best interest of customers; provided, however, that the electric distribution company may execute such contracts voluntarily, subject to the department of public utilities' approval.

An electric distribution company may elect to use any energy purchased under such contracts for resale to its customers, and may elect to retain RECs for the purpose of meeting the applicable annual RPS requirements set forth in said section 11F of said chapter 25A. If the energy and RECs are not so used, such companies shall sell such purchased energy into the wholesale spot market and shall sell such purchased RECs through a competitive bid process. Notwithstanding the foregoing, the department of energy resources shall conduct periodic reviews to determine the impact on the energy and REC markets of the disposition of energy and RECs hereunder, and may issue reports recommending legislative changes if it determines that actions are being taken that will adversely affect the energy and REC markets.

If the distribution company sells the purchased energy into the wholesale spot market and auctions the RECs as described in the fifth paragraph, the distribution company shall net the cost of payments made to projects under the long-term contracts against the proceeds obtained from the sale of energy and RECs, and the difference shall be credited or charged to all distribution customers through a uniform fully reconciling annual factor in distribution rates, subject to review and approval of the department of public utilities. The reconciliation process shall be designed so that the distribution company recovers all costs incurred under such contracts.

If the RPS requirements of said section 11F of said chapter 25A should ever terminate, the obligation to continue periodic solicitations to enter into long term contracts shall cease, but contracts already executed and approved by the department of public utilities shall remain in full force and effect.

On or before July 1, 2010 , and annually until the long-term contracting requirement expires, the department of energy resources shall assess whether the long-term contracting requirements set forth in this section reasonably support the renewable energy goals of the commonwealth as set forth in said section 11F of said chapter 25A, and whether the alternative compliance rate established under said section 11F should be adjusted accordingly.

The provisions of this section shall not limit consideration of other contracts for RECs or power submitted by a distribution company for review and approval by the department of public utilities.

If any provision of this section is subject to a judicial challenge, the department of public utilities may suspend the applicability of the challenged provision during the pendency of the judicial action until final resolution of the challenge and any appeals, and shall issue such orders and take such other actions as are necessary to ensure that the provisions that are not challenged are implemented expeditiously to achieve the public purposes of this provision.

SECTION 84. The secretary of energy and environmental affairs shall, in conjunction with the department of public utilities, implement an “energy pay and save”, hereinafter referred to as EPS, pilot program, allowing electric utility customers to purchase and install energy efficient or renewable energy products in their residences or commercial facilities by paying the cost of the system over time through an additional charge on the customer’s electricity bill. The cost of the products purchased under the pilot program shall be added to the electric utility customer’s utility bills in a form approved by the department, as a monthly EPS tariff, and shall be paid until the cost of purchase and installation of the products is paid off. The payment structure shall be implemented so that the charge on the electric utility customer’s utility bill shall be less than that customer’s energy savings over the course of each given year. Non-payment by the owner of the EPS tariff shall result in disconnection and a utility shall be entitled to recover the debt.

The pilot program shall be established with a minimum of 50 participants and a maximum of 200

participants. The maximum project size for the program shall be \$1,000 for commercial utility customers and \$500 for residential utility customers. Portable electrical cost measures shall not be funded. Quick pay options shall be investigated, allowing customers to have the option to pay off the entire balance of the amount financed on the first billing cycle. The program shall be funded from such sources as determined by the secretary of energy and environmental affairs and such funds shall be used to offset the cost of the program for the utilities, and as such payments for the purchases are paid to said utilities.

The pilot program shall be implemented on or before April 1, 2009 , and shall expire on December 31, 2009 . The secretary and the department shall issue a final report, which shall include the results of its review and analysis, to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means on or before July 31, 2010 .

SECTION 85. On or before April 1, 2009 , each electric distribution company shall file a proposed plan with the department of public utilities to establish a smart grid pilot program. Each such pilot program shall utilize advanced technology to operate an integrated grid network communication system in a limited geographic area. Each pilot program shall include, but not be limited to advanced ("smart") meters that provide real time measurement and communication of energy consumption, automated load management systems embedded within current demand-side management programs and remote status detection and operation of distribution system equipment. On or before April 1, 2009 , each electric distribution company shall file a proposal with the department of public utilities to implement a pilot program that requires time of use or hourly pricing for commodity service for a minimum of 0.25 per cent of the company's customers. A specific objective of the pilot shall be to reduce, for those customers who actively participate in the pilot, peak and average loads by a minimum of 5 per cent. The department shall work with the electric distribution companies to identify specific areas of study, and may incorporate and utilize information from past relevant studies or pilot programs. The department shall review and approve or modify such plans on or before August 1, 2010 . Plans which provide for larger numbers of customers and can show higher bill savings than outlined above shall be eligible to earn incentives as outlined in an approved plan. The programs filed by the distribution company shall include proposals for rate treatment of incremental program costs; provided, however, that such program costs shall be deemed by the department to be a cost of basic service and recovered in rates charged for basic service. Following the completion of the pilot programs, the secretary of energy and environmental affairs shall submit a report to the joint committee on telecommunications, utilities and energy not later than September 1, 2012 detailing the operation and results of such programs, including information concerning changes in consumer's energy use patterns, an assessment of the value of the program to both participants and non-participants and recommendations concerning modification of the programs and further implementation.

SECTION 86. The department of public utilities shall direct all distribution companies, as defined in section 1F of chapter 164 of the General Laws, to submit a plan within 60 days of the effective date

of this act providing for retail access to competitive sellers of renewable energy generation attributes, whether or not bundled with electricity. The department shall approve or modify such plan after an opportunity for notice and comment by all interested persons and shall ensure that such plan does not provide distribution companies with a market advantage over competitive suppliers of renewable energy generation attributes; provided, however, that if a distribution company provides retail access to competitive sellers of renewable energy generation attributes before the effective date of this act, it shall not be required to file a plan under this section.

SECTION 87. There is hereby established a special commission to consist of 3 members of the senate, 1 of whom shall be the senate chair for the joint committee on telecommunications, utilities and energy who shall serve as co-chair, and 1 of whom shall be appointed by the senate minority leader; 3 members of the house of representatives, 1 of whom shall be the house chair for the joint committee on telecommunications, utilities and energy who shall serve as co-chair, and 1 of whom shall be appointed by the house minority leader; the commissioner of energy resources or a designee; the secretary of energy and environmental affairs or a designee; and 3 persons to be appointed by the governor, 1 of whom shall be a representative of the waste-to-energy industry, and 1 of whom shall be a representative of a consumer advocacy organization, for the purpose of making an investigation and study relative to the burning of construction and demolition waste as it relates to the renewable energy portfolio standard program established by section 11F of chapter 25A of the General Laws. The commission shall report the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect by filing the same with the clerks of the senate and the house of representatives on or before July 1, 2009 .

SECTION 88. There shall be a green building plan commission to examine the environmental and economic impact of establishing a green building plan for the commonwealth. The members of the commission shall be as follows: the commissioner of energy resources or a designee; the director of housing and community development or a designee; the secretary of environmental affairs or a designee; the secretary of administration and finance or a designee; 2 members of the senate, 1 of whom shall be appointed by the senate minority leader; 2 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; the lieutenant governor or a designee, who shall be the chair of the commission; 1 person to be appointed by the Worcester Polytechnic Institute; 1 person to be appointed by the chancellor of the University of Massachusetts at Lowell; 1 person to be appointed by the president of the Massachusetts Institute of Technology; the director of the Massachusetts Technology Collaborative or a designee; 1 person to be appointed by the commissioner of the revenue; 1 person appointed by the Massachusetts Municipal Association; and a representative of the Boston Society of Architects. The chair shall have no vote except in the event of a tie vote. The commission shall file a report of its findings with the clerks of the senate and house of representatives not later than December 31, 2009 .

SECTION 89. There shall be a commission which shall study the siting of energy facilities in the commonwealth. The study shall include, but not be limited to, the following: (a) the development of a

procedure for coordinating and consolidating applications to construct generating facilities between and among the energy facilities siting board, the department of environmental protection and other appropriate agencies, to enable one-stop shopping for necessary permits or certificates or other appropriate streamlining of the permitting system; (b) the expansion of such coordinated procedures to other energy facilities, if appropriate; (c) possible changes to the energy facilities siting board's procedures for reviewing electric and gas transmission lines in light of recent and proposed changes in the structure and regulation of the electric and gas industries, including regional approaches to the siting of such facilities; (d) clarification of the energy facilities siting board's jurisdiction over the re-powering of existing generating facilities at existing sites and the appropriate standards for reviewing such re-powerings; (e) the development of coordinated procedures to examine the reuse of existing industrial sites for the development of generating facilities; (f) the issue of application fees paid by developers to the energy facilities siting board and the correlation of such fees to the board's procedures, as statutorily revised under this act, in reviewing such applications; provided, however, that the study shall include, but not be limited to, recommendations, if any, on reducing the application fee paid by developers to the board in light of the board's statutorily revised standards of review of such applications under this act; (g) the establishment of a site characterization and suitability commission within the department of environmental protection, which would promulgate criteria to be applied to sites included in an application before the energy facilities siting board and rule on suitability of a proposed site as before the application is approved; and (h) the possibility of requiring applicants to provide either (1) evidence that the proposed facility would employ the best available and most efficient technology to control and reduce water withdrawals, or (2) a description of the environmental impacts, costs and reliability of the water withdrawal method chosen and an explanation of why the proposed technology was chosen; (i) whether current laws and regulations do not adequately facilitate the siting of renewable and alternative energy facilities, or whether they make it more difficult to site renewable energy facilities than fossil-fueled energy facilities, and, if either is the case, to make recommendations for changes to such laws and regulations; and (j) whether renewable and alternative energy generating facilities other than a waste-to-energy facility should be allowed as of right on property zoned for industrial use.

The commission shall consist of the secretary of energy and environmental affairs or a designee, who shall be the chair of the commission; the secretary of housing and economic development or a designee; the commissioner of energy resources or a designee; the commissioner of environmental protection or a designee; the commissioner of conservation and recreation or a designee; the director of coastal zone management or a designee; the director of the department of fish and game or a designee; 1 member of the energy facilities siting board; 3 members of the house of representatives, 1 of whom shall be appointed by the house minority leader; 3 members of the senate, 1 of whom shall be appointed by the senate minority leader; 1 representative of the gas industry; and 2 representatives of ratepayers, 1 of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the senate president; and the following members who shall be appointed by the chair of the commission: 1 municipal official to be nominated by the Massachusetts Municipal Association; 2 representatives of environmental organizations, 1 of which shall be a land and water conservation

organization; 2 representatives of the alternative and renewable energy industry; 1 representative of the electric industry; and 2 representatives to be nominated by the AFL - CIO . The commission shall file a report with its finding, including any legislative and regulatory recommendations, with the clerks of the senate and house of representatives, the joint committee on telecommunications, utilities and energy and the senate and house committees on ways and means not later than 18 months after the effective date of this act.

SECTION 90. The department of energy resources shall establish a pilot program to assist consumers with the purchase of energy efficient items for residential home modifications, hereinafter referred to as the HEAT Loan Program. For the purposes of this program, energy efficient items shall include home insulation, new window installation, advanced programmable thermostats, micro-combined heat and power systems, fuel efficient furnaces, boilers, oil, gas, propane, or electric heating systems; solar, domestic or fuel efficient hot water systems; materials for insulation or sealing of a duct, attic, basement, rim joint or wall; pipe insulation for heating systems; or other retail items for use in a residential dwelling that increase the energy efficiency of the dwelling. In establishing the program, the department shall develop a list of qualified state or federally chartered banking institutions or credit unions that do business in the commonwealth and that are governed by chapter 167 or 171 of the General Laws as participatory lending institutions. For the purposes of this section, a qualified lending institution shall include a lending institution that is certified by the executive office of energy and environmental affairs and which shall offer zero and low interest loans for the purpose of enhancing the energy efficiency of a residential dwelling. The program shall be funded from that portion of the mandatory charge that is authorized by section 19 of chapter 25 of the General Laws and allocated to residential customers. Not less than \$5 million shall be made available to assist participating financial institutions in offering these loan products by or through interest rate write downs or other credit enhancement features. Loans offered under the program shall be offered to residential homeowners in the commonwealth solely for the purposes stated in this section.

The department shall make such loans available for purchases made on or after January 1, 2009 , but not later than December 31, 2009 . The department shall establish the rules and guidelines to carry out the purposes of this section, including, but not limited to, establishing applicant criteria, application forms and procedures, energy efficiency product requirements and lending institution tracking and reporting requirements. The department shall submit a report detailing the rules and guidelines and the program results to the joint committee on telecommunications, utilities and energy not later than June 30, 2010 .

SECTION 91. On or before January 1, 2011 , the department of public utilities, in consultation with the department of energy resources, shall file a report on the effectiveness of the programs administered under section 19 of chapter 25 of the General Laws. The report shall include a financial accounting of all funds incurred by and administered under the section, and any recommendations deemed appropriate by the department of public utilities, including but not limited to, the increase, reduction or elimination of any mandatory charges authorized under said section 19 of said chapter 25

as they may relate to programs and plans under sections 21 and 22 of said chapter 25; provided, however, that any recommendation for reduction or elimination should include a mechanism to ensure continued adequate funding for comprehensive low-income, demand side management and education programs. The report shall be filed with the clerks of the senate and house of representatives, the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means.

SECTION 92. The department of public utilities shall hold a public hearing and issue a report, not later than July 1, 2009 , relative to the maintenance and improvements of gate boxes of gas utilities located in the streets, roads or sidewalks. The report shall include, but not be limited to, an evaluation of the frequency of maintenance of gate boxes, the standards and practices employed by gas utilities to determine when maintenance of gate boxes is necessary, existing collaborations and communication between gas utilities and municipalities and state agencies when dealing with gate boxes on municipal and state roadways, and rate impacts and cost benefit analysis. The department shall report its findings, recommendations, any proposed penalties, and legislation, if any to the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means.

The department of public utilities shall hold a public hearing and issue a report, not later than July 1, 2009 , relative to maintenance and repair standards for distribution systems of investor-owned electric and gas utilities. The department shall investigate and report on the establishment of performance or prescriptive standards or both that provide for inspection cycles for all overhead and underground facilities designed to minimize or prevent service interruptions and ensure high quality, safe and reliable service through the maintenance of detailed compliance reporting by distribution companies and annual review by the department. The department shall consider cost, local geography and weather, applicable codes, national electric industry practices, sound engineering judgment and experience, and appropriate sanctions, including rate deductions or monetary fines for non-compliance. The department shall report its findings, recommendations and proposed legislation, if any, to the joint committee on telecommunications, utilities and energy, and the senate and house committees on ways and means.

SECTION 93. Notwithstanding any general or special law to the contrary, the department of energy resources shall make available monies from amounts collected through Alternative Compliance Payments established and administered under 225 CMR 14.00 adopted under section 11F of chapter 25A of the General Laws, in the form of grants or other financial incentives for the following: (a) the green communities program established under section 10 of said chapter 25A; (b) state or community colleges in the commonwealth engaged in developing renewable energy generation projects, energy generation demonstration and educational programs, or applied engineering teaching tools pertaining to energy generation; (c) commonwealth-based companies engaged in developing flywheel energy storage technologies; and (d) funding capital investments in new and existing generation units for the use of department of environmental protection approved

beneficial use determination paper derived fuels manufactured by Massachusetts corporations.

SECTION 94. The department of public utilities, in consultation with the department of energy resources, shall review and assess the effects of allowing electric and distribution companies to construct, own or operate solar generation facilities under subsection (f) of section 1A of chapter 164 of the General Laws. This report shall be completed and filed with the joint committee on telecommunications, utilities and energy, and the house and senate committees on ways and means, and the clerks of the senate and house of representatives not later than June 30, 2011 . This report shall include any legislative and regulatory recommendations including but not limited to continuation, expansion or elimination of any provisions of this program under said subsection (f) of said section 1A of said chapter 164.

SECTION 95. The merger or consolidation of holding companies under section 96 of chapter 164 of the General Laws that has been filed and approved by the Federal Energy Regulatory Commission before the effective date of this act shall not be subject to the requirements of said section 96 of said chapter 164.

SECTION 96. The department of energy resources, in consultation with the division of capital asset management and maintenance, shall establish, not later than July 1, 2009 , a methodology for use by agencies in assessing life-cycle costs that includes the requirements and assumptions set forth in subsections (a) and (b) of section 39D of chapter 7 of the General Laws.

SECTION 97. On or before December 31, 2009 , the energy advisory council appointed under section 22 of chapter 25 of the General Laws shall undertake, using third party experts, a study which examines the energy efficiency and demand response programs in the commonwealth, including all public and private funding sources. The study shall include an audit of all existing energy efficiency and demand response programs to identify the costs and benefits associated with such programs. Such third party experts shall not have any contractual relationship with an electric or natural gas distribution company doing business in the commonwealth or any affiliate of such company.

SECTION 98. Not later than September 1, 2009 , the department of public utilities shall establish terms and conditions under which a participating non-utility competitive supplier may be included in the program described in section 1D of chapter 164 of the General Laws.

SECTION 99. The Massachusetts Turnpike Authority shall develop a plan, in consultation with the executive office of transportation and the executive office of energy and environmental affairs, for the availability of alternative fuel at each fueling facility or service terminal on the Massachusetts Turnpike. The plan shall provide for the availability of alternative fuel at such locations not later than January 1, 2014 . If the authority determines that such availability is not feasible for any reason, including the status of leases it has with its tenants on the Massachusetts Turnpike, it shall report those findings, together with the reasons therefor and the status of similar plans or projects of adjacent

states, if any, to the senate and house committees on ways and means and the joint committee on transportation not later than January 31, 2009 .

SECTION 100. (a) The commissioner of energy resources, in consultation with the secretary of administration and finance, the secretary of transportation, the general manager of the Massachusetts Bay Transportation Authority, a representative of the regional transit authorities, the secretary of economic affairs, the secretary of energy and environmental affairs and the operation services division, shall develop a statewide master plan for the advancement of hybrid and alternative fuel vehicles, as defined in section 1 of chapter 90 of the General Laws, and related technology.

(b) The plan shall encompass a 10-year period, beginning in 2010, and shall be divisible in increments of not less than 5 years. The plan shall take into account the geographic diversity of the commonwealth, its present and projected demographics, present and projected transportation needs and infrastructure, and current, emerging and foreseeable alternative fuel and vehicle technologies, and may establish goals for areas such as the purchase and use of hybrid and alternative fuel vehicles, as well as the production, import action or distribution of alternative fuels.

(c) The plan shall identify strategies and corresponding methods of achieving its identified goals together with necessary administration and legislative actions. The plan shall be filed with the clerks of the senate and house of representatives not later than 18 months after the effective date of this act.

SECTION 101. The operational services division, in consultation with the executive office of transportation, the secretary of administration and finance, the department of energy resources, the Massachusetts Bay Transportation Authority and regional transit authorities, shall study the feasibility of developing and implementing a system to facilitate the bulk purchase of alternative fuel vehicles by the commonwealth and its political subdivisions. The study shall include, but shall not be limited to, the potential cost savings to be derived from such a system, the cost of the system administration, appropriate purchasers to participate in the system and the probability of utilization of the system by such purchasers.

The operational services division shall file its findings of the study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect, with the clerks of the senate and house of representatives not later then 1 year after the effective date of this act.

SECTION 102. The department of public utilities, in consultation with the department of energy resources, shall hold a public hearing to examine the impacts on the competitive retail electricity marketplace through the existing electric utility default service adjustment mechanism. This public hearing shall include an examination of all costs that are recovered from ratepayers through this charge and recommended changes to insure that appropriate price signals are sent to the marketplace in order for customers to make informed decisions about their energy consumption based

on price. The department of public utilities shall hold the public hearing not later than May 1, 2009 . The department of public utilities shall file a report of its findings, including any legislative or regulatory recommendations, with the joint committee on telecommunications, utilities and energy and with the clerks of the senate and the house of representatives not later than June 1, 2009 .

SECTION 103. Each electric distribution company under section 1D of chapter 164 of the General Laws shall file a compliance plan, complete with an effective date, indicating its compliance with the last paragraph of said section 1D of said chapter 164 within 3 months after the effective date of this act.

SECTION 104. The first report required to be filed by the division of green communities under subsection (f) of section 10 of chapter 25A shall be filed with the clerks of the senate and the house of representatives, the joint committee on telecommunications, utilities, and energy, and the senate and the house committees on ways and means not later than April 1, 2010 .

SECTION 105. (a) For the purposes of this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“Department”, the department of energy resources.

“Generator”, the person that owns, directly or indirectly, as determined by the department, the output from the renewable energy generating source that is located in the ISO -NE control area, as defined in section 1 of chapter 164 of the General Laws or in a control area adjacent to the ISO -NE control area.

“Person”, an individual, corporation, limited liability company, general or limited partnership, trust, association or other entity, or an agent of such person.

(b) A renewable energy generating source, as defined in subsection (b) of section 11F of chapter 25A of the General Laws, that is physically located in or relocated to a control area adjacent to the ISO -NE control area may qualify as an eligible renewable energy generating source under said section 11F; provided, however, that the renewable energy generated by such renewable energy generating source is delivered into and used by consumers within the ISO -NE control area.

(c) The delivery of renewable energy into the ISO -NE control area, as described in subsection (b), shall not qualify under the renewable portfolio standard, notwithstanding such delivery into the ISO -NE control area, unless the generator of such renewable energy: (1) initiates the import transaction pursuant to a spot market sale into the ISO -NE administered markets or under a bilateral sales contract with a purchaser of the renewable energy located in the ISO -NE control area by properly completing a North American Electric Reliability Corporation tag from the generator in the adjacent control area to either a node or zone in the ISO -NE control area; (2) complies with all ISO -NE rules

and regulations required to schedule and deliver the renewable energy generating source's energy into the ISO -NE control area; and (3) commits the renewable generating source as a committed capacity resource for the applicable annual period.

(d) During any period in which the generator is delivering renewable energy from the renewable energy generating source into the ISO -NE control area, and notwithstanding compliance with subsection (c), the renewable energy generated by the renewable energy generating source that is eligible for the renewable portfolio standard shall be limited to the lesser of the following: (1) the renewable energy actually generated by the renewable energy generating source; or (2) the renewable energy actually scheduled and delivered into the ISO -NE control area by the generator.

(e) The renewable portfolio standard credit applicable to the eligible renewable energy as determined under subsection (d) shall be reduced by any exports of energy from the ISO -NE control area made by the person seeking renewable portfolio credit for such renewable energy or any affiliate of such person, or any other person under contract with such person to export energy from the ISO -NE control area and deliver such energy directly or indirectly to such person.

(f) The department may adopt regulations and requirements to implement this section.

(g) The department shall assess the feasibility of implementing subsections (c) and (e) and report its findings along with proposed regulations for implementing these subsections in accordance with section 12 of chapter 25A, on or before November 1, 2008 .

(h) Subsections (c) and (e) shall take effect, subject to the provisions of section 12 of chapter 25A, after the report required under subsection (g) has been filed if the department has determined that it is feasible to implement these subsections.

SECTION 106. The department of housing and community development shall make recommendations regarding what supplemental state funds, if any, shall be expended for the federal Low Income Home Energy Assistance Program, under 42 U.S.C. § 8621 et seq., for the purpose of assisting low-income elders, working families and other households with the purchase of heating oil, propane, natural gas, electricity and other primary or secondary heating sources; provided, however, that any recommended expenditures in addition to any federal funding shall be made in accordance with the state plan submitted by the department of housing and community development in accordance with the federal program. The recommendations shall include recommended funding levels and funding sources. The department of housing and community development shall submit its first report on its recommendations to the joint committee on telecommunications, utilities and energy not later than October 1, 2009 , and shall file reports annually not later than October 1.

SECTION 107. The department of energy resources shall conduct a study of the fiscal impact, viability, statutory and regulatory barriers and long-term results of establishing and operating

municipal-owned electric utilities in the commonwealth. The study shall: (a) address any existing inequities or other barriers preventing the establishment of municipal-owned electric utilities in current statutes or regulations; (b) provide a financial overview of the purchase of an investor owned utility's assets by a municipality; and (c) include a review of the impact on: reliability; investor owned utility operations; municipal taxes; rates for both distribution company customers and municipal customers; lost revenues for investor owned utilities; effect on energy efficiency programs; the impact on capital borrowing; and impact on low-income customers.

There shall be a commission that shall advise the commissioner of energy resources with respect to this study. The commission shall be comprised of the commissioner or a designee who shall serve as chair, and 11 other members as follows: 4 of whom shall be appointed by the executive director of the Massachusetts Municipal Association, 3 of whom shall be from municipalities that are interested in establishing a municipal electric utility; 1 of whom shall be appointed by the attorney general and who shall be from the office of the attorney general; 1 of whom shall be appointed by the commissioner of the department of public utilities and who shall be from the department of public utilities; 1 of whom shall be a municipal finance expert recommended by the Massachusetts Taxpayers Foundation; 1 of whom shall be a representative of the Utility Workers of America; and 2 of whom shall be representatives to be appointed on a voluntary basis by the commissioner, 1 of whom shall be an executive from an investor-owned utility and the other of whom shall be an executive of an existing municipal electric utility. The department of energy resources shall submit the study to the joint committee on telecommunications, utilities and energy not later than January 1, 2009 .

SECTION 108. (a) On or before October 1, 2009 , the department of energy resources shall collaborate with the University of Massachusetts at Boston to establish an educational outreach pilot program designed for communities to further the goals set forth in this section. The pilot program shall include educational programs provided at the University of Massachusetts at Boston , community colleges and community centers. The pilot program shall include short courses designed for presentation at convenient times for communities, including evenings and weekends.

(b) The content of such courses shall include, but not be limited to, the following:

(1) the need for broad public-private collaboration to achieve the acceleration of customer-orientated energy efficiency and conservation programs;

(2) a short-term concentration on retrofitting existing energy control systems to achieve significant energy and financial savings as well recent advancements in this technology;

(3) the basic principles of personal financial accounting to demonstrate that capital investment should achieve the savings identified in clause (2);

(4) the demonstration of the major cost savings of instituting energy efficiency and conservation

programs, including demand side management planning, as compared with the costs of purchasing energy;

(5) existing programs available through public utilities, municipal lighting departments, municipal aggregators and other entities to assist customers with their energy reduction, including any prospective expansion thereof;

(6) the benefits to all energy users resulting from the reduction by individual users of their energy consumption, which reduces the burden on public utilities to procure increasing amounts of energy overall and at moments of peak usage; and

(7) any additional benefits as energy usage becomes more sustainable in the commonwealth.

(c) In preparing and revising the syllabus for such courses, the University of Massachusetts at Boston , shall periodically consult with the department of energy resources, other governmental entities and public utilities to receive feedback about the program. Public utilities may provide instructors for such courses.

(d) The department of energy resources shall issue a report detailing the progress of the pilot program to the clerks of the senate and the house representatives, the joint committee on telecommunications, utilities and energy, and the senate and house committee on ways and means, on or before October 1, 2010 .

SECTION 109. Notwithstanding any general or special law to the contrary, the department of public utilities shall open an investigation and study relative to off-the-record ex-parte communications in any contested, on-the-record proceeding before the department. The department shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the senate and the house of representatives who shall forward the same to the chairs of the joint committee on telecommunications, utilities and energy on or before April 1, 2009 .

SECTION 110. Notwithstanding subsection (c) of section 19 of chapter 25 of the General Laws, for 3 years after the expiration of each electric or gas company efficiency plan or agreement in place as of January 1, 2008 , the amount and percentage allocated to the low-income residential subclass for the electric or gas company shall not be reduced to less than the amount provided under law, guidelines and agreements in force as of January 1, 2009 .

SECTION 111. The first plans required under section 21 of chapter 25 of the General Laws shall be prepared and submitted to the energy efficiency advisory council on or before April 30, 2009. The electric and natural gas distribution companies and municipal aggregators shall submit these plans, together with the energy efficiency advisory council's approval or comments and a statement of any

unresolved issues, to the department of public utilities on or before October 31, 2009 .

SECTION 112. Not later than March 1, 2009 , the department of environmental protection, in consultation with the department of energy resources, shall adopt regulations for the implementation of section 22 of chapter 21A of the General Laws.

SECTION 113. Clause (i) of paragraph (1) of subsection (c) of section 22 of chapter 21A of the General Laws shall not impact any enforceable multiyear agreements effective during the period from January 1, 2007 , through the implementation of the Regional Greenhouse Gas Initiative, as defined in said section 22 of said chapter 21A.

SECTION 114. Said clause (i) of said paragraph (1) of said subsection (c) of said section 22 of said chapter 21A shall be effective for tax years beginning on or after January 1, 2009 and shall expire on December 31, 2011 .

SECTION 115. Notwithstanding paragraph (2) of subsection (c) of section 22 of chapter 21A of the General Laws, the department of environmental protection may withhold from auction such allowances of vintage years 2009 to 2012, inclusive, as may be necessary to provide a transition to the Regional Greenhouse Gas Initiative from the program established under 310 CMR 7.29.

SECTION 116. (a) It is hereby established that the commonwealth's renewable and alternative energy and energy efficiency goals are as follows:-

(1) meet at least 25 per cent of the commonwealth's electric load, including both capacity and energy, by the year 2020 with demand side resources including: energy efficiency, load management, demand response and generation that is located behind a customer's meter including a combined heat and power system with an annual efficiency of 60 per cent or greater with the goal of 80 per cent annual efficiency for combined heat and power systems by 2020;

(2) meet at least 20 per cent of the commonwealth's electric load by the year 2020 through new, renewable and alternative energy generation;

(3) reduce the use of fossil fuel in buildings by 10 per cent from 2007 levels by the year 2020 through the increased efficiency of both equipment and the building envelope;

(4) develop a plan to reduce total energy consumption in the commonwealth by at least 10 per cent by 2017 through the development and implementation of the green communities program, established by section 10 of chapter 25A of the General Laws, that utilizes renewable energy, demand reduction, conservation and energy efficiency. Not later than September 1 of each year, the secretary of energy and environmental affairs shall establish an annual reduction target for the commonwealth for the following calendar year.

(b) The secretary of energy and environmental affairs shall prepare, with the assistance of the energy advisory board established under subsection (c), a 5-year plan for meeting the renewable and alternative energy and energy efficiency goals of the commonwealth. The plan shall include strategies to meet each of the goals and shall also address the following topics:

(1) reduction of energy use in state buildings;

(2) reduction of energy use in municipal buildings;

(3) equitable distribution of program benefits to all customers and particularly low income customers to address the affordability and adverse impacts on low-income households of energy costs and demand mitigation strategies, and mitigation of such adverse impacts, such as by compensating adjustments to the low-income rate discount;

(4) the use of investment tax credits and tax policy generally to encourage investment in energy efficiency and renewable and alternative technologies;

(5) increased generation and use of renewable and alternative energy;

(6) the coordination and integration of programs within the commonwealth and with regional efforts carried out by other New England states; and

(7) progress towards improving the efficiency of buildings and mechanical systems on an all-fuels basis including, electric, gas and oil.

(c) The secretary of energy and environmental affairs shall appoint an advisory board to assist in the development and review of the plan. The board shall meet at the call of the secretary. The secretary shall submit the plan to the speaker of the house of representatives, the president of the senate, the senate and house committees on ways and means, and the joint committee on telecommunications, utilities and energy.

(d) The 5-year plan shall designate the agency responsible for implementation of each strategy and shall include timelines, performance standards, specific regulatory or legislative changes, evaluation procedures and additional budget requirements.

SECTION 117. Section 21 of chapter 21A of the General Laws shall take effect on July 1, 2008 .

SECTION 118. Subsections (c), (d) and (e) of section 11F of chapter 25A of the General Laws shall take effect on January 1, 2009 .

SECTION 119. Subsection (a) of section 11F1/2 of chapter 25A of the General Laws shall take effect on January 1, 2009 .

SECTION 120. Subsection (o) of chapter 143 of the General Laws shall take effect 6 months after the effective date of this act.

SECTION 121. Section 5 shall take effect 1 year after the effective date of this act.

SECTION 122. Section 59 shall take effect on June 30, 2012 .

SECTION 123. Section 53 shall take effect 3 years after the effective date of this act

SECTION 124. Section 80 shall take effect on April 10, 2007.

Approved July 2, 2008.

**Acts**
2008**CHAPTER 206** AN ACT RELATIVE TO CLEAN ENERGY BIOFUELS.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate production and use of clean biofuels to reduce oil dependence and greenhouse gas emissions in the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Chapter 64A of the General Laws is hereby amended by striking out section 1, as appearing in the 2006 Official Edition, and inserting in place thereof the following 2 sections:-

Section 1. As used in this chapter, the following words shall, unless the context otherwise requires, have the following meanings:-

“Appellate tax board”, the board established by section 1 of chapter 58A.

“Average price”, the weighted average selling price per gallon of fuel exclusive of federal and state motor fuel taxes imposed thereon sold by licensees, as determined by the commissioner on a consistent basis from information furnished by distributors, unclassified exporters and unclassified importers with their monthly returns and from other statistical data reflecting the average level of such prices at the time such determination is made.

“Cellulosic biofuel”, fuel that may be used in place of petroleum-based fuel derived from cellulose, hemicellulose or lignin derived from renewable biomass.

“Commissioner”, the commissioner of revenue.

“Department”, the department of energy resources within the executive office of energy and environmental affairs.

“Distributor”, shall include: (1) any person qualified to do business in the commonwealth who produces, refines, manufactures or compounds fuel, as herein defined, or any person who operates a port or pipe line terminal within the commonwealth for the receipt of fuel, as herein defined; and (2) any person who elects to qualify as a distributor by importing into the commonwealth or by receiving within the commonwealth fuel, as herein defined, by pipe line, vessel, tank car or tank truck lots, for resale in pipe line, vessel, tank car or tank truck lots; provided, that no person under clause (2) shall qualify as a distributor unless his facilities is regularly used for the receipt and storage of fuel, as herein defined, are such that not less than 25,000 gallons may be stored in the aggregate, at 1 location within the commonwealth; and provided, further, that at least 75 per cent of the fuel imported or received by him is sold to others for resale exclusive of sales to government instrumentalities.

“Eligible cellulosic biofuel”, cellulosic biofuel that yields at least a 60 per cent reduction in lifecycle greenhouse gas emissions relative to average lifecycle greenhouse gas emissions for petroleum based fuel sold in 2005, as determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Feedstock”, raw material used to produce a fuel.

“Fuel”, all products commonly or commercially known or sold as gasoline, including casing-head and absorption or natural gasoline, regardless of their classification or uses; and any liquid prepared, for American Society Testing Materials Method D-86, not more than 9 per cent at 176° Fahrenheit, and which have a distillation range of 150° Fahrenheit, or less, or liquefied gases which would not exist as advertised, offered for sale, or sold for use as or commonly and commercially used as a fuel in internal combustion engines, which when subjected to distillation in accordance with the standard method of test for distillation of gasoline, naphtha, kerosene and similar petroleum products (American Society for Testing Materials Designation D-86) show not less than 10 per cent distilled (recovered) below 347° Fahrenheit (175° Centigrade) and not less than 95 per cent distilled (recovered) below 464° Fahrenheit (240° Centigrade); provided, that the term “fuel” shall not include industrial solvents or naphthas which distill, by said American Society liquids at a temperature of 60° Fahrenheit and a pressure of 14.7 pounds per square inch absolute. For the purposes of this chapter, “fuel” shall include products sold or used as fuel for aircraft, except aircraft fuel as defined in section 1 of chapter 64J.

“Lifecycle greenhouse gas emissions”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from and use changes, as determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“Low carbon fuel standard”, a requirement that the average lifecycle greenhouse gas emissions attributable to use of energy in an economic sector are equal to or less than a specified numeric level, or a similar standard or system, such as the requirement contained in California Executive Order S-1-07. The level may be stated as units of greenhouse gas emissions per unit of delivered energy, corrected for differences in the efficiency of the energy in the particular end use; for example the difference between efficiency of a gasoline engine and an electric motor in powering a vehicle. The standard may apply to energy used in motor vehicles or to another energy consuming sector.

“Motor vehicle”, shall include any vehicle propelled by any power other than muscular, except boats, tractors used exclusively for agricultural purposes and such vehicles as run only on rails or tracks.

“Purchaser”, shall include, in addition to its usual meaning, a distributor and unclassified importer in the case of a transfer of fuel by a distributor or an unclassified importer into a motor vehicle, or into a receptacle from which fuel is supplied by him to his own or other motor vehicles.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and

demolition debris; and algae, or as otherwise determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs. "Sale", shall include, in addition to its usual meaning, the transfer of fuel by a distributor or an unclassified importer into a motor vehicle or into a receptacle from which fuel is supplied by him to his own or other motor vehicles.

"Tax per gallon", shall be 21 cents per gallon. For aviation fuel, "tax per gallon" shall mean $7\frac{1}{2}$ per cent of the average price, as determined by the commissioner, for each calendar quarter, computed to the nearest tenth of a cent per gallon; provided, however, that such tax shall not be less than 10 cents per gallon.

"To sell", in all of its moods and tenses, shall refer to a sale as herein defined.

"Unclassified importer", any person who imports or causes to be imported fuel, as herein defined, for use, distribution or sale in the commonwealth, but who does not qualify as a distributor.

"Unclassified exporter", any person licensed as a distributor in another state who exports or causes to be exported fuel, as herein defined, for use, distribution or sale outside the commonwealth, but who does not qualify as a distributor.

"Waste feedstock", previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater or grease trap waste. Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

Section 1A. Notwithstanding the definition of "tax per gallon" in section 1 and subject to section 20 of chapter 29, for fuel consisting of eligible cellulosic biofuel or of a blend of gasoline and eligible cellulosic biofuel, the tax per gallon shall be reduced in proportion to the percentage of the fuel content consisting of eligible cellulosic biofuel, measured by available energy content, as determined by the department of energy resources, hereinafter referred to as the department.

Manufacturers and wholesale distributors of cellulosic biofuel who seek to have their fuel classified as eligible cellulosic biofuel shall provide documentation satisfactory to the department that such fuel yields at least a 60 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum-based fuel displaced.

In determining the percentage reduction in lifecycle greenhouse gas emissions relative to petroleum-based fuel achieved by particular supplies of cellulosic biofuel, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal government, foreign governments, academic research and private and non-profit organizations.

If the department determines through an initial review that a waste feedstock will yield at least a 60 per

cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste and meets any other conditions established by the department, the department may exempt fuel produced from such a feedstock from a full lifecycle greenhouse gas emissions analysis.

The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall promulgate rules and regulations necessary to carry out the provisions of this section.

SECTION 2. Chapter 94 of the General Laws is hereby amended by inserting after section 249H the following section:—

Section 249H1/2. (1) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:-

“BQ-9000”, the National Biodiesel Accreditation Program for producers and marketers of biodiesel fuel, operated by the National Biodiesel Accreditation Commission.

“Commissioner”, the commissioner of the department of energy resources.

“Department”, the department of energy resources within the executive office of energy and environmental affairs.

“Eligible petroleum distillate substitute fuel”, petroleum distillate substitute fuel that yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions relative to average lifecycle greenhouse gas emissions for petroleum distillate fuel sold in 2005, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Feedstock”, the raw material used to produce a fuel.

“Lifecycle greenhouse gas emissions”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“Low carbon fuel standard”, a legal requirement that the average lifecycle greenhouse gas emissions attributable to use of energy in an economic sector are equal to or below a specified numeric level, or a similar standard or system, such as the requirement contained in California Executive Order S-1-07. The level may be stated as units of greenhouse gas emissions per unit of delivered energy, corrected for differences in the efficiency of the energy in the particular end use; for example the difference between efficiency of a gasoline engine and an electric motor in powering a vehicle. The standard may apply to energy used in motor vehicles or to another energy consuming sector.

“Petroleum distillate substitute fuel”, fuel that is derived predominantly from renewable biomass; and meets American Society for Testing and Materials specifications for use in home heating applications, or such other quality certification standards as are approved by the department. For industrial and commercial applications, the department may substitute operational performance requirements that it determines are acceptable.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and demolition debris; and algae, or as otherwise determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Waste feedstock”, previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater or grease trap waste. Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

(2) Manufacturers and wholesale distributors of petroleum distillate substitute fuel who seek to have their fuel classified as eligible petroleum distillate substitute fuel shall provide documentation satisfactory to the department that such fuel yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum distillate fuel displaced.

In determining the percentage lifecycle greenhouse gas reductions achieved by particular fuels, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal government, foreign governments, academic research and private and non-profit organizations.

If the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, determines through an initial review that a particular waste feedstock will clearly yield at least a 50 per cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste, and meets any other conditions set by regulations promulgated by the department, the department may exempt fuel produced from such a material from a full lifecycle greenhouse gas emissions analysis.

For supplies that the department determines meet the criteria above for reductions in greenhouse gas emissions, the department shall certify the supplies as eligible petroleum distillate substitute fuel and shall provide documentation or certificates to suppliers of such fuel showing the number of gallons of neat eligible petroleum distillate substitute fuel supplied. The department shall, by regulation, determine which suppliers the documentation shall apply to, and shall create a mechanism for tracking such supplies.

(3) Except as provided in paragraph (4), the following shall apply to all number 2 petroleum distillate fuel and all other liquid fuel sold as a substitute for number 2 distillate fuel, offered for sale to end-users, retail sellers or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in residential, commercial or industrial heating applications. Such fuel must contain at least 2 per cent eligible petroleum distillate substitute fuel, measured by available energy content or as otherwise provided by the department, no later than July 1, 2010. Except as provided in subsection (4), all such fuel must contain at least 3 per cent eligible petroleum distillate substitute fuel no later than July 1, 2011, 4 per cent eligible petroleum distillate substitute fuel no later than July 1, 2012, and 5 per cent eligible petroleum distillate substitute fuel no later than July 1, 2013.

The department shall study the feasibility of applying the percentage requirements above to number 4 and number 6 petroleum distillate fuel, including whether blends of eligible petroleum distillate substitute fuel with number 4 or number 6 petroleum distillate fuel will operate correctly in applicable heating equipment. If the department determines that doing so is feasible, it shall extend the percentage requirements above to number 4 and number 6 petroleum distillate fuel.

The department may delay these implementation dates for the period of time which it determines, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible petroleum distillate substitute fuel to end-use consumers is not feasible due to lack of supply, lack of blending facilities or unreasonable cost. If the department delays implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days of such decision with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, the joint committee on environment, natural resources and agriculture and the joint committee on transportation explaining the reasons for any such decision to delay implementation.

If a low carbon fuel standard or a similar standard or system, that will achieve equal or greater reductions in greenhouse gas emissions to the minimum content requirement for eligible petroleum distillate substitute fuel specified by this section, is adopted by the commonwealth, or a standard applying to the commonwealth is adopted by the federal government; then at least 60 days prior to the effective date of the standard the department of environmental protection shall submit a statement to the general court that the standard will become effective on the particular date, and the department of environmental protection's determination that the standard will achieve the specified reduction in emissions. If the general court takes no action, the minimum content requirement specified by this section shall expire on the date that the regulations implementing the standard or system becomes effective, or at such other date specified by the department, but in any case within 1 year of implementation of the regulations. If the department chooses an expiration date other than the effective date of the regulations it shall submit a statement to the general court explaining its reasons for doing so prior to said effective date.

(4) The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall study the feasibility, benefits and costs, including benefits and costs to consumers, producers and the state government, of making the percentage mandates in subsection (3) apply on a statewide average basis rather than for every gallon of petroleum distillate fuel sold for heating purposes. If the department determines that such a system is feasible and that its benefits substantially exceed its costs, the department shall have the authority to implement such a system. The department shall determine on which entities the percentage requirements shall be applied. If the department implements such a system, the department shall promulgate regulations allowing and tracking sales of certificates or other documentation from the department that show use of eligible petroleum distillate substitute fuel in the commonwealth. Entities may meet their percentage requirements for use of eligible petroleum distillate substitute fuel by purchasing certificates or other documentation, and such certificates may be re-sold.

(5) Manufacturers and wholesale distributors of eligible petroleum distillate substitute fuel, and of fuel blended from petroleum distillate and eligible petroleum distillate substitute, doing business in the commonwealth shall furnish samples of such products to the department, shall permit the entry and inspection by the department or the department of environmental protection of the premises of such manufacturers or distributors, and the inspection and sampling of fuel stored thereon.

(6) Manufacturers of eligible petroleum distillate substitute fuel that is sold in the commonwealth shall meet quality assurance criteria or accreditation requirements determined by the department, in consultation with the department of environmental protection. Manufacturers shall submit documentation of quality assurance or accreditation to the department by November 1, 2009, or at least 3 months prior to the date on which the department certifies their fuel as eligible petroleum distillate substitute fuel, and shall submit documentation to the department showing that their accreditation remains current every 2 years thereafter.

(7) The department shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for producers and wholesale distributors of petroleum distillate substitute fuel and petroleum distillate fuel blended with petroleum distillate substitute fuel operating in the commonwealth. If the department concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the department shall promulgate regulations to implement an accreditation requirement.

(8) The department shall promulgate regulations to implement the provisions of this section.

(9) No person shall sell or offer to sell petroleum distillate heating fuel in the commonwealth, including eligible petroleum distillate substitute fuel that does not conform to the provisions of this section.

(10) Notwithstanding section 249H, failure to comply with subsection (9) of this section shall constitute

an unfair or deceptive act under chapter 93A, and may be enforced as provided therein.

SECTION 3. Said chapter 94 is hereby further amended by inserting after section 295G the following section:—

Section 295G¹/₂. (1) As used in this section, the following words shall have the following meanings:—

“BQ-9000”, the National Biodiesel Accreditation Program for producers and marketers of biodiesel fuel, operated by the National Biodiesel Accreditation Commission.

“Commissioner”, the commissioner of the department of energy resources.

“Department”, the department of energy resources within the executive office of energy and environmental affairs.

“Diesel substitute fuel”, fuel that is derived predominantly from renewable biomass; that meets American Society for Testing and Materials specifications for use in diesel engines, or that meets such other quality certification standards as are approved by the department for the application involved. For diesel substitute fuel used in on-road motor vehicles, the fuel shall meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under section 211C of the Clean Air Act, 42 USC section 7545.

“Eligible diesel substitute fuel”, diesel substitute fuel that yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions relative to average emissions for petroleum-based diesel fuel sold in 2005, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Feedstock”, the raw material used to produce a fuel.

“Lifecycle greenhouse gas emission”, the aggregate quantity of greenhouse gas emissions, including direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“Low carbon fuel standard”, a legal requirement that the average lifecycle greenhouse gas emissions attributable to use of energy in an economic sector are equal to or below a specified numeric level, or a similar standard or system, such as the requirement contained in California Executive Order S-1-07. The level may be stated as units of greenhouse gas emissions per unit of delivered energy, corrected for differences in the efficiency of the energy in the particular end use; for example the difference between efficiency of a gasoline engine and an electric motor in powering a vehicle. The standard may apply to energy used in motor vehicles or to another energy consuming sector.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and

demolition debris; and algae, or as otherwise determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs. "Waste feedstock", previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater and grease trap waste. Waste feedstocks shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

(2) Manufacturers and wholesale distributors of diesel substitute fuel doing business in the commonwealth who wish to have their fuel classified as eligible diesel substitute fuel shall provide documentation satisfactory to the department that such fuel yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum-based diesel fuel displaced.

In determining the percentage lifecycle greenhouse gas reductions achieved by particular fuels, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal Environmental Protection Agency, foreign governments, academic research and private and non-profit organizations.

If the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, determines through an initial review that a particular waste feedstock will clearly yield at least a 50 per cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste, and meets any other conditions set by regulations promulgated by the department, the department may exempt fuel produced from such a material from a full lifecycle greenhouse gas emissions analysis.

For supplies that the department determines meet the criteria above for reductions in greenhouse gas emissions, the department shall, by regulation, certify the supplies as eligible diesel substitute fuel and shall provide documentation or certificates to suppliers of such fuel showing the number of gallons of neat eligible diesel substitute fuel supplied. The department shall, by regulation, determine which suppliers the documentation shall apply to, and create a mechanism for tracking such supplies.

(3) Except as provided in subsection (4), the following shall apply to all diesel motor vehicle fuel and all other liquid fuel used in motor vehicle diesel engines, offered for sale to end-users, retail sellers or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in transportation. All such fuel must contain at least 2 per cent eligible diesel substitute fuel, measured by available energy content or in such other manner as determined by the department no later than July 1, 2010. Except as provided in subsection (4), all such fuel must contain at least 3 per cent eligible diesel substitute fuel no later than July 1, 2011, 4 per cent eligible diesel substitute fuel no later than

July 1, 2012, and 5 per cent eligible diesel substitute fuel no later than July 1, 2013.

The department may delay these implementation dates for the period of time which it determines, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible diesel substitute fuel to end-use consumers is not feasible due to lack of supply, lack of blending facilities or unreasonable cost. If the department delays implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days of such decision with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, the joint committee on environment, natural resources and agriculture and the joint committee on transportation explaining the reasons for any such decision to delay implementation.

If a low carbon fuel standard or a similar standard or system, that will achieve equal or greater reductions in greenhouse gas emissions to the minimum content requirement specified by this section is adopted by the commonwealth, or a standard applying to the commonwealth is adopted by the federal government, then at least 60 days prior to the effective date of the standard, the department shall submit a statement to the general court that the standard shall become effective on the particular date, and the department of environmental protection's determination that the standard will achieve the specified reduction in emissions. If the general court takes no action, the minimum content requirement specified by this section shall expire on the date that the regulations implementing the standard or system becomes effective, or at such other date specified by the department, but in any case within 1 year of implementation of the regulations. If the department chooses an expiration date other than the effective date of the regulations it shall submit a statement to the general court explaining its reasons for doing so prior to said effective date.

(4) The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall study the feasibility, benefits and costs, including benefits and costs to consumers, producers and the commonwealth, of making the percentage mandates in subsection (3) apply on a statewide average basis rather than for every gallon of diesel motor fuel sold. If the department implements such a system, the department shall promulgate regulations allowing and tracking sales of certificates or other documentation from the department that show use of eligible diesel substitute fuel in the commonwealth. Entities may meet their percentage requirements for use of eligible diesel substitute fuel by purchasing certificates or other documentation, and such certificates may be re-sold.

(5) Manufacturers and wholesale distributors of eligible diesel substitute fuel, and of fuel blended from petroleum diesel and eligible diesel substitute, doing business in the commonwealth shall furnish samples of such products to the department, shall permit the entry and inspection by the division and department of the premises of such manufacturers or distributors and the inspection and sampling of

fuel stored thereon.

(6) Manufacturers of eligible diesel substitute fuel that is sold in the commonwealth shall meet quality assurance criteria or accreditation requirements determined by the department, in consultation with the department of environmental protection. Manufacturers shall submit documentation of quality assurance or accreditation to the department on or before November 1, 2009, or at least 3 months prior to the date on which the department certifies their fuel as eligible diesel substitute fuel, and must submit documentation to the department showing that their accreditation remains current every 2 years thereafter.

(7) The department shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for producers and wholesale distributors of diesel substitute fuel and petroleum-based motor fuel blended with diesel substitute fuel operating in the commonwealth. If the department concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the department shall promulgate regulations to implement an accreditation requirement.

(8) The department shall promulgate regulations to implement the provisions of this section.

(9) No person shall sell or offer to sell heating fuel, including eligible diesel substitute fuel, that does not conform to this section.

(10) Notwithstanding section 249H, failure to comply with subsection (9) shall constitute an unfair or deceptive act under the provisions of chapter 93A, and may be enforced as provided therein.

SECTION 4. The division of energy resources, in consultation with the department of revenue, shall promulgate regulations concerning the timing and form of documentation that will enable the department to determine the appropriate tax revenue to be collected pursuant to this act.

SECTION 5. There is hereby established a special commission to study the feasibility and effectiveness of various forms of incentives to promote the development and use of advanced biofuels in the commonwealth including, but not limited to: production credits, the production and harvesting of woody biomass or woody residue, feedstock incentives and direct consumer credits for the use of advanced biofuels in various applications. The commission shall be comprised of 11 members: 3 of whom shall be appointed by the speaker of the house of representatives, 1 of whom shall be the house chair of the joint committee on telecommunication, utilities and energy, who shall serve as co-chair; 1 of whom shall be appointed by the house minority leader; 3 of whom shall be appointed by the senate president, 1 of whom shall be the senate chair of the joint committee on telecommunication, utilities and energy, who shall serve as co-chair; 1 of whom shall be appointed by the senate minority leader; and 3 of whom shall be appointed by the governor, 1 of whom shall be the secretary of the executive office of energy and environmental affairs, or his designee, and 1 of whom shall be

employed by a company that works in the field of advanced biofuels. In conducting its investigation and study, the commission shall consider biofuel incentive programs in other states and the commonwealth's relative competitiveness in the field.

The commission shall report to the general court the results of its investigation and study and its recommendations, if any, together with drafts of legislation necessary to carry its recommendations into effect, by filing the same with the clerks of the house of representatives and the senate, who shall forward the same to the joint committee on telecommunications, utilities and energy and the house and senate committees on ways and means on or before March 31, 2009 .

SECTION 6. The governor and the secretary of energy and environmental affairs shall develop and enter into, to the extent possible, an agreement among those states participating in the Regional Greenhouse Gas Initiative, for the purpose of implementing a low carbon fuel standard hereinafter referred to as LCFS, for transportation fuels; provided, however, that when possible:

- (1) the LCFS shall be measured on a full fuels cycle basis;
- (2) the LCFS may be met through market-based methods by which providers exceeding the performance required by an LCFS shall receive credits that may be applied to future obligations or traded to providers not meeting the LCFS;
- (3) the agreement shall establish a declining standard for greenhouse gas emissions measured in CO₂-equivalent grams per unit of fuel energy sold, sufficient to achieve a 10 per cent reduction in the carbon content of all passenger vehicle fuels sold in participating states; and
- (4) the commonwealth shall, with the other states participating in the agreement, examine the regulations and implementation of a low carbon fuel standard in California and other states and shall consider ways to coordinate and issue public findings on both such matters, and shall, if applicable, use in the agreement the life-cycle analysis methods employed by the California Air Resources Board to determine the carbon intensity of fuel.

SECTION 7. There shall be a special commission to investigate and develop a strategy to increase the use of advanced biofuels as alternatives to conventional carbon-based fuels by the commonwealth, its agencies and political subdivisions and regional transit authorities.

The commission shall consist of the secretary of administration and finance or his designee, the secretary of energy and environmental affairs, who shall serve as the chair, the commissioner of energy resources, commissioner of the department of public utilities, the commissioner of revenue or his designee, the general manager of the Massachusetts Bay Transportation Authority or his designee, and 6 members to be appointed by the governor, 2 of whom shall represent the Massachusetts Municipal Association, 2 of whom shall represent regional transit authorities, 1 of whom shall represent environmental organizations in the commonwealth, and 1 of whom shall represent suppliers of motor fuels in the commonwealth.

The commission shall develop strategies to increase the use of advanced biofuels by the commonwealth, its agencies and political subdivisions and regional transit authorities and methods to advance those strategies. Methods to be considered shall include, but not be limited to: financing mechanisms including grants, loans and other incentive programs for group procurement of advanced biofuels, vehicles using advanced biofuels and distribution infrastructure and technical assistance.

The commission shall file a report detailing its strategies and methods and its recommendations, if any, and cost estimates together with drafts of legislation necessary to carry those recommendations into effect by filing the same with the clerks of the senate and house of representatives on or before April 15, 2009.

SECTION 8. Section 1 shall be effective for tax years beginning January 1, 2009 and ending December 31, 2017.

Approved July 28, 2008



Acts
2008

CHAPTER 298 AN ACT ESTABLISHING THE GLOBAL WARMING SOLUTIONS ACT.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Section 19 of chapter 6A of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out subsection (f) and inserting in place thereof the following 2 subsections:-

(f) The secretary shall collaborate with other state agencies to reduce greenhouse gas emissions to achieve the greenhouse gas emission limits established in chapter 21N.

(g) Nothing in this chapter shall be construed to confer any powers or impose any duties upon the secretary with respect to the foregoing agencies and authorities except as expressly provided by law.

SECTION 2. Section 1 of chapter 16 of the General Laws, as so appearing, is hereby amended by striking out subsection (d) and inserting in place thereof the following 2 subsections:-

(d) The commissioner shall collaborate with other state agencies to reduce greenhouse gas emissions to the limits established in chapter 21N.

(e) The commissioner may promulgate rules and regulations to effectuate the purposes of this chapter.

SECTION 3. Section 2 of chapter 21A of the General Laws, as so appearing, is hereby amended by adding the following clause:-

(30) consistent with chapter 21N, oversee state agency efforts to address and diminish the impacts of climate change by coordinating state agency actions to achieve the greenhouse gas emissions limits established in chapter 21N.

SECTION 4. Section 8 of said chapter 21A, as so appearing, is hereby amended by inserting after the second paragraph the following paragraph:-

The department of environmental protection shall assist in the implementation of chapter 21N.

SECTION 5. Section 16 of said chapter 21A, as so appearing, is hereby amended by adding the following paragraph:-

Any person who fails to comply with or otherwise violates chapter 21N shall be liable for a civil administrative penalty not to exceed \$25,000 for each day the violation continues.

SECTION 6. The General Laws are hereby amended by inserting after chapter 21M the following chapter:-

Chapter 21N.
CLIMATE PROTECTION AND GREEN ECONOMY ACT.

Section 1. As used in this chapter the following words shall have the following meanings unless the context clearly requires otherwise:-

“Allowance”, an authorization to emit, during a specified year, up to 1 ton of carbon dioxide equivalent.

“Alternative compliance mechanism”, an action undertaken by a greenhouse gas emission source that achieves the equivalent reduction of greenhouse gas emissions over the same time period as a direct emissions reduction, that is approved by the department, and that is real, permanent, quantifiable, verifiable and enforceable.

“Carbon dioxide equivalent”, the amount of carbon dioxide by weight that would produce the same global warming impact as a given weight of another greenhouse gas, based on the best available science, including from the Intergovernmental Panel on Climate Change.

“Department”, the department of environmental protection.

“Direct emissions”, emissions from sources that are owned or operated, in whole or in part, by an entity or facility including, but not limited to, emissions from factory stacks, manufacturing processes and vents, and company owned or company-leased motor vehicles.

“Direct emissions reduction”, a greenhouse gas emission reduction action made by a greenhouse gas emissions source at that source.

“Emission”, emission of a greenhouse gas into the air.

“Emissions reduction measures”, programs, measures, standards, and alternative compliance mechanisms authorized pursuant to this chapter, applicable to sources or categories of sources that are designed to reduce emissions of greenhouse gases.

“Entity”, a person that owns or operates, in whole or in part, a source of greenhouse gas emissions from a generator of electricity or a commercial or industrial site including, but not limited to, a transportation fleet.

“Executive office”, the executive office of energy and environmental affairs.

“Facility”, a building, structure or installation located on contiguous or adjacent properties of an entity.

“Greenhouse gas”, any chemical or physical substance that is emitted into the air and that the department may reasonably anticipate will cause or contribute to climate change including, but not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

“Greenhouse gas emissions limit”, an authorization, during a specified year, to emit up to a level of greenhouse gases specified by the secretary, expressed in tons of carbon dioxide equivalents.

“Greenhouse gas emissions source”, a source, or category of sources, of greenhouse gas emissions with emissions that are at a level of significance, as determined by the secretary, that its participation in the program established under this chapter will enable the secretary to effectively reduce greenhouse gas emissions and monitor compliance with the statewide greenhouse gas emissions

limit.

“Indirect emissions”, emissions associated with the consumption of purchased electricity, steam and heating or cooling by an entity or facility.

“Leakage”, the offset of a reduction in emissions of greenhouse gases within the commonwealth by an increase in emissions of greenhouse gases outside the commonwealth.

“Market-based compliance mechanism”, (i) a system of market-based declining annual aggregate emissions limitations for sources or categories of sources that emit greenhouse gases; or (ii) greenhouse gas emissions exchanges, banking, credits and other transactions governed by rules and protocols established by the secretary or the regional greenhouse gas initiative, that result in the same greenhouse gas emissions reduction, over the same time period, as direct compliance with a greenhouse gas emissions limit or emission reduction measure adopted by the executive office pursuant to this chapter.

“Person”, an agency or political subdivision of the commonwealth, a state, public or private corporation or authority or an individual, trust firm, joint stock company, partnership, association or other entity or group thereof or an officer, employee or agent thereof.

“Secretary”, the secretary of energy and environmental affairs.

“Statewide greenhouse gas emissions”, the total annual emissions of greenhouse gases in the commonwealth, including all emissions of greenhouse gases from the generation of electricity delivered to and consumed in the commonwealth, accounting for transmission and distribution line losses, whether the electricity is generated in the commonwealth or imported; provided, however, that statewide greenhouse gas emissions shall be expressed in tons of carbon dioxide equivalents.

“Statewide greenhouse gas emissions limit”, the maximum allowable level of statewide greenhouse gas emissions in a given year, as determined by the secretary.

Section 2. (a) The department shall monitor and regulate emissions of greenhouse gases with the goal of reducing those emissions. The department shall adopt regulations to require the reporting and verification of statewide greenhouse gas emissions and to monitor and enforce compliance with this chapter. The regulations shall: (1) establish a regional greenhouse gas registry and reporting system for greenhouse gas emission sources; provided, however, that in establishing the greenhouse gas registry and reporting system, the department may collaborate with other states or a regional consortium; (2) annually require the owner or operator of any facility that is required to report air emissions data to the department pursuant to Title V of the federal Clean Air Act and that has stationary emissions sources that emit greenhouse gases to report annually to the regional registry direct stack emissions of greenhouse gases from such sources; (3) require the owner or operator of a facility that has stationary emissions sources that emit greenhouse gases in excess of 5,000 tons of greenhouse gases per year in carbon dioxide equivalents to report annually to the regional registry direct emissions of greenhouse gases from such sources; provided, however, that the department shall develop a simplified estimation form to assist facilities in determining who shall report emissions and shall consider, on an annual basis, requiring the expansion of reporting to the regional greenhouse gas registry; (4) provide for the voluntary reporting of emissions of greenhouse gases to the regional greenhouse gas registry by entities and facilities that are not required to submit

information pursuant to clauses (2) and (3); provided, however, that the greenhouse gas emissions reported shall be of a type and format that the regional greenhouse gas registry can accommodate; (5) require reporting of greenhouse gas emissions from generation sources producing all electricity consumed, including transmission and distribution line losses from electricity generated within the commonwealth or imported from outside the commonwealth; provided, however, that this requirement shall apply to all retail sellers of electricity, including electric utilities, municipal electric departments and municipal light boards as defined in section 1 of chapter 164A; (6) ensure rigorous and consistent accounting of emissions and provide reporting tools and formats to ensure collection of necessary data; and (7) ensure that greenhouse gas emissions sources maintain comprehensive records of all reported greenhouse gas emissions.

(b) The department shall: (1) consult with the secretary on periodic review and updates of emission reporting requirements, as necessary; and (2) review existing and proposed state, federal and international greenhouse gas emissions reporting programs and make reasonable efforts to promote consistency among the programs established pursuant to this chapter and other programs and to streamline reporting requirements on greenhouse gas emissions sources.

(c) The department shall triennially publish a state greenhouse gas emissions inventory that includes comprehensive estimates of the quantity of greenhouse gas emissions in the commonwealth for the last 3 years in which data is available.

Section 3. (a) The department shall, pursuant to chapter 30A, determine the statewide greenhouse gas emissions level in calendar year 1990 and reasonably project what the emissions level will be in calendar year 2020 if no measures are imposed to lower emissions other than those formally adopted and implemented as of January 1, 2009. This projection shall hereafter be referred to as the projected 2020 business as usual level.

(b) The secretary shall, in consultation with the department and the department of energy resources, adopt the following statewide greenhouse gas emissions limits: (1) a 2020 statewide emissions limit and a plan to achieve that limit pursuant to section 4; (2) an interim 2030 emissions limit accompanied by plans to achieve this limit in accordance with said section 4; provided, however, that the 2030 interim emissions limits shall maximize the ability of the commonwealth to meet the 2050 emissions limit; (3) an interim 2040 emissions limit accompanied by plans to achieve this limit in accordance with said section 4; provided, however, that the 2040 interim emissions limit shall maximize the ability of the commonwealth to meet the 2050 emissions limit; and (4) a 2050 statewide emissions limit that is at least 80 per cent below the 1990 level.

(c) Emissions levels and limits associated with the electric sector shall be established by the executive office and the department, in consultation with the department of energy resources, based on consumption and purchases of electricity from the regional electric grid, taking into account the regional greenhouse gas initiative and the renewable portfolio standard.

(d) The department shall promulgate regulations establishing a desired level of declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions.

Section 4. (a) The secretary shall adopt the 2020 statewide greenhouse gas emissions limit pursuant

to subsection (b) of section 3 which shall be between 10 per cent and 25 per cent below the 1990 emissions level and a plan for achieving said reduction. The secretary shall consult with all state agencies and regional authorities with jurisdiction over sources of greenhouse gases on all elements of the emissions limit and plan that pertain to energy-related matters including, but not limited to, electrical generation, load based-standards or requirements, the provision of reliable and affordable electrical service and statewide fuel supplies, to ensure the greenhouse gas emissions reduction activities to be adopted and implemented by the secretary are complementary, non-duplicative and can be implemented in an efficient and cost-effective manner. The 2020 statewide emissions limit and implementation plan shall comply with this section.

(b) The secretary shall analyze the feasibility of measures to comply with the emissions limit established in subsection (a). Such measures shall include, but not be limited to, the electric generating facility aggregate limit established pursuant to section 12, direct emissions reduction measures from other sectors of the economy, alternative compliance mechanisms, market-based compliance mechanisms and potential monetary and nonmonetary incentives for sources and categories of sources that the secretary finds are necessary or desirable to facilitate the achievement of reductions of greenhouse gas emissions limits.

(c) The secretary shall consider all relevant information pertaining to greenhouse gas emissions reduction goals and programs in other states and nations.

(d) The secretary shall evaluate the total potential costs and economic and noneconomic benefits of various reduction measures to the economy, environment and public health, using the best available economic models, emissions estimation techniques and other scientific methods.

(e) The secretary shall take into account the relative contribution of each source or source category to statewide greenhouse gas emissions and shall recommend a de minimis threshold of greenhouse gas emissions below which emissions reduction requirements shall not apply.

(f) The secretary shall identify opportunities for emissions reduction measures from all verifiable and enforceable voluntary actions.

(g) The secretary shall conduct public hearings on the proposed 2020 emission limit and implementing plan. The secretary shall conduct a portion of these workshops in regions that have the most significant exposure to air pollutants, including, but not limited to, communities with minority populations, communities with low-income populations, or both.

(h) The secretary shall update its plan for achieving the maximum technologically feasible reductions of greenhouse gas emissions at least once every 5 years, including the plans to implement the 2030, 2040 and 2050 statewide emission limits.

Section 5. The secretary shall monitor the implementation of regulations relative to climate change and shall, every 5 years, publish a report which shall include recommendations regarding such implementation. The report shall include, without limitation: (i) whether regulations or other measures undertaken, including distribution of emissions allowances, are equitable and minimize costs and maximize the total benefits to the commonwealth and encourage early action to reduce greenhouse gas emissions; (ii) whether activities undertaken to comply with state regulations and efforts

disproportionately impact low-income communities; (iii) whether entities that have voluntarily reduced their greenhouse gas emissions prior to the implementation of this chapter receive appropriate credit for early voluntary reductions; (iv) whether activities undertaken pursuant to the regulations complement, and do not interfere with, efforts to achieve and maintain federal and state ambient air quality standards and reduce toxic air contaminant emissions; (v) consider overall societal benefits, including reductions in other air pollutants, diversification of energy sources and other benefits to the economy, environment and public health; (vi) whether state actions minimize the administrative burden of implementing and complying with these regulations; (vii) whether state actions minimize leakage; (viii) consider the significance of the contribution of each source or category of sources to statewide emissions of greenhouse gases; (ix) whether greenhouse gas emissions reductions achieved are real, permanent, quantifiable, verifiable and enforceable; and (x) recommendations for future policy action. The report shall be filed with the clerk of the house of representatives, the clerk of the senate, the chairs of the house and senate committees on ways and means, the chairs of the joint committee of telecommunications, utilities and energy and the chairs of the joint committee on the environment, natural resources and agriculture.

Section 6. In implementing its plan for statewide greenhouse gas emissions limits, the commonwealth and its agencies shall promulgate regulations that reduce energy use, increase efficiency and encourage renewable sources of energy in the sectors of energy generation, buildings and transportation.

Section 7. (a) The secretary, in consultation with the executive office of administration and finance, may consider the use of market-based compliance mechanisms to address climate change concerns; provided, however, that prior to the use of any market-based compliance mechanism, to the extent feasible and in furtherance of achieving the statewide greenhouse gas emissions limit, the secretary shall: (1) consider the potential for direct, indirect and cumulative emission impacts from these mechanisms, including localized impacts in communities that are already adversely impacted by air pollution; (2) design any market-based compliance mechanism to prevent any increase in the emissions of toxic air contaminants or criteria air pollutants, with particular attention paid to emissions of nitrous oxide, sulfur dioxide and mercury; and (3) maximize additional environmental and economic benefits for the commonwealth, as appropriate.

(b) The secretary may adopt regulations governing how market-based compliance mechanisms may be used by regulated entities subject to greenhouse gas emissions limits and mandatory emissions reporting requirements to achieve compliance with their greenhouse gas emissions limits.

(c) The executive office and the department may work with the participating regional greenhouse gas initiative states and other interested states and Canadian Provinces to develop a plan to expand market-based compliance mechanisms such as the regional greenhouse gas initiative to other sources and sectors necessary or desirable to facilitate the achievement of the greenhouse gas emissions limits.

(d) The executive office shall monitor compliance with and enforce any rule, regulation, order, emissions limitation, emissions reduction measure or market-based compliance mechanism adopted

by the executive office or department pursuant to this chapter. The department may impose a civil administrative penalty pursuant to section 16 of chapter 21A for a violation of any rule, regulation, order, emissions limitation, emissions reduction measure or other measure adopted by the executive office pursuant to this chapter.

Section 8. The secretary shall convene an advisory committee to advise the executive office in overseeing the greenhouse emissions reduction measures. The advisory committee shall consist of representatives from the following sectors: commercial, industrial and manufacturing; transportation; low-income consumers; energy generation and distribution; environmental protection; energy efficiency and renewable energy; local government; and academic institutions.

Section 9. Nothing in this chapter shall affect the authority of the public utility commission or the obligation of an electrical utility to provide customers with safe and reliable electric service. Nothing in this chapter shall preclude, prohibit or restrict the construction of a new facility or the expansion of an existing facility subject to regulation under this chapter, if all applicable requirements are met and the facility is in compliance with regulations adopted pursuant to this chapter.

SECTION 7. Section 61 of chapter 30 of the General Laws is hereby amended by inserting after the first paragraph, as appearing in the 2006 Official Edition, the following paragraph:-

In considering and issuing permits, licenses and other administrative approvals and decisions, the respective agency, department, board, commission or authority shall also consider reasonably foreseeable climate change impacts, including additional greenhouse gas emissions, and effects, such as predicted sea level rise.

SECTION 8. Nothing in this act shall restrict the secretary of energy and environmental affairs from adopting greenhouse gas emissions limits or emissions reduction measures prior to January 1, 2011, that are consistent with general or special laws or rules or regulations, imposing those limits prior to January 1, 2012, or providing early reduction credit, where appropriate, nor shall this act prevent the imposition of more stringent limits on emissions.

SECTION 9. Notwithstanding any general or special law to the contrary, the secretary shall convene an advisory committee to analyze strategies for adapting to the predicted impacts of climate change in the commonwealth. The advisory committee shall be chaired by the secretary, or his designee, and comprised of representatives with expertise in the following areas: transportation and built infrastructure; commercial, industrial and manufacturing activities; low income consumers; energy generation and distribution; land conservation; water supply and quality; recreation; ecosystems dynamics; coastal zone and oceans; rivers and wetlands; and local government.

The committee shall file a report of its findings and recommendations regarding strategies for adapting to climate change not later than December 31, 2009.

SECTION 10. Notwithstanding any general or special law to the contrary, the executive office of energy and environmental affairs shall promulgate regulations pursuant to section 2 of chapter 21N of the General Laws not later than January 1, 2009.

SECTION 11. Clauses (2) and (3) of the third sentence of subsection (a) of said section 2 of said chapter 21N shall take effect not later than April 15, 2009.

SECTION 12. Clauses (4) and (5) of said third sentence of said subsection (a) of said section 2 of said chapter 21N shall be implemented not later than July 1, 2009.

SECTION 13. The first inventory required pursuant to subsection (c) of said section 2 of said chapter 21N shall be published not later than December 31, 2010.

SECTION 14. Subsection (a) of section 3 of said chapter 21N shall be implemented not later than July 1, 2009.

SECTION 15. Clause (1) of subsection (b) of said section 3 of said chapter 21N shall be implemented not later than January 1, 2011.

SECTION 16. The department of environmental protection shall promulgate regulations pursuant to subsection (d) of said section 3 of said chapter 21N not later than January 1, 2012, which regulations shall take effect on January 1, 2013, and shall expire on December 31, 2020.

SECTION 17. The 2020 statewide greenhouse gas initiative required to be adopted pursuant to subsection (a) of section 4 of said chapter 21N shall be adopted not later than January 1, 2011.

SECTION 18. Notwithstanding any general or special law to the contrary, the executive office of energy and environmental affairs shall publish the report required pursuant to section 5 of said chapter 21N not later than January 1, 2014.

Approved August 7, 2008

**Acts**
2008**CHAPTER 307** AN ACT RELATIVE TO GREEN JOBS IN THE COMMONWEALTH.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to promote forthwith job creation and clean energy technology, therefore it is hereby declared an emergency law, necessary for the immediate preservation of the public convenience.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

SECTION 1. Chapter 10 of the General laws is hereby amended by striking out section 35FF, inserted by section 10 of chapter 140 of the acts of 2007, and inserting in place thereof the following section:-

Section 35FF. (a) There is hereby established and placed within the Massachusetts clean energy technology center established in section 2 of chapter 23J, hereinafter referred to as the center, a fund to be known as the Massachusetts Alternative and Clean Energy Investment Trust Fund, hereinafter referred to as the fund, to be held by the center separate and apart from its other funds, to finance the activities of the center. The fund shall be credited any appropriations, bond proceeds or other monies authorized by the general court and specifically designated to be credited thereto, such additional funds as are subject to the direction and control of the center, any pension funds, federal grants or loans, royalties, equity ownership in public or private companies or private investment capital which may properly be applied in furtherance of the objectives of the fund, any proceeds from the sale of qualified investments secured or held by the fund, any fees and charges imposed relative to the making of qualified investments, as the same shall be defined by the center, secured or held by the fund and any other monies which may be available to the center for the purposes of the fund from any other source or sources. Any revenues, deposits, receipts or funds received through the receipt of royalties, dividends, equity ownership in public or private companies or the sale of equity instruments, inclusive, shall be deposited in the fund and shall be available expressly to the center without further appropriation.

(b) The center shall, in consultation with the advisory committee established in subsection (d) and the secretary of administration and finance, invest and reinvest the fund and the income thereof only as follows: (1) in the making of qualified investments approved by the board established in subsection (b) of section 2 of chapter 23J, pursuant to rules approved by said board; (2) in defraying the ordinary and necessary expenses of administration and operation associated with the center; provided, however, that said administrative and operational expenses shall not exceed 15 per cent of the total assets of the fund in any 1 fiscal year; (3) in the investment of any funds not required for immediate disbursement in the purchase of such securities as may be lawful investments for fiduciaries in the

commonwealth; (4) for the payment of binding obligations associated with such qualified investments which are secured by the fund as the same become payable; and (5) for the payment of principal or interest on qualified investments secured by the fund or the payment of any redemption premium required to be paid when such qualified investments are redeemed prior to maturity.

(c) The fund shall be held and applied by the center, subject to the approval of the board, and in consultation with said advisory committee to make qualified investments designed to advance the following public purposes in the commonwealth: (1) to stimulate increased financing for the expansion of state-of-the-art clean energy research and development facilities by leveraging private financing and providing financing related thereto including, without limitation, financing for the construction or expansion of such facilities; (2) to provide grants to state educational institutions to develop a curriculum relative to clean energy and clean energy technology; (3) to make targeted investments in clean energy research and to promote manufacturing activities for new or existing advanced clean energy technologies; (4) to make matching grants to universities, colleges, public instrumentalities, companies and other entities to induce the federal government, industry and other grant-funding sources to fund the expansion of research and development in clean energy; (5) to provide bridge financing to universities, colleges, public instrumentalities, companies and other entities in anticipation of the receipt of grants of the type described in clause (4) awarded or to be awarded by the federal government, industry or other sources; (6) to promote programs and investments that lead to pathways towards economic self-sufficiency for low and moderate-income communities in the clean energy industry; provided, however, that said programs shall prioritize investments that serve individuals in families with incomes that do not exceed 300 per cent of the federal poverty level, as determined by the United States Census Bureau or a self-sufficiency standard, as determined by the executive office of administration and finance that shall include but not be limited to, the income needs of families, family size, the number and ages of children in the family and geographical considerations; and (7) to make any other expenditure provided by this section.

The center shall not make a qualified investment under clause (1) of subsection (b) unless: (i) said qualified investment has been approved by a majority vote of the board; and (ii) the center finds that, to the extent possible, said qualified investment is such that a defined benefit to the economy of the commonwealth may reasonably be expected therefrom; provided, however, that in evaluating a request or application for funding, the center shall consider whether: (1) the proposed project fulfills the public purposes of the center; (2) the project has significant potential to expand clean energy related employment in the commonwealth; (3) the project has the potential to enhance technological advancements in clean energy; (4) the project has the potential to result in the development of advancements in environmental protection and reduce the cost of energy; (5) the project has the potential to leverage additional funding or to attract additional energy resources to the commonwealth; (6) the project has the potential to stimulate clean energy manufacturing in the commonwealth; (7) the project includes a plan to facilitate collaboration with state and local workforce development programs; or (8) the program leads to pathways towards economic self-sufficiency for low and moderate-income communities in the clean energy industry as established provided in clause (6).

The center shall not make a qualified investment under said clause (1) of said subsection (b) unless such qualified investment is in conformity with rules adopted by the center and approved by the board. Said rules shall set the terms and conditions for investments which constitute qualified investments, which may include, without limitation, loans, guarantees, loan insurance or reinsurance, equity investments, equity ownership in public or private companies, grants made pursuant to clause (4) of subsection (c) or other financing or credit enhancing devices, as made by the center directly or on its own behalf or in conjunction with other public instrumentalities, private institutions or the federal government.

Said rules shall also set forth the terms, procedures, standards and conditions which the center shall employ to identify qualified applications, process applications, make investment determinations, safeguard the fund, advance the objective of increasing employment opportunities in the commonwealth, oversee the progress of qualified investments and secure the participation of other public instrumentalities, private institutions or the federal government in such qualified investments; provided, however, that said rules shall provide for negotiated intellectual property agreements between the center and each recipient of a qualified investment which shall include the terms and conditions by which the fund's support thereof may be reduced or withdrawn; and provided further, that all revenues or financial interests of any kind received by the center as a result of said intellectual property agreements shall be placed, in their entirety, in the fund.

Copies of the approved rules, and any modifications thereto, shall be submitted annually to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy and the joint committee on environment, natural resources and agriculture.

(d) There shall be an advisory committee to be appointed by the governor consisting of 15 individuals with an interest and knowledge in matters related to the general purpose and activities of the fund and with expertise and experience in at least 1 of the following areas: clean energy technology research, clean energy technology development, clean energy investing, management of clean energy companies, making or advancing clean energy policy, clean energy curriculum development or workforce training in the field of clean energy or energy efficiency. The board shall consult with the advisory committee in matters related to the fund and in the implementation of this section.

(e) Qualified investment transactions undertaken by the center pursuant to this section shall not, except as specified in this section, be subject to chapter 175, and shall not constitute a debt or pledge of the faith and credit of the commonwealth, the center or any subdivision of the commonwealth and shall be payable solely from the Massachusetts Alternative and Clean Energy Investment Trust Fund.

All available moneys in the Massachusetts Alternative and Clean Energy Investment Trust Fund that are unexpended at the end of each fiscal year shall not revert to the General Fund and shall be available for expenditure in the subsequent fiscal year.

SECTION 2. The General Laws are hereby amended by inserting after chapter 23I the following chapter:-

Chapter 23J
Massachusetts Clean Energy Technology Center

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Board”, the board of directors of the center.

“Bonds”, when used in reference to the center, any bonds, notes, debentures, interim certificates or other financial undertakings for the purpose of raising capital, including, but not limited to, lines of credit, forward purchase agreements, investment agreements and other banking or financial arrangements.

“Center”, the Massachusetts clean energy center established by section 2.

“Clean energy”, advanced and applied technologies that significantly reduce or eliminate the use of energy from non-renewable sources, including, but not limited to: energy efficiency; demand response; energy conservation and those technologies powered in whole or in part by the sun, wind, water, biomass, alcohol, wood, fuel cells any renewable, non-depletable or recyclable fuel and for purposes of this Act, an alternative energy generating source as defined in clauses (1) to (5), inclusive, of subsection (a) of section 11F1/2 of chapter 25A.

“Clean energy research”, advanced and applied research in new clean energy technologies including: solar photovoltaic; solar thermal; wind power; geothermal; wave and tidal energy; advanced hydropower; energy storage for automotive applications; energy storage for grid applications; biofuels, including ethanol, biodiesel and advanced biofuels; renewable, biodegradable chemicals; advanced thermal-to-energy conversion; hydrogen; carbon capture and sequestration; energy monitoring; green building materials; energy-efficient lighting; gasification and conversion to liquids fuels; industrial energy efficiency; demand-side management; fuel cells; and other technologies that the board considers to qualify under the definitions herein; provided, however, that “clean energy research” shall not include coal, oil, natural gas except when used in fuel cells or nuclear power.

“Contribution agreement”, an agreement authorized under this chapter in which a private entity or public entity other than the commonwealth agrees to provide to the center contributions for the purpose of promoting clean energy research.

“Federal agency”, an office, agency, division, department, board or commission of the United States government.

“Fund”, the Massachusetts Alternative and Clean Energy Investment Trust Fund established in subsection (a) of section 35FF of chapter 10.

“Person”, a natural or corporate person, including bodies politic and corporate, public departments, offices, agencies, authorities and political subdivisions of the commonwealth, corporations, trusts, societies, associations and partnerships and subordinate instrumentalities of any 1 or more political subdivisions of the commonwealth.

“Public body”, the commonwealth and any body politic and corporate of the commonwealth, including any political subdivision or instrumentality thereof, which is empowered to issue bonds secured by a pledge of revenues or other special funds or assets, including any municipality or district for which the issuance of debt is governed or limited by chapter 44.

“Revenues”, any receipts, fees, rentals or other payments or income received or to be received on account of obligations to the center including, without limitation: equity ownership in public or private companies; income on account of the leasing, mortgaging, sale or other disposition of a project or proceeds of a loan made by the center in connection with any project; and amounts in reserves or held in other funds or accounts established in connection with the issuance of bonds and the proceeds of any investments thereof; proceeds of foreclosure; and any other fees, charges or other income received or receivable by the center.

Section 2. (a) There is hereby established a body politic and corporate to be known as the Massachusetts clean energy technology center. The center is hereby constituted a public instrumentality and the exercise by the center of the powers conferred by this chapter shall be considered to be the performance of an essential governmental function.

The center is hereby placed in the executive office of energy and environmental affairs, but shall not be subject to the supervision or control of said office, or of any board, bureau, department or other center of the commonwealth, except as specifically provided for in this chapter.

The center shall promote and advance the commonwealth’s public interests by: (i) acting as the commonwealth’s lead agency, in collaboration with the Massachusetts Renewable Energy Trust Fund established in section 4E of chapter 40J, in the promotion and development of jobs in the clean energy sector; (ii) promoting research and workforce training in clean energy technology at the commonwealth’s public institutions of higher education, as defined in section 5 of chapter 15A, and vocational technical schools, as established in sections 14 and 15, chapter 74 or any vocational technical school that meets the programmatic requirements established by the department of elementary and secondary education; (iii) stimulating the creation and development of new clean energy ventures that will form the foundation of a strong clean energy industry sector or cluster in the commonwealth; (iv) providing support to existing clean energy companies to expand their operations within the commonwealth; (v) attracting new capital and research facilities from institutions outside the commonwealth; (vi) fostering collaboration between industry, state government, research universities and the financial sector to advance clean energy technology commercialization and venture development; (vii) conducting market research to identify barriers to creating and expanding a clean technology industry, including job training needs; (viii) supporting demonstration projects that are evaluated by independent, third-party peer research institutions; (ix) serving as the clearinghouse for information related to the clean energy industry in the commonwealth; (x) promoting programs and investments that lead to pathways towards economic self sufficiency for low and moderate-income individuals and communities in the clean energy industry; and (xi) performing any other actions necessary to effectuate the state’s public interests.

(b) The center shall be governed and its corporate powers exercised by a board of directors consisting of 14 directors: 1 of whom shall be the secretary of energy and environmental affairs or his designee;

1 of whom shall be the secretary of housing and economic development or his designee; 1 of whom shall be the secretary of labor and workforce development or his designee; 1 of whom shall be the president of the University of Massachusetts or his designee; 1 of whom shall be a chair of the New England Clean Energy Council; 1 of whom shall be the chair of the Massachusetts Renewable Energy Trust; 1 of whom shall be the executive director of the Massachusetts Technology Collaborative; 1 of whom shall be the executive director of the Massachusetts Workforce Alliance; and 6 of whom shall be appointed by the governor, 2 of whom shall be presidents of private colleges or universities in the commonwealth or their designees, 1 of whom shall be an engineer or scientist with expertise in clean energy technology, 1 of whom shall be a venture capitalist with expertise in clean energy technologies in the commonwealth, 1 of whom shall be the president of a Massachusetts community college or his designee, and 1 of whom shall be a chief executive officer of a Massachusetts-based clean energy corporation. Each of the 6 directors appointed by the governor shall serve for a term of 5 years, except that in making his initial appointments, the governor shall appoint 1 director to serve for a term of 1 year, 1 director to serve for a term of 2 years, 1 director for a term of 3 years, 1 director for a term of 4 years and 2 directors for a term of 5 years. The secretary of energy and environmental affairs or his designee shall serve as chairperson. A director shall be eligible for reappointment. A director may be removed from his appointment by the governor for cause. A person appointed to fill a vacancy in the office of an appointed director of the board shall be appointed in a like matter and shall serve for only the unexpired term of such director.

(c) Six directors shall constitute a quorum and the affirmative vote of a majority of directors present at a duly-called meeting where a quorum is present shall be necessary for any action to be taken by the board. An action required or permitted to be taken at a meeting of the directors may be taken without a meeting if all of the directors consent in writing to such action and such written consents are filed with the records of the minutes of the meeting of the board. Such consents shall be treated for all purposes as a vote at a meeting.

The directors of the board shall serve without compensation, but each director shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his official duties.

(d) Chapter 268A shall apply to all directors.

(e) The board may appoint and employ an executive director, and fix his compensation and conditions of employment. The executive director shall have a full range of previous experience in the clean energy industry, including previous executive experience within the clean energy industry. The executive director shall be the chief executive, administrative and operational officer of the center and shall direct and supervise the administrative affairs and the general management of the center. The executive director may, subject to the general supervision of the board, employ other employees, consultants, agents, including legal counsel and advisors, and shall attend meetings of the board.

(f) The board shall elect a secretary and a treasurer. The secretary shall keep a record of the proceedings of the board and shall be the custodian of all books, documents and papers filed by the board and of its minute book and seal. The secretary shall cause copies to be made of all minutes and other records and documents of the center and shall certify that such copies are true copies, and all

persons dealing with the center may rely upon such certification. The treasurer shall be the chief financial and accounting officer of the center and shall be in charge of its funds, books of account and accounting records. The books and records of the center shall be subject to a biennial audit by the auditor of the commonwealth.

(g) All officers and employees of the center having access to its cash or negotiable securities shall give bond to the center, at its expense, in such amounts and with such surety as the board may prescribe. The persons required to give bond may be included in 1 or more blanket or scheduled bonds.

(h) The directors and officers of the board who are not compensated employees of the center shall not be liable to the commonwealth, to the center or to any other person as a result of their activities, whether ministerial or discretionary, as such directors or officers except for willful dishonesty or intentional violations of law. Neither members of the center nor any person executing bonds or policies of insurance shall be liable personally thereon or be subject to any personal liability or accountability by reason of the issuance thereof. The board of directors may purchase liability insurance for board members, officers and employees and may indemnify said persons against claims by others.

(i) The center shall continue as long as it shall have bonds or insurance or guarantee commitments outstanding and until its existence is terminated by law. Upon the termination of the existence of the center, all rights, title and interest in and to its assets and its obligations, duties, covenants, agreements and obligations shall vest in and be possessed, performed and assumed by the commonwealth.

(j) An action of the center may take effect immediately and need not be published or posted unless otherwise provided by law. Meetings of the board shall be subject to section 11A1/2 of chapter 30A; but said section 11A1/2 shall not apply to any meeting of members of the center serving ex officio in the exercise of their duties as officers of the commonwealth so long as no matters relating to the official business of the center are discussed and decided at the meeting. The center shall be subject to all other provisions of said chapter 30A, and records pertaining to the administration of the center shall be subject to section 42 of chapter 30 and section 10 of chapter 66. All moneys of the center shall be considered to be public funds for purposes of chapter 12A. The operations of the center shall be subject to chapters 268A and 268B and all other operational or administrative standards or requirements to the same extent as the office of state treasurer.

(k) Any documentary materials or data whatsoever made or received by a member or employee of the center and consisting of, or to the extent that such materials or data consist of, trade secrets or commercial or financial information regarding the operation of any business conducted by an applicant for any form of assistance which the center is empowered to render or regarding the competitive position of such applicant in a particular field of endeavor, shall not be deemed public records of the center and shall not be subject to section 10 of chapter 66. Any discussion or consideration of such trade secrets or commercial or financial information may be held by the board in executive sessions closed to the public, notwithstanding section 11A1/2 of chapter 30A, but the purpose of any such executive session shall be set forth in the official minutes of the center and no business which is not directly related to such purpose shall be transacted nor shall any vote be taken during such executive session.

Section 3. (a) The center shall have all powers necessary or convenient to carry out and effectuate its purposes, including, without limiting the generality of the foregoing, the powers:

(1) to adopt and amend by-laws, regulations and procedures for the governance of its affairs and the conduct of its business, notwithstanding chapter 30A;

(2) to establish standards requiring that any grant, loan or other appropriation of funds pursuant to this chapter be subject to an intellectual property agreement between the center and the recipient person; provided, however, that said intellectual property agreements shall balance the opportunity for the commonwealth to benefit from the patents, royalties and equity ownership in public and private companies and licenses with the need to ensure that essential clean energy research shall not be unreasonably hindered by the intellectual property agreements; and provided further, that all revenues or financial interests of any kind received by the center as a result of said intellectual property agreements shall be placed, in their entirety, in the fund.

(3) to adopt an official seal;

(4) to maintain offices within the commonwealth as it may determine and to conduct meetings of the center in accordance with the by-laws of the center and the second paragraph of section 59 of chapter 156B;

(5) to sue and be sued, to prosecute and defend actions relating to its properties and affairs and to be liable in tort in the same manner as a private person; provided, however, that the center is not authorized to become a debtor under the United States Bankruptcy Code;

(6) to appoint officers and employees and to engage consultants, agents and advisors;

(7) to enter into contracts and agreements and execute all instruments necessary or convenient thereto for accomplishing the purposes of this chapter; provided, however, that such contracts and agreements may include, without limiting the foregoing, construction agreements, purchase or acquisition agreements, loan or lease agreements, partnership agreements including limited partnership agreements, joint ventures, participation agreements, service agreements with clean energy entities, environmental, educational or other financial institutions or intermediaries and agreements with 1 or more persons for the servicing of loans made by the center, including the receipt by such servicer of payments made by a user under a financing document and provided further, that any such payments shall constitute trust funds to be held and applied solely as provided in such agreement for the servicing of loans, shall constitute pledged funds of the center and shall be entitled to the same protection when received by a person for the servicing of loans, without the need for filing and recording of the servicing agreement under chapter 106 or otherwise, except in the records of the center, as is afforded to funds received by an issuer and pledged to a trustee under section 14 of chapter 40D;

(8) to acquire real and personal property, or any interest in real or personal property, by gift, purchase, transfer, foreclosure, lease or otherwise including rights or easements; to hold, sell, assign, lease, encumber, mortgage or otherwise dispose of any real or personal property, or any interest therein, or mortgage any interest owned by it or under its control, custody or in its possession; to release or relinquish any right, title, claim, lien, interest, easement or demand however acquired, including any equity or right of redemption in property foreclosed by it; to take assignments of leases and rentals,

- proceed with foreclosure actions or take any other actions necessary or incidental to the performance of its corporate purposes;
- (9) to invest funds held in reserves or sinking funds, or the Massachusetts Alternative and Clean Energy Investment Trust Fund, or funds not required for immediate disbursement, in such investments as may be provided in a financing document relating to the use of such funds, or, if not so provided, as the board may determine;
- (10) to review and recommend changes in laws, rules, programs and policies of the commonwealth and its agencies and subdivisions to further the enhancement of clean energy financing, infrastructure, siting, manufacturing and development within the commonwealth;
- (11) to appear on its own behalf before boards, commissions, departments or other agencies of municipal, state or federal government;
- (12) to obtain insurance;
- (13) to apply for and accept subventions, grants, loans, advances and contributions from any source of money, property, labor or other things of value, to be held, used and applied for its corporate purposes; provided, however, that the center shall not accept funding from any source, including any federal agency, if the receipt of said funding would limit the center's ability to promote its public purposes; and provided further, that all such funds shall be placed, in their entirety, in the fund;
- (14) to enter into agreements with public and private entities that deal primarily with clean energy technologies, in order to distribute and provide leveraging of monies or services for the purposes of furthering research and development, aiding in the promotion of environmental protection, creating jobs in clean energy and promoting overall economic growth by fostering collaboration and investments in clean energy in the commonwealth;
- (15) to provide and pay for such advisory services and technical assistance as may be necessary or desired to carry out the purposes of this chapter;
- (16) to establish and collect such fees and charges as the center without further appropriation shall determine to be reasonable, and to receive and apply revenues from fees and charges to the purposes of the center or allotment by the commonwealth or any political subdivision thereof; provided, however, that all said revenues shall be placed, in their entirety, in the fund;
- (17) to make loans to any person for the acquisition, construction, alteration or any combination thereof, or other financing of a project including, but not limited to, loans to lending institutions under terms and conditions requiring the proceeds of such loans to be used by such lending institutions for the making of loans to users for qualified projects;
- (18) to disburse, appropriate, grant, loan or allocate funds for the purposes of investing in clean energy as directed in this chapter;
- (19) to provide assistance to local entities and authorities, public bodies and private corporations for the purposes of maximizing opportunities for expanding clean energy technologies, attracting new clean energy entities and advanced technology investments, fostering new innovative research and creating new manufacturing and development initiatives in the commonwealth;
- (20) to prepare, publish and distribute, with or without charge, as the center may determine, such studies, reports and bulletins and other material as the center deems appropriate;

- (21) to exercise any other powers of a corporation organized under chapter 156B;
- (22) to engage accountants, architects, attorneys, engineers, planners, real estate experts and other consultants as may be necessary in its judgment to carry out the purposes of this act and to fix their compensation;
- (23) to take any actions necessary or convenient to the exercise of any power or the discharge of any duty provided for by this chapter;
- (24) to enter into agreements or other transactions with any person, including without limitation any public entity or other governmental instrumentality or agency in connection with its powers and duties under this chapter;
- (25) to make qualified investments to ensure the success of clean energy industry clusters;
- (26) to institute and administer the Massachusetts Alternative and Clean Energy Investment Trust Fund for the purposes of making appropriations, allocations, grants or loans to leverage development and investments in clean energy research, workforce training and job creation; provided, however, that the center shall implement an application and grant process for these purposes;
- (27) to promote programs and investments that lead to pathways towards economic self-sufficiency for low and moderate-income individuals and communities in the clean energy industry;
- (28) to research and establish, if the center so chooses, the Massachusetts Hydrogen and Fuel Cell Institute, to be housed at the Worcester Polytechnic Institute, and to serve as a joint venture among institutes of higher education in the commonwealth providing a focal point for research, education and commercialization activities in the hydrogen fuel cell sector; provided, however, that said institute responsibilities may include, but not be limited to: (i) working with the University of Massachusetts and private higher education institutions in the commonwealth to coordinate and strengthen hydrogen and fuel cell research activities in the commonwealth; (ii) strengthening collaborative research and development between universities and companies located within the commonwealth; (iii) addressing critical technological barriers facing the hydrogen and fuel cell companies; (iv) strengthening existing educational programs and introducing new curriculum in Massachusetts universities to produce graduates who are conversant in hydrogen and fuel cell technologies; and (5) promoting partnerships between Massachusetts universities and companies to jointly demonstrate hydrogen and fuel cell technologies and attract greater amounts of federal funding to the commonwealth;
- (29) to allocate, if the center so chooses, up to \$2 million annually for 5 years for the Massachusetts Hydrogen and Fuel Cell Institute; provided, however, that said funding shall begin in the fiscal year that said institute shall be established and shall end in the fifth fiscal year following the establishment of said institute; and
- (30) to establish, if the center so chooses, a program to be known as the entrepreneurial fellowship program, which shall award grants to entrepreneurs from business sectors other than clean energy sectors to enroll in programs to foster knowledge and expertise of clean energy technology; provided, however, that the clean energy technology programs shall be based upon intensive technology, market and policy curriculum and; provided, further, that the center shall establish public-private partnerships and enter into contribution agreements with commonwealth-based companies and venture capitalists to support programs designed to mentor and train entrepreneurs from other business sectors in the areas of clean energy technology and development to increase investment in

the commonwealth's clean energy sector.

Section 4. (a) The exercise of the powers granted by this chapter shall be in all respects for the benefit of the people of the commonwealth and for the improvement of their health and living conditions. The operation of the center shall constitute the performance of essential governmental functions and the center shall not be required to pay any taxes or assessments, except as otherwise provided by this chapter and the notes or bonds issued under this chapter, their transfer and the income therefrom, including any profit made on the sale thereof shall be free from taxation by and within the commonwealth.

(b) The lands and tangible personal property of the center shall be deemed to be public property used for essential public and governmental purposes and shall be exempt from taxation and from betterments and special assessments.

Section 5. The center shall annually submit a report setting forth, relative to its operations, its receipts and expenditures during such fiscal year and its assets and liabilities during the fiscal year to the governor, the secretary of administration and finance, the comptroller and the clerks of the house of representatives and senate, who shall forward the same to the house and senate committees on ways and means, the joint committee on economic development and emerging technologies, the joint committee on telecommunications, utilities and energy and the joint committee on environment, natural resources and agriculture annually on or before June 1.

Section 6. Based on recommendations included in the clean energy study, the center shall, within 100 days of said study's completion, develop a statewide plan for the installation and operation of renewable energy generating facilities on real property owned by the commonwealth. Any renewable energy generating facility sited on state land shall be made available for state and local workforce development and training initiatives.

Section 7. There is hereby established and placed within the center a program to be known as the clean energy seed grant program. Said program shall award grants to clean energy researchers, companies, nonprofit organizations, community-based organizations and institutions. The center shall establish public-private partnerships with commonwealth-based investors, entrepreneurs and institutions that are involved in the clean energy industry for the purposes of facilitating matching grants for recipients of funding from the center.

Section 8. There is hereby established and placed within the center an initiative to be known as the green jobs initiative. Said initiative shall award grants to the commonwealth's public institutions of higher education as defined in section 5 of chapter 15A, and vocational technical schools, as established in sections 14 and 15 of chapter 74 or any vocational-technical school that meets the programmatic requirements established by the department of elementary and secondary education, to facilitate workforce development efforts and train and retain students in clean energy industries. The grants shall include matching grants to said public institutions of higher education and said vocational

technical schools for the development of small-scale renewable energy generating sources, including, but not limited to: photovoltaic installations; wind energy; ocean thermal, wave or tidal energy; fuel cells; landfill gas; natural flowing water and hydroelectric; low-emission advanced biomass power conversion technologies using such biomass fuels as wood, agricultural or food wastes; biogas, biodiesel or organic refuse-derived fuel; and geothermal energy. The center shall assist said public institutions of higher education as defined in this section and the commonwealth's vocational technical schools as defined in this section in developing a curriculum for clean energy and energy efficiency, and shall assist students seeking employment in the clean energy sector.

SECTION 3. Section 4B of chapter 40J of the General Laws, as appearing in the 2006 Official Edition, is hereby amended by striking out, in line 35 and 36, the word "inducing" and inserting in place thereof the following words:- working in collaboration with the Massachusetts clean energy technology center established in section 2 of chapter 23J, state to induce.

SECTION 4. Said section 4B of said chapter 40J, as so appearing, is hereby further amended by inserting after the word "industries", in line 39, the following words:- , the Massachusetts clean energy technology center.

SECTION 5. Subsection (b) of section 4E of said chapter 40J, as so appearing, is hereby amended by adding the following sentence:- The board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J, prior to making any funds available to said renewable energy projects and facilities for the purpose of clean energy job creation.

SECTION 6. Said section 4E of said chapter 40J, as so appearing, is hereby further amended by inserting after the word "technologies", in line 41, the following words:- by collaborating with the Massachusetts clean energy technology center established in section 2 of chapter 23J.

SECTION 7. Subsection (d) of said section 4E of said chapter 40J, as so appearing, is hereby amended by adding the following sentence:- In developing and revising said plan, the board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J to ensure a comprehensive and effective approach to clean energy job creation.

SECTION 8. Subsection (a) of section 6A of said chapter 40J, as so appearing, is hereby amended by inserting after the eighth sentence the following sentence:- The governing board shall consult with the Massachusetts clean energy technology center established in section 2 of chapter 23J, to ensure a comprehensive and effective approach to clean energy cluster growth and development.

SECTION 9. The state comptroller shall annually transfer from the Massachusetts Renewable Energy Trust Fund, established in section 4E of chapter 40J of the General Laws, not less than \$5,000,000 annually for deposit in the Massachusetts Alternative and Clean Energy Investment Trust Fund

established in section 35FF of chapter 10. The secretary of energy and environmental affairs may allocate up to 15 per cent of said \$5,000,000 in fiscal year 2009 to defray the ordinary and necessary expenses of administration and operation associated with the center.

SECTION 10. The secretary of energy and environmental affairs may allocate \$1,000,000 in fiscal year 2009 from the Massachusetts Alternative and Clean Energy Investment Trust Fund for a seed grant program to be administered by the secretary or his designee. Said seed grant program shall award grants to clean energy companies, institutions or nonprofit organizations.

A report detailing the expenditure of said \$1,000,000 shall be submitted on or before May 30, 2009 to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture.

SECTION 11. The secretary of energy and environmental affairs, in consultation with the secretary of labor and workforce development, may allocate \$1,000,000 in fiscal year 2009 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established by section 35FF of chapter 10 of the General Laws, for a workforce development grant program to be administered by the secretary or his designee. Said program shall award grants to the commonwealth's higher education institutions, vocational technical schools, or community-based organizations that have existing workforce development programs in clean energy industry skills or the capacity to create such programs.

A report detailing the expenditure of said \$1,000,000 shall be submitted on or before May 30, 2009 to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture.

SECTION 12. The secretary of energy and environmental affairs may allocate \$100,000 in fiscal year 2009 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established by section 35FF of chapter 10 of the General Laws, to commission a study to investigate the clean energy sector in the commonwealth. The study shall include, but not be limited to, an examination of: (i) the future workforce needs of the commonwealth's clean energy sector; (ii) the current growth rate of said sector, including the number of in state jobs and businesses; (iii) the current levels of private investment in said sector; (iv) real property owned by the commonwealth available and suited for the installation and operation of renewable energy generating facilities; (v) energy efficiency opportunities on real property owned by the commonwealth; and (vi) the future funding requirements of the center.

A copy of said study shall be submitted on or before February 1, 2009 to the clerks of the house of

representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture.

SECTION 13. The secretary of energy and environmental affairs in consultation with the secretary of labor and workforce development may allocate \$1,000,000 from the Massachusetts Alternative and Clean Energy Investment Trust Fund, established by section 35FF of chapter 10 of the General Laws, for an initiative to be known as the pathways out of poverty initiative. Said initiative shall be administered by said secretary or his designee. Under said initiative, the secretary shall award 5 competitive grants to clean energy companies, community-based nonprofit organizations, educational institutions or labor organizations to enable said entities to carry out training programs associated with the clean energy industry that lead to economic self-sufficiency. The center shall give funding priority to entities that serve individuals in families with incomes that do not exceed 300 per cent of the poverty level, as determined by the United States Census Bureau, or a self-sufficiency standard for the local areas where the training is conducted that specifies the income needs of families, family size, the number and ages of children in the family and geographical considerations.

Said grants shall be awarded so as to ensure geographic diversity within the commonwealth with consideration given to the commonwealth's gateway cities, which shall include Brockton, Fall River, Fitchburg, Haverhill, Holyoke, Lawrence, Lowell, New Bedford, Pittsfield, Springfield and Worcester. A report detailing the expenditure of said \$1,000,000 shall be submitted on or before May 30, 2009 to the clerks of the house of representatives and the senate, who shall forward the same to the chairs of the house and senate committees on ways and means, the chairs of the joint committee on economic development and emerging technologies, the chairs of the joint committee on telecommunication, utilities and energy, and the joint committee on environment, natural resources and agriculture..

Approved August 12 , 2008
