

Massachusetts Begins the Transition to the Regional Greenhouse Gas Initiative

Public Meeting held April 10; Final Regulation Expected by Early 2008

In a move hailed by environmentalists as an important step to combat global warming, Governor Deval Patrick on January 18, 2007 moved Massachusetts forward by rejoining the Regional Greenhouse Gas Initiative (RGGI) alongside eight other states that currently comprise the compact.

Gov. Patrick's signature on a Memorandum of Understanding means all six New England states along with New York, New Jersey and Delaware (with Maryland considering joining as well) are now actively participating in the development of this market-driven cap-and-trade program.



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So, what does joining RGGI mean for the immediate future?

First, in addition to capping emissions of greenhouse gases at power plants, RGGI also works to stimulate innovative off-site projects that curtail carbon dioxide and other greenhouse gases in the atmosphere.

Massachusetts brings to this battle on greenhouse gases, countless years of hard-won experience in similar air quality measures, which have helped bring about tighter emission standards and cleaner air from power plants, such as limits on carbon dioxide (CO₂), as well as mercury, sulfur dioxide, and nitrogen oxides. The existing regulations at 310 CMR 7.29 promulgated in 2001, contain emission standards applicable to the Bay State's six oldest and highest-emitting power plants.

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Joining RGGI means that 32 of Massachusetts' existing power plants will be subject to the regional cap on greenhouse gases.

32 Power Plants Subject to RGGI Caps

Of the 32 facilities that will be encompassed under RGGI, each is required to monitor CO₂ emissions and to retire one allowance for each ton of CO₂ emitted during a compliance period. Under RGGI, a compliance period is three years, which effectively averages out a plant's yearly fluctuations in emissions (the spikes and valleys).

One of the concerns voiced during debate regarding RGGI is the possibility that it would send energy costs soaring. Economic models, however, have shown that increases will be moderate, approximately \$3 to \$37 per residential household by 2015. An up-tick on that scale over the time period in question is minor compared to the historic volatility in the energy markets.

Putting the Brakes on Greenhouse Gas Emissions

Another feature of RGGI is the measure of flexibility that is included in the initial years (2009 to 2015). In order to ease the impact, the regional cap will initially be held at roughly the same emission levels that currently exist. These first few years in RGGI represent a braking mechanism, where a decades-long trend of consistently higher amounts of greenhouse gases is halted, until it is ultimately reversed. The regional cap begins reducing greenhouse gases by 2.5 percent a year over the next four years, meaning that by 2019, a total reduction of 10 percent will result.

Under the existing 7.29 regulations, facilities can offset their excess emissions by using "credits." Greenhouse gas credits are obtained by undertaking or paying for projects outside the plant that reduce, avoid or sequester emissions. Such projects could include, for example, burning landfill gases (methane). All these credits, however, must be verifiable and approved by MassDEP.

Conversely, under RGGI, the need to cover a facility's emissions allow for so-called "offset allowances." A limited range of emission reduction projects can qualify as offset allowances and only a limited portion of a facility's total emissions (initially 3.3 percent) can be covered with offset allowances.

Allowances under RGGI can be allocated or auctioned, but at least 25 percent of allowances must go towards consumer benefit or strategic energy purposes. Governor Patrick has already indicated that Massachusetts will auction its portion of the regional cap and that the proceeds will go toward creating greater energy efficiency, and renewable and strategic energy development.

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In the effort to develop and implement this program, MassDEP is now on track to propose draft regulations by July of this year and have final regulations in place by early 2008.

Public meetings on the RGGI transition were held in March and early April to gather input from stakeholders. Additional information on RGGI can be accessed from the website <http://rggi.org>.

Gov. Patrick: Protect the Environment, Streamline the Permit Process

Plans Propose 20% Cut in Time to Permit, Reform of Wetland Appeals Process

MassDEP Acting Commissioner Arleen O'Donnell joined Gov. Deval Patrick and Environmental Affairs Secretary Ian Bowles recently to unveil two important initiatives that will improve the effectiveness of environmental regulations, while bringing MassDEP closer to permitting "at the speed of business."



Announcing the permit streamlining initiative at the Genzyme Center in Cambridge are Governor Deval Patrick and Environmental Affairs Secretary Ian Bowles.

The first initiative will reduce permit timelines by 20 percent at MassDEP for the majority of its permits. The second will be the reform of the wetlands appeals process to move these cases through the system more rapidly.

Gov. Patrick affirmed his commitment to maintaining the highest environmental standards and to a strong program of environmental enforcement, but he also promised to deliver permit efficiencies for the industries that the Commonwealth regulates. "This is regulation at the speed of business," he said.

The Governor made the announcement at the Genzyme Center, a top-rated "green building" built on a former brownfields site in Cambridge that serves as the biotech company's corporate headquarters.

90% of Permit Decisions Expected Within 180 Days

MassDEP has released the proposed permit streamlining regulations for public comment. The new regulations will seek to reduce the timeframe for permit decisions by 20%. MassDEP has also committed to issuing 90% of all permit decisions within 180 days. Also, a stakeholder working group will be formed to review permit categories that frequently exceed 180 days for ways to improve performance.

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MassDEP's web-based permitting process and other technology-based efficiencies will make it possible to shorten permit timelines. Key permits targeted for closer review include those associated with significant economic development and energy projects. These include permits for groundwater discharge of wastewater, air quality, and Chapter 91 licenses for development in filled or flowed tidelands.

Commissioner O'Donnell said accelerating permit timelines through process and technological improvements will free up staff time for the highest priority permitting reviews and environmental enforcement efforts.

Governor Seeks Reform of Wetlands Appeal Process

Gov. Patrick also announced that the reform of the wetlands appeal process will focus on delays at the state Division of Administrative Law Appeals (DALA), where some cases now languish for months and years, with minimal environmental benefit.

A task force of prominent environmental lawyers from the private sector - led by the General Counsels of the Executive Office of Environmental Affairs and MassDEP - will present proposals for wetland appeals reform by May 1.

Wetlands appeal reform will also allow for more timely action on vital projects, with very little impact on environmental interests, as these appeals rarely result in additional environmental protection. In fact, of the 65 final decisions issued from 2004 to 2006, only three resulted in substantial changes from MassDEP's original permit decisions.

During the announcement, the Governor pointed out that some appeals stalled at DALA involve projects that serve the public good. One such project is the Hoosac Wind Farm electric generating plant in the Berkshires. MassDEP had approved a permit for the project back in 2004, but opponents filed an appeal of that permit. The case has been under review at DALA since February 2005, still awaiting a decision there.

Secretary Bowles recently sent a letter to DALA requesting that the magistrate issue a recommended decision on the Hoosac Wind case so that the project can proceed.

Supplemental Environmental Projects Enforce and Enhance

Enforcement Cases Before MassDEP Often Include Fines and SEP Plans to Better Protect Local Communities

A judge reduces a criminal fine, but requires the man guilty of illegal solid waste dumping to perform 200 hours of community service picking trash up along the side of the highway, paying for his crime while benefiting society at the same time.



A concerned citizen voluntarily determines the amount of carbon dioxide emitted by their home and car, calculates the dollar value of these emissions, and invests that amount in clean energy programs, thereby becoming "carbon neutral."

And in between a florescent orange vest and a relatively inconspicuous carbon credit, a business or person in violation of an environmental regulation may be implementing a Supplemental Environmental Project (SEP) by settling an enforcement case with the MassDEP while increasing environmental protection in their community.

A SEP is a project that primarily benefits public health, safety and welfare, and the environment. It also furthers the mission of MassDEP in its efforts to protect the environment.

SEPs Range from Environmental Education to Resource Protection

Take Jiffy Lube, for instance. For failing to comply with hazardous waste management requirements, in addition to paying a fine and complying with applicable regulations, the approved SEP involved paying for the development and publication of advertisements in trade and business journals designed to promote environmental compliance with Massachusetts' waste oil regulations.

Or Clark University, which for failing to notify and take timely response actions for failed underground storage tank tightness tests, paid a penalty and also designed and implemented a SEP. Their SEP entailed updating the Brownfield Geographic Information System (GIS) database, which included specific reference to final cleanup reports and Activity and Use Limitation information for sites within the municipality where the violation occurred.

Graziano Inc. and M&G Realty Trust, a concrete batching facility that discharged silt-laden storm water to surface waters in violation of the Massachusetts Clean Water and Wetlands Protection Acts, performed required restoration work and paid an administrative penalty. They also paid for a SEP that

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included the design and construction of a vegetated protective buffer between the impacted river and the company's processing facilities.

A Useful Tool in Environmental Justice Communities

A SEP is especially beneficial in communities where the population is disproportionately burdened by pollutant exposure. Emphasizing SEPs in communities where environmental justice issues are present helps to ensure that persons who spend significant portions of their time in areas, or depend on food and water sources located near where the violations occur, will be protected.

MassDEP may approve or deny a SEP based upon a number of factors, including "geographic location" (where feasible) and "nexus." The nexus requirement ensures that the SEP is substantially related to the underlying violation. In some cases, a SEP may even provide an environmental benefit that significantly outweighs the benefit to be derived from a cash penalty alone.

SEPs may involve pollution prevention, pollution reduction, environmental enhancement, education and awareness, scientific research, monitoring and data collection, or emergency preparedness and compliance. SEPs play an important role in MassDEP settlements, furthering our compliance and enforcement goals while providing an increased level of environmental protection.

MassDEP News Briefs

EFFORT TO RETROFIT ALL DIESEL BUSES: The commitment of MassDEP and the

Executive Office of Environmental Affairs (EOEA) to reduce diesel emissions across the state recently received a big boost with an agreement to fund diesel retrofits of 8,400 public school and regional transit buses by 2010. The Executive Office of Transportation (EOT) will provide the \$22.5 million in funding as part of the mitigation package that reaffirms the Commonwealth's commitment to urban transit expansion with the construction of Phase II of the Silver Line. EOT will provide \$7.5 million



MassDEP Acting Commissioner Arleen O'Donnell holds up the sign drawn up by the "Bold Teen" group of Dorchester as part of the school and transit bus diesel retrofit announcement.

over three years to accomplish the retrofit program. The agreement is a key component of the state's efforts to reduce the health impacts of diesel fuel emissions. Diesel emissions pose a number of short- and long-term health impacts, including asthma, bronchitis, heart disease and lung cancer. Retrofitting school buses is especially important because the children who ride them are particularly susceptible to damage because their lungs are not yet fully developed. For more information about diesel emission reduction efforts and the impacts of diesel exhaust, turn to:

www.mass.gov/dep/air/community/schbusir.htm

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ECOS HONORS MASSDEP FOR PERCHLORATE WORK: The Environmental Council of States (ECOS) recently presented a State Program Innovation Award to MassDEP and Acting



Commissioner Arleen O'Donnell for MassDEP's approach on the chemical perchlorate and emerging contaminants. Massachusetts is the only state to set a drinking water standard and a cleanup standard of 2 ppb for perchlorate. Among the MassDEP staffers taking part in the perchlorate effort were: Ed Kunce, Carol Rowan-West, John Fitzgerald, Paul Locke, David Terry, Damon Guterman, Rich Lehan, Oscar Pancorbo, John Bardzik, Gary Moran, Martin Suuberg, Jim Persky, Deirdre Cabral, Tsedash Zewdie, Mark Smith, Michael Hutcheson, Dave Ferris, Richard Chretien, Alan Slater, Marc Laplante and Ed Coletta.

ECOS presented this award to MassDEP for the agency's work on perchlorate and emerging contaminants.

WESTERN MASS. RECYCLING PAYMENTS TOTAL NEARLY \$652,000: MassDEP Acting Commissioner Arleen O'Donnell recently presented nearly \$652,000 in municipal recycling payments to 78 western Massachusetts communities that are part of the Springfield Materials Recycling Facility (MRF) partnership with Waste Management Recycle America (WMRA). The funds were awarded for the communities' delivery of recyclables to the Springfield MRF from July to December of 2006. Communities receive a flat rate of \$15.67 per ton in addition to the revenue share when recycling markets are good. Since these contract terms began in April 2005, WMRA has paid out \$2.2 million for the 78,482 tons of recyclables delivered by MRF communities. The communities have also saved an estimated \$5.4 million in solid waste disposal fees that municipalities have avoided by recycling their newspaper, junk mail, cardboard, aluminum, glass and plastic at the Springfield MRF. Commissioner O'Donnell praised the western Massachusetts communities for maintaining higher recycling rates than the state average, and pointed to adoption of the Pay-As-You-Throw program was a major reason. For more information on the Springfield MRF awards, turn to: www.mass.gov/dep/public/press/0307mrf.htm

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Holyoke Mayor Michael Sullivan addresses the crowd at the MRF presentation, as MassDEP Acting Commissioner Arleen O'Donnell (left) and MassDEP Deputy Director of Consumer Programs Greg Cooper (right) look on.



Shown with Acting Commissioner Arleen O'Donnell (left) are municipal officials receiving their recycling awards , including: Barry Brouillard of Chicopee, Greg Superneau of Springfield, Barry Searle of Westfield, Holyoke Mayor Michael Sullivan, Peter McErlain, Amy Gilburg, Eric Weiss of the MRF Advisory Board, Kathy Martin of Granville, Arlene Miller of MassDEP, John Pepi of UMass-Amherst, Michael Pattavina of West Springfield, and Karen Bouquillon of Northampton.

OVER \$523 MILLION AWARDED IN 2007 SRF PROGRAM: The 2007 Clean Water and Drinking Water State Revolving Fund (SRF) program has awarded more than \$523 million in low-interest loans to 80 Massachusetts communities, wastewater districts and water supplies for 93 environmental infrastructure and planning improvement projects. The Clean Water SRF will provide \$397.8 million in financing for 66 construction and planning projects aimed at eliminating combined sewer overflows, upgrading wastewater treatment facilities, extending sewers and developing long-term wastewater management plans. An additional \$125.7 million in loans from the Drinking Water SRF will finance 27 drinking water treatment, storage and distribution projects. The funds are under the control of the Massachusetts Water Pollution Abatement Trust, administered by MassDEP, the Executive Office of Administration and Finance, and the State Treasurer's Office. Massachusetts has awarded nearly \$3.9 billion in Clean Water SRF loans since the program's inception in 1991. The Drinking Water SRF, initiated in 1999, has financed more than \$1 billion in projects. For more information about the 2007 SRF program, turn to: <http://www.mass.gov/dep/public/press/0107srf.htm>

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\$147,655 IN GRANTS TO FUND NPS POLLUTION ASSESSMENTS: MassDEP has awarded five projects a total of \$147,655 as part of the federal Section 604b Clean Water Act grant program to conduct watershed non-point source pollution and assessment projects this year. The grants were awarded to the Martha's Vineyard Commission (\$20,119), Town of Sandwich (\$21,100), Towns of Provincetown and Truro (\$47,730), Town of Leominster (\$33,300), and the City of Boston (\$25,406). These projects will help to protect Massachusetts' water resources by supporting the six-year, \$12.5 million Massachusetts Estuaries Project and activities identified in Executive Office of Environmental Affairs Watershed Action Plans. For more information on these projects, turn to:
<http://www.mass.gov/dep/public/press/0207604b.htm>

GOLLEDGE RECEIVES CIVILIAN SERVICE MEDAL: Former Environmental Affairs Secretary and MassDEP Commissioner Robert W. Golledge was recently honored with the "Outstanding Civilian Service Medal" by the U.S. Army for his work to protect the environment at the Massachusetts Military Reservation (MMR) on Cape Cod. U.S. Army official Geoff Prosch presented the award during a ceremony in the Pentagon, saying that "Secretary Golledge played a critical role in working with the Department of Defense and all the Services on a host of important environmental tissues, including significant accomplishments at the Massachusetts Military Reservation, Camp Edwards and Otis AFB." Sec. Golledge was presented with the award just before flying to Ghana in West Africa, where he is now the country director for the U.S. Peace Corp.

IN PRAISE OF THE CIRCUIT RIDERS: The MassDEP Circuit Rider Program provides a direct link and badly needed technical assistance to local conservation agents and commissions, who at times need assistance with wetlands and watershed issues. The program recently proved its worth in the city of Waltham. Gloria J. Champion, clerk of the conservation commission, sent a letter offering praise for the Circuit Rider Program and former Circuit Rider Jason Lederer. Ms. Champion said that there are times when her own knowledge of the Wetlands Protection Act did not cover an issue, and she turned to MassDEP and the Circuit Riders to get the right answers. "Sometimes it feels very lonely down here in the trenches! Our link through our Circuit Riders to DEP is a valuable and essential resource. It makes my job much easier to know that any technical or regulatory questions that may come up during our review of wetlands filings can get answered quickly and efficiently through our Circuit Rider," Champion said.



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