

Adopt new 310 CMR 60.06 to read as follows:

310 CMR 60.06 CO₂ Emission Limits for State Fleet Passenger Vehicles

(1) Purpose, Scope and Authority. The purpose of 310 CMR 60.06 is to assist the Commonwealth in achieving the greenhouse gas emissions reduction goals adopted pursuant to M.G.L. c. 21N, § (3)(b) by reducing carbon dioxide (CO₂) emissions from certain vehicles owned or leased by Commonwealth of Massachusetts Executive Offices through the imposition of declining annual aggregate emission limits. 310 CMR 60.06 is promulgated pursuant to M.G.L. c. 21N, § 3(d) and is also promulgated pursuant to M.G.L. c. 21A, §§ 2, 8 and 16, and M.G.L. c. 111, §§ 2C and 142A-142M, to prevent and abate conditions of air pollution from the CO₂ emissions from the mobile sources specified in this regulation.

(2) Definitions. The terms used in 310 CMR 60.06: ~~CO₂ Emission Limits for State Fleet Passenger Vehicles~~ are defined in 310 CMR 60.06 and in 310 CMR 60.00. Where a term is defined in 310 CMR 60.06 and in other sections of 310 CMR 60.00, the definition in 310 CMR 60.06 shall apply.

Department means the Massachusetts Department of Environmental Protection.

Emergency Vehicle means any publicly owned or leased vehicle operated by a sworn officer in performance of their duties, any authorized emergency vehicle used for fighting fires, any publicly owned or leased authorized emergency vehicle used by an emergency medical technician or paramedic, or used for towing or servicing other vehicles, or repairing damaged lighting or electrical equipment, or any ambulance used by a private entity under contract with a public agency.

Executive Office means the Executive Office of Administration and Finance (A&F), the Executive Office of Education (EOE), the Executive Office of Energy and Environmental Affairs (EEA), the Executive Office of Health and Human Services (EOHHS), the Executive Office of Housing and Economic Development (EOHED), the Executive Office of Labor and Workforce Development (EOLWD), the Executive Office of Public Safety and Security (EOPSS), and the Massachusetts Department of Transportation (MassDOT), including the agencies, boards, bureaus, commissions, committees, councils, departments, divisions, groups, guards, homes, laboratories, libraries, offices, police, programs, systems, trusts, universities and other entities within each Executive Office, ~~the Massachusetts Water Resources Authority,~~ and entities whose governing members or Board of Directors include(s) the Secretary of an Executive Office pursuant to appointment by the Governor, or to the requirements of a Massachusetts General or Session Law.

Passenger Vehicle means any motor vehicle with a gross vehicle weight rating of less than 10,000 pounds designed primarily for transportation of persons and having a design capacity of 12 persons or less and that has an Environmental Protection Agency fuel economy sticker pursuant to 40 CFR Part 600 Fuel Economy And Greenhouse Gas Exhaust Emissions Of Motor Vehicles. Passenger vehicle does not include transit vehicles or vehicles primarily designed to transport property or with special features enabling off-road operation and use, including but not limited to, pickup trucks, cargo vans, emergency vehicles, test vehicles, non-road vehicles.

Test Vehicle means an experimental or prototype motor vehicle which appears to have very low emission characteristics or a used motor vehicle within which an experimental motor vehicle pollution control device is installed, and which has also received a test vehicle or fleet permit

from the California Air Resources Board pursuant to Manufacturers Advisory Correspondence No. 83-01.

Transit Vehicle means any vehicle used to transport paying customers.

(3) Applicability. 310 CMR 60.06 is applicable to ~~the~~ Executive Offices, except that an Executive Office is not subject to annual CO₂ emission limits unless it owns or leases 30 or more passenger vehicles, as determined by the Department in its sole discretion.

(4) General Requirements.

(a) ~~By March 1, 2018 and annually~~ For calendar year 2018 and for every calendar year thereafter, each Executive Office shall meet its passenger vehicle CO₂ emission limit specified in 310 CMR 60.06(6).

(b) By November 1, 2017, each Executive Office shall provide the Department with the information specified in 310 CMR 60.06(8) for the time period from January 1, 2016 ~~through~~ December 31, 2016 ~~for~~ by each of its vehicles that is not a passenger vehicle.

(c) By March 1, 2018, each Executive Office shall provide the Department with the information specified in 310 CMR 60.06(8) for the time period from January 1, 2017 ~~through~~ December 31, 2017 ~~for~~ by each of its vehicles that is not a passenger vehicle.

(d) By March 1, 2019 and by March 1st of each year thereafter, each Executive Office shall submit a report to the Department for the previous calendar year on its passenger vehicles as specified in 310 CMR 60.06(7).

~~(ed)~~ The Department may specify the format and process by which any submission required pursuant to 310 CMR 60.06 shall occur, including electronic submission requirements.

(5) Calculation of CO₂ Emissions. Each Executive Office shall calculate the CO₂ emissions for passenger vehicles by using the applicable equation:

(a) for gasoline fueled vehicles:

~~metric tons/lbs.~~ CO₂ emitted/year = gallons of gasoline used * 19.8416 pounds of CO₂/gallon of gasoline / 2000 pounds/short ton / 1.10231 short tons/metric ton

(b) for diesel fueled vehicles:

~~metric tons/lbs.~~ CO₂ emitted/year = gallons of diesel used * 22.38 pounds of CO₂/gallon of diesel / 2000 pounds/short ton / 1.10231 short tons/metric ton

(c) for natural gas fueled vehicles:

~~metric tons/lbs.~~ CO₂ emitted/year = thousand cubic feet of natural gas used * 121.25 pounds of CO₂/thousand cubic feet of natural gas / 2000 pounds/short ton / 1.10231 short tons/metric ton

(6) Annual CO₂ Emission Limits.

(a) Individual Executive Office Limits. For each calendar year specified in 310 CMR 60.06(6): Tables 1 through 5 below, each Executive Office shall ensure the annual CO₂ emissions from passenger vehicles, as calculated pursuant to 310 CMR 60.06(5), shall not exceed the following:

<u>Table 1 – Maximum Annual CO₂ Emissions – Executive Office of Administration and Finance (A&F)</u>	
<u>Calendar Year</u>	<u>Maximum Allowable CO₂ Emissions (lbs.)</u>
<u>2018</u>	<u>31.0</u>
<u>2019</u>	<u>26.9</u>
<u>2020</u>	<u>26.8</u>

2021	24.5
2022	24.4
2023	24.3
2024	24.1
2025, and each calendar year thereafter	24.0

Table 12 - Maximum Annual CO ₂ Emissions – Executive Office of Education (EOE)	
Calendar Year	Maximum Allowable CO ₂ Emissions (<u>metric tons/lbs.</u>)
2018	5894.57
2019	5644.55
2020	5394.53
2021	5094.51
2022	4904.48
2023	4614.46
2024	4374.44
2025, and each calendar year thereafter	4013.29

Table 23 - Maximum Annual CO ₂ Emissions – Executive Office of Energy and Environmental Affairs (EEA)	
Calendar Year	Maximum Allowable CO ₂ Emissions (<u>metric tons/lbs.</u>)
2018	568969
2019	558952
2020	548944
2021	545925
2022	539865
2023	537859
2024	471797
2025, and each calendar year thereafter	445770

Table 34 - Maximum Annual CO ₂ Emissions – Executive Office of Health and Human Services (EOHHS)	
Calendar Year	Maximum Allowable CO ₂ Emissions (<u>metric tons/lbs.</u>)
2018	1,443,434.2
2019	1,435,415.5
2020	1,427,413.7
2021	1,407,405.7
2022	1,403,403.7
2023	1,399,400.8
2024	1,259,400.7
2025, and each calendar year thereafter	1,081,398.7

Table 5 - Maximum Annual CO₂ Emissions – Executive Office of Housing and Economic Development (EOHED)	
Calendar Year	Maximum Allowable CO₂ Emissions (lbs.)
2018	106.3
2019	105.7
2020	103.2
2021	102.7

2022	102.1
2023	101.6
2024	62.8
2025, and each calendar year thereafter	62.4

Table 6 – Maximum Annual CO₂ Emissions – Executive Office of Labor and Workforce Development (EOLWD)

Calendar Year	Maximum Allowable CO ₂ Emissions (lbs.)
2018	1.403
2019	1.396
2020	1.389
2021	1.382
2022	1.375
2023	1.368
2024	1.361
2025, and each calendar year thereafter	1.354

Table 47 - Maximum Annual CO₂ Emissions – Executive Office of Public Safety and Security (EOPSS)

Calendar Year	Maximum Allowable CO ₂ Emissions (metric tons/lbs.)
2018	1,795,824
2019	1,657,820
2020	1,518,812
2021	1,499,792
2022	1,486,779
2023	1,479,754
2024	1,334,659
2025, and each calendar year thereafter	1,319,655

Table 58 - Maximum Annual CO₂ Emissions – Massachusetts Department of Transportation (MassDOT)

Calendar Year	Maximum Allowable CO ₂ Emissions (metric tons/lbs.)
2018	3,853,355
2019	3,827,354
2020	3,800,352
2021	3,739,350
2022	3,682,347
2023	3,092,322
2024	2,646,312
2025, and each calendar year thereafter	2,421,302

(b) Aggregate Limit. For each calendar year specified in [310 CMR 60.06\(6\)](#): [Table 96](#) below, the annual CO₂ emissions from passenger vehicles owned or leased by all Executive Offices named in [310 CMR 60.06\(6\)](#): [Tables 1](#) through [58](#) shall not exceed the following:

Table 69 - ~~Maximum~~ Annual Aggregate CO₂ Emissions from passenger vehicles owned or leased by Executive Offices named in [310 CMR 60.06\(6\)](#): [Tables 1](#) through [58](#)

Calendar Year	Maximum Allowable CO ₂ Emissions (metric tons/lbs.)
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2018	8,249,275
2019	8,040,268
2020	7,832,265
2021	7,699,260
2022	7,600,252
2023	6,968,246
2024	6,147,226
2025, and each calendar year thereafter	5,668,221

(c) CO₂ Set-Aside and Petition Process for Modifying CO₂ Emission Limit.

1. The Department has set-aside the following quantities of CO₂ in 310 CMR 60.06(6)(c): Table 7 each calendar year for Executive Offices that petition to modify their limits in 310 CMR 60.06(6)(a) based on one of the reasons in 310 CMR 60.06(6)(c)3.

Table 7 – Set-aside of CO₂ and Summary of Maximum Annual Aggregate CO₂ Emissions Limit

<u>Calendar Year</u>	<u>Set-aside of CO₂ (metric tons)</u>	<u>Maximum Annual Aggregate CO₂ Emissions Limit (metric tons)</u>
<u>2018</u>	<u>31,734</u>	<u>39,983</u>
<u>2019</u>	<u>31,734</u>	<u>39,775</u>
<u>2020</u>	<u>31,734</u>	<u>39,566</u>
<u>2021</u>	<u>31,734</u>	<u>39,433</u>
<u>2022</u>	<u>31,734</u>	<u>39,334</u>
<u>2023</u>	<u>31,734</u>	<u>38,702</u>
<u>2024</u>	<u>31,734</u>	<u>37,882</u>
<u>2025, and each calendar year thereafter</u>	<u>31,734</u>	<u>37,402</u>

2. Upon written petition from an Executive Office, the Department may modify the CO₂ emission limits and allocate additional CO₂ in excess of the limits in 310 CMR 60.06(6)(a) provided that the set-aside amount of CO₂ in each calendar year in 310 CMR 60.06(6): Table 7 is not exceeded.

3. The basis for the petition shall be one or more of the following:

- a. The Executive Office did not provide the Department with complete information about the inventory of its passenger vehicles prior to the promulgation of 310 CMR 60.06;
- b. The Executive Office believes that the Department made a mathematical error in its calculation of the CO₂ emission limit(s);
- c. The Executive Office is required to increase its passenger vehicle fleet due to unforeseen circumstances or new legislative or regulatory requirements; and/or
- d. The Executive Office increases its passenger vehicle fleet to 30 or more passenger vehicles thereby becoming subject to the CO₂ emission limits in 310 CMR 60.06(a) and (b).

4. Requirements for the petition.

- a. The Executive Office shall submit the petition to the Department no later than 60 days after the end of the calendar year in which the Executive Office seeks to have additional CO₂ allocated.
- b. If the basis for the petition is 310 CMR 60.06(6)(c)3.a., the Executive Office shall provide all the information in 310 CMR 60.06(7)(b).

c. If the basis for the petition is 310 CMR 60.06(6)(c)3.b., the Executive Office shall provide a detailed explanation of the alleged mathematical error and any supporting documentation.

d. If the basis for the petition is 310 CMR 60.06(6)(c)3.c., the Executive Office shall describe the event leading to the need to expand the passenger vehicle fleet for the Executive Office and also provide all the information in 310 CMR 60.06(7)(b).

e. The petition shall be signed and certified in accordance with the requirements at 310 CMR 60.06(7)(b)8.

5. In its sole discretion, the Department will approve or deny the petition in writing within 60 days of receipt of the petition. During the 60 day review period, the Department may request additional information from the Executive Office. Depending on when the Department receives the information, and the volume of the information, the Department may extend the 60 day review period.

a. If the Department approves the petition, calculates a modified or new limit, and/or allocates additional CO₂, the modified CO₂ emission limit(s) in the approval letter shall be enforceable in lieu of the CO₂ emission limit in 310 CMR 60.06(6)(a).

b. If the petition is approved, the Department will calculate the metric tons of CO₂ emissions remaining in the set-aside for the applicable calendar year and publish that figure on its website.

(d) Petition Process for Executive Offices with Less than 30 Passenger Vehicles.

1. If an Executive Office decreases its passenger vehicle fleet to less than 30 passenger vehicles for one or more years, it may petition the Department to be excluded from CO₂ emission limits on its passenger vehicles.

2. Requirements for the petition.

a. The Executive Office shall submit the petition to the Department no later than 60 days after the end of the calendar year in which the Executive Office seeks to be excluded from the CO₂ emission limits.

b. The Executive Office shall provide all the information in 310 CMR 60.06(7)(b).

c. The petition shall be signed and certified in accordance with the requirements at 310 CMR 60.06(7)(b)8.

3. In its sole discretion, the Department will approve or deny the petition in writing within 60 days of receipt of the petition. During the 60 day review period, the Department may request additional information from the Executive Office. Depending on when the Department receives the information, and the volume of the information, the Department may extend the 60 day review period.

a. If the Department approves the petition, the Executive Office shall not have a CO₂ emission limit(s) unless and until the Executive Office increases its passenger vehicle fleet to 30 or more passenger vehicles.

b. If the petition is approved, the Department will calculate the metric tons of CO₂ emissions remaining in the set-aside for the applicable calendar year and publish that figure on its website.

(7) Annual Passenger Vehicle Reporting Requirements.

(a) By March 1, 2019⁸ and by March 1st of each year thereafter, each Executive Office shall submit a report to the Department for the previous calendar year.

(b) The annual report shall be submitted electronically in a format specified by the Department, and shall include all of the following information as well as any additional information specified in the form provided by the Department for reporting:

1. The Executive Office name, physical address, and mailing address;
2. The location of records and documents;

3. The name and contact information including e-mail address and telephone number of the Climate Change Coordinator or authorized Executive Office official submitting the report, and the person primarily responsible for preparing the report;
4. The calendar year for which the information is submitted;
5. For each passenger vehicle owned or leased:
 - a. vehicle identification number (VIN);
 - b. vehicle make;
 - c. vehicle model;
 - d. vehicle model year; and
 - e. entity within the Executive Office that owns or leases the vehicle;
6. The total gallons of gasoline and diesel, cubic feet of hydrogen and natural gas and megawatt hours of electricity used by the passenger vehicles owned or leased by the Executive Office;
7. ~~Metric tons~~^{Pounds} of CO₂ emissions from passenger vehicles, by fuel, as calculated using the equations specified in 310 CMR 60.06(5); and
8. The signature of the Climate Change Coordinator or authorized Executive Office official, and the following certification statement: "I certify that I have personally examined the foregoing and am familiar with the information contained in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

(8) Non-Passenger Vehicle Reporting Requirements.

- (a) By the deadlines in 310 CMR 60.06(4)(b) and (c), each Executive Office shall also submit reports to the Department with information about non-passenger vehicles owned or leased by that Executive Office.
- (b) The reports shall be submitted electronically in a format specified by the Department, and shall include all of the following information as well as any additional information specified in the form provided by the Department for reporting:
 1. The Executive Office name, physical address, and mailing address;
 2. The location of records and documents;
 3. The name and contact information including e-mail address and telephone number of the Climate Change Coordinator or authorized Executive Office official submitting the report, and the person primarily responsible for preparing the report;
 4. The calendar year for which the information is submitted;
 5. For each vehicle owned or leased that is not a passenger vehicle, and that has an odometer:
 - a. vehicle identification number (VIN);
 - b. vehicle make;
 - c. vehicle model;
 - d. vehicle model year;
 - e. gross vehicle weight rating (GVWR);
 - f. entity within the Executive Office that owns or leases the vehicle;
 - g. VMT;
 - h. primary type of fuel used;
 - i. gallons of gasoline or diesel, or cubic feet of hydrogen or natural gas or megawatt hours of electricity used as primary fuel;
 - j. secondary type of fuel used, if applicable;
 - k. gallons of gasoline or diesel, or cubic feet of hydrogen or natural gas or megawatt hours of electricity used as secondary fuel;

- I. a description of what the vehicle is used for (for example, snow plow, street sweeper, bus, emergency response, off-road use); and
6. The signature of the Climate Change Coordinator or authorized Executive Office official, and the following certification statement: "I certify that I have personally examined the report and am familiar with the information contained in that report and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including possible fines and imprisonment."

(9) Monitoring and Recordkeeping Requirements.

(a) Each Executive Office shall collect, record and maintain information sufficient to demonstrate compliance with 310 CMR 60.06.

(b) Each Executive Office shall retain for five years documentation sufficient to demonstrate compliance with 310 CMR 60.06 and shall provide such documentation to the Department upon request. The documentation shall be submitted in the format and within the time limit requested by the Department.

(10) Compliance Verification. The Department may verify compliance with 310 CMR 60.06 by conducting inspections, requesting information and records and requiring the collection of information; provided that ~~this section~~310 CMR 60.06(10) does not limit the authority of the Department as otherwise provided by law or in an authorization, determination, modification, permit, or other approval, or by the terms of any order or other enforcement document.

(a) Access to Information. Where necessary to ascertain compliance with 310 CMR 60.06, including actual or potential CO₂ emissions, the Department may request of an Executive Office information or records. The Executive Office shall, within a reasonable time, furnish the requested information or records and shall permit Department personnel or authorized representatives to have access to and to take images of such records.

(b) Requirement to Collect Information. When the Department has reason to believe that an Executive Office has exceeded its CO₂ emissions limit or violated any other condition in 310 CMR 60.06, the Department may require the Executive Office to submit the necessary information or records to determine compliance. In doing so, the Department may require an Executive Office to:

1. Perform audits on CO₂ emissions records using standard procedures and methods;
2. Quantify CO₂ emissions in accordance with the procedures and methods as the Department may prescribe;
3. Make periodic reports to the Department, as necessary, to assure continuous compliance with 310 CMR 60.06; and
4. Maintain other records and provide any other information as the Department might reasonably require.

(11) Enforcement. The Department shall enforce the requirements of 310 CMR 60.06 in accordance with applicable federal and Massachusetts law, including but not limited to M.G.L. c. 21A, § 16; ~~and~~ 310 CMR 5.00: Administrative Penalty; M.G.L. c. 111, § 2C; ~~M.G.L. c. 111, §§ 142A through 142M; and~~ M.G.L. c. 21N § 7(d).

REGULATORY AUTHORITY

310 CMR 60.00: M.G.L. c. 111, §§ 2C and 142A through M; M.G.L. c. 21N; M.G.L. c. 21A, §§ 2, 8 and 16.