

Amend 310 CMR 60.05 as follows:

310 CMR 60.00: AIR POLLUTION CONTROL FOR MOBILE SOURCES

Section

60.05: Global Warming Solutions Act Requirements for ~~the Transportation Sector of the Massachusetts Department of Transportation~~

60.05: Global Warming Solutions Act Requirements for ~~the Transportation Sector and the Massachusetts Department of Transportation~~

(1) Purpose, Scope and Authority. ~~310 CMR 60.05 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 greenhouse gas (GHG) emissions from the mobile sources specified in this regulation.~~ The purpose of 310 CMR 60.05 is to assist the Commonwealth in achieving the GHG emissions reduction goals adopted pursuant to ~~the Climate Protection and Green Economy Act as codified at~~ M.G.L. c. 21N, § (3)(b) and to establish an annually declining aggregate GHG emissions limit pursuant to M.G.L. c. 21N, § 3(d), by:

- (a) Requiring MassDOT to demonstrate its aggregate MassDOT GHG emissions reduction commitments and targets/limits as established in ~~the GECP for 2020~~ 310 CMR 60.05(6) are achieved;
- (b) Requiring the Metropolitan Planning Organizations (MPOs) to evaluate and ~~track~~ report the aggregate transportation GHG emissions ~~and~~ impacts of Regional Transportation Plans (RTPs), and Transportation Improvement Programs (TIPs);
- (c) Requiring the MPOs, in consultation with MassDOT, to develop and utilize procedures to prioritize and select projects in RTPs and TIPs based on factors that include aggregate transportation GHG emissions ~~and~~ impacts; and
- (d) Requiring MassDOT to evaluate and ~~track~~ report the aggregate transportation GHG emissions ~~and~~ impacts of State Transportation Improvement Programs (STIPs) and state-funded projects that are not included in STIPs.

(2) Definitions.

Aggregate Transportation GHG Emissions means total GHG emissions estimated by MassDOT, in collaboration with the Department, from the multimodal surface transportation system and its facilities including the highway and transit networks.

Aggregate MassDOT GHG Emissions means total GHG emissions estimated by MassDOT as occurring from the combustion of fuels in mobile equipment owned by MassDOT and the MBTA and of heating fuels at MassDOT and MBTA facilities.

Appropriate Planning Assumptions means the data, models, and expectations about future year conditions that serve as inputs to forecasting models used for estimating future year GHG emissions. This shall include best assumptions about future land use, transportation system condition and operations, and travel costs.

Build Condition means transportation facilities and projects that have a reasonable expectation of being open and operating by the end of applicable milestone and horizon years (e.g., 2020, 2030, 2035, and 2040, as appropriate).

~~Clean Energy and Climate Plan (CECP) for 2020 means the plan issued by EOEEA on December 29, 2010 and as updated pursuant to the Climate Protection and Green Economy Act and includes a statewide target for GHG emissions to be achieved in part through travel behavior changes that are facilitated by the mix of new transportation projects and policies that are implemented in RTPs, TIPs, and STIPs.~~

~~Climate Protection and Green Economy Act means the climate change statute codified at M.G.L. c. 21N that was included as part of St. 2008, c. 298, the Global Warming Solutions Act (GWSA).~~

Consultation means that one party confers with another identified party, provides all appropriate information to that party needed for meaningful input, and, prior to taking any action, considers the views of that party and responds to those views in a timely, substantive written manner prior to any final decision on such action. Such views and written response shall be made part of the record of any decision or action.

Department means the Massachusetts Department of Environmental Protection.

EOEEA means the Massachusetts Executive Office of Energy and Environmental Affairs.

~~GreenDOT means MassDOT's comprehensive environmental responsibility and sustainability initiative that will make MassDOT a national leader in "greening" the state transportation system.~~

~~GreenDOT Office means the MassDOT organizational unit that is responsible for coordinating MassDOT activities that support GreenDOT goals and principles, and that tracks progress toward GreenDOT goals and GHG reduction targets.~~

~~Greenhouse Gases (GHGs) means the air contaminant that is the aggregate of the group of six gases: Carbon dioxide (CO₂), Methane (CH₄), Nitrous oxide (N₂O), Hydrofluorocarbons (HFCs), Perfluorocarbons (PFCs), and Sulfur hexafluoride (SF₆).~~

~~GHG Assessment means the requirements of 310 CMR 60.05(5).~~

~~Greenhouse Gas (GHG) Emissions means, for the purposes of 310 CMR 60.05, carbon dioxide (CO₂).~~

Horizon Year is a year for which the transportation plan describes the envisioned transportation system.

MassDOT means the Massachusetts Department of Transportation.

Metropolitan Planning Organizations (MPOs) means the Massachusetts organizations designated as being responsible, together with the Commonwealth, for conducting the continuing, cooperative, and comprehensive planning process under 23 U.S.C. 134 and 49 U.S.C. ~~§§5301-53404607~~. It is the forum for cooperative transportation decision-making. For the purposes of 310 CMR 60.05, Regional Planning Agencies (RPA) in the Commonwealth of Massachusetts which have not been formally designated as MPOs under 23 U.S.C. 134 and 49 U.S.C. ~~§§5301-53404607~~ shall be subject to the same requirements as MPOs under 310 CMR 60.05.

No-build Condition means existing transportation facilities plus those projects that are under construction, have been advertised, or have been included in the first year of the RTPs, TIPs or STIPs.

Regional Planning Agencies (RPA) means one of the 13 Massachusetts commissions, councils, or councils of government authorized to be formed under M.G.L. c. 40B.

Regional Transit Authority (RTA) means one of the 16 Massachusetts regional transit authorities including the Massachusetts Bay Transportation Authority (MBTA).

Regional Transportation Plan (RTP) means the official intermodal metropolitan transportation plan that is developed through the metropolitan planning process for the metropolitan planning area, developed pursuant to 23 CFR Part 450.

Statewide Transportation Improvement Program (STIP) means the compilation of the 13 regional TIPs prepared annually by MassDOT and includes a listing of priority transportation projects (highway and transit) listed by funding category and fiscal year.

Transportation GHG Emissions Impact means an increase or decrease of GHG emissions from the combustion of fuels in vehicles traveling on roadways in Massachusetts.

Transportation Improvement Program (TIP) means a staged, multiyear, intermodal program of transportation projects covering a metropolitan planning area which is consistent with the regional transportation plan, and developed pursuant to 23 CFR Part 450.

(3) Applicability.

(a) General.

~~1.~~ The provisions of 310 CMR 60.05 shall apply ~~statewide to~~ MassDOT, MPOs, RTAs, the Department and EOEEA.

~~2.~~ ~~The provisions of 310 CMR 60.05 shall apply to the following GHG emissions: CO₂~~

~~(b) Action Applicability.~~

(4) Effective Dates.

(a) MassDOT and the MPOs shall apply the requirements of 310 CMR 60.05(5) to RTPs, TIPs, and STIPs effective October 1, 2015, with the start of federal fiscal year 2016. In keeping with this effective date, the GHG emission analysis shall be included in the RTPs, TIPs, and STIPs that are due on September 30, 2015, and in each subsequent version of these documents.

(b) 310 CMR 60.05(6) and (7) shall apply to MassDOT beginning in calendar year 2018.

(5) General Requirements for Transportation Planning and Investment.

~~4.~~ The MPOs shall:

~~a~~1. Evaluate and ~~track report~~ the aggregate transportation GHG emissions ~~and~~ impacts of RTPs and TIPs.

~~b~~2. In consultation with MassDOT, develop and utilize procedures to prioritize and select projects in RTPs and TIPs based on factors that include aggregate transportation GHG emissions ~~and~~ impacts.

~~c~~3. Quantify net transportation GHG emissions ~~and~~ impacts resulting from the projects in RTPs and TIPs and certify in a statement included with RTPs and TIPs pursuant to 23

CFR Part 450 that the MPO has made efforts to minimize aggregate transportation GHG emissions ~~and~~ impacts.

~~d4.~~ Determine in consultation with the RPA that the appropriate planning assumptions used for transportation GHG emissions modeling are consistent with local land use policies, or that local authorities have made documented and credible commitments to establishing such consistency.

~~(b)2.~~ MassDOT shall:

~~a.~~ Evaluate and ~~ackreport~~ the transportation GHG emissions ~~and~~ impacts of STIPs and state-funded projects that are not included in STIPs.

~~b.~~ Demonstrate that MassDOT's commitments included in the CECF for 2020 are achieved or supplemental measures are implemented, if necessary. Supplemental measures may include reducing GHG emissions from MassDOT's operational activities;

~~c.~~ Report on the status of these commitments;

~~d.~~ Calculate the GHG emission reductions that are expected to be achieved through these measures; and

~~e.~~ Report on the status and GHG impacts of these measures and initiatives.

~~(c)3.~~ Prior to adoption and approval of RTPs and TIPs by MPOs and STIPs by MassDOT, MassDOT shall:

~~a.~~ Determine that GHG emissions were modeled and projected using appropriate planning assumptions for horizon years 2020 and 2040.

~~b1.~~ Determine that the MPOs have adopted and implemented procedures to prioritize and select projects in the RTPs and TIPs based on factors that include aggregate transportation GHG emissions impacts.

~~e2.~~ Calculate the net GHG transportation emission reductions achieved through implementation of the projects and programs included in RTPs, TIPs, STIPs, and state-funded projects that are not included in STIPs ~~and evaluate these relative to the 2020 GHG targets for transportation included in the CECF for 2020.~~

~~d3.~~ Determine in consultation with the RPAs that the appropriate planning assumptions used for transportation GHG emissions modeling are consistent with existing local land use policies, or that local authorities have made documented and credible commitments to establishing such consistency.

~~(d)4.~~ MassDOT shall ~~determine~~certify that the requirements of 310 CMR 60.05(3)(b)1-5)(a) through 3.(c) have been met in a ~~certification~~ statement included with the endorsed RTPs, TIPs, and STIPs pursuant to 23 CFR Part 450.

~~5.~~ In order to address any shortfall between the projected GHG reductions in 310 CMR 60.05(3)(b)3. and the GHG reduction targets in the CECF for 2020, MassDOT shall identify, quantify, and implement supplemental measures and initiatives within the transportation sector and/or areas of MassDOT's responsibilities that will achieve the GHG reduction by 2020.

~~6.~~ MassDOT and/or the GreenDOT Office shall report on the status and GHG impacts of these measures and initiatives in the endorsed RTPs, TIPs, and STIPs pursuant to 310 CMR 60.05(3)(b)4.

~~(c) Effective Date.~~

~~1.~~ MassDOT and the MPOs shall apply the requirements of 310 CMR 60.05 related to the GreenDOT goals and the GHG assessments to RTPs, TIPs, and STIPs effective October 1, 2015, with the start of federal fiscal year 2016. In keeping with this effective date, the GreenDOT goals and GHG assessments shall be included in the RTPs, TIPs, and STIPs that are due on September 30, 2015, and in each subsequent version of these documents.

~~2.~~ Pursuant to 310 CMR 60.05(6), by December 31, 2015, and annually thereafter, the GreenDOT Office shall report on the projected GHG emissions reductions from the

~~RTPs, TIPS, STIPs, and state-funded projects that are not included in STIPs; evaluate these projected reductions relative to GHG emissions targets for the GreenDOT Policy; and identify and report on any supplemental measures and initiatives within the transportation sector and/or areas of MassDOT's responsibilities that are projected to achieve the GHG emissions targets for the GreenDOT Policy.~~

(6) Requirements for Aggregate MassDOT GHG Emissions.

(a) MassDOT shall:

1. Quantify aggregate MassDOT GHG emissions annually to demonstrate whether the aggregate emissions limits in Table 310 CMR 60.05(6) have been achieved.
2. Report to the Department, by March 1, 2019, March 1, 2020 and March 1, 2021, aggregate MassDOT GHG emissions for the prior calendar year, in an electronic format specified by the Department.
3. The March 1st report shall address any exceedance of the limits in 310 CMR 60.05(6): Table, in consultation with the Department, through supplemental measures proposed in the March 1st report, including an estimate of the emission reductions expected from each supplemental measure and the implementation status and schedule of each supplemental measure listed in a March 1st report, until the supplemental measure is complete.

310 CMR 60.05(6): Table

<u>Maximum Annual Aggregate MassDOT GHG Emissions</u>	
<u>Calendar Year</u>	<u>Maximum Allowable Aggregate MassDOT GHG Emissions (million metric tons of CO₂)</u>
<u>2018</u>	<u>0.303</u>
<u>2019</u>	<u>0.298</u>
<u>2020</u>	<u>0.293</u>

(b) Supplemental measures taken by MassDOT may include, but are not limited to, the following:

1. Decrease vehicle miles travelled within the MBTA and MassDOT fleet;
2. Promote Transportation Demand Management;
3. Increase plug-in and plug-in hybrid electric vehicle use within the MBTA and MassDOT fleet;
4. Promote plug-in and plug-in hybrid electric vehicle use by motorists;
5. Increase energy efficiency of MBTA and MassDOT facilities; and
6. Increase the use of renewable energy at MBTA and MassDOT facilities.

(7) General requirements for Determining Aggregate Transportation GHG Emissions in the Transportation Planning Process.

(a) MassDOT shall:

1. Quantify aggregate transportation GHG emissions annually to demonstrate whether the aggregate emissions targets in 310 CMR 60.05(7): Table have been achieved.
2. Report to the Department, by July 1, 2019, July 1, 2020 and July 1, 2021, aggregate transportation GHG emissions for the prior calendar year, in an electronic format specified by the Department.

310 CMR 60.05(7): Table

<u>Maximum Annual Aggregate Transportation GHG Emissions</u>	
<u>Calendar Year</u>	<u>Maximum Allowable Aggregate Transportation GHG Emissions</u>

	(million metric tons of CO ₂)
<u>2018</u>	<u>24.582</u>
<u>2019</u>	<u>24.122</u>
<u>2020</u>	<u>23.682</u>

(84) Interagency Consultation.(a) Agency Responsibilities.1. MassDOT.

- a. Coordinates overall consultation process for evaluation of aggregate transportation GHG assessment emissions impacts of RTPs, TIPs, and STIPs;
- b. Provides guidance and assistance to MPOs in assessing aggregate transportation GHG emissions impacts of RTPs, TIPs, and STIPs and projects included in the plans, as appropriate, including guidance on modeling and aggregate transportation GHG emissions impact calculation methods and prioritizing and selecting projects based on factors that include transportation GHG emissions impacts;
- c. Reviews MPO RTPs and TIPs, and aggregate transportation GHG assessment emission analysis for acceptability and content and coordinates submittal to the Department within 30 days of endorsement for the Department's review; and

~~d. Demonstrates MassDOT is making best efforts on CECP for 2020 commitments, that it is pursuing supplemental GHG reduction measures where it is unable to meet CECP for 2020 commitments, and that these reductions are on track to achieve the GHG emissions target for 2020.~~

d. At the request of the Department, models and projects aggregate transportation GHG emissions using appropriate planning assumptions for the horizon years modeled.

2. Metropolitan Planning Organizations (MPOs).

- a. Develop RTPs and TIPs;
- b. Ensure that RPAs are using appropriate planning assumptions;
- c. Perform regional aggregate transportation GHG emissions impact analysis of RTPs and TIPs;
- d. Calculate aggregate transportation GHG emissions impacts for RTPs and TIPs; and
- e. Develop public consultation procedures for aggregate transportation GHG emissions impact reporting and related GWSA requirement consistent with current and approved regional public participation plans.

3. RTAs.

- a. Conduct comprehensive service reviews (CSRs);
- b. Identify service enhancements to increase passenger ridership;
- c. Identify vehicle technology and operational improvements that can reduce aggregate transportation GHG emissions; and
- d. Work within the MPO process to prioritize and fund GHG reduction projects and investments.

4. Department of Environmental Protection.

- a. Provides MassDOT and the MPOs with mobile source inputs for emissions analysis of RTPs, TIPs, STIPs, and projects included in these plans;
- b. Reviews of RTPs, TIPs, STIPs, and projects;
- ~~c. Issues findings of concurrence or non-concurrence;~~ and
- cd. Provides comments to MassDOT and MPO's on aggregate transportation GHG emissions reduction projects and projections, including supplemental projects.

5. Executive Office of Energy and Environmental Affairs (EOEEA).

- a. Provides MassDOT with user access to software tracking tools and training, and support as needed for MassDOT users; and
- b. provides comments to the Department and MassDOT on progress including deficiencies and areas of concern regarding aggregate transportation GHG emission reductions.

(b) Agency Consultation.

1. Prior to such time that aggregate transportation GHG ~~assessment~~emission impact analysis of RTPs, TIPs, STIPs and projects included in these plans is performed, or at the request of an involved agency, MassDOT shall convene a consultation meeting(s) or conduct similar electronic correspondence with representatives from the MPOs, RTAs, RPAs, EOEEA, and the Department. Prior to convening any consultation meeting(s), MassDOT shall circulate a meeting agenda to the involved agencies. The specific purposes of the state agency consultation meeting(s) and/or correspondence are to:
 - a. Determine appropriate emissions analysis models and/or other analysis techniques, including consulting on model development and assessing project design factors for modeling;
 - b. Select inputs to the most recent EPA-approved or similar emissions factor model;
 - c. Identify and confirm regionally significant projects to be included in the regional and/or statewide emissions analysis;
 - d. Identify projects which have changed in design and scope from the RTP or TIP;
 - e. Identify exempt projects;
 - f. Identify exempt projects and categories of exempt projects which should be treated as non-exempt because they may have adverse air quality impacts and determine appropriate air quality analysis methodologies for analyzing such projects;
 - g. Identify RTP, TIP, and STIP revisions which add or delete exempt projects; and
 - h. Identify appropriate planning assumptions relevant to aggregate transportation GHG emission estimation procedures and calculations; ~~and~~
~~i. Identify and discuss supplemental measures that MassDOT identifies pursuant to 310 CMR 60.05(3)(b)5.~~
2. MassDOT shall document the outcome(s) of the consultation meeting(s) and shall circulate said documentation to the MPOs, RTAs, EOEEA, and the Department.

- (c) Public Consultation Procedures. Prior to making final endorsements on the RTPs, TIPs, STIPs, and projects included in these plans, MassDOT and the MPOs shall include the aggregate transportation GHG emission impact assessment ~~and information on related GWSA activities~~ in RTPs, TIPs, and STIPs and provide an opportunity for public review and comment on the RTPs, TIPs, and STIPs.

~~(5) Criteria and Procedures for Preparing the GHG Assessment.~~

- ~~(a) When performing the GHG assessment, MassDOT shall determine that~~
- ~~1. GHG emissions were modeled, projected, or otherwise analyzed using appropriate planning assumptions for all applicable milestone and horizon years prior to adoption and approval of RTPs and TIPs by MPOs and STIPs by MassDOT.~~
 - ~~2. The MPOs have adopted and implemented procedures to prioritize and select projects in the RTPs and TIPs based on factors that include GHG emissions impacts prior to adoption and approval of RTPs and TIPs.~~
 - ~~3. The GHG reductions from the RTPs, TIPs, STIPs, and the supplemental measures, if necessary, are on track to achieve the 2020 target for transportation included in the CECF for 2020.~~
- ~~(b) In terms of demonstrating reasonable further progress toward meeting the GHG targets, MassDOT will identify and describe specific strategies and actions and/or operating~~

~~procedures that have been taken (or will be taken) by the agency that contribute (or will contribute) to GHG savings.~~

~~(6) Department Review.~~

~~(a) After a final GHG assessment has been made by MassDOT and the MPOs, MassDOT and the MPOs shall submit MPO-endorsed RTPs and TIPs and STIPs or projects within 30 days of endorsement to the Department for review of the GHG assessment.~~

~~(b) The Department shall review the GHG assessments of RTPs, TIPs, STIPs, or projects and shall issue a finding of concurrence or non-concurrence, in writing, within 30 days.~~

~~(c) If the Department issues a finding of non-concurrence with the GHG assessment, MassDOT and the MPOs, within 30 days, shall convene a meeting with the Department to attempt to resolve any issues which resulted in the finding of non-concurrence.~~

~~(9) Enforcement. The Department shall enforce the requirements of 310 CMR 60.05 in accordance with the applicable federal and Massachusetts law, including, but not limited to M.G.L. c. 21A, §16; c. 111, § 2C; c. 111, §§ 142 A through 142M; c. 21N §7(d), and 310 CMR 5.00: *Administrative Penalty.*~~