



# The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND EIGHT

## **AN ACT** PROVIDING FOR PARTICIPATION IN THE REGIONAL GREENHOUSE GAS INITIATIVE

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to provide for the commonwealth's participation in the Regional Greenhouse Gas Initiative, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and safety.

*Be it enacted by the Senate and House of Representatives in General Court assembled,  
And by the authority of the same, as follows:*

1 SECTION 1. The general court finds that:

2 (a) scientific findings indicate that the increase in greenhouse gas  
3 emissions, including carbon dioxide, is accelerating the natural greenhouse effect resulting in  
4 changes in the Earth's climate;

5 (b) such climate changes pose serious health risks to human beings and the ecosystems  
6 worldwide;

7 (c) there is a strong incentive for the creation, development and deployment of more  
8 efficient fuel-burning technologies and processes, energy efficiency and renewable energy  
9 supplies which will lead to less dependence on the import of fossil fuels; and

10 (d) the commonwealth shall enter into and fully comply with the Regional Greenhouse  
11 Gas Initiative.

12 SECTION 2. Chapter 10 of the General Laws is hereby amended by inserting after  
13 section 35FF the following section:-

14 Section 35GG. There shall be established and set up on the books of the commonwealth  
15 a separate fund to be known as the RGGI Auction Trust Fund. The fund shall consist of  
16 amounts credited to the fund in accordance with section 21 of chapter 21A and expended  
17 exclusively for the purposes of said section 21 of said chapter 21A. The fund shall be  
18 administered by the commissioner of energy resources, subject to the approval of the secretary  
19 of environmental affairs. The fund shall be an expendable trust fund and shall not be subject to  
20 appropriation or allotment. The commissioner shall report monthly by source all amounts  
21 credited to the fund and all expenditures by subsidiary made from the fund on the Massachusetts  
22 management and accounting reporting system. Amounts remaining in the fund at the end of a  
23 fiscal year shall not revert to the General Fund.

24 SECTION 3. Chapter 21A of the General Laws is hereby amended by adding the  
25 following section:-

26 Section 21. (a) As used in this section, the following words shall have the following  
27 meanings unless the context clearly requires otherwise:

28 “Allowance”, an authorization to emit a fixed amount of carbon dioxide.

29 “Cap and trade program”, a policy approach for controlling emissions from a group of  
30 emitting sources, such as electric generating stations, at a total cost that is expected to be lower  
31 than if sources were regulated individually by setting an overall cap or maximum amount of  
32 emissions from all regulated sources per compliance period that will achieve the desired

33 environmental effects; provided, however, that a certain number of authorizations to emit in the  
34 form of emissions allowances shall be created, issued and made available to persons,  
35 companies, organizations or other entities through a sale by auction or direct allocation; and  
36 provided further that the total number of allowances made available in a compliance period  
37 shall not exceed the cap.

38 “Department”, department of environmental protection.

39 ”Division”, division of energy resources.

40 “Office”, the executive office of energy and environmental affairs.

41 “RGGI”, the Regional Greenhouse Gas Initiative.

42 “Regional Greenhouse Gas Initiative”, the Memorandum of Understanding dated  
43 December 20, 2005, and any amendments thereto and the corresponding Model Rule and any  
44 amendments thereto that establishes a cap and trade program within the northeast region of the  
45 United States and other regions to the extent that the Memorandum of Understanding is  
46 amended.

47 “Secretary”, the secretary of energy and environmental affairs.

48 (b) The department, in consultation with the division, shall adopt rules and regulations  
49 establishing a carbon dioxide cap and trade program to limit and reduce the total carbon dioxide  
50 emissions released by electric generating stations that generate electric power. The rules and  
51 regulations shall comply with RGGI and permit the holders of carbon dioxide allowances to  
52 trade them in a regional market to be established through the RGGI.

53 (c)(1) The department shall provide, by regulation, that all allowances issued under the  
54 program shall be sold by auction. The proceeds recovered from the allowance auctions shall be

55 deposited in the RGGI Auction Trust Fund established in section 35GG of chapter 10. The  
56 proceeds shall be used without further appropriation for the following purposes only and shall  
57 be in a proportion to be determined by the division with the approval of the secretary:

58 (i) to reimburse a municipality in which the property tax receipts, including, for the  
59 purposes of this clause, payments in lieu of taxes, are reduced as a result of the mandates of  
60 RGGI or the regulation of carbon dioxide emissions from electric generating stations; provided,  
61 however, that the amount of the payment shall be the difference between the amount of the tax  
62 receipts in the current tax year and the amount of the tax receipts in the year before  
63 implementation of RGGI; provided further, that no reimbursement shall be made if, in a tax  
64 year, the aggregate amount paid to a municipality by the owner of an electric generating station  
65 including, but not limited to, payments in lieu of taxes and property taxes, exceeds the aggregate  
66 amount paid to that municipality by that owner in the year before implementation of RGGI; and  
67 provided further, that payments from the fund shall be prioritized so that the first payments from  
68 the fund shall be made to municipalities pursuant to this clause;

69 (ii) to promote energy efficiency, conservation, and demand response;

70 (iii) to directly mitigate electricity ratepayer impacts; and

71 (iv) to promote renewable non-carbon-emitting energy technologies.

72 (2) Notwithstanding this section, the department may set aside up to 1 per cent of the  
73 commonwealth's annual allocation of allowances to support the voluntary green power market  
74 which enables electricity consumers to support the development of renewable resources.

75 (d) The division shall promulgate regulations governing the auction of allowances. The  
76 division may hire an independent contractor determined by the office to be qualified to conduct

77 the auction in a manner that ensures the efficiency of the auction, or may provide for  
78 participation in a regional auction.

79 (e) The responsibilities created by establishing a carbon dioxide cap and trade program  
80 shall be in addition to any other responsibilities imposed by any other general or special law or  
81 rule or regulation and shall not diminish or reduce any power or authority of the department,  
82 including the authority to adopt standards and regulations necessary for the commonwealth to  
83 join and fully participate in a multistate program at any stage in the development and  
84 implementation of such a program intended to control emissions of carbon dioxide or other  
85 substances that are determined by the department to be damaging or altering the climate.

86 (f) Notwithstanding any general or special law or rule or regulation to the contrary, the  
87 state comptroller shall grant a permanent waiver or exemption from any applicable charges or  
88 assessments made against the proceeds from the auction of allowances pursuant to this section  
89 by the office of the comptroller pursuant to its authority under sections 5D of chapter 29.

90 SECTION 4. Not later than March 1, 2008, the department of environmental protection,  
91 in consultation with the division of energy resources, shall adopt regulations for the  
92 implementation of section 21 of chapter 21A of the General Laws.

93 SECTION 5. Clause (i) of paragraph (1) of subsection (c) of section 21A of chapter 21  
94 of the General Laws shall not impact any enforceable multiyear agreements effective during the  
95 period from January 1, 2007, through the implementation of the Regional Greenhouse Gas  
96 Initiative

97 SECTION 6. Said clause (i) of said paragraph (1) of said subsection (c) of said section  
98 21 of said chapter 21A shall be effective for tax years beginning on or after January 1, 2009 and  
99 shall expire on December 31, 2011.

100           SECTION 7. Notwithstanding paragraph (2) of subsection (c) of section 21 of chapter  
101 21A of the General Laws, the department may withhold from auction such allowances of  
102 vintage years 2009 to 2012, inclusive, as may be necessary to provide a transition to the  
103 Regional Greenhouse Gas Initiative from the program established pursuant to 310 CMR 7.29.