

225 CMR 21.00: CLEAN PEAK ENERGY PORTFOLIO STANDARD (CPS)

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21.01: Purpose and Application

The purpose of 225 CMR 21.00 is to establish a Clean Peak Energy Portfolio Standard to increase clean energy during the periods when Net Demand of electricity is the highest. Clean Peak Resources contribute to the Commonwealth's environmental protection goals concerning air emissions including, but not limited to, those required by the Global Warming Solutions Act, M.G.L. c. 21N, §§ 1-9, by displacing nonrenewable generating resources during Seasonal Peak Periods, while also having added benefits of reducing peak demand and system losses and increasing grid reliability. Clean Peak Resources that participate in the CPS program pursuant to 225 CMR 21.00 do so on a voluntary basis, but must comply with the terms and requirements of 225 CMR 21.00.

21.02: Definitions

Actual Monthly System Peak. The highest net demand for electricity in a calendar month in ISO-NE Control Area.

Aggregation. A group of one or more Clean Peak Resources that receives a single Statement of Qualification from the Department under the criteria and procedures set forth in 225 CMR 21.05.

Alternative Compliance Credit. A credit obtained by a Retail Electricity Supplier upon making an Alternative Compliance Payment. Such credit is used to document compliance with 225 CMR 21.07. One unit of credit shall be equivalent to one Clean Peak Energy Certificate.

Alternative Compliance Payment (ACP). A payment of a certain dollar amount per Clean Peak Certificate, resulting in the issuance of an Alternative Compliance Credit, which a Retail Electricity Supplier may submit to the Department in *lieu* of providing a Clean Peak Energy Certificate as required under 225 CMR 21.07.

Authorized Agent. A person or entity that serves under an agreement entered into by each of the Owners of a Clean Peak Resource for all dealings with the Department and with the NEPOOL GIS.

Business Day. Monday through Friday, exclusive of state and federal legal holidays.

Clean Peak Energy Certificate (CPEC). A credit received for each megawatt hour of energy or energy reserves at NEPOOL GIS that is adjusted by applicable Clean Peak Energy Certificate Multipliers and provided during a Seasonal Peak Period that represents a compliance mechanism.

Clean Peak Energy Certificate Multipliers. Values which, when applicable, are multiplied against Clean Peak Resource's performance, thereby increasing or decreasing the number of Clean Peak Energy Certificates produced in a given time period.

21.02: continued

Clean Peak Resource. A Qualified RPS Resource, a Qualified Energy Storage System or a Demand Response Resource that generates, dispatches or discharges electricity to the electric distribution system during Seasonal Peak Periods, or alternatively, reduces load on said system during said periods.

Clean Peak Seasons. The four seasons of the year as established in 225 CMR 21.05.

Commercial Operation Date. The date that a Clean Peak Resource first produces or provides electrical energy for sale. In the case of a Clean Peak Resource that is connected to the End-use Customer's side of the electric meter, the date on which the local Distribution Company grants approval for the Clean Peak Resource to interconnect with the grid. In the case of a Demand Response Resource, the date on which the resource first changes electric usage.

Compliance Filing. A document filed annually by a Retail Electricity Supplier with the Department documenting compliance with 225 CMR 21.07, consistent with the format set forth in the Guidelines and submitted no later than the first day of July, or the first Business Day thereafter, of the subsequent Compliance Year.

Compliance Year. A calendar year beginning January 1<sup>st</sup> and ending December 31<sup>st</sup>, for which a Retail Electricity Supplier must demonstrate that it has met the requirements of 225 CMR 21.07 and 21.08.

Contracted Resource. A Clean Peak Resource that:

- (a) Has received a Statement of Qualification as a Solar Tariff Generation Unit pursuant to 225 CMR 20.00; or
- (b) Has a contract with a Distribution Company that has been approved by the Massachusetts Department of Public Utilities pursuant to St. 2008, c. 169, §§ 83, 83A or 83C.

Control Area. A geographic region in which a common generation control system is used to maintain scheduled interchange of electrical energy within and without the region.

Demand Response Resource. A resource that has received a Statement of Qualification from the Department, which changes electric usage by retail end-use customers in the Commonwealth from their normal consumption patterns in response to:

- (i) changes in the price of electricity over time including, but not limited to, time-of-use rates for residential and small commercial and industrial customers; or
- (ii) incentive payments designed to induce lower electricity use at times of high wholesale market prices or when system reliability is jeopardized.

Department. The Massachusetts Department of Energy Resources, established by M.G.L. c. 25A.

Distribution Company. A company engaging in the distribution of electricity or owning, operating or controlling distribution facilities as defined in M.G.L. c. 164, § 1; provided, however, a Distribution Company shall not include a municipal lighting plant established pursuant to the provisions of M.G.L. c. 164.

Distribution System. The electric system, owned and operated by a Distribution Company and/or a municipal lighting plant typically operated at voltages below 69 kilovolts, which provides distribution service as defined in M.G.L. c. 164, § 1.

DPU. The Massachusetts Department of Public Utilities, established by M.G.L. c. 25, § 1.

End-use Customer. A person or entity in Massachusetts that purchases electrical energy from a Distribution Company.

Existing Resource. A Clean Peak Resource that has a Commercial Operation Date before January 1, 2019.

21.02: continued

Generation Attribute. Means a Generation Attribute, as defined in 225 CMR 14.02: *Definitions*.

GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies Generation Attributes of each MWh accounted for in the NEPOOL GIS.

Guideline. A set of clarifications, interpretations, and procedures, including forms, developed by the Department to assist in compliance with the requirements of 225 CMR 21.00. The Department may issue new or revised Guidelines. Each Guideline shall be effective on its date of issuance or on such date as is specified therein, except as otherwise provided in 225 CMR 21.00.

Hour of Actual Monthly System Peak. The hour in which the Actual Monthly System Peak occurs.

Interconnection Service Agreement. The agreement for interconnection service entered into between the interconnecting customer and a Distribution Company, as defined and provided in each Distribution Company's standards for interconnection of distributed generation.

ISO-NE. ISO New England Inc., the independent system operator for New England, the regional transmission organization for most of New England, which is authorized by the Federal Energy Regulatory Commission to exercise for the New England Control Area the functions required pursuant to the Federal Energy Regulatory Commission's Order No. 2000 and corresponding regulations.

ISO-NE Control Area. The Control Area for which the ISO-NE is responsible.

Kilowatt (kW). A unit of power equal to one thousand watts, as measured in alternating current (AC).

Kilowatt-hour (kWh). A unit of electrical energy or work equivalent to one thousand watts of power operating for one hour.

Market Supply. The percentage resulting from dividing the number of Clean Peak Energy Certificates produced in a compliance year by the total market obligation of Retail Electricity Suppliers for said compliance year.

Massachusetts Clean Energy Technology Center (MassCEC). The center established by M.G.L. c. 23J, § 2.

Megawatt (MW). A unit of power equal to one million watts, as measured in alternating current (AC).

Megawatt-hour (MWh). A unit of electrical energy or work equivalent to one million watts of power operating for one hour.

NEPOOL GIS. The NEPOOL Generation Information System, which includes a generation information database and certificate system, operated by the New England Power Pool (NEPOOL), its designee or successor entity, that accounts for generation attributes of electrical energy consumed within, imported into, or exported from the ISO-NE Control Area.

Net Demand. The amount of electric power needed to supply electric load at a specific time and place after all behind-the-meter energy generation and consumption has been accounted.

On-site Load. Any new or existing electric load located at the site of a Clean Peak Resource, including any parasitic load that may result from the installation of the Clean Peak Resource, and in the case of Qualified RPS Resource or Qualified Energy Storage System, that is wired to receive a portion of the electrical energy output from the Clean Peak Resource before the balance of such output passes through the Clean Peak Resource's metered interconnection onto the electric grid.

21.02: continued

Operator. Any person or entity that has charge or control of a Clean Peak Resource subject to 225 CMR 21.00 including, without limitation, a duly authorized agent or lessee of the Owner, or a duly authorized independent contractor.

Owner. Any person or entity who, alone or in conjunction with others, has legal ownership, a leasehold interest, or effective control over the real property or property interest upon which a Clean Peak Resource is located, or the airspace above said real property including without limitation, a duly authorized agent of the Owner. For the purposes of 225 CMR 21.02, Owner does not mean a person or entity holding legal title or security interest solely for the purpose of providing financing.

Program Administrator. An entity designated by the Department to assist in the implementation of the Clean Peak Standard including, but not limited to, the MassCEC or another party as designated by the Department.

Qualified Energy Storage System. An energy storage system, as defined in M.G.L. c. 164, § 1, that commenced commercial operation or provided incremental new capacity at an existing energy storage system on or after January 1, 2019 that has received a Statement of Qualification from the Department; provided, however, that such system operates primarily to store and discharge renewable energy.

Qualified RPS Resource. A renewable energy generating source, as defined in M.G.L. c. 25A, §§ 11F(c) or (d) that has received a Statement of Qualification from the Department and has:

- (a) a Commercial Operation Date prior to January 1, 2019 and which installs a Qualified Energy Storage System at its facility; or
- (b) a Commercial Operation Date on or after January 1, 2019.

Resilient Facility. A site which includes a Qualified RPS Resource and may include Qualified Energy Storage and/or Demand Response Resource where the qualified resources improve the facility's energy resilience by enabling the Qualified RPS Resource to generate electricity and provide said electricity to On-site Load when the facility's distribution service is not energized (outage condition). Said on-site generation and provision of electricity to On-site Load enhances the facility's ability to prepare for and adapt to changing conditions and withstand and recover rapidly from disruptions. A Resilient Facility must include On-site Load other than parasitic load.

Retail Electricity Product. Means a Retail Electricity Product, as defined in 225 CMR 14.02: *Definitions*.

Retail Electricity Supplier. A person or entity that sells electrical energy to End-use Customers in Massachusetts including, but not limited to, electric utility distribution companies supplying basic service or any successor service to End-use Customers. A municipal lighting plant shall be exempt from the obligations of a Retail Electricity Supplier under 225 CMR 21.00 as it is exempt from the requirements of the Clean Peak Standard pursuant to M.G.L. c. 25A, § 17(d).

RPS Class I Renewable Generation Attribute. Means a RPS Class I Renewable Generation Attribute, as defined in 225 CMR 14.02: *Definitions*.

RPS Class I Renewable Generation Unit. Means a RPS Class I Renewable Generation Unit, as defined in 225 CMR 14.02: *Definitions*.

Seasonal Peak Period. The time periods during the Clean Peak Seasons when the Net Demand for electricity is typically highest. The Seasonal Peak Periods shall not be less than one hour and not longer than four hours each Business Day in any Clean Peak Season; will be determined on a prospective basis no later than six months prior to the next Compliance Year; shall be revised no more than once every three years; and the Department reserves the discretion to exempt existing resources from adjustments to the Seasonal Peak Periods in effect at the time of their qualification.

21.02: continued

SMART ES Resource. A Clean Peak Resource that is an energy storage system which is paired with a qualified Solar Tariff Generation Unit in the SMART Program which receives the SMART Program energy storage adder.

Solar Massachusetts Renewable Target (SMART) Program. The solar incentive program established pursuant to 225 CMR 20.00.

Statement of Qualification. A document issued by the Department that qualifies a Clean Peak Resource under 225 CMR 21.00.

Transmission System. The electric system established for the delivery of power over lines that operate at a voltage level typically equal to or greater than 69,000 volts, which provides transmission service as defined M.G.L. c. 164, § 1.

21.03: Administration

225 CMR 21.00 shall be administered by the Department.

21.04: Applicability

225 CMR 21.00 applies to Retail Electricity Suppliers and to the Owners and Operators of Clean Peak Resources.

21.05: Eligibility Criteria for Clean Peak Resources

(1) Eligibility Criteria. A Clean Peak Resource may qualify for a Statement of Qualification subject to the limitations in 225 CMR 21.05. The Department shall publish a Guideline on Clean Peak Resource Eligibility that explains the parameters of eligibility requirements.

(a) Energy Resources and Technologies. The Clean Peak Resource shall use one or more of the energy resources or technologies listed in 225 CMR 21.05(1)(a) 1 through 4. The Clean Peak Resource shall be interconnected with or offset load otherwise served by the Distribution System, or shall be interconnected with the Transmission System in the Commonwealth of Massachusetts. Clean Peak Resources must demonstrate that they generate, dispatch, or discharge electricity to the electric distribution system in Massachusetts. Resources interconnected within the service territory of a municipal lighting plant shall be ineligible to generate Clean Peak Energy Credits under 225 CMR 21.00 as municipal lighting plants are exempt from the requirements of the Clean Peak Standard pursuant to M.G.L, c. 25A, § 17(d).

1. Qualified RPS Resources.

a. RPS Class I Renewable Generation Units with a Commercial Operation Date on or after January 1, 2019 that have received a Statement of Qualification and meet all other applicable requirements.

b. RPS Class I Renewable Generation Units and RPS Class II Renewable Generation Units with a Commercial Operation Date prior to January 1, 2019, that are co-located with a Qualified Energy Storage System that has a Commercial Operation Date on or after January 1, 2019, subject to the following:

i. Minimum Nominal Rated Power. The nominal rated power capacity of a Qualified Energy Storage System paired with a RPS Class I Renewable Generation Unit or RPS Class II Renewable Generation Unit must be at least 25% of the nameplate power rating of the RPS Class I Renewable Generation Unit or RPS Class II Renewable Generation Unit.

Special Provisions for Derated Qualified Energy Storage Systems paired with RPS Class I Renewable Generation Units and RPS Class II Renewable Generation Units. A Qualified Energy Storage System's nominal rated power capacity may be derated to meet the four hour minimum nominal useful energy requirements in 225 CMR 21.05(1)(a)1.b.i. provided its derated power capacity is still at least 25% of the nameplate power rating of the RPS Class I Renewable Generation Unit or RPS Class II Renewable Generation Unit with which it is paired.

21.05: continued

- ii. Minimum Nominal Useful Energy. The nominal useful energy capacity of the Energy Storage System must be at least four hours at the nominal rated power.
- iii. Co-location. The RPS Class I or Class II Renewable Generation Unit and the Qualified Energy Storage System must be located on the same or adjacent parcels within the same Distribution Company's service territory, and must be interconnected to the same common collector located on the same parcel(s) on which the RPS Class I or Class II Renewable Generation Unit and Qualified Energy Storage System facilities are located.

2. Qualified Energy Storage Systems: A Qualified Energy Storage System must operate primarily to store and discharge renewable energy as demonstrated by one or more of the following factors:

- a. Co-location with a Qualified RPS Resource as defined in 225 CMR 21.02 where the Qualified RPS Resource must have a nameplate capacity of at least 75% of the nameplate capacity of the energy storage;
- b. Contractual pairing with a Qualified RPS Resource that demonstrates to the Department's satisfaction that the Qualified Energy Storage System operates primarily to store and discharge renewable energy;
- c. Charging coincident with periods of typically high renewable energy production as a percent of the grid generation mix as defined below;
  - 1. Spring: 12:00 A.M. until 6:00 A.M. and 8:00 A.M. until 4:00 P.M.
  - 2. Summer: 12:00 A.M. until 6:00 A.M. and 7:00 A.M. until 2:00 P.M.
  - 3. Fall: 12:00 A.M. until 6:00 A.M. and 9:00 A.M. until 3:00 P.M.
  - 4. Winter: 12:00 A.M. until 6:00 A.M. and 10:00 A.M. until 3:00 P.M.

	Energy Storage Charging Windows	
Clean Peak Season	Wind-based Charging Hours	Solar-based Charging Hours
Spring	12:00 A.M. - 6:00 AM	8:00 A.M. - 4:00 P.M.
Summer	12:00 A.M. - 6:00 AM	7:00 A.M. - 2:00 P.M.
Fall	12:00 A.M. - 6:00 AM	9:00 A.M. - 3:00 P.M.
Winter	12:00 A.M. - 6:00 AM	10:00 A.M. - 3:00 P.M.

d. Inclusion of an operational schedule in the Qualified Energy Storage System's Interconnection Service Agreement demonstrating that the Qualified Energy Storage System serves to resolve load flow or power quality concerns otherwise associated with intermittent renewable energy resources.

3. Demand Response Resources: Demand Response Resources must demonstrate that changes to electric usage from their normal consumption patterns are measurable and verifiable. The Department shall publish a Guideline on Demand Response Resources to explain the parameters of Demand Response Resources in the Clean Peak Standard.

A facility that generates electricity, including a Qualified RPS Resource, shall not be considered a Demand Response Resource.

(2) Metering. A Clean Peak Resource shall meter and report 15-minute interval performance in compliance with standards and protocols as established by a third-party Program Administrator designated by the Department. The Department may grant an exception to the 15-minute interval and designate a shorter or longer interval on a case-by-case basis. The Program Administrator shall be the designated independent third-party meter reader, as defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule. All standards and metering protocols shall be subject to review and approval by the Department. A Clean Peak Resource shall submit metered data to the Program Administrator for all hours of the previous month. Subject to review and approval by the Department, the Program Administrator may assess Clean Peak Resources a fee associated with the administration of the CPS.

21.05: continued

The electrical energy output or performance of a Clean Peak Resource shall be verified by the Program Administrator for the purpose of calculating the number of Clean Peak Energy Certificates a qualified resource produced in the previous month. The Program Administrator shall report the number of Clean Peak Energy Certificates each qualified resource is due to receive to NEPOOL GIS for the purpose of minting Clean Peak Energy Certificates.

(3) Clean Peak Seasons.

(a) The four Clean Peak Seasons are established as:

1. Spring: March 1<sup>st</sup> through May 14<sup>th</sup>;
2. Summer: May 15<sup>th</sup> through September 14<sup>th</sup>;
3. Fall: September 15<sup>th</sup> through November 30<sup>th</sup>;
4. Winter: December 1<sup>st</sup> through February 28<sup>th</sup>; and as adjusted by leap years.

(4) Seasonal Peak Periods. The Seasonal Peak Periods establish the time of day in which a qualified resource produces Clean Peak Energy Certificates.

(a) The Seasonal Peak Periods are established as the periods of all Business Days in each Clean Peak Season that historically coincide with Massachusetts' peak electricity demand:

1. Spring: from 5:00 P.M. until 9:00 P.M.
2. Summer: from 3:00 P.M. until 7:00 P.M.
3. Fall: from 4:00 P.M. until 8:00 P.M.
4. Winter: from 4:00 P.M. until 8:00 P.M.

(5) Clean Peak Energy Certificate Generation. Clean Peak Energy Certificates generated by a Clean Peak Resource shall be equal to the sum of the metered average MW performance of a Clean Peak Resource for each hour during a Seasonal Peak Period, multiplied by the Seasonal Multiplier, and any other applicable multipliers as described in 225 CMR 21.05(6)(c) through (g), plus the metered average MW performance during the Hour of Actual Monthly System Peak Demand, multiplied by the Seasonal Multiplier, the Actual Monthly System Peak Multiplier, and any other applicable multipliers as described in 225 CMR 21.05(6)(c) through (g).

(6) Clean Peak Energy Certificate Multipliers. The Clean Peak Energy Certificate Multipliers shall modify the number of Clean Peak Energy Certificates that a Clean Peak Resource generates as follows:

(a) Seasonal Multiplier. Seasonal multipliers are established for each Clean Peak Season to reflect the level of emissions and magnitude of peak demands in a season. Seasonal Multipliers shall be:

- a. Spring: 1
- b. Summer: 4
- c. Fall: 1
- d. Winter: 4

(b) Actual Monthly System Peak Multiplier. The Actual Monthly System Peak Multiplier shall modify the number of Clean Peak Energy Certificates generated during the Hour of Actual Monthly System Peak. The multiplier shall be 25.

(c) Resilience Multiplier. The Resilience Multiplier modifies the number of Clean Peak Energy Certificates generated by a Clean Peak Resource that is also a Resilient Facility and can provide electric power to a load during external outage conditions. Clean Peak Resources that can demonstrate the added ability to provide electricity to load during an external outage will receive a Resilience Multiplier on all eligible output occurring during Seasonal Peak Periods. The multiplier shall be 1.5.

(d) Existing Resource Multiplier. The Existing Resource Multiplier modifies the number of Clean Peak Energy Certificates generated by an Existing Resource. The multiplier shall be 0.1.

(e) Contracted Resource Multiplier. The Contracted Resource Multiplier modifies the number of Clean Peak Energy Certificates generated by a Contracted Resource. The multiplier shall be 0.01.

(f) SMART ES Resource Multiplier. The SMART ES Resource Multiplier modifies the number of Clean Peak Energy Certificates generated by a SMART ES Resource. The multiplier shall be 0.3.

21.05: continued

(g) Distribution Circuit Multiplier. The Department may establish a Distribution Circuit Multiplier that modifies the number of Clean Peak Energy Certificates generated by a Clean Peak Resource based on the locational value of the unique load profile and particular needs of each distribution circuit, as defined by the Department, in consultation with the Distribution Companies. Clean Peak Resources which are owned by a Distribution Company are not eligible for a Distribution Circuit Multiplier. The Department may consider Distribution Circuit Multipliers greater than or less than one. The Department, in coordination with the Distribution Companies, shall determine whether sufficient data is available to enable effective implementation of a Distribution Circuit Multiplier no later than December 31, 2022. If the Department determines that a Distribution Circuit Multiplier shall be established, the Department shall publish a Guideline on the Distribution Circuit Multiplier that provides the multiplier amount(s) and explains the parameters of the applicability of the Distribution Circuit Multiplier.

(h) Review. Beginning in 2024 and not less frequently than every four years thereafter, the Department shall conduct a review of the Clean Peak Energy Certificate Multipliers and, following stakeholder review and input, may modify the multipliers.

(7) Special Provision for Clean Peak Energy Certificate Generation for Energy Reserves.

(a) The Department may establish a mechanism by which Clean Peak Energy Certificates may be generated by provision of energy reserves, subject to applicable requirements including, but not limited to, such provision of energy reserves being directly measurable and verifiable in accordance with 225 CMR 21.05(2). The Department shall determine whether such a mechanism can be implemented no later than December 31, 2020. If the Department determines that such a mechanism shall be established, the Department shall publish a *Guideline on Energy Reserves* that explains the mechanism and its applicability.

(8) Clean Peak Certificate Procurement.

(a) Each Distribution Company shall competitively procure Clean Peak Energy Certificates pursuant to M.G.L. c. 25A, § 17(c). Clean Peak Certificate procurements shall be designed to achieve an initial target of 30% of the total market obligation of Retail Electricity Suppliers in a given Compliance Year. The Department shall establish a staggered procurement schedule for the issuance for requests for proposals for Clean Peak Certificates.

(b) The Department may adjust the procurement target in response to the Market Supply in any Compliance Year. Where Market Supply is below 50%, the Department may increase the subsequent year's procurement target by up to 5%. Where Market Supply is greater than 70%, the Department may decrease the subsequent procurement target by up to 15%. The Department may determine that additional procurements are not required based on Market Supply conditions.

(c) A request for proposals to conduct the competitive procurement shall be developed by the Distribution Companies, in consultation with and subject to review and approval by the Department. Such request for proposals may include the following components:

1. A percentage of total market obligation of retail suppliers for any given compliance year;
2. Proposal requirements;
3. Length of contract terms; and
4. A model contract, including terms and conditions.

(d) Any contracts resulting from a competitive procurement under this section shall be subject to review and approval by the Department of Public Utilities.

(e) The Department may establish a Guideline on Clean Peak Certificate Procurements that explains the parameters and provides additional detail to the procurement process.

21.06: Qualification Process for Clean Peak Resources.

(1) Statement of Qualification Application. A Statement of Qualification Application shall be submitted to the Department by the Owner or Operator of the Clean Peak Resource or by the Authorized Agent for an Aggregation. The applicant must use the most current forms and associated instructions provided by the Department, and must include all information, documentation, and assurances required by such forms and instructions.



21.06: continued

(2) Review Procedures.

(a) The Department will notify the applicant when the Statement of Qualification Application is administratively complete or if additional information is required pursuant to 225 CMR 21.06(1).

(b) The Department may, in its sole discretion, provide an opportunity for public comment on any Statement of Qualification Application.

(3) Issuance or Non-issuance of a Statement of Qualification.

(a) If the Department finds that a resource meets the requirements for eligibility as a Clean Peak Resource pursuant to 225 CMR 21.00, the Department will provide the Owner, Operator, or the Authorized Agent for such Aggregation with a Statement of Qualification.

(b) The Statement of Qualification shall include any applicable restrictions and conditions that the Department deems necessary to ensure compliance by a Clean Peak Resource or Aggregation with the provisions of 225 CMR 21.00.

(c) If the Clean Peak Resource or Aggregation does not meet the requirements for eligibility, the Department shall provide written notice to the Owner, Operator, or Authorized Agent, including the Department's reasons for such finding.

(d) In calendar year 2020, a resource may receive a Statement of Qualification which back-dates qualification to January 1, 2020 or the Commercial Operation Date, whichever is later.

(4) CPS Effective Date. The CPS Effective Date shall be the earliest date on or after the Commercial Operation Date on which the operation of a Clean Peak Resource can result in the creation of Clean Peak Energy Certificates, as determined by the Department.

(5) Notification Requirements for Change in Eligibility Status. The Owner or Operator of a Clean Peak Resource shall notify the Department of any changes in the technology, operation, emissions, fuel sources, energy resources, enrollment in incentive program(s), or other characteristics of the Clean Peak Resource(s) that may affect the eligibility of the Clean Peak Resource. The Owner, Operator, or Authorized Agent shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented. The notice shall state the date the changes were made to the Clean Peak Resource and describe the changes in sufficient detail to enable the Department to determine if a change in eligibility is warranted.

(6) Notification Requirements for Change in Ownership, Generation Capacity, or Contact Information. The Owner or Operator of a Clean Peak Resource shall notify the Department of any changes in the ownership, operating entity, capacity, NEPOOL GIS account for the Clean Peak Resource or Aggregation, or contact information for the Clean Peak Resource or Aggregation. The Owner or Operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented.

(7) Suspension or Revocation of Statement of Qualification. The Department may suspend or revoke a Statement of Qualification if the Owner or Operator of a Clean Peak Resource or Authorized Agent of an Aggregation fails to comply with 225 CMR 21.00 or if a Clean Peak Resource does not operate during a consecutive 12-month period.

21.07: Clean Peak Standard

(1) CPS Minimum Standard. The total annual sales of each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier, under contracts executed or extended on or after January 1, 2020, shall include a minimum percentage of electrical energy sales with Clean Peak Certificates.

(a) The CPS Minimum Standard shall increase by 1.5% each year, subject to the conditions described in 225 CMR 21.07(1)(b).

## 225 CMR: DEPARTMENT OF ENERGY RESOURCES

21.07: continued

<b>Compliance Year</b>	<b>Cumulative Minimum Percentage</b>
2019	0%
2020	1.5%
2021	3%
2022	4.5%
2023	6%
2024	7.5%
2025	9%
2026	10.5%
2027	12%
2028	13.5%
2029	15%
2030	16.5%
2031	18%
2032	19.5%
2033	21%
2034	22.5%
2035	24%
2036	25.5%
2037	27%
2038	28.5%
2039	30%
2040	31.5%
2041	33%
2042	34.5%
2043	36%
2044	37.5%
2045	39%
2046	40.5%
2047	42%
2048	43.5%
2049	45%
2050	46.5%

(b) If the Market Supply is greater than 100% in any Compliance Year before 2030, the CPS Minimum Standard shall increase by 3% the following Compliance Year. If the Market Supply is greater than 120% in any Compliance Year before 2030, the CPS Minimum Standard shall increase by 4.5% the following Compliance Year. If the Department determines that a CPS Minimum Standard adjustment is necessary, the Department shall provide public notice.

21.07: continued

(2) After 2050, the CPS Minimum Standard shall cease to exist unless modified by law.

(3) Beginning in 2024 and not less frequently than every four years thereafter, the Department shall conduct a review of the CPS Minimum Standard and, following stakeholder review and input, may modify the standard.

21.08: Compliance Procedures for Retail Electricity Suppliers

(1) Standard Compliance. Each Retail Electricity Supplier shall be deemed to be in compliance with 225 CMR 21.00 if the information provided in the Compliance Filing submitted pursuant to 225 CMR 21.09 is true and accurate and demonstrates compliance with 225 CMR 21.07.

(2) Banked Compliance. A Retail Electricity Supplier may use Clean Peak Energy Certificates produced in one Compliance Year for compliance in three subsequent Compliance Year(s), subject to the limitations in 225 CMR 21.08(2) and provided that the Retail Electricity Supplier is in compliance with 225 CMR 21.00 for all previous Compliance Years. In addition, the Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that such Clean Peak Certificates:

- (a) were in excess of the Clean Peak Energy Certificates needed for compliance in the Compliance Year in which they were generated, and that such excess Clean Peak Energy Certificates have not previously been used for compliance with 225 CMR 21.00;
- (b) do not exceed 30% of the Clean Peak Energy Certificates needed by the Retail Electricity Supplier for compliance with the CPS Minimum Standard in the year they were generated, subject to 225 CMR 21.09(2)(d);
- (c) were produced during the Compliance Year in which they are claimed as excess; and
- (d) have not otherwise been, nor will be, sold, retired, claimed or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(3) Alternative Compliance. A Retail Electricity Supplier may discharge its obligations under 225 CMR 21.07, in whole or in part, for any Compliance Year by making an Alternative Compliance Payment (ACP) to the MassCEC. Such funds shall be held in an account separate from other accounts of the MassCEC.

- (a) CPS Procedures. A Retail Electricity Supplier shall receive Alternative Compliance Credits from the Department, subject to the following:
  - 1. The quantity of Alternative Compliance Credits that can be applied to its obligations under 225 CMR 21.07(1) shall be determined by dividing the total of ACPs paid for the Compliance Year by the ACP Rate for that Compliance Year.
  - 2. The ACP Rate for the CPS Minimum Standard shall be \$45 per required Alternative Compliance Credit for Compliance Year 2020. The ACP rate shall remain \$45 through compliance year 2024. Thereafter, the ACP Rate shall decline by \$1.54 per Compliance Year, subject to the conditions described in 21.08(3)(a)3.

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21.08: continued

<b>Compliance Year</b>	<b>Cumulative Minimum Percentage</b>
2020	\$45.00
2021	\$45.00
2022	\$45.00
2023	\$45.00
2024	\$45.00
2025	\$43.46
2026	\$41.92
2027	\$40.38
2028	\$38.84
2029	\$37.30
2030	\$35.76
2031	\$34.22
2032	\$32.68
2033	\$31.14
2034	\$29.60
2035	\$28.06
2036	\$26.52
2037	\$24.98
2038	\$23.44
2039	\$21.90
2040	\$20.36
2041	\$18.82
2042	\$17.28
2043	\$15.74
2044	\$14.20
2045	\$12.66
2046	\$11.12
2047	\$9.58
2048	\$8.04
2049	\$6.50
2050	\$4.96

21.08: continued

3. If the Market Supply is greater than 100% in any Compliance Year, the ACP rate shall decline by \$3.08 the following Compliance Year. If the Market Supply is greater than 120%, the ACP rate shall decline by \$4.62 the following Compliance Year.
  4. Once the ACP reaches \$4.96, it will hold fixed at that price for the remainder of the program.
  5. Beginning in 2024 and not less frequently than every four years thereafter, the Department shall conduct a review of the ACP Rate and, following stakeholder review and input, may modify the ACP rate.
  6. The Retail Electricity Supplier shall include with its Annual Compliance Filing copies of any ACP receipt(s) for ACPs made to the MassCEC for the Compliance Year.
- (b) Use of Funds. The Department shall oversee the use of ACP funds by the MassCEC, so as to further the commercial development of Clean Peak Resources, promote projects or activities that reduce greenhouse gas emissions or ratepayer costs.

21.09: Annual Compliance Filings for Retail Electricity Suppliers

- (1) Date of Annual Compliance Filing. For each Compliance Year, the Retail Electricity Supplier annually shall file an annual Compliance Filing with the Department no later than the first day of July, or the first Business Day thereafter, of the subsequent Compliance Year.
- (2) Contents of Annual Compliance Filing. For each Retail Electricity Product, the Filing shall document compliance with the provisions of 225 CMR 21.07 and 21.08 to the satisfaction of the Department and shall include, but not be limited to, the following:
  - (a) Total Electrical Energy Sales to End-use Customers. Documentation of the total MWhs of electrical energy allocated by the Retail Electricity Supplier to End-use Customers in the Compliance Year.
  - (b) Electrical Energy Sales to End-use Customers by Product. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers in the Compliance Year, verified by an independent third party satisfactory to the Department, consistent with the Guidelines. Such allocation is defined as the quantity of the Retail Electric Supplier's certificates obligation that the Retail Electric Supplier correctly allocated or should have allocated to each of the Retail Electric Supplier's Massachusetts retail subaccounts at the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, or any successor rules, as specified in the Guideline on the Determination of Sales to End-use Customers. The Department shall keep product information confidential to the extent permitted by law.
  - (c) Clean Peak Energy Certificates Allocated from the Compliance Year. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers that were derived from Clean Peak Resource generation during the Compliance Year.
  - (d) Clean Peak Energy Certificates Allocated from Banked Compliance. Allocation by Retail Electricity Product of any quantity of Clean Peak Resource Generation Attributes banked from previous years pursuant to 225 CMR 21.08(2) that are used to demonstrate compliance with the CPS Minimum Standard in the current Compliance Year;
  - (e) Alternative Compliance Credits. Allocation by Retail Electricity Product of any Alternative Compliance Credits claimed pursuant to 225 CMR 21.08(3)(a), along with a copy of any Alternative Compliance Payment receipt(s); and
  - (f) Attributes Banked for Future Compliance. Identification of any quantity of Attributes from Clean Peak Resource Generation, that the Retail Electricity Supplier anticipates claiming for purposes of Banked Compliance in subsequent years under the Banked Compliance provisions of 225 CMR 21.08(2).
  - (g) Exempt Contracts under Minimum Standard. Identification of any contract for a specific term of years that was executed before January 1, 2020, and its terms including, but not limited to, the execution and expiration dates of the contract and the annual volume of electrical energy supplied.

21.10: Reporting Requirements

- (1) Certification. Any person required by 225 CMR 21.00 to submit documentation to the Department shall provide:

21.10: continued

- (a) the person's name, title and business address;
- (b) the person's authority to certify and submit the documentation to the Department; and
- (c) the following certification: "I hereby certify, under the pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and based upon 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, both civil and criminal, for submitting false information, including possible fines and imprisonment."

(2) Annual Clean Peak Resource Report. The Department shall produce and make available to the public an annual report that summarizes information submitted to the Department by Retail Electricity Suppliers in the Annual Compliance Filings submitted to the Department pursuant to 225 CMR 21.09(2). Such report shall include nonconfidential data that provides the following:

- (a) the extent to which the Retail Electric Suppliers complied with the CPS Minimum Standard; and
- (b) the extent to which the Retail Electric Suppliers used standard compliance, banked compliance, and alternative compliance in meeting the Minimum Standards.

(3) Identification of Clean Peak Resources. The Department shall inform the NEPOOL GIS administrator which resources should be designated as Clean Peak Resources pursuant to 225 CMR 21.00.

21.11: Inspection

(1) Document Inspection. The Department may audit the accuracy of all information submitted pursuant to 225 CMR 21.00. The Department may request and obtain from any Owner, Operator, or Authorized Agent of a Clean Peak Resource, including Aggregations, and from any Retail Electricity Supplier information that the Department determines necessary to monitor compliance with and enforcement of 225 CMR 21.00.

(2) Audit and Site Inspection. Upon reasonable notice to a Retail Electricity Supplier or to a Clean Peak Resource Owner, Operator, or Authorized Agent, the Department may conduct audits, which may include inspection and copying of records and/or site visits to an Clean Peak Resource or a Retail Electricity Supplier's facilities including, but not limited to, all files and documents that the Department determines are related to compliance with 225 CMR 21.00.

21.12: Noncompliance

Any Retail Electricity Supplier or Owner, Operator, or Authorized Agent of a Clean Peak Resource or Aggregation that fails to comply with the requirements of 225 CMR 21.00 shall be subject to the provisions in 225 CMR 21.12(1) through (4).

(1) Notice of Noncompliance. A failure to comply with the requirements of 225 CMR 21.00 shall be determined by the Department. A written Notice of Noncompliance shall be prepared and delivered by the Department to any Retail Electricity Supplier or Owner, Operator, or Authorized Agent of a Clean Peak Resource or Aggregation that fails to comply with the requirements of 225 CMR 21.00. The Notice of Noncompliance shall describe the Requirement(s) with which the Retail Electricity Supplier, Owner, Operator, or Authorized Agent failed to comply and the time period of such noncompliance.

(2) Publication of Notice of Noncompliance. A Notice of Noncompliance may be published on the Department's website and in any other media deemed appropriate by the Department. Such publication may remain posted until the Retail Electricity Supplier or Owner, Operator, or Authorized Agent returns to compliance as determined by the Department.

(3) Planning Requirement. A Retail Electricity Supplier that fails to meet the requirements of 225 CMR 21.07 during a Compliance Year shall submit a plan for achieving compliance for the subsequent three years. The plan shall be filed with the Department no later than the first day of September of the Compliance Year subsequent to the Compliance Year for which the Retail Electricity Supplier was out of compliance or such date as the Department may specify.

21.12: continued

(4) Suspension or Revocation of License. The Department shall refer its findings of noncompliance to the DPU. A Retail Electricity Supplier that fails to comply with 225 CMR 21.00 may be subject to the DPU Licensure Action under 220 CMR 11.07(4)(c)1.

(5) Collection of Financial Security. In the event that a Retail Electricity Supplier fails to discharge its annual obligations by September 1<sup>st</sup> under 225 CMR 21.07, by the means described in 225 CMR 21.08(1) through (4), the Department will notify the Retail Electricity Supplier that it must provide the Department with a payment using the financial security provided pursuant to 225 CMR 14.08(4), unless a Retail Electricity Supplier has an approved alternative payment plan to discharge its annual obligations in full that has been approved by the Department prior to September 1<sup>st</sup>. The payment shall, within 30 days of notification by the Department, be paid to MassCEC for deposit into a segregated account as required by 225 CMR 21.08(3) and shall be in an amount equal to the lesser of:

- (a) the amount of Alternative Compliance Payments that the Retail Electricity Supplier must make in order to discharge its annual obligation under 225 CMR 21.08; or
- (b) the full amount of the financial security.

(6) Partial Compliance. In the event that the collection of financial security under 225 CMR 21.12(5) results in the collection of an amount of Alternative Compliance Payments that is insufficient to discharge a Retail Electricity Supplier's full annual obligations under 225 CMR 21.07, the Retail Electricity Supplier will remain in a state of noncompliance, and the Department will take the necessary actions to document and enforce this noncompliance, pursuant to 225 CMR 21.12(1) through (4).

(7) The Department reserves all rights to take any and all appropriate actions to ensure the collection of all Alternative Compliance Payments owed to ensure annual compliance obligations are fully discharged by a Retail Electricity Supplier including, but not limited to, filing a petition with the Department of Public Utilities requesting an investigation into a supplier that is deemed to be in noncompliance by the Department.

21.13: Severability

If any provision of 225 CMR 21.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY

225 CMR 21.00: M.G.L. c. 25A, § 17(c).