



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

One Winter Street Boston, MA 02108 • 617-292-5500

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Kathleen A. Theoharides
Secretary

Martin Suuberg
Commissioner

Response to Comments on Emergency Regulation

310 CMR 60.06: CO₂ Emission Limits for State Fleet Passenger Vehicles

February 2021

Regulatory Authority:

**M.G.L. c. 21A, §§ 2, 8, and 16
M.G.L. c. 21N, §§ 3(b) and 3(d)
and M.G.L. c. 111, §§ 2C and 142A–142M**

On December 21, 2020 the Massachusetts Department of Environmental Protection (MassDEP) re-promulgated 310 CMR 60.06 *CO₂ Emission Limits for State Fleet Passenger Vehicles* by filing an emergency regulation with the Massachusetts Secretary of the Commonwealth. The re-promulgated regulation was effective upon filing, and contains CO₂ emission limits applicable to passenger vehicles owned or leased by the Commonwealth's Executive Offices.

The emergency regulation was promulgated to comply with the Massachusetts Supreme Judicial Court's (SJC) September 2018 decision in New England Power Generators Ass'n, Inc. v. Dep't of Env'tl. Prot., 480 Mass. 398 (2018) (NEPGA). In the NEPGA decision, the SJC held that "[t]he most sensible reading of ... Section 16 [of G.L. c. 21N] is that, after December 31, 2020, only the current regulations promulgated under § 3(d) expire." NEPGA at 410. MassDEP's "authority and obligation to promulgate new regulations under § 3(d) after December 31, 2020, is undisturbed." Id. 310 CMR 60.06 was promulgated pursuant to § 3(d) [of G.L. c. 21N] in addition to other statutory authority. The emergency regulation was promulgated so that the emission limits for state-owned or leased fleets in 2021 and beyond are effective January 1, 2021, and to satisfy the SJC's directive "to promulgate new regulations" prior to December 31, 2020 to ensure that the future Statewide limits for 2030, 2040, and 2050 will be met.

On December 21, 2020, MassDEP published a notice in the Boston Globe and the Worcester Telegram & Gazette announcing a public hearing and public comment period on the emergency regulation. On January 19, 2021, MassDEP held a virtual public hearing and solicited comments on the emergency regulation in accordance with Massachusetts General Law Chapter 30A. The comment period closed on January 29, 2021.

MassDEP did not receive any public comments and is therefore making the emergency regulation filed December 21, 2020 permanent with no changes.