



Commonwealth of Massachusetts  
Executive Office of Energy & Environmental Affairs

# Department of Environmental Protection

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**Program Review Report and  
Technical Support Document on Proposed Amendments to  
310 CMR 60.06 *CO<sub>2</sub> Emission Limits for State Fleet Passenger Vehicles***

**December 2020**

**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**

This information is available in alternate format. Contact Michelle Waters-Ekanem, Director of Diversity/Civil Rights at 617-292-5751.

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MassDEP Website: [www.mass.gov/dep](http://www.mass.gov/dep)

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### I. SUMMARY

On December 21, 2020 the Massachusetts Department of Environmental Protection (MassDEP) re-promulgated 310 CMR 60.06 *CO<sub>2</sub> Emission Limits for State Fleet Passenger Vehicles* by filing an emergency regulation with the Massachusetts Secretary of the Commonwealth. These re-promulgated regulations were effective upon filing and will be published in the Massachusetts Register on January 8, 2021. In order to ensure that the 2021 emission limits are in effect by the end of 2020, it was necessary to promulgate an emergency regulation. To make the regulations permanent, MassDEP is now soliciting public comment on the regulation to comply with the public review process requirements under Massachusetts General Laws (M.G.L.) Chapter 30A. MassDEP will hold a public hearing on the amendment on January 19, 2021, and the deadline to submit public comments is January 29, 2021.

### II. BACKGROUND

On August 11, 2017, MassDEP promulgated 310 CMR 60.06 *CO<sub>2</sub> Emission Limits for State Fleet Passenger Vehicles* to assist in reducing emissions of greenhouse gases associated with the transportation sector. The regulation established 2018 through 2025 mass-based, annually declining limits on carbon dioxide (CO<sub>2</sub>) emissions from passenger vehicles owned or leased by the Commonwealth’s Executive Offices. After 2025, the limits remain steady at the 2025 level.

The emergency regulation MassDEP filed with the Secretary of State’s Office on December 21, 2020 re-promulgated the emission limits in 310 CMR 60.06, without modification, except for the new effective date.<sup>1</sup>

This 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

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<sup>1</sup> These annual emission limits are now in effect for 90 days. They will either be made permanent by the filing of a confirmatory statement by MassDEP by March 19, 2021 or amended by the filing of an amended version of the Emergency Regulation by MassDEP.

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.

MassDEP has determined that the regulation should be extended as part of ongoing climate policies and programs to ensure that the Commonwealth remains on track to achieve the goals of the M.G.L. c. 21N, § 3(d) of the Massachusetts Global Warming Solutions Act (GWSA).

Additional information regarding 310 CMR 60.06 is available on MassDEP’s website at <https://www.mass.gov/guides/reducing-ghg-emissions-under-section-3d-of-the-global-warming-solutions-act>.<sup>2</sup>

### **III. DESCRIPTION OF PROPOSED AMENDMENTS**

MassDEP is proposing to add a provision to the regulation to state clearly that the new regulation takes effect on January 1, 2021. There are no other proposed amendments.

### **IV. IMPACTS OF PROPOSED AMENDMENTS**

#### **Economic Impacts**

Because MassDEP is not proposing any substantive changes to 310 CMR 60.06 at this time, there will not be any new economic impacts.

#### **Impact on Massachusetts Municipalities**

MassDEP does not expect there to be any impacts on Massachusetts municipalities, as they are not subject to the regulation.

#### **Massachusetts Environmental Policy Act (MEPA)**

Pursuant to 301 CMR 11.03(12) (MEPA Regulations), this proposal will not reduce standards for environmental protection, opportunities for public participation in permitting or other review processes, or public access to information generated or provided in accordance with these regulations. This proposal, therefore, does not require the filing of an Environmental Notification Form under MEPA.

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<sup>2</sup> See also December 16, 2016 “Background Document On Proposed New and Amended Regulations, 310 CMR 7.00 and 310 CMR 60.00,” at <https://www.mass.gov/doc/background-document-on-proposed-new-amended-regulations-december-2016/download>, August 2017 310 CMR 60.06 Fact Sheet at <https://www.mass.gov/doc/fact-sheet-7/download> and August 2017 *Response to Comment on the Proposed and Amended: 310 CMR 7.73 Reducing Methane Emissions from Natural Gas Distribution Mains and Services and 310 CMR 60.05 Global Warming Solutions Act Requirements for Transportation and 310 CMR 60.06 CO<sub>2</sub> Emission Limits for State Fleet Passenger Vehicles*.

## **V. PUBLIC HEARING AND COMMENT**

After an emergency regulation is filed with the Massachusetts Secretary of the Commonwealth, M.G.L. c. 30A requires that the public process (i.e., the opportunity to review background and technical information for at least 21 days prior to a public hearing) be completed within three months, including filing any amendment to the regulation if the public comment and hearing process result in changes to an emergency regulation.

MassDEP gave formal notice to comply with M.G.L. c. 30A. This notice was issued at least 21 days before the public hearing. The hearing notice and proposed amendments are available on MassDEP's website at [www.mass.gov/eea/agencies/massdep/news/comment/](http://www.mass.gov/eea/agencies/massdep/news/comment/). The public hearing will be held on January 19, 2021. Questions about this document may be addressed to Sharon Weber at 617-556-1190 or [climate.strategies@mass.gov](mailto:climate.strategies@mass.gov).