

**Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
and
Department of Environmental Protection**

**Response to Comments on Proposed Amendments to
*310 CMR 7.75 Clean Energy Standard***

December, 2017

Regulatory Authority:

**M.G.L. c. 21A, §§ 2, 8, and 16
M.G.L. c. 21N, §§ 2(a)(5), 3(b), 3(c), 4, and 7
and M.G.L. c. 111, §§ 2C and 142A – 142E**

Background and Purpose

In August 2017, The Massachusetts Executive Office of Environmental Affairs (EEA) and the Massachusetts Department of Environmental Protection (MassDEP) finalized 310 CMR 7.75 *Clean Energy Standard*, which sets a minimum percentage of electricity sales that utilities and competitive electricity suppliers must procure from clean energy sources. EEA and MassDEP are amending 310 CMR 7.75 to ensure that the Commonwealth's policies related to clean energy generation are aligned by enabling all clean energy procured pursuant to Chapter 188 of the Acts of 2016, An Act to Promote Energy Diversity (Energy Diversity Act), to qualify for the CES. Additional information about 310 CMR 7.75, including the Technical Support Document (TSD) published with the proposed amendments, is available at <https://www.mass.gov/guides/clean-energy-standard-310-cmr-775>.

Public Comment Process

EEA and MassDEP held one public hearing and solicited oral and written comments on the proposed amendments to the 310 CMR 7.75 in accordance with MGL Chapter 30A. On November 4, 2017, MassDEP published in two newspapers, the Boston Globe and the Springfield Republican, notice of the public hearing and public comment period on the proposed amendments. The public hearing notice was also published in the Massachusetts Register on November 17, 2017, and interested parties were notified via electronic mail. The public hearing was held at MassDEP's Boston office on November 27, 2017, and the public comment period closed on December 7, 2017. A list of commenters is included at the end of this Response to Comments document.

Comments and Responses

Comment: Several commenters expressed support for the proposed amendments, citing the importance of clarifying interactions between the CES and DOER's implementation of the Energy Diversity Act (AIM, BSHA, Brookfield, DOER, Eversource, Nalcor).

Response: MassDEP appreciates these comments and is finalizing amendments to achieve that purpose.

Comment: One commenter requested additional regulatory language to clarify that energy procured pursuant to the Energy Diversity Act is not required to come from generators that complete the statement of qualification process to become clean generation units (Brookfield).

Response: EEA and MassDEP have revised the definition of clean generation attribute to address this comment.

Comment: In the TSD, EEA and MassDEP asked for comment on the potential need for additional regulatory language to establish a mechanism by which clean generation attributes that are retained pursuant to Section 83D of the Energy Diversity Act, but are not RPS Class I eligible, can be used by competitive electricity suppliers to comply with the CES. Two commenters responded that explicit regulatory language is needed to address this issue, and recommended that such attributes be made available for use by all electric utilities and competitive suppliers in proportion to their retail electricity sales (DOER, Eversource).

Response: EEA and MassDEP have revised relevant provisions to require that these attributes be assigned to all retail sellers subject to a compliance obligation under the CES in proportion to electricity sales, as requested by commenters.

List of Commenters

Associated Industries of Massachusetts (AIM)
Bay State Hydropower Association (BSHA)
Brookfield Renewable
Eversource Energy
Massachusetts Department of Energy Resources (DOER)
Nalcor