# Massachusetts Department of Environmental Protection
# 310 CMR 7.75: Clean Energy Standard (CES)
# Frequently Asked Questions (FAQ)
# Version 2.5 (September 2024)

The purpose of this document is to clarify and explain certain provisions of 310 CMR 7.75. Before reading this document, please review the regulation and other available background information, available on MassDEP's web site via https://www.mass.gov/guides/clean-energy-standard-310-cmr-775. If you have questions about 310 CMR 7.75, please email climate.strategies@mass.gov.

This version is an update from version 2.4, which was published in May 2024. New or revised material is marked with an asterisk.

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## Q1 – How do the CES, CES-E and Renewable Portfolio Standard (RPS) interact?

A1 – The Clean Energy Standard (CES) draws on the Massachusetts Department of Energy Resources' (DOER) experience implementing the Renewable Portfolio Standard (RPS), and is designed to be compatible with and complementary to RPS. All retail sellers subject to the CES are also subject to RPS. The CES adds additional clean energy requirements above those in the RPS Class I regulations. For example, the 2018 RPS Class I standard was 13% and the CES requirement was 16%; therefore, retail sellers that were in compliance with RPS Class I had to procure an additional 3% of CES-eligible clean energy to comply with the CES (this may be met by procuring additional RPS Class I-eligible generation attributes above the RPS Class I requirement, through generation attributes that are eligible for CES but not RPS, or through CES Alternative Compliance Payments).

The CES and CES-E are separate and distinct requirements. The CES and CES-E require procurement of electricity from different sources; therefore, compliance towards one does not count towards compliance with the other. The CES is designed to increase procurement of new clean energy over time whereas the CES-E is intended to maintain the contribution of existing clean energy generation units going forward. In 2021 the CES and CES-E requirements combined will cover 42% of a supplier's eligible load. The CES is 22% and the CES-E is 20% - in that year, 22% of a supplier's eligible load must comply with CES and an additional 20% must comply with CES-E. While the CES percentage requirement increases 2% annually, CES-E maintains a consistent level of clean energy from existing sources by adjusting the percentage requirements to accommodate load growth over time. For a description of how the CES-E percentage is calculated, see Q7.

## Q2 – What types of clean energy can be used to comply with CES? How about with CES-E?

A2 – While the CES is similar to RPS in that it requires the delivery of clean energy, it differs from RPS in that it relies on an emissions-based performance standard to identify eligible technologies. As all RPS Class I-eligible technologies meet the emissions-based CES qualification requirement, all RPS Class I-eligible technologies can be used toward compliance with the CES. In addition to those technologies, other technologies that meet the emissions and vintage requirements, as well as energy procured under the 2016 Energy Diversity Act, are eligible for use towards CES compliance.

Please note that while RPS Class I Renewable Energy Certificates (RECs) may be used for compliance with the CES, they may not be used towards the CES-E standard. CES-E-qualified generation units will create CES-E certificates (ECECs), which can be used to comply with that standard.

## Q3 – What are the Alternative Compliance Payment (ACP) rates?

A3 – Starting in 2022, the CES ACP rate is $35/MWh and the CES-E ACP rate is $10/MWh.

Each year, DOER publishes ACP rates on its website: https://www.mass.gov/service-details/annual-compliance-information-for-retail-electric-suppliers

## Q4 - How do the banking provisions work?

A4 - The CES includes limited banking of clean energy certificates (CECs). Beginning in 2021, retail sellers may use CECs generated in one or both of the previous two compliance years (for example, excess CECs from 2019 and 2020 may be "banked" and used for compliance in 2021). CECs may only be banked for up to two years, and banked CECs must not exceed 30% of the CES compliance obligation in a given year (i.e., the portion above the RPS requirement). To determine the banking limitation in a given year, retail sellers should multiply the portion of their CES requirement that is above the RPS requirement (for example, 4% in 2021) by 30%.

RECs that have been banked pursuant to 225 CMR 14.08(2) (the Massachusetts Renewable Portfolio Standard) and used for compliance with RPS in a given year will be counted toward compliance with CES in that year. RECs from this bank may not be used toward the portion of CES that is above RPS (3% in 2018); in

other words, using banked RECs towards RPS compliance is the only way that RECs from this bank may be used toward compliance with CES.

Banking is not allowed under the CES-E standard.

## Q5 - How does the CES address existing contracts? How about the CES-E?

A5 - In order to protect consumers from unanticipated price increases, the CES included limited exemptions of existing contracts covering electricity sales in 2018 and 2019.

Similarly, the CES-E requirement allows for grandfathering of fixed-priced contracts executed or extended prior to October 4, 2019. The total MWhs sold under exemption-eligible contracts will be deducted from the calculation used to determine a retail seller's CES-E compliance obligation in 2021 and 2022. For example, in 2021, a retail seller whose load served was 10,000 MWhs, of which 4,000 MWhs were sold under exemption-eligible contracts, would have to meet the CES-E obligation of 20% based on the non-exempt load of 6,000 MWhs.

## Q6 – What are the eligibility criteria for generators to qualify as Clean Existing Generation Units?

A6 - To qualify as a clean existing generation unit eligible for the CES-E, a generation unit must demonstrate that it:

- Is located in either Massachusetts, New Hampshire, Connecticut, or Eastern Canada (Quebec or Newfoundland and Labrador); and
- Commenced commercial operation before January 1, 2011; and
- Is a nuclear or hydroelectric generation unit with a nameplate capacity greater than 30 MW.

In addition, the NEPOOL-GIS system will automatically enforce the following constraints:

- The total amount of qualified energy output from any clean existing generation unit is limited to no more than 2,500,000 MWh per year. (See 310 CMR 7.75(7)(c)1.)
- Some clean existing generation units have lower limits based on their operational history and/or past participation in other certificate programs. (See 310 CMR 7.75(7)(c)2. and "Max MWh/yr" in the table below).
- For generators located in Canada, eligible MWh must be imported to ISO-NE using pre-2017 transmission capacity that directly connects the ISO-NE control area to Quebec.

The following table lists generation units that have been qualified as clean existing generation units by MassDEP:

| Name | NEPOOL-GIS ID | Location | Fuel | Max MWh/yr |
|---|---|---|---|---|
| Millstone | MSS 484<br>MSS 485 | Connecticut | nuclear | 2,500,000 * |
| Seabrook | MSS 555 | New Hampshire | nuclear | 2,500,000 |
| Masson | IMP 33636 | Quebec | hydro | 320,343 * |

| | | | | |
|---|---|---|---|---|
| | IMP 33637<br>IMP 33638<br>IMP 33639 | | | |
| Dufferin | IMP 35867<br>IMP 35868 | Quebec | hydro | 67,706 * |
| High Falls | IMP 159625 | Quebec | hydro | 676,489 |
| La Gabelle | IMP 145074 | Quebec | hydro | 773,576 |
| Shawinigan-2 | IMP 161896 | Quebec | hydro | 896,149 |
| Shawinigan-3 | IMP 161897 | Quebec | hydro | 1,200,514 |
| Outardes-2 | IMP 159630 | Quebec | hydro | 2,500,000 |
| Beaumont | IMP 161887 | Quebec | hydro | 1,597,980 |
| La Trenche | IMP 161898 | Quebec | hydro | 1,821,621 |
| Churchill Falls | IMP 161751 | Newfoundland and Labrador | hydro | 2,362,000 |
| Hadley Falls 1&2 | MSS769 | Massachusetts | hydro | 8,234 |
| *Applies facility-wide, not to each generator at the facility. A facility with multiple generators is considered a single generation unit as defined in 310 CMR 7.75: *Clean Energy Standard*. | | | | |
| **Last update: July 2021** | | | | |

## Q7 – How is the CES-E standard calculated for 2023-2050?

A7 - Beginning in 2023, the regulation allows for adjustments to the percentage standard if load increases or decreases significantly from 2018 levels, and is based on load four years prior to a given compliance year. The example in the text of the regulation shows that a 5% change in load in a given year results in a 1% change in the CES-E standard four years later.

From 310 CMR 7.75(4)(b). "…For calendar years 2023 through 2050, percentage requirements for clean existing generation attributes shall be determined by dividing 25% by the percentage provided by the Department pursuant to 310 CMR 7.75(9)(b)4. for the year four years before the calendar year for which the percentage requirement applies, rounded to the nearest percent (i.e., if the percentage provided pursuant to 310 CMR 7.75(9)(b)4. for 2026 is 105%, then the percentage requirement for clean existing generation attributes in 2030 would be 25% ÷ 105% = 24%)."

MassDEP intends to coordinate publication of the Annual Clean Energy Resource Report, including total annual electricity sales, with DOER. Annual electricity sales are also published on the DOER website during the following compliance year (i.e. 2019 load was published in mid-2020), under Compliance Year Load Obligations at https://www.mass.gov/service-details/annual-compliance-information-for-retail-electric-suppliers.

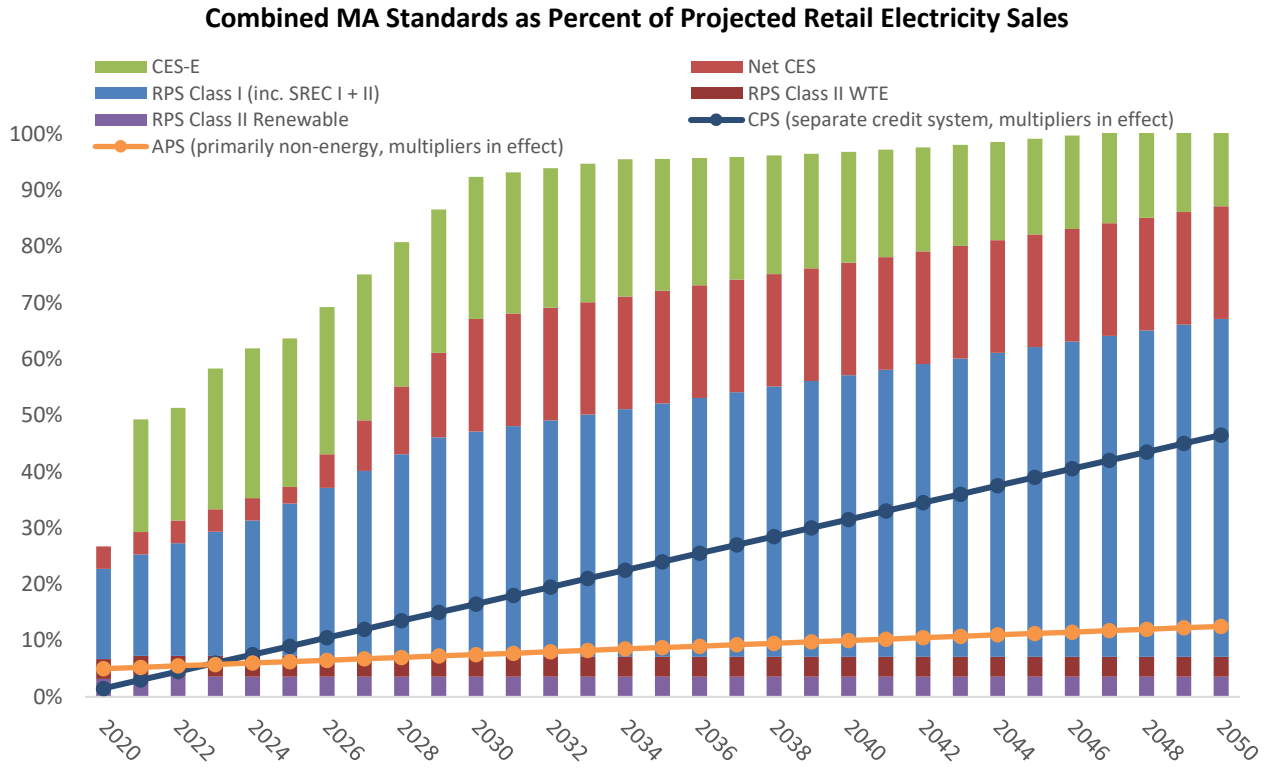
Based on this information, MassDEP calculated that the 2023 CES-E requirement will be 26%:

44,705,754 (2019 load) /46,448,304 (2018 load) = 96.2%

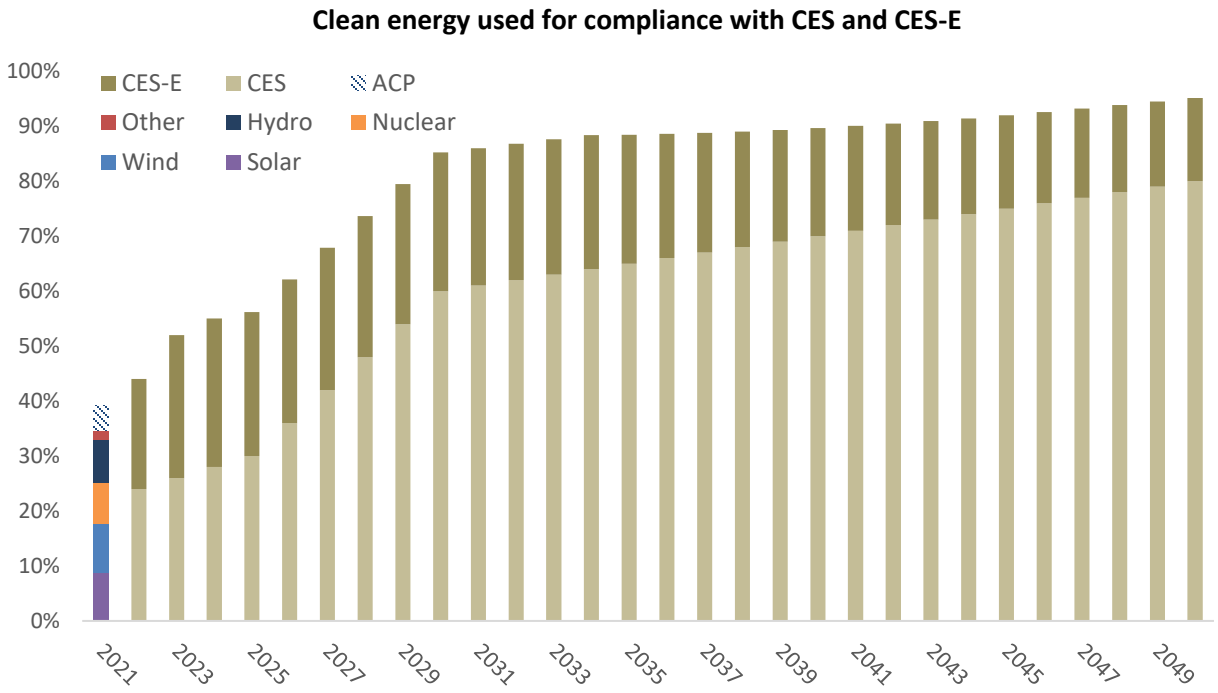
25%/96.2% = **26%**

## Q8 – What is the combined effect of the CES and CES-E?

A8 - The first figure below shows the various standards applicable to retail sellers of electricity in Massachusetts (except for municipal electric light plants). The combined effect of the standards is projected to reach approximately 90% of retail electricity sales in 2030 and approach 100% in 2050. The second figure shows only the mix of resources used to meet the CES and CES-E standards. This figure does not capture all of the clean energy used in Massachusetts because it does not include 1) clean energy retired by municipal electric light plants, 2) voluntary clean energy retirements above the CES and CES-E requirements, or 3) energy from clean resources that are not included in the CES and CES-E, such as RPS Class II Renewable resources. MassDEP intends to update this figure annually.




Note: The CES-E percentage over time has been estimated assuming that retail load grows following the trajectory set out in the 'All Options' pathway in the *Energy Pathways to Deep Decarbonization* report.




Note: The combined CES and CES-E requirement for 2021 was 42%, however, the resources shown in the figure above add up to 39% of 2021 retail load because of exempt load under the CES-E lowering the obligation for retail electricity suppliers with pre-existing contracts and because of non-compliance. See https://www.mass.gov/info-details/annual-compliance-reports-and-other-publications for more details on past non-compliance. The CES-E percentage over time has been calculated assuming that retail load grows following the trajectory set out in the 'All Options' pathway in the *Energy Pathways to Deep Decarbonization* report.

## *Q9 – How much CES and CES-E compliance is met with ACPs?

A9 - The table below summarizes how much CES and CES-E compliance has been through CECs and how much has been through ACPs. All values are in MWh and are based on the information contained in the annual compliance filings submitted pursuant to 310 CMR 7.75(6).

| Compliance Year | CES CECs* | CES ACP Credits | CES-E ECECs | CES-E ACP Credits |
|---|---|---|---|---|
| 2021 | 7,937,577 | 1,730,094 | 6,295,220 | 90,738 |
| 2022 | 8,815,880 | 1,856,301 | 7,543,622 | 20,368 |
| 2023 | 9,461,777 | 1,791,897 | 10,100,185 | 1,153,489 |

*This column includes compliance towards RPS Class I and does not differentiate between RPS Class I compliance via RECs and ACPs made to DOER.

See Q1 for a description of how the CES and RPS Class I requirements work together, Q3 for information about ACP rates, and Q8 for additional information about resources used to meet the CES and CES-E requirements.