Massachusetts Department of Environmental Protection
310 CMR 7.75: Clean Energy Standard
Frequently Asked Questions (FAQ)
Version 1.2 (November 2018)

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 jordan.garfinkle@state.ma.us or climate.strategies@state.ma.us.

Contents

Q1 - How does the CES interact with the Renewable Portfolio Standard (RPS)?

A1 - The CES draws on DOER's experience implementing 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 is 13% and the CES requirement is 16%; therefore, retail sellers that are in compliance with RPS Class I will have 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).

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.

Q2 - How do the banking provisions work?

A2 - 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 the use of 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%.

Renewable energy certificates (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.

Q3 - How does the CES address grandfathering of existing contracts?

A3 - In order to protect consumers from unanticipated price increases, the CES includes limited "grandfathering" of existing contracts covering electricity sales in 2018 and 2019. Under these provisions, electricity sold at a contract-specified all-in price is eligible for exemption from the calculation used to determine that retail seller's compliance obligation. Similar to the banking provisions, the adjustment for exemption-eligible MWhs only applies to the portion of the compliance obligation above the RPS requirement for that year (e.g. the 2018 RPS requirement is 13% and the CES requirement is 16%, so the exemption is available for up to 3% of a retail seller's load). To determine their actual compliance obligation in 2018 and 2019, retail sellers with exempt load should multiply the quantity of ***non-exempt load*** by 3% (for 2018) and 4% (for 2019) and add it to their RPS requirement for that year.

The following example demonstrates calculation of Retail Seller A's CES compliance obligation in 2018:

<u>Retail Seller A</u>
Total load served: 5,000,000 MWh
CES-exempt load: 2,000,000 MWh
RPS requirement: 13%; 650,000 (5,000,000 MWh total load * 13%)
CES requirement: 16% (CES above RPS: 3%)
Additional certificates required for CES: 90,000 (5,000,000 MWh total load – 2,000,000 MWh exempt load = 3,000,000 MWh. 3,000,000 * 3% = 90,000)
Total certificates required for CES compliance: 740,000 (650,000 + 90,000)

Alternatively, a retail seller with exempt load could also determine the amount that their compliance obligation will be reduced in 2018 and 2019 by multiplying the quantity of exempt load by 3% (for 2018) and 4% (for 2019).

In order to claim that a portion of a retail seller's load is exempt from the CES in 2018 and 2019, the company must have submitted the appropriate forms to MassDEP by December 31, 2017 (310 CMR 7.75(5)(d)). Based on the submissions MassDEP received, the agency has estimated exempt load is 21,700,000 MWhs in 2018 and 10,900,000 in 2019. These exemptions may reduce the number of required certificates across all retail sellers by approximately 650,000 in 2018 and 440,000 in 2019. In order to receive these exemptions, retail sellers must provide final MWh data for exemption-eligible sales as part of the CES compliance filings for 2018 and 2019.