

**HOUSE . . . . . No. 3436**

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The Commonwealth of Massachusetts

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PRESENTED BY:

*[Primary Sponsor]*

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*To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act Communication from the Division of Energy Resources of the Executive Office of Energy and Environmental Affairs (under the provisions of section 12 of Chapter 25A of the General Laws) submitting final proposed regulations (225 CMR 14.00, 15.00 and 16.00) implementing the renewable alternative portfolio standards (RPS and APS) as required by the Green Communities Act.

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PETITION OF:

NAME: \_\_\_\_\_ | DISTRICT/ADDRESS: \_\_\_\_\_ | DATE ADDED: \_\_\_\_\_

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In the Year Two Thousand Eleven  
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An Act Communication from the Division of Energy Resources of the Executive Office of Energy and Environmental Affairs (under the provisions of section 12 of Chapter 25A of the General Laws) submitting final proposed regulations (225 CMR 14.00, 15.00 and 16.00) implementing the renewable alternative portfolio standards (RPS and APS) as required by the Green Communities Act.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

- 1           225 CMR 14.00                   RENEWABLE ENERGY PORTFOLIO STANDARD –
- 2   CLASS I
- 3           Section
- 4           14.01: Authority
- 5           14.02: Definitions
- 6           14.03: Administration
- 7           14.04: Applicability

8           14.05: Eligibility Criteria for RPS Class I and Solar Carve-Out Renewable Generation  
9 Units

10           14.06: Qualification Process for RPS Class I and Solar Carve-Out Renewable  
11 Generation Units

12           14.07: Renewable Energy Portfolio Standard – Class I

13           14.08: Compliance Procedures for Retail Electricity Suppliers

14           14.09: Annual Compliance Filings for Retail Electricity Suppliers

15           14.10: Reporting Requirements

16           14.11: Inspection

17           14.12: Non-compliance

18           14.13: Severability

19           14.01: Authority

20           225 CMR 14.00 is promulgated pursuant to M.G.L. c. 25A, § 11F.

21           14.02: Definitions

22           Aggregation. A group of one or more Generation Units that receives a single Statement  
23 of Qualification from the Department under criteria and procedures set forth in 225 CMR  
24 14.05(6).

25           Alternative Compliance Credit. A credit obtained by a Retail Electricity Supplier upon  
26 making an Alternative Compliance Payment. Such credit is used to document compliance with

27 225 CMR 14.07. One unit of credit shall be equivalent to the RPS Class I Renewable Generation  
28 Attribute associated with one MWh of electrical energy output from a RPS Class I Renewable  
29 Generation Unit, or one unit of credit shall be equivalent to the Solar Carve-Out Renewable  
30 Generation Attribute associated with one MWh of electrical energy output from a Solar Carve-  
31 Out Renewable Generation Unit.

32           Alternative Compliance Payment (ACP). A payment of a certain dollar amount per  
33 MWh, resulting in the issuance of Alternative Compliance Credits, which a Retail Electricity  
34 Supplier may submit to the Department in lieu of providing RPS Class I Renewable Generation  
35 Attributes or Solar Carve-Out Renewable Generation Attributes required under 225 CMR 14.07.

36           Authorized Agent. A person or entity that serves under an agreement entered into by  
37 each of the Owners or Operators of Generation Units within an Aggregation for all dealings with  
38 the Department and with the NEPOOL GIS.

39           Biomass Fuel Certificate. A certificate that accompanies a delivery of woody biomass,  
40 which includes specifications documenting that it is Eligible Biomass Woody Fuel, specifies the  
41 source and tonnage, references the relevant Eligible Forest Residue Tonnage Report, and  
42 includes any additional information deemed necessary by the Department.

43           Biomass Input Heat Content. The thermal energy content, measured in MWh, of biomass  
44 fuel as it is input into a Generation Unit over a period of time. For the purpose of wood chips,  
45 the value will be determined using a methodology to be provided by the Department in a  
46 Guideline. The methodology will include a weighted average of all the metered weight of  
47 utilized biomass fuel types (as differentiated by typical moisture content), and an assigned heat  
48 content from referenced literature to each biomass type. For processed biomass fuels, the

49 thermal energy content shall be documented to the satisfaction of the Department by an  
50 independent testing laboratory.

51 Blended Fuel. A liquid or gaseous fuel that is blended from both Eligible RPS Class I  
52 Renewable Fuel(s) and ineligible fuel(s), a portion of whose electrical energy output may qualify  
53 as RPS Class I Renewable Generation under criteria set forth in 225 CMR 14.05(3).

54 Business Day. A business day shall mean Monday through Friday, exclusive of state and  
55 federal legal holidays.

56 Certificates Obligation. A term defined in the NEPOOL GIS Operating Rules at Rule  
57 4.1(b), or any successor rule.

58 Commercial Operation Date. The date that a Generation Unit first produces electrical  
59 energy for sale within the ISO-NE Control Area or within an adjacent Control Area. In the case  
60 of a Generation Unit that has been moved from a location within the ISO-NE Control Area or  
61 within an adjacent Control Area to another location in one of those Control Areas, the date that  
62 such Generation Unit first produced electrical energy for sale at its earliest location in those  
63 Control Areas. In the case of a Generation Unit that is connected to the End-use Customer's side  
64 of the electric meter, the date on which the local distribution company grants approval for the  
65 Generation Unit to interconnect with the grid. In the case of a Generation Unit that produces  
66 Off-grid Generation, the date that such Generation Unit first produces electrical energy. In the  
67 case of a Generation Unit that meets the eligibility requirements of 225 CMR 14.05 and co-fires  
68 an Eligible RPS Class I Renewable Fuel, the date when the Generation Unit first co-fires such  
69 Eligible RPS Class I Renewable Fuel.

70 Compliance Filing. A document filed annually by a Retail Electricity Supplier with the  
71 Department documenting compliance with 225 CMR 14.07, consistent with the format set forth  
72 in the Guidelines and submitted no later than the first day of July, or the first Business Day  
73 thereafter, of the subsequent Compliance Year.

74 Compliance Year (CY). A calendar year beginning January 1 and ending December 31,  
75 for which a Retail Electricity Supplier must demonstrate that it has met the requirements of 225  
76 CMR 14.07 and 14.08.

77 Control Area. A geographic region in which a common generation control system is used  
78 to maintain scheduled interchange of electrical energy within and without the region.

79 Current Use Program. A state administered program that permits a property owner to  
80 have a parcel of land taxed at a rate based on the current use of the land including but not limited  
81 to open space, active forestry, or agriculture as opposed to the fair market or development value  
82 of the property.

83 Department. The Massachusetts Department of Energy Resources (DOER), established  
84 by M.G.L. c. 25A.

85 DCR. The Massachusetts Department of Conservation and Recreation (DCR) established  
86 by M.G.L. c. 21 § 1.

87 Eligible Biomass Fuel. Fuel sources consisting of Eligible Biomass Woody Fuel,  
88 Manufactured Biomass Fuel, ; by-products or waste from animals or agricultural crops; food or  
89 vegetative material; algae; organic refuse derived fuel; anaerobic digester gas and other biogases  
90 that are derived from such resources; and neat Eligible Liquid Biofuel that is derived from such

91 fuel sources; but shall not include Construction and Demolition Waste as defined in 310 CMR  
92 19.006.

93 Eligible Biomass Woody Fuel. Woody fuels that are derived from the following sources,  
94 consistent with the requirements of 225 CMR 14.05(8):

95 Forest Derived Residues:

96 1. Tops, crooks and other portions of trees produced as a byproduct during the  
97 normal course of harvesting material, such as timber, pulpwood or cordwood.

98 2.

99 3. Unacceptable growing stock which is defined as trees considered structurally  
100 weak or have low vigor and do not have the potential to eventually yield a 12 foot sawlog or  
101 survive for at least the next 10 years.

102 4.

103 5. Trees removed during thinning operations, the purpose of which is to reduce stand  
104 density and enhance diameter growth and volume of the residual stand.

105 6.

106 7. Other competing woody vegetation that would otherwise interfere with  
107 regeneration or the natural growth of the forest, including but not limited to locally invasive  
108 native species and non-native invasive woody vegetation.

109 Forest Salvage:

110 Damaged, dying or dead trees removed due to injurious agents, such as wind or ice  
111 storms or the spread of invasive epidemic forest pathogens, insects and diseases or other  
112 epidemic biological risks to the forest, but not removed due to competition. Such eligible trees  
113 may be removed without limitation for biomass fuel, only if a major threat to forest health or risk  
114 to private or public resources, and if the USDA Animal Health and Plant Inspection Service  
115 (APHIS), the USDA Forest Service, or appropriate federal or state governmental agency has  
116 issued a declaration, rule, or order declaring a major threat to forest health or risk to private or  
117 public resources.

118 Non-Forest Derived Residues:

119 1. Primary forest products industry: Lumber mill residues or lumber processing  
120 residues consisting of the slabs, shavings, trimmings, sawdust, bark, end pieces of wood, and log  
121 cores that result from the various processing operations occurring in sawmills, pulp mills, and  
122 veneer and plywood plants.

123 2.

124 3. Secondary forest products industry: Wood waste produced as a byproduct of the  
125 production of finished wood products, including but not limited to clean residues from  
126 woodworking shops, furniture factories, and truss and pallet manufacturing.

127 4.

128 5. Land use change – non-agricultural: Trees cut or otherwise removed in the  
129 process of converting forest land to non-forest and non-agricultural uses provided that such  
130 development has already received all applicable state and local permits for the development.



131 6.

132 7. Land use change – agricultural: Trees cut or otherwise removed in the process of  
133 converting forest land to agricultural usage, either for new or restored farm land.

134 8.

135 9. Yard waste: Leaves, grass clippings, prunings, and other natural organic matter  
136 discarded from yards and gardens.

137 10.

138 11. Wood waste: Non-treated pallets; pruned branches, stumps, and whole trees  
139 removed during the normal course of maintenance of public or private roads, highways,  
140 driveways, utility lines, rights of way, and parks.

141 Dedicated Energy Crops. Wood purposefully grown for the purpose of producing fuel,  
142 provided that such wood was not grown on land that sequestered significant amounts of carbon,  
143 such as a forest, and provided that such land does not have the economic potential to support  
144 production of any other agricultural crop grown for human consumption as food.

145 Eligible Forest Residue Tonnage Report. The report certified by a professional forester  
146 under the provisions of 225 CMR 14.05(8) that details the amounts of biomass that may be  
147 removed from a harvest site to be Eligible Biomass Woody Fuel.

148 Eligible Liquid Biofuel. A liquid fuel that is derived from Eligible Biomass Fuel, but is  
149 not Eligible Biomass Woody Fuel, and that yields at least a 50 per cent reduction in Lifecycle  
150 Greenhouse Gas Emissions relative to average lifecycle greenhouse gas emissions for petroleum  
151 distillate fuel sold in 2005, as determined by the Department in consultation with the MassDEP

152 and the Executive Office; or that is derived from waste feedstocks consisting of previously used  
153 or discarded solid, liquid or contained gaseous material resulting from industrial, commercial or  
154 household food service activities that would otherwise be stored, treated, transferred or disposed.  
155 Waste feedstock shall include, but not be limited to, waste vegetable oils, waste animal fats,  
156 substances derived from wastewater and the treatment of wastewater, or grease trap waste.  
157 Waste feedstock shall not include petroleum-based waste or waste that otherwise meets the  
158 definition of hazardous waste, unless otherwise determined by the MassDEP.

159 Eligible RPS Class I Renewable Fuel. An Eligible Biomass Fuel, landfill methane gas,  
160 hydrogen derived from such fuels or hydrogen derived from water using the electrical output of a  
161 Renewable Generation Unit, but not hydrogen derived using RPS Class I Renewable Generation  
162 if the RPS Class I Renewable Generation Attributes of such Generation are sold, retired,  
163 claimed, used or represented as part of electrical energy output or sales, or used to satisfy  
164 regulatory obligations in any jurisdictions, and not hydrogen derived directly or indirectly from  
165 ineligible fuels.

166 End-use Customer. A person or entity in Massachusetts that purchases electrical energy  
167 at retail from a Retail Electricity Supplier, except that a Generation Unit taking station service at  
168 wholesale from ISO-NE or self-supplying from its owner's other generating stations, shall not  
169 be considered an End-use Customer.

170 Executive Office. The Executive Office of Energy and Environmental Affairs  
171 established by M.G.L. c. 6A § 2.

172           Generation Attribute. A non-price characteristic of the electrical energy output of a  
173   Generation Unit including, but not limited to, the Unit’s fuel type, emissions, vintage and RPS  
174   eligibility.

175           Generation Unit. A facility that converts a fuel or an energy resource into electrical  
176   energy.

177           Geothermal Energy. Heat energy stored in the Earth's crust that can be accessed for  
178   electric power generation.

179           GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies  
180   Generation Attributes of each MWh accounted for in the NEPOOL GIS.

181           Guidelines. A set of clarifications, interpretations, and procedures, including forms,  
182   developed by the Department to assist in compliance with the requirements of 225 CMR 14.00.  
183   The Department may issue new or revised Guidelines from time to time. Each Guideline shall  
184   be effective on its date of issuance or on such date as is specified therein, except as otherwise  
185   provided in 225 CMR 14.00.

186           Historical Generation Rate. The average annual electrical production from a Vintage  
187   Generation Unit that meets the requirements of 225 CMR 14.05(1)(a), stated in MWhs, for the  
188   three calendar years 1995 through 1997, or for the first 36 months after the Commercial  
189   Operation Date if that date is after January 1, 1995.

190           Hydroelectric Energy. Electrical energy from a Generation Unit that uses flowing  
191   freshwater as the primary energy resource, with or without a dam structure or other means of

192 regulating water flow, and that is not located at a facility that uses mechanical or electrical  
193 energy to pump water into a storage facility (i.e., a so-called “pumped-storage facility”).

194           Impacted Watershed. All water bodies or areas of land hydrologically connected to a  
195 hydroelectric facility, whether located upstream or downstream, which may experience any  
196 alteration of their physical, biological, or ecological characteristics as a result of the operation or  
197 increased capacity expansion of a hydroelectric Generation Unit.

198           ISO-NE. ISO New England Inc., the independent system operator for New England, the  
199 regional transmission organization for most of New England, which is authorized by the Federal  
200 Energy Regulatory Commission (FERC) to exercise for the New England Control Area the  
201 functions required pursuant to the FERC’s Order No. 2000, the FERC’s corresponding  
202 regulations, and any successor FERC orders and regulations.

203           ISO-NE Settlement Market System. The ISO-NE’s electronic database system into  
204 which all real-time load and generation data are entered and from which such data are provided  
205 to the NEPOOL GIS.

206           Lifecycle Greenhouse Gas Emissions. The aggregate quantity of greenhouse gas  
207 emissions, including direct emissions and significant indirect emissions such as significant  
208 emissions from land use changes, and temporal changes in forest carbon sequestration and  
209 emissions resulting from biomass harvests, regrowth, and avoided decomposition as determined  
210 by the Department in consultation with the MassDEP and the Executive Office, related to the full  
211 fuel lifecycle, including all stages of fuel and feedstock production and distribution, from  
212 feedstock generation or extraction through the distribution and delivery of the finished fuel to the

213 ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for  
214 their relative global warming potential.

215 Low Impact Hydropower Institute (LIHI). A non-profit 501(c)(3) organization located in  
216 Portland, Maine, whose stated purpose is to reduce the impacts of hydropower generation  
217 through the certification of hydropower projects that have avoided or reduced their  
218 environmental impacts pursuant to the Low Impact Hydropower Institute's criteria.

219 Manufactured Biomass Fuel. A biomass fuel that is prepared, other than by means of  
220 fuel drying, through a fuel processing facility that is separate from a Generation Unit and that  
221 utilizes Eligible Biomass Woody Fuel for production. Examples include, but are not limited to,  
222 the mechanical production of wood pellets or bio-dust, and the refinement of bio-oil through  
223 pyrolysis.

224

225 Marine or Hydrokinetic Energy. Electrical energy derived from waves, tides and currents  
226 in oceans, estuaries and tidal areas; free-flowing water in rivers, lakes, streams, and human-made  
227 channels, provided that such water is not diverted, impounded, or dammed; or differentials in  
228 ocean temperature, called ocean thermal energy conversion.

229 Massachusetts Clean Energy Technology Center (MassCEC). The center established in  
230 M.G.L. c. 23J, § 2.

231

232 Massachusetts Renewable Energy Trust. The Trust under M.G.L. c. 23J § 9, which  
233 administers renewable energy programs for the Commonwealth.

234 MassDEP. The Massachusetts Department of Environmental Protection established by  
235 M.G.L. c. 21A, § 7.

236 Megawatt-hour (MWh). A unit of electrical energy or work equivalent to one million  
237 watts of power operating for one hour.

238 Merchantable Bio-Products. Products that are refined from a biomass fuel by a bio-  
239 refinery project in which the Generation Unit is integral. Products include but are not limited to  
240 merchantable chemicals such as additives, lubricants, or specialty chemicals, and other products  
241 which can be permanently sequestered for carbon reductions.

242 NEPOOL GIS. The NEPOOL Generation Information System, which includes a  
243 generation information database and certificate system, operated by the New England Power  
244 Pool (NEPOOL), its designee or successor entity, that accounts for Generation Attributes of  
245 electrical energy consumed within, imported into, or exported from the ISO-NE Control Area.

246 Non-intermittent Generation Unit. A Generation Unit having a capacity factor of 50 per  
247 cent or greater, as determined by the Department.

248 NERC Tag. A document that identifies an electrical energy interchange transaction and  
249 its associated participants, assigned in accordance with rules set forth by the North American  
250 Electric Reliability Corporation, a non-profit corporation granted by the Federal Energy  
251 Regulatory Commission (FERC) the legal authority to enforce mandatory reliability standards  
252 for the U.S. bulk power system, subject to FERC oversight.

253 Off-grid Generation. The electrical energy produced by a Generation Unit that is not  
254 connected to a utility transmission or distribution system.

255 Operator. Any person or entity that has charge or control of a Generation Unit subject to  
256 225 CMR 14.00, including without limitation a duly authorized agent or lessee of the Owner, or  
257 a duly authorized independent contractor.

258 Owner. Any person or entity that, alone or in conjunction with others, has legal  
259 ownership, a leasehold interest, or effective control over the real property or property interest  
260 upon which a Generation Unit is located, or the airspace above said real property, including  
261 without limitation a duly authorized agent of the Owner. For the purposes of 225 CMR 14.02,  
262 Owner does not mean a person or entity holding legal title or security interest solely for the  
263 purpose of providing financing.

264 Power Conversion Technology. The design, process, and equipment by which an energy  
265 resource is converted into useful energy, as specified in Guidelines.

266 Relevant Hydroelectric Agency. A federal, state or provincial agency with oversight over  
267 fish and wildlife, water quality, river flows, fish passage and protection, mitigation and  
268 enhancement opportunities, related to a hydroelectric facility located in the Impacted Watershed  
269 or that impacts downstream or upstream passage of fish and wildlife.

270 Renewable Generation. The electrical energy output of a Renewable Generation Unit.

271 Renewable Generation Attribute. The Generation Attribute of the electrical energy  
272 output of a specific Generation Unit that derives from the Unit's production of Renewable  
273 Generation.

274 Renewable Generation Unit. A Generation Unit that uses an Eligible RPS Class I  
275 Renewable Fuel, Hydroelectric Energy, waste-to-energy that is a component of conventional

276 municipal solid waste plant technology in commercial use, or any of the fuels, energy resources  
277 or technologies set forth in 225 CMR 14.05(1)(a).

278           Retail Electricity Product. An electrical energy offering that is distinguished by its  
279 Generation Attributes and that is offered for sale by a Retail Electricity Supplier to End-use  
280 Customers.

281           Retail Electricity Supplier. A person or entity that sells electrical energy to End-use  
282 Customers in Massachusetts, including but not limited to electric utility distribution companies  
283 supplying basic service or any successor service to End-use Customers. A Municipal Lighting  
284 Plant shall be considered a Retail Electricity Supplier; however, it shall be exempt from the  
285 obligations of a Retail Electricity Supplier under 225 CMR 14.00 so long as and insofar as it is  
286 exempt from the requirements to allow competitive choice of generation supply pursuant to  
287 M.G.L. c. 164, § 47A.

288           RPS Class I Renewable Generation. The electrical energy output excluding any electrical  
289 energy utilized for parasitic load of a RPS Class I Renewable Generation Unit, or that portion of  
290 the electrical energy output excluding any electrical energy utilized for parasitic load of an RPS  
291 Class I Renewable Generation Unit that qualifies under (1) the Special Provisions for  
292 Incremental Generating Capacity, pursuant to 225 CMR 14.05(2) issued on or after January 1,  
293 2009; (2) a Vintage Waiver, pursuant to 225 CMR 14.05(2) issued before January 1, 2009; (3) a  
294 Co-firing and Blended Fuel Waiver, pursuant to 225 CMR 14.05(3); (4) the Special Provisions  
295 for a Generation Unit Located in a Control Area Adjacent to the ISO-NE Control Area, pursuant  
296 to 225 CMR 14.05(5); or (5) any other applicable provision of 225 CMR 14.00.



297 RPS Class I Renewable Generation Attribute (Attribute). The Generation Attribute of the  
298 electrical energy output of a specific RPS Class I Renewable Generation Unit that derives from  
299 the Unit's production of RPS Class I Renewable Generation.

300 RPS Class I Renewable Generation Unit. A Generation Unit or Aggregation that has  
301 received a Statement of Qualification from the Department, including a Generation Unit or  
302 Aggregation termed a New Renewable Generation Unit in a Statement of Qualification issued by  
303 the Department pursuant to 225 CMR 14.00 before January 1, 2009, but does not include Solar  
304 Carve-Out Renewable Generation Units.

305 Solar Carve-Out Renewable Generation. The electrical output of a Solar Carve-Out  
306 Renewable Generation Unit that qualifies for the Massachusetts Solar Carve-Out excluding any  
307 electrical energy utilized for parasitic load.

308 Solar Carve-Out Renewable Generation Attribute. The Generation Attribute of the  
309 electrical energy output of a specific Solar Carve-Out Renewable Generation Unit that derives  
310 from the Unit's production of Solar Carve-Out Renewable Generation.

311 Solar Carve-Out Renewable Generation Unit. A Generation Unit or Aggregation that has  
312 received a Statement of Qualification from the Department that specifies its qualification for  
313 participation in the Solar Carve-Out under 225 CMR 14.05(4).

314 Statement of Qualification. A written document from the Department that qualifies a  
315 Generation Unit or Aggregation as an RPS Class I Qualified Generation Unit or a Solar Carve-  
316 Out Renewable Generation Unit, or that qualifies a portion of the annual electrical energy output  
317 of a Generation Unit or Aggregation as RPS Class I Renewable Generation.

318 Useful Thermal Energy. Energy (a) in the form of direct heat, steam, hot water, or other  
319 thermal form that is used in production and beneficial measures for heating, cooling, humidity  
320 control, process use, or other valid thermal end use energy requirements and (b) for which fuel or  
321 electricity would otherwise be consumed. Thermal energy used for the purpose of drying or  
322 refining biomass fuel shall not be considered Useful Thermal Energy.

323 Valid Air Permit. Within the United States, a current and effective authorization, license,  
324 certificate, or like approval to construct and/or operate a source of air pollution, issued or  
325 required by the regulatory agency designated in the applicable State Implementation Plan to  
326 issue permits under the Clean Air Act, 42 U.S.C. §§ 7401, et seq. In jurisdictions outside of the  
327 United States, it shall be a document demonstrating an equivalent authorization.

328 Vintage Generation Unit. A Generation Unit that meets the requirements of 225 CMR  
329 14.05(1), that has a Commercial Operation Date of December 31, 1997, or earlier, and for which  
330 the Department issued a Statement of Qualification under the Vintage Waiver provision in 225  
331 CMR 14.05(2) before January 1, 2009.

332 Vintage Generation. The electrical energy output of a Vintage Generation Unit during  
333 the period of the Unit's Historical Generation Rate.

334 14.03: Administration

335 225 CMR 14.00 shall be administered by the Department.

336 14.04: Applicability

337 225 CMR 14.00 applies to Retail Electricity Suppliers and to the Owners or Operators of  
338 RPS Class I Renewable Generation Units and Solar Carve-Out Renewable Generation Units.

339 14.05: Eligibility Criteria for RPS Class I and Solar Carve-Out Renewable Generation  
340 Units

341 (1) Eligibility Criteria. A Generation Unit may qualify as an RPS Class I Renewable  
342 Generation Unit or a Solar Carve-Out Renewable Generation Unit subject to the limitations in  
343 225 CMR 14.05.

344 (a) Fuels, Energy Resources and Technologies. The Generation Unit shall use one or  
345 more of the fuels, energy resources and/or technologies listed in 225 CMR 14.05(1)(a)1 through  
346 9.

347 1. Solar photovoltaic or solar thermal electric energy.

348 2. Wind energy.

349 3. Ocean thermal, wave or tidal energy.

350 4. Fuel cells using an Eligible RPS Class I Renewable Fuel.

351 5. Landfill methane gas, provided that such gas is collected and conveyed directly to the  
352 Generation Unit without use of facilities used as common carriers of natural gas, except that such  
353 landfill methane gas may be collected from a landfill entirely within the ISO-NE Control Area or  
354 an adjacent Control Area and transported to a Generation Unit within one of those Control Areas  
355 via a common carrier of natural gas, subject to documentation satisfactory to the Department of  
356 the gas transportation and related contracts.

357 6. Hydroelectric. An Generation Unit that uses Hydroelectric Energy may qualify as an  
358 RPS Class I Generation Unit, subject to the limitations in 225 CMR 14.05(1)(a)6.

359 a. The Unit has a nameplate capacity up to 25 megawatts, or increased capacity installed  
360 or efficiency improvements implemented after December 31, 1997, the aggregate of which  
361 increased capacity or efficiency improvements does not exceed 25 megawatts.

362 b. The Unit does not involve any dam or water diversion structure constructed after  
363 December 31, 1997, or pumped storage of water.

364 c. The Unit does not generate Marine or Hydrokinetic Energy.

365 d. The Unit meets appropriate and site-specific standards that address adequate and  
366 healthy river flows, water quality standards, fish passage and protection measures and mitigation  
367 and enhancement opportunities in the impacted watershed, as determined by the Department in  
368 consultation with Relevant Hydroelectric Agencies. The Unit shall demonstrate compliance with  
369 such standards by submitting the documentation required in either 225 CMR 14.05(1)(a)6.d.i or  
370 ii.

371 i. LIHI Certification of the Unit; except that in either of the two circumstances provided  
372 in 225 CMR 14.05(1)(a)6.d.i, the Department may request further information from the applicant  
373 and the Relevant Hydroelectric Agencies as part of its review of the applicant's Statement of  
374 Qualification Application. The Department shall notify the applicant of any such input from a  
375 Relevant Hydroelectric Agency not later than 30 days after receiving such input and shall  
376 provide the applicant an opportunity to respond to the Department not later than 30 days after the  
377 applicant's receipt of such notice from the Department.

378 A. If a Relevant Hydroelectric Agency identified an environmental concern and a  
379 proposed remedy to LIHI during the LIHI certification process, and such concern was not

380 addressed in the LIHI certification to the satisfaction of the Agency, and the Agency consulted  
381 with the Owner or Operator of the Unit; or

382 B. If, between issuance of the LIHI certification and the Department's determination of  
383 the Unit's eligibility, a Relevant Hydroelectric Agency submits to the Department evidence of a  
384 significant environmental problem not previously known by such Agency, after consulting with  
385 the Owner or Operator of the Unit.

386 ii. A denial of certification from LIHI specifying the reasons the certification was denied  
387 and the applicant's proposed rationale for why the project should nevertheless receive a  
388 Statement of Qualification. In this instance, the Department shall notify and seek input from the  
389 Relevant Hydroelectric Agencies, which shall have 30 days from the date of their receipt of such  
390 notification to provide feedback to the Department. The Owner or Operator of the Unit shall be  
391 notified of any such input and shall have 30 days from receipt of such notice to respond to the  
392 satisfaction of the Department as to why its Application should be approved. The Department  
393 thereafter shall make finding of whether the Unit meets appropriate environmental safeguards  
394 despite the lack of LIHI certification.

395 e. The Owner or Operator of the Unit must serve notice to all Relevant Hydroelectric  
396 Agencies of its application for LIHI certification and its submission of a Statement of  
397 Qualification Application and must provide notice of such service to the Department.

398 f. If LIHI fails to act to certify or deny certification within 180 days from the date of  
399 submission of the Unit's application to LIHI, the Owner or Operator shall file notice of such  
400 event with the Department. The Department shall review the federal, state or provincial permits  
401 for the Unit and any submissions to LIHI by Relevant Hydroelectric Agencies, and shall make a

402 final determination as to whether the Unit meets environmental standards specified in 225 CMR  
403 14.05(1)(a)6.d.

404 g. If LIHI is unable to review for certification a Unit that is located in a Control Area  
405 adjacent to the ISO-NE Control Area and outside the United States of America, the Owner or  
406 Operator of such Unit may petition the Department for certification using the LIHI standards by  
407 an independent third party acceptable to the Department.

408 7. Low-emission, advanced biomass Power Conversion Technologies using an Eligible  
409 Biomass Fuel. A Generation Unit may qualify as an RPS Class I Renewable Generation Unit,  
410 provided it uses an Eligible Biomass Fuel, subject to the limitations in 225 CMR 14.05(1)(a)7.

411 a. The Department shall set forth in Guidelines low-emission eligibility criteria which  
412 will become effective on their date of issuance. Any emission eligibility criteria in subsequently  
413 revised Guidelines shall become effective 24 months from their date of issuance.

414 b. A Generation Unit with a Commercial Operation Date after December 31, 1997, that  
415 is required to obtain an air permit in its jurisdiction, must possess a Valid Air Permit and must  
416 demonstrate to the satisfaction of the Department that the emission rates of the Unit do not  
417 exceed limits set forth in the Guidelines that are applicable for the date on which the Department  
418 receives the Unit's Statement of Qualification Application.

419 c. A Generation Unit with a Vintage Waiver that is required to obtain an air permit in its  
420 jurisdiction must possess a Valid Air Permit and must demonstrate to the satisfaction of the  
421 Department that the emission rates of the Unit do not exceed limits set forth in the Guidelines  
422 that are applicable for the date on which the Department receives the Unit's Statement of  
423 Qualification Application.

424 d. A Generation Unit that is not required to obtain an air permit in its jurisdiction must  
425 demonstrate to the satisfaction of the Department that its emissions are consistent with criteria  
426 set forth in the Guidelines that are applicable for the date on which the Department receives the  
427 Unit's Statement of Qualification Application.

428 e. In the case of a Generation Unit for whose size, type, or fuel the Guidelines do not  
429 provide applicable emission limits, the Department will determine appropriate limits in  
430 consultation with the MassDEP.

431 f. A Generation Unit, that uses an Eligible Biomass Woody Fuel or a Manufactured  
432 Biomass Fuel, must provide to the Department as part of their Statement of Qualification  
433 Application the following items.

434 i. A fuel supply plan indicating the anticipated fuel types, sources, and amounts.  
435 Not later than January 1, the Unit shall provide on an annual basis a report of the anticipated fuel  
436 supply for that Compliance Year.

437 ii. A design and operational plan that demonstrates that the Unit will achieve an  
438 Overall Efficiency, as calculated in 225 CMR 14.05(8)(b)(2)-(3), of at least 40 per cent on a  
439 quarterly basis.

440 iii. An analysis of net Lifecycle Greenhouse Gas Emissions, that demonstrates, to the  
441 satisfaction of the Department, that such emissions, over a 20 year life cycle, yield at least a 50  
442 per cent reduction of greenhouse gas emissions per unit of useful energy relative to the Lifecycle  
443 Greenhouse Gas Emissions from the aggregate use of the operation of a new combined cycle  
444 natural gas electric generating facility using the most efficient commercially available  
445 technology as of the date of the Statement of Qualification Application for the portion of

446 electricity delivered by the Generation Unit and, if applicable, the operation of the fossil fuel  
447 fired thermal energy unit being displaced, or in the case of new Useful Thermal Energy, a gas-  
448 fired thermal energy unit using the most efficient commercially available technology as of the  
449 date of Statement of Qualification Application for the portion of the Useful Thermal Energy  
450 delivered by the Generation Unit. The Department shall provide as part of the Statement of  
451 Qualification Application a standard analytical methodology to meet this requirement, including  
452 a full accounting of greenhouse gas emissions associated with any fuel processing.

453 8. Marine or Hydrokinetic Energy.

454 9. Geothermal Energy.

455 (b) Commercial Operation Date. The Commercial Operation Date shall be after  
456 December 31, 1997, unless the Generation Unit received a Statement of Qualification with a  
457 Vintage Waiver prior to January 1, 2009. In the case of a Solar Carve-Out Renewable  
458 Generation Unit, the Commercial Operation Date shall be after December 31, 2007.

459 (c) Metering. The electrical energy output from a Generation Unit shall be verified by  
460 the ISO-NE or by an independent verification system or person participating in the NEPOOL  
461 GIS accounting system as an independent Third Party Meter Reader, as defined in Rule 2.5(j) of  
462 the NEPOOL GIS Operating Rules, or any successor rule, and approved by the Department.

463 (d) Location. The Generation Unit location is subject to the limitations in 225 CMR  
464 14.05(1)(d).

465 1. Off-grid Generation. If the Generation Unit produces Off-grid Generation, such Unit  
466 must be located in Massachusetts.



467           2. Behind-the-meter Generation. If the Generation Unit is wired to the electrical system  
468 on the End-use Customer's side of a retail electric meter, such Unit must be located within the  
469 ISO-NE Control Area.

470           (e) Capacity Obligation. The Generation Unit's generating capacity is subject to the  
471 obligations in CMR 14.05(1)(e).

472           1. The amount of the generation capacity of the Generation Unit whose electrical energy  
473 output is claimed as RPS Class I Renewable Generation or Solar Carve-Out Renewable  
474 Generation shall not be committed to any Control Area other than the ISO-NE Control Area  
475 unless such Generation Unit has entered into a Capacity Obligation in another Control Area  
476 before the start of the first available compliance year for the ISO-NE Forward Capacity Market,  
477 in which case this subsection shall apply upon the expiration of that Capacity Obligation.  
478 However, if the Generation Unit executed a contract for the sale of RPS Class I Renewable  
479 Generation Attributes or RPS Class I Renewable Generation, or both, before January 1, 2009, for  
480 a term of at least 2 years, the contract price of which relied on the receipt of capacity payments  
481 from a control area adjacent to the ISO-NE control area, and the Generation Unit can  
482 demonstrate such reliance to the satisfaction of the Department, this requirement shall not take  
483 effect for that Generation Unit until the expiration of that contract.

484           2. The Generation Unit Owner or Operator of a Non-intermittent Generation Unit shall  
485 commit to the ISO-NE Control Area the amount of the capacity of that Unit claimed as RPS  
486 Class I Renewable Generation or Solar Carve-Out Renewable Generation by submitting by the  
487 applicable deadline a show of intent for the ISO-NE Forward Capacity Auction that is the  
488 earliest available for the Unit after the Owner or Operator has submitted a Statement of

489 Qualification Application unless the Owner or Operator can provide to the Department  
490 documentation of its prior commitment to the ISO-NE Control Area of such capacity. The  
491 Owner or Operator of any Unit that cannot demonstrate such prior commitment must also clear  
492 the Forward Capacity Auction for which it has qualified, even if it must participate as a price  
493 taker. The requirements of this paragraph do not apply to Generation Units for which the  
494 Department has received an administratively complete Statement of Qualification Application  
495 prior to July 2, 2008.

496           3. An RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable  
497 Generation Unit that was deemed unqualified by the ISO-NE for participation in the ISO-NE  
498 Forward Capacity Market for technical reasons may commit capacity to another control area and  
499 may receive GIS Certificates for the energy sold into the ISO-NE Control Area, subject to a  
500 determination by the Department.

501           4. An RPS Class I Renewable Generation Unit or a Solar Carve-Out Renewable  
502 Generation Unit that has registered with the relevant distribution company as a net metering  
503 facility pursuant to 220 CMR 18.00, shall be exempt from the capacity obligation under 225  
504 CMR 14.05(1)(e) while the facility is net metering.

505           (2) Special Provisions for Incremental Generation. An increase in electrical energy  
506 output of a Generation Unit with a Commercial Operation Date on or before December 31, 1997,  
507 may qualify as RPS Class I Renewable Generation, subject to the limitations in CMR 14.05(2).

508           (a) The Generation Unit must meet the eligibility requirements of 225 CMR 14.05 with  
509 the exception of 225 CMR 14.05(1)(b).

510

511 (b) The portion of the total electrical energy output of the Generation Unit that qualifies  
512 as RPS Class I Renewable Generation in a given calendar year shall be the portion attributable to  
513 incremental new generating capacity or efficiency improvements installed or implemented after  
514 December 31, 1997, using equipment that was not utilized in any Renewable Generation Unit  
515 within the ISO-NE Control Area or within Control Areas adjacent thereto on or before December  
516 31, 1997.

517 (c) The portion of the electrical energy output of a Generation Unit that does not qualify  
518 as RPS Class I Renewable Generation under the provisions of this subsection or under a  
519 Statement of Qualification granted to a Vintage Generation Unit prior to January 1, 2009, may  
520 qualify as RPS Class II Renewable Generation if it applies for and meets the eligibility standards  
521 of the RPS Class II Regulations set forth in 225 CMR 15.00.

522 (d) The portion of electrical energy output of a Generation Unit that replaces the output  
523 of an RPS Class I Renewable Generation Unit qualified under 225 CMR 14.05(1)(a)(5) at the  
524 same location, or proximate thereto, and utilizes the fuel resource of that location, shall not be  
525 qualified as Incremental Generation, unless a Unit meets the requirements of 225 CMR  
526 14.05(7)(d).

527 (3) Co-Firing and Blended Fuel Waiver. All or a portion of the electrical energy output  
528 of a Generation Unit that uses ineligible fuel in conjunction with an Eligible RPS Class I  
529 Renewable Fuel, whether by co-firing such fuels or by using a Blended Fuel, may qualify as RPS  
530 Class I Renewable Generation provided the Generation Unit meets the eligibility requirements of  
531 225 CMR 14.05, subject to the limitations in 225 CMR 14.05(3).

532 (a) The portion of the total electrical energy output that qualifies as RPS Class I  
533 Renewable Generation in a given time period shall be equal to the ratio of the net heat content of  
534 the Eligible RPS Class I Renewable Fuel consumed to the net heat content of all fuel consumed  
535 in that time period.

536 (b) If using a Blended Fuel of which the eligible portion is an Eligible Biomass Fuel or  
537 if co-firing an ineligible fuel with an Eligible Biomass Fuel, the entire Generation Unit must  
538 meet the requirements of an advanced biomass Power Conversion Technology as set forth in 225  
539 CMR 14.05(1)(a)7.

540 (c) If using an Eligible Biomass Fuel, the Generation Unit must demonstrate to the  
541 satisfaction of the Department that the emission rates for the entire Generation Unit are  
542 consistent with rates prescribed by the MassDEP for comparably fueled Generation Units in the  
543 Commonwealth. The Department may require the Generation Unit Owner or Operator to retain  
544 at its own expense a third-party consultant deemed satisfactory to the Department, to provide the  
545 Department and the MassDEP with assistance in this determination.

546 (d) The Generation Unit must provide with its Statement of Qualification Application a  
547 fuel supply plan that specifies each and every fuel that it intends to use, in what relative  
548 proportions either in co-firing or in a Blended Fuel, and with what individual input heat values.  
549 Such plan shall include the procedures by which the Unit will document to the satisfaction of the  
550 Department its compliance with the plan.

551 (e) The provisions of 225 CMR 14.05(3) shall not apply to the incidental use of  
552 ineligible fuels for the purpose of cold starting a Generation Unit that otherwise exclusively uses  
553 an Eligible RPS Class I Renewable Fuel.

554 (4) Special Provisions for a Solar Carve-Out Generation Unit.

555

556 (a) The Solar Carve-Out Renewable Generation Unit must be used on-site, located in the  
557 Commonwealth of Massachusetts, and be interconnected with the electric grid. On-site use  
558 includes any new or existing load located at the site of the Unit including any parasitic load that  
559 may result from the installation of the Unit, and that is wired to receive a portion of the electrical  
560 energy output from the Unit before the balance of such output passes through the Unit's metered  
561 interconnection onto the electric grid. The maximum capacity of a Unit shall be 6 MW, as  
562 measured on a nameplate capacity basis in direct current and shall be determined based on the  
563 total capacity located on a single parcel of land. For any parcel of land for which a Solar Carve-  
564 Out Generation Unit has submitted a Statement of Qualification Application, if its current  
565 boundaries are the result of a subdivision recorded after January 1, 2010, the Owner or Operator  
566 shall make a demonstration to the Department that the subdivision was not for the purpose of  
567 eligibility in the Solar Carve-Out Program. If the Department is not satisfied by such showing,  
568 the 6 MW limit shall apply to the metes and bounds of the parcel as recorded prior to the  
569 subdivision. Any subsequent additional solar photovoltaic Units that would result in excess of 6  
570 MW of capacity installed on the same parcel of land and meeting all other requirements under  
571 225 CMR 14.00 may qualify only for RPS Class I Renewable Generation Attributes.

572 (b) If the construction and installation of a Unit was funded through a program  
573 administered prior to January 1, 2010, by the Massachusetts Renewable Energy Trust, or if the  
574 Unit was funded substantially from American Recovery and Reinvestment Act, P.L. 111-5  
575 (ARRA) for the installation of that Unit, the Unit shall not be eligible to participate in the Solar

576 Carve-Out. Substantial shall mean for this purpose more than 67 per cent of total installed cost.  
577 Notwithstanding this subsection, if the substantial funding that a Unit receives is from a payment  
578 in lieu of tax credit under section 1603 of ARRA, the Unit shall be eligible for Solar Carve-Out  
579 Renewable Generation Attributes.

580 (c) Owners or Operators of Units under this subsection are eligible to participate in the  
581 Solar Credit Clearinghouse Auction for the Opt-In Term specified in the Statement of  
582 Qualification of the Unit. The Department or its agent shall maintain an account, known as Solar  
583 Credit Clearinghouse Auction Account on the NEPOOL GIS into which eligible Owners or  
584 Operators may deposit Solar Carve-Out Renewable Generation Attributes. The Solar Credit  
585 Clearinghouse Auction Account shall be available for deposit of Attributes only from May 16 to  
586 June 15, inclusive.

587 (d) An Owner or Operator that opts to deposit Solar Carve-Out Renewable Attributes  
588 into the Solar Credit Clearinghouse Auction Account shall be assessed, at the completion of the  
589 auction, a usage fee of 5 per cent of the auction price for each such Attribute deposited into Solar  
590 Credit Clearinghouse Auction Account. This usage fee shall be deposited into the Alternative  
591 Compliance Payment fund under 225 CMR 14.08(3).

592 (e) Those Attributes deposited into Solar Credit Clearinghouse Auction Account shall  
593 then be retired and reissued by NEPOOL GIS as Re-minted Auction Account Attributes. These  
594 Attributes shall be eligible in either of the two subsequent Compliance Years from the year in  
595 which they were generated to meet obligations under the Massachusetts Solar Carve-Out  
596 Minimum Standard. The Department or its agent shall conduct an auction for those Attributes.  
597 Any entity wishing to purchase Re-minted Auction Account Attributes may participate and enter

598 a bid. Each bid shall be for the number of Re-minted Auction Account Attributes that the bidder  
599 wishes to purchase at a fixed price of \$300 per Re-minted Auction Account Attribute.

600 (f) The Solar Credit Clearinghouse Auction shall be held not later than July 31. If the  
601 Auction clears, meaning that the total number of Re-minted Auction Account Attributes bid for  
602 in the auction was equal to or more than the number of Solar Carve-Out Renewable Attributes  
603 deposited, then the total amount of deposited Attributes will be distributed to the bidders in a  
604 pro-rated manner such that each bidder receives the same percentage of their bid volume. If the  
605 auction does not clear, meaning that the total number of Re-minted Auction Account Attributes  
606 bid for in the auction was less than the number of Solar Carve-Out Renewable Attributes  
607 deposited, the Department or its agent shall void the auction.

608 (g) If the auction under 225 CMR 14.05(4)(f) does not clear, the Department shall  
609 conduct a new auction within 3 Business Days, in which any Attributes purchased shall be  
610 eligible in any of the three subsequent Compliance Years from the year in which they were  
611 generated to meet obligations under the Massachusetts Solar Carve-Out Minimum Standard. If  
612 the auction does not clear, the Department or its agent shall void the auction.

613 (h) If the auction under 225 CMR 14.05(4)(g) does not clear, the Department or its  
614 agent shall conduct another auction within 3 Business Days, at which point the Attributes shall  
615 be eligible in any of the three subsequent Compliance Years from the year in which they were  
616 generated to meet obligations under the Massachusetts Solar Carve-Out Minimum Standard.  
617 Prior to this Auction, the Department shall also re-calculate the Massachusetts Solar Carve-Out  
618 Minimum Standard under 225 CMR 14.07(2)(h).

619 (i) If the auction under 225 CMR 14.05(4)(h) does not clear, the Re-minted Auction  
620 Account Attributes deposited in the Solar Credit Clearinghouse Auction Account shall be  
621 allocated to the bidders in a pro-rated manner so that an equal percentage of Re-Minted Auction  
622 Account Attributes are allocated from each Generation Unit that deposited Solar Carve-Out  
623 Renewable Attributes. The remaining Re-minted Auction Account Attributes shall be returned  
624 to the Owner or Operator of the Generation Unit who made the deposit. These Attributes shall  
625 be eligible in any of the three subsequent Compliance Years from the year in which they were  
626 generated to meet obligations under the Massachusetts Solar Carve-Out Minimum Standard, and  
627 may be sold by the Owner or Operator of the Generation Unit.

628 (j) When 400 MW of Solar Carve-Out Renewable Generation Units have been installed,  
629 the Department shall announce that this threshold has been reached and shall not accept any new  
630 Statement of Qualification Applications for the Solar Carve-Out Program under 225 CMR  
631 14.05(4). Such Units are still eligible to apply as RPS Class I Renewable Generation Units.

632 (5) Special Provisions for a Generation Unit Located in a Control Area Adjacent to the  
633 ISO-NE Control Area. The portion of the total electrical energy output of an RPS Class I  
634 Renewable Generation Unit located in a Control Area adjacent to the ISO-NE Control Area that  
635 qualifies as RPS Class I Renewable Generation shall meet the requirements in Rule 2.7(c) and all  
636 other relevant sections of the NEPOOL GIS Operating Rules or any successor rule, and the  
637 requirements in 225 CMR 14.05(5).

638 (a) The Generation Unit Owner or Operator shall provide documentation, satisfactory to  
639 the Department, of a contract or other legally enforceable obligation(s) (“Legal Obligation”) that  
640 is executed between the Generation Unit Owner or Operator and an electrical energy purchaser



641 located in the ISO-NE Control Area for delivery of the Unit's electrical energy to the ISO-NE  
642 Control Area. Such documentation shall include provisions for obtaining associated  
643 transmission rights for delivery of the Unit's electrical energy from the Unit to the ISO-NE  
644 Control Area. The Generation Unit Owner or Operator shall pay for evaluation and verification  
645 of the provisions of such documentation by an independent party that is engaged or approved by  
646 the Department.

647 (b) The Generation Unit Owner or Operator shall provide documentation, satisfactory to  
648 the Department, that:

649 1. the electrical energy delivered pursuant to the Legal Obligation was settled in the  
650 ISO-NE Settlement Market System;

651 2. the Generation Unit produced, during each hour of the applicable month, the amount  
652 of MWhs claimed, as verified by the NEPOOL GIS administrator; if the originating Control  
653 Area employs a Generation Information System that is comparable to the NEPOOL GIS,  
654 information from that system may be used to support such documentation;

655 3. the electrical energy delivered under the Legal Obligation received a NERC Tag  
656 confirming transmission from the adjacent Control Area to the ISO-NE Control Area; and

657 4. the RPS Class I Renewable Generation Attributes have not otherwise been, nor will  
658 be, sold, retired, claimed, used or represented as part of electrical energy output or sales, or used  
659 to satisfy obligations in jurisdictions other than Massachusetts.

660 (c) The Generation Unit Owner or Operator must provide an attestation in a form to be  
661 provided by the Department that it will not itself or through any affiliate or other contracted

662 party, engage in the process of importing RPS Class I Renewable Generation into the ISO-NE  
663 Control Area for the creation of RPS Class I Renewable GIS Certificates, and then exporting that  
664 energy or a similar quantity of other energy out of the ISO-NE Control Area during the same  
665 hour.

666 (d) The quantity of electrical energy output from an RPS Class I Renewable Generation  
667 Unit outside the ISO-NE Control Area that can qualify as RPS Class I Renewable Generation at  
668 the NEPOOL GIS during each hour is limited to the lesser of the RPS Class I Renewable  
669 Generation actually produced by the Unit or the RPS Class I Renewable Generation actually  
670 scheduled and delivered into the ISO-NE Control Area.

671 (6) Special Provisions for Aggregations. An Aggregation of Generation Units that are  
672 located behind the customer meter or that are Off-grid Generation Units, each of which could  
673 independently meet the relevant requirements of 225 CMR 14.05, may receive a single  
674 Statement of Qualification and be treated as a single RPS Class I or Solar Carve-Out Renewable  
675 Generation Unit under the criteria and procedures in 225 CMR 14.05(6).

676 (a) Each Generation Unit in such Aggregation must be located within the same state  
677 and use the same fuel, energy resource and technology as all other Units in the Aggregation. In  
678 the instance of an Aggregation that includes a Solar Carve-Out Renewable Generation Unit, the  
679 Aggregation shall only include Units that are eligible for the Solar Carve-Out under 225 CMR  
680 14.05(4).

681 (b) Each of the Owners or Operators of Generation Units within the Aggregation  
682 must enter into an agreement with a person or entity that serves as the Authorized Agent for the  
683 Aggregation in all dealings with the Department and with the NEPOOL GIS, and such

684 agreement must include procedures by which the electrical energy output of each Unit shall be  
685 monitored and reported to the NEPOOL GIS.

686 (c) The Authorized Agent of the Aggregation must establish and maintain a  
687 Generator account at the NEPOOL GIS under the NEPOOL GIS Operating Rules, including all  
688 provisions for Non-NEPOOL Generator Representatives, as that term is defined in Rule  
689 2.1(a)(vi) of those Rules, or any successor rules.

690 (d) The electrical energy output of each of the Generation Units in the Aggregation  
691 must be individually monitored and recorded, and it must be reported to the NEPOOL GIS, by an  
692 independent Third Party Meter Reader as defined in Rule 2.5(j) of the NEPOOL GIS Operating  
693 Rules, or any successor rule, and approved by the Department.

694

695 (7) Special Provisions for Relocated, Repowered, and Replacement Generation Units.  
696 The Department may provide a Statement of Qualification to a Generation Unit that meets one of  
697 the following categories and criteria, as well as all other relevant provisions of 225 CMR 14.05:

698 (a) Relocated Generation Unit. A Generation Unit whose Power Conversion  
699 Technology was used on or before December 31, 1997, to generate electrical energy outside of  
700 both the ISO-NE Control Area and Control Areas adjacent thereto, and that is relocated into one  
701 of said Control Areas after December 31, 1997, provided that any components of the Power  
702 Conversion Technology that were not used outside of said Control Areas were first used in a  
703 Generation Unit after December 31, 1997.

704 (b) Repowered Generation Unit. A Generation Unit that did not utilize an Eligible RPS  
705 Class I Renewable Fuel at any time on or before December 31, 1997.

706 (c) Replacement Generation Unit. A Generation Unit that replaces a mothballed or  
707 decommissioned Generation Unit that had operated on the same site on or before December 31,  
708 1997, subject to the following limitations:

709 1. The entire Power Conversion Technology of the existing Unit is replaced with  
710 equipment manufactured after December 31, 1997; and

711 2. The existing Unit has not been in commercial operation for at least five years  
712 prior to submission of the Statement of Qualification Application.

713 (d) Replacement Generation Unit for Vintage Generation Unit Destroyed or Subject  
714 of Government Taking. All of the electrical output of a Generation Unit that replaces the output  
715 of an RPS Class I Vintage Generation Unit originally qualified as New Renewable Generation  
716 under 225 CMR 14.05(1)(a)(5) at the same location, or proximate thereto, and utilizes the fuel  
717 resource of that location, may qualify as RPS Class I Renewable Generation without a Historical  
718 Generation Rate if the Owner or Operator can demonstrate to the satisfaction of the Department  
719 that the Unit has been rendered functionally or financially inoperable by (A) an act of  
720 God, (B) an act of war, (C) an act of terrorism or (D) an act of eminent domain.

721 (8) Special Provisions for Generation Units Using Eligible Biomass Woody Fuels or  
722 Manufactured Biomass Fuels.

723 (a) Eligible Biomass Woody Fuel or Manufactured Biomass Fuel Certification,  
724 Verification, and Enforcement. A Generation Unit that uses an Eligible Biomass Woody Fuel or  
725 a Manufactured Biomass Fuel must meet the following provisions.

726 1. Each delivery of Eligible Biomass Woody Fuel or Manufactured Biomass Fuel to  
727 a Generation Unit shall be accompanied with a Biomass Fuel Certificate.

728 2. For forest derived Eligible Biomass Woody Fuel the Biomass Fuel Certificate  
729 shall be issued consistent with the Eligible Forest Residue Tonnage Report which shall include  
730 one of the following:

731 a. Citation of the DCR Cutting Plan under the Long Term Management option and  
732 prepared by a Massachusetts Licensed Forester. Such Plan shall include detail of the total  
733 allowable tonnage of eligible forest residue biomass;

734 b. Citation to a cutting plan authorized under the host state forest agency which  
735 includes a determination, approved by the Department, that the material removed meets the  
736 definition of an Eligible Biomass Woody Fuel; or

737 c. Signature of a professional forester who is certified by the Society of American  
738 Foresters, licensed and/or certified by the host state of the harvest site, or certified by the  
739 Department where the Department has received documentation that the professional forester has  
740 proficiency and experience in forestry.

741

742 3. The Eligible Forest Residue Tonnage Report shall include certification by the  
743 professional forester of compliance with all eligibility requirements for Eligible Biomass Woody

744 Fuels under 225 CMR 14.00. This may include evidence that the fuel has been received from  
745 land certified by the Forest Stewardship Council (FSC), Sustainable Forest Initiative (SFI),  
746 USDA Forest Service; Forest Stewardship Program, or the host state's Current Use Program.

747 4. For forest derived Eligible Biomass Woody Fuel the Eligible Forest Residue  
748 Tonnage Report shall also include certification from the professional forester that no more than  
749 the allowable per cent of the total weight of all forest products harvested from a given forest  
750 harvest site was removed for utilization as an Eligible Biomass Woody Fuel. The total weight of  
751 the forest products shall be calculated utilizing weight standards by species provided by the  
752 Department in a Guideline. The allowable per cent removal limit shall be determined as  
753 prescribed by the Department in a Guideline to protect soil nutrient retention in varying soil  
754 conditions. In the event that the weight of Eligible Biomass Woody Fuel utilized from a single  
755 harvest site exceeds, by more than a 5% margin of error, the weight of Eligible Biomass Woody  
756 fuel determined by the allowable per cent, then the Biomass Fuel Certificates becomes null and  
757 void and all forest residue fuel from the harvest site shall be deemed ineligible.

758 5. For non-forest residue fuels, salvage fuels, and dedicated energy crops, the  
759 Biomass Fuel Certificate will be completed by the Owner or Operator certifying the fuel  
760 supplier, tonnage, source, and an affirmation that it meets the criteria of an Eligible Biomass  
761 Woody Fuel.

762 (b) Verification Provision. The Department or independent third-parties contracted for  
763 by the Department, shall conduct document inspections, audits, or site visits under 225 CMR  
764 14.11, as often as the Department determines is necessary to verify compliance with all relevant  
765 provisions of 225 CMR 14.00 pertaining to use of an Eligible Biomass Woody Fuel.

766 1. Advisory Panel. The Department shall appoint a panel of 8 members representing  
767 the Executive Office, the Department, DCR, an environmental advocacy group, a licensed  
768 Massachusetts forester, a conservation biologist, the Owner of a biomass Generation Unit, and a  
769 member of the public. The Panel shall monitor the ongoing verification process and shall meet  
770 not less than 2 times per year and provide the Department with its findings and recommendations  
771 from each meeting regarding the tracking of forest and non-forest sources of biomass fuel  
772 supplies and the Advisory Panel's level of confidence in the verification and enforcement  
773 provisions. The Panel shall also review the costs of verification and make recommendations to  
774 the Department on any measures that may be required to offset this cost.

775 2. Forest Impact Assessment. Every 5 years, beginning on January 1, 2015, the  
776 Department, in coordination with DCR, will conduct an assessment of the impacts on  
777 Massachusetts and regional forests resulting from biomass fuel removals. Findings will be  
778 reported to the Executive Office and made available to the public. If there are any findings of  
779 significant impacts on long term forest sustainability, the Department shall consult with the  
780 Executive Office and DCR on any changes that may be required by either the Department or  
781 DCR to maintain long term forest sustainability.

782 (c) A Generation Unit that uses Eligible Biomass Woody Fuel or Manufactured Biomass  
783 Fuel must report to the Department the following information on a quarterly basis, and will be  
784 provided RPS Class I Renewable Generation Attributes as a function of its Overall Efficiency as  
785 calculated in 225 CMR 14.05(8)(b)(2)-(3).

786 1. Each quarter, the designated independent Third-Party Meter Reader of a Generation  
787 Unit, approved by the Department, must report the following information to the Department;

788 Biomass Input Heat Content, Useful Thermal Energy, Merchantable Bio-Products, Renewable  
789 Generation, Renewable Generation utilized behind-the-meter, and the Overall Efficiency as  
790 calculated in 225 CMR 14.05(8)(b)(2)-(3). For all reported data and prior to the calculation of  
791 Overall Efficiency, all energy units must be expressed in MWh. For Useful Thermal Energy and  
792 Biomass Input Heat Content the conversion of energy units shall consider that each 3412  
793 thousand BTUs is equivalent to one MWh. For Merchantable Bio-Products the product shall be  
794 prescribed an energy content based on its enthalpy of reaction, as determined by a standard  
795 independent laboratory analysis, and those units of energy appropriately converted to MWhs.

796 .

797 2. The Overall Efficiency of the Generation Unit each quarter shall be calculated as: the  
798 sum of 1) Renewable Generation not utilized behind-the-meter, 2) Renewable Energy utilized  
799 behind-the-meter divided by one minus the average distribution and transmission line losses of  
800 the electrical grid for which for this purpose shall be 8%, 3) Useful Thermal Energy, and 4)  
801 Merchantable Bio-Products; divided by Biomass Input Heat Content.

802 3. A Generation Unit will be provided on the NEPOOL GIS each quarter an amount of  
803 Renewable Energy Attributes calculated as follows.

804 a. A Generation Unit achieving 60% or higher Overall Efficiency in a quarter will  
805 receive one RPS Class I Renewable Energy Attribute for each MWh of RPS Class I Renewable  
806 Energy Generation.

807 b. A Unit achieving 40% Overall Efficiency in a quarter will receive one-half RPS  
808 Class I Renewable Energy Attribute for each MWh of RPS Class I Renewable Energy  
809 Generation.



810 c. A Unit achieving between 40% and 60% Overall Efficiency in a quarter will  
811 receive one RPS Class I Renewable Energy Attribute for each MWh of RPS Class I Renewable  
812 Energy Generation times a pro-rating fraction calculated as follows:  $0.5 + 2.5 \times (\text{Overall}$   
813  $\text{Efficiency} - 0.4)$ , in which case Overall Efficiency is expressed as a decimal.

814 (d) The Treatment of Previously Qualified Biomass Generation Units. Notwithstanding  
815 any other provision of 225 CMR 14.00 Generation Units utilizing a woody biomass fuel that had  
816 received a Statement of Qualification (SQ) prior to December 3, 2009 shall be subject to the  
817 following provisions:

818 1. The Department shall continue with the existing terms of all SQs, subject to 225  
819 CMR 14.12, for all such qualified Generation Units through Compliance Year 2012.

820 2. If a Generation Unit which utilizes an Eligible Biomass Woody Fuel  
821 demonstrates to the satisfaction of the Department compliance with the fuel plan requirement  
822 found in 225 CMR 14.05(1)(a)(7)(f)(i) and the requirements in 225 CMR 14.05(8)(a), then the  
823 Department shall continue such Unit's existing SQ through Compliance Year 2014.

824 3. Beginning in Compliance Year 2015 a previously qualified Generation Unit  
825 utilizing an Eligible Biomass Woody Fuel shall meet all requirements of 225 CMR 14.00. If a  
826 Unit cannot demonstrate compliance with 225 CMR 14.00 the Department shall rescind the  
827 Unit's SQ effective commencing in Compliance Year 2015.

828 14.06: Qualification Process for RPS Class I and Solar Carve-Out Renewable  
829 Generation Units

830 (1) Statement of Qualification Application. A Statement of Qualification Application  
831 shall be submitted to the Department by the Owner or Operator of the Generation Unit or by the  
832 Authorized Agent for an Aggregation, as provided in 225 CMR 14.05(6)(b). The applicant must  
833 use the most current forms and associated instructions provided by the Department, and must  
834 include all information, documentation, and assurances required by such forms and instructions.

835 (2) Review Procedures.

836 (a) The Department will notify the applicant when the Statement of Qualification  
837 Application is administratively complete or if additional information is required pursuant to 225  
838 CMR 14.06(1).

839 (b) The Department may, in its sole discretion, provide an opportunity for public  
840 comment on any Statement of Qualification Application.

841 (3) Issuance or Non-Issuance of a Statement of Qualification.

842 (a) If the Department finds that all or a portion of the electrical energy output of a  
843 Generation Unit or of an Aggregation meets the requirements for eligibility as RPS Class I  
844 Renewable Generation or as Solar Carve-Out Renewable Generation pursuant to 225 CMR  
845 14.05, the Department will provide the Owner or Operator of such Unit or the Authorized Agent  
846 for such Aggregation with a Statement of Qualification.

847 (b) The Statement of Qualification shall include any applicable restrictions and  
848 conditions that the Department deems necessary to ensure compliance by a particular Generation  
849 Unit or Aggregation with the provisions of 225 CMR 14.00. For any individual Solar Carve-Out

850 Renewable Generation Unit, greater than 1 MW, a Statement of Qualification shall not be  
851 granted unless all applicable state and local permits have been obtained.

852 (c) If the Generation Unit or Aggregation does not meet the requirements for eligibility  
853 as an RPS Class I Renewable Generation Unit or a Solar Carve-Out Renewable Generation Unit,  
854 the Department shall provide written notice to the Owner or Operator or to the Authorized Agent  
855 for an Aggregation, including the Department's reasons for such finding.

856 (d) A Solar Carve-Out Renewable Generation Unit shall receive a Statement of  
857 Qualification that states that the Unit is eligible for the Massachusetts Solar Carve-Out and that  
858 specifies a term of calendar quarters, referred to as the Opt-In Term, during which period the  
859 Unit is eligible to participate in the Solar Credit Clearinghouse Auction. The Opt-In Term shall  
860 be set at the time that the Unit receives its Statement of Qualification, and the Opt-In Term shall  
861 commence with the earlier of either the first day of the calendar quarter during which occurs the  
862 RPS Effective Date, as such date is provided in 225 CMR 14.06(4), or the first day of the  
863 subsequent calendar quarter from the date of the Statement of Qualification.

864 (e) The length of the Opt-In Term shall be forty quarters in Compliance Year 2010.  
865 This Term shall be reduced by four quarters for each full 10 per cent of the compliance  
866 obligation that is deposited into the Solar Credit Clearinghouse Auction Account and shall be  
867 increased by four quarters for each full 10 per cent of the compliance obligation that is met with  
868 ACP Payments. However, in no instance shall this reduction or increase be greater than eight  
869 quarters for one Compliance Year, nor shall the Opt-In Term exceed forty quarters. For  
870 Compliance Years 2010-2016, inclusive, the Opt-in Term shall not be less than twenty quarters.  
871 For Compliance Year 2017 and later, the Department shall determine whether to set a minimum

872 number of quarters for the Opt-in Term for the Compliance Year. The Department shall  
873 announce annually on July 20, or the first Business Day thereafter, the length of the Opt-in Term,  
874 which shall apply to all Generation Units that receive Statements of Qualification as of that date  
875 and until a different Opt-In Term is announced.

876 (4) RPS Effective Date. The RPS Effective Date shall be the earliest date on or after the  
877 Commercial Operation Date on which electrical energy output of an RPS Class I Renewable  
878 Generation Unit or Solar Carve-Out Renewable Generation Unit can result in the creation of RPS  
879 Class I or Solar Carve-Out Renewable Generation Attributes, except that, in the case of a  
880 Biomass Unit, the RPS Effective Date shall not be earlier than the date on which the Department  
881 determines that the Unit has commenced compliance with the low-emission conditions in its  
882 Statement of Qualification, and in the case of a Hydroelectric Unit, the RPS Effective Date shall  
883 not be earlier than the date on which the Department determined that the Unit has commenced  
884 compliance with the environmental conditions in its Statement of Qualification.

885 (5) Notification Requirements for Change in Eligibility Status. The Owner or Operator  
886 of an RPS Class I Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit  
887 shall notify the Department of any changes in the technology, operation, emissions, fuel sources,  
888 energy resources, capacity commitment, or other characteristics of the Generation Unit that may  
889 affect the eligibility of the Unit as an RPS Class I Renewable Generation Unit or Solar Carve-  
890 Out Renewable Generation Unit. The Owner or Operator shall submit the notification to the  
891 Department no later than five days following the end of the month during which such changes  
892 were implemented. The notice shall state the date the changes were made to the RPS Class I  
893 Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit and describe the

894 changes in sufficient detail to enable the Department to determine if a change in eligibility is  
895 warranted.

896 (6) Notification Requirements for Change in Ownership, Generation Capacity, or  
897 Contact Information. The Owner or Operator of an RPS Class I Renewable Generation Unit or  
898 Solar Carve-Out Renewable Generation Unit shall notify the Department of any changes in the  
899 ownership, operating entity, generation capacity, NEPOOL GIS account, independent  
900 verification system for the Unit's or Aggregation's electrical energy output, or contact  
901 information for the Generation Unit or Aggregation. The Owner or Operator shall submit the  
902 notification to the Department no later than five days following the end of the month during  
903 which such changes were implemented.

904 (7) Time Limit for Project Implementation. Any Statement of Qualification issued on or  
905 after the effective date of this section shall expire 48 months after the issuance date of the  
906 Statement of Qualification (the Expiration Date) unless the Commercial Operation Date of the  
907 Generation Unit or Aggregation is on or before the Expiration Date. The Department may, at its  
908 discretion, grant an extension of the Expiration Date of the Statement of Qualification upon  
909 petition by the Owner or Operator of the Generation Unit or Aggregation. If the Owner or  
910 Operator of such Unit or Aggregation desires an extension, such Owner or Operator must submit  
911 a new Statement of Qualification Application, and the decision of the Department on such new  
912 application may be made in accordance with the regulations and criteria that are applicable on  
913 the date that the Department receives that application.

914 (8) Expiration of Advisory Rulings. An advisory ruling issued by the Department for  
915 any proposed Generation Unit for which an administratively complete Statement of Qualification

916 Application has not been submitted as of the effective date of this subsection, shall be deemed to  
917 have expired on that date.

918 (9) Suspension or Revocation of Statement of Qualification. The Department may  
919 suspend or revoke a Statement of Qualification if the Owner or Operator of an RPS Class I  
920 Renewable Generation Unit or Solar Carve-Out Renewable Generation Unit or Authorized  
921 Agent of an Aggregation fails to comply with 225 CMR 14.00.

922 14.07: Renewable Energy Portfolio Standard – Class I

923 (1) RPS Class I Minimum Standard. The total annual sales of each Retail Electricity  
924 Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier shall include a  
925 minimum percentage, as specified in the table in 14.07, of electrical energy sales with RPS Class  
926 I Renewable Generation Attributes and Solar Carve-Out Renewable Generation Attributes.

927

928 MASSACHUSETTS RENEWABLE ENERGY PORTFOLIO STANDARD – CLASS I

929 MINIMUM PERCENTAGES OF ANNUAL ELECTRICAL ENERGY SALES

930 WITH RPS CLASS I RENEWABLE GENERATION ATTRIBUTES

931 Compliance Year

932 Cumulative Minimum Percentage, Including Solar Carve-Out Renewable Generation

933 2003 1.0

934 2004 1.5

935	2005	2.0
936	2006	2.5
937	2007	3.0
938	2008	3.5
939	2009	4.0
940	2010	5.0
941	2011	6.0
942	2012	7.0
943	2013	8.0
944	2014	9.0
945	2015	10.0
946	2016	11.0
947	2017	12.0
948	2018	13.0
949	2019	14.0
950	2020	15.0
951	(2) Solar Carve-Out Minimum Standard.	

952 (a) The total annual sales of each Retail Electricity Product sold to Massachusetts End-  
953 use Customers by a Retail Electricity Supplier shall include a minimum percentage of electrical  
954 energy sales with Solar Carve-Out Renewable Generation Attributes. This percentage shall be a  
955 portion of the Supplier's obligation under 225 CMR 14.07(1) and not an additional obligation of  
956 the Supplier. For each Compliance Year, the Solar Carve-Out Minimum Standard shall be  
957 calculated as the total Solar Carve-Out compliance obligation (in MWh) as determined in 225  
958 CMR 14.07(2)(b) through 225 CMR 14.07(2)(h), divided by the total MWh of electrical energy  
959 sales by Retail Electricity Suppliers to End-use Customers in the Compliance Year 2 years prior,  
960 as such sales are defined in 225 CMR 14.09(2)(a). This resulting percentage, or Solar Carve-Out  
961 Minimum Standard, shall be announced by the Department not later than August 30 of the  
962 preceding Compliance Year.

963 (b) For Compliance Year 2010, the total compliance obligation shall be established to be  
964 34,164 MWh, calculated as 30 MW multiplied by 365 days in the year multiplied by 24 hours in  
965 the day multiplied by 0.13 (or 13%) capacity factor.

966 (c) For Compliance Year 2011, the total compliance obligation shall be established to be  
967 78,577 MWh, calculated as 69 MW multiplied by 365 days in the year multiplied by 24 hours in  
968 the day multiplied by 0.13 (or 13%) capacity factor.

969 (d) For each subsequent Compliance Year (CY), the total compliance obligation shall be  
970 equal to the total compliance obligation from the previous Compliance Year (CY-1), plus the  
971 difference between the Solar Carve-Out Renewable Generation Attributes projected to be  
972 generated for the previous Compliance Year and the Solar Carve-Out Renewable Generation  
973 Attributes actually generated for the Compliance Year two years prior (CY-2) which is



974 multiplied by 1.3, minus the quantity of Solar Carve-Out Alternative Compliance Credits used  
975 for the Compliance Year two years prior plus the number of Solar Carve-Out Renewable  
976 Generation Attributes from the Compliance Year two years prior banked as provided under 225  
977 CMR 14.08(2), plus the number of Solar Carve-Out Renewable Generation Attributes from the  
978 Compliance Year two years prior deposited into the Solar Credit Clearinghouse Auction  
979 Account.

980 
$$\text{Total Compliance Obligation}_{\text{CY}} = \text{Total Compliance Obligation}_{\text{CY}-1} + [\text{Total SRECs}$$
  
981 
$$\text{Generated (projected)}_{\text{CY}-1} - \text{SRECs Generated (actual)}_{\text{CY}-2}] \times 1.3 - \text{ACP Volume}_{\text{CY}-2} +$$
  
982 
$$\text{Banked Volume}_{\text{CY}-2} + \text{Auction Volume}_{\text{CY}-2}$$

983 For the purpose of the calculation in 225 CMR 14.07(2)(d), the Solar Carve-Out  
984 Renewable Generation Attributes actually generated for the Compliance Year two years prior  
985 (CY-2) shall be determined as the Attributes minted by the NEPOOL GIS in the Compliance  
986 Year two years prior (CY-2). The total Solar Carve-Out Renewable Generation Attributes  
987 projected to be generated for the previous Compliance Year (CY-1) shall be calculated by the  
988 Department as the sum of Attributes reported to the Department by the independent Third Party  
989 Meter Reader during the first two quarters of the previous Compliance Year (CY-1), and the  
990 projection by the Department of Attributes to be generated during the final two quarters of the  
991 previous Compliance Year prior (CY-1) by considering information including, but not limited to,  
992 the Commercial Operation Dates of Units that have received or have pending Statement of  
993 Qualifications. The Department shall provide documentation of its projection with its  
994 announcement of the new compliance obligation.

995 (e) In the calculation in 225 CMR 14.07(2)(d), in the year when the term calculated as  
996 the total compliance obligation for the previous Compliance Year (CY-1) plus the difference  
997 between the total Solar Carve-Out Renewable Generation Attributes generated for the previous  
998 Compliance Year (CY-1) and the total Solar Carve-Out Renewable Generation Attributes  
999 generated for the Compliance Year two years prior (CY-2) multiplied by 1.3, exceeds 455,520  
1000 MWh (calculated as the annual generation of 400 MW operating at a 13% capacity factor), then  
1001 this term shall be replaced by the quantity 455,520 MWh, and the remainder of the equation shall  
1002 remain the same in calculating the total compliance obligation for that year.

1003 (f) In no instance prior to the total compliance obligation reaching 455,520 MWh shall  
1004 the Solar Carve-Out Minimum Standard be a percentage less than that of the previous  
1005 Compliance Year (CY-1). If the calculations in 225 CMR 14.07(2)(d) result in such a situation,  
1006 the Solar Carve-Out Minimum Standard shall be equal to the percentage from the previous  
1007 Compliance Year (CY-1).

1008 (g) Notwithstanding 225 CMR 14.07(2)(d), for all Compliance Years subsequent to  
1009 reaching a compliance obligation equal to or greater than 455,520 MWh, then the total  
1010 compliance obligation shall be set equal to either (1) the total Solar Carve-Out Renewable  
1011 Generation Attributes projected to be generated for the previous Compliance Year (CY-1), or (2)  
1012 the total Solar Carve-Out Renewable Generation Attributes projected to be generated for the  
1013 previous Compliance Year (CY-1) minus the quantity of Solar Carve-Out Alternative  
1014 Compliance Credits used for the Compliance Year two years prior (CY-2) plus the number of  
1015 Solar Carve-Out Renewable Generation Attributes from the Compliance Year two years prior  
1016 (CY-2) deposited into the Solar Credit Clearinghouse Auction Account, whichever is greater.

1017 (h) In the instance the Solar Credit Clearinghouse Auction under 225 CMR 14.05(4)(g)  
1018 does not clear, prior to conducting an auction under 225 CMR 14.05(4)(h), the Department shall  
1019 recalculate the Solar Carve-Out Minimum Standard for the Compliance Year two years  
1020 following the Compliance Year in which the Solar Carve-Out Renewable Generation Attributes  
1021 deposited into the Solar Credit Clearinghouse Auction Account were generated by adding to the  
1022 previously calculated total compliance obligation under 225 CMR 14.07(2)(d) through (g) the  
1023 number of Solar Carve-Out Renewable Generation Attributes deposited into the Solar Credit  
1024 Clearinghouse Auction Account such that the number of Attributes deposited is counted twice.

1025 (i) In the Compliance Year in which the Department stops qualifying Units for the Solar  
1026 Carve-Out Program under 225 CMR 14.05(4)(j), the Department shall announce the final  
1027 Compliance Year of the Solar Carve-Out program. This final Compliance Year shall be  
1028 calculated as the then current Compliance Year, plus the longest remaining Opt-In Term  
1029 (expressed as calendar quarters divided by four and rounded up to a whole year) for any qualified  
1030 Solar Carve-Out Renewable Generation Unit. In the event that a Solar Credit Clearinghouse  
1031 Auction is held and creates Re-minted Auction Account Attributes that can be used for  
1032 Compliance Years after the calculated final Compliance Year, the Department shall extend the  
1033 final Compliance Year by the number of years sufficient to accommodate the Compliance Years  
1034 during which the Re-minted Auction Account Attributes can be used for Solar Carve-Out  
1035 compliance.

1036 (j) For the year after the final Compliance Year, the Department shall set the Solar  
1037 Carve-Out Minimum Standard to zero. From this time forward, Solar Carve-Out Renewable  
1038 Energy Generation Attributes shall cease to exist, and all generation from qualified Solar Carve-  
1039 Out Renewable Generation Units shall produce RPS Class I Renewable Energy Attributes.

1040 (3) Post-2020 Standards. After 2020, the RPS Class I Minimum Standard shall increase  
1041 by 1% per Compliance Year unless modified by law.

1042 14.08: Compliance Procedures for Retail Electricity Suppliers

1043 (1) Standard Compliance. Each Retail Electricity Supplier shall be deemed to be in  
1044 compliance with 225 CMR 14.00 if the information provided in the Compliance Filing submitted  
1045 pursuant to 225 CMR 14.09 is true and accurate and demonstrates compliance with 225 CMR  
1046 14.07. A Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that  
1047 RPS Class I Renewable Generation Attributes or Solar Carve-Out Renewable Generation  
1048 Attributes used for compliance have not otherwise been, nor will be, sold, retired, claimed, used  
1049 or represented as part of electrical energy output or sales, or used to satisfy obligations in  
1050 jurisdictions other than Massachusetts.

1051 (2) Banked Compliance. A Retail Electricity Supplier may use RPS Class I Renewable  
1052 Generation Attributes or Solar Carve-Out Renewable Generation Attributes produced in one  
1053 Compliance Year for compliance in either or both of the two subsequent Compliance Years,  
1054 subject to the limitations in 225 CMR 14.08(2) and provided that the Retail Electricity Supplier  
1055 is in compliance with 225 CMR 14.00 for all previous Compliance Years. In addition, the Retail  
1056 Electricity Supplier shall demonstrate to the satisfaction of the Department that such Attributes:

1057 (a) were in excess of the RPS Class I Renewable Generation Attributes or Solar Carve-  
1058 Out Renewable Generation Attributes needed for compliance in the Compliance Year in which  
1059 they were generated, and that such excess Attributes have not previously been used for  
1060 compliance with 225 CMR 14.00;

1061 (b) do not exceed 30% of the RPS Class I Renewable Generation Attributes or do not  
1062 exceed 10% of the Solar Carve-Out Renewable Generation Attributes needed by the Retail  
1063 Electricity Supplier for compliance with the RPS Class I Minimum Standard or the Solar Carve-  
1064 Out Renewable Minimum Standard, respectively, in the year they were generated, subject to 225  
1065 CMR 14.09(2)(d);

1066 (c) were produced during the Compliance Year in which they are claimed as excess by  
1067 the generation of electrical energy sold to End-use Customers in the ISO-NE Control Area, by  
1068 the generation of electrical energy on End-use Customers' sides of retail meters in the ISO-NE  
1069 Control Area, or by the generation of electrical energy from Off-grid Generation Units in  
1070 Massachusetts; and

1071 (d) have not otherwise been, nor will be, sold, retired, claimed or represented as part of  
1072 electrical energy output or sales, or used to satisfy obligations in jurisdictions other than  
1073 Massachusetts.

1074 (3) Alternative Compliance. A Retail Electricity Supplier may discharge its obligations  
1075 under 225 CMR 14.07, in whole or in part, for any Compliance Year by making an Alternative  
1076 Compliance Payment (ACP) to the MassCEC. Such funds shall be held in an account separate  
1077 from other accounts of the MassCEC.

1078 (a) RPS Class I Procedures. A Retail Electricity Supplier shall receive Alternative  
1079 Compliance Credits from the Department, subject to the following:

1080 1. The quantity of Credits, specified in MWhs, that can be applied to its obligations  
1081 under 225 CMR 14.07(1) shall be determined by calculating the ratio of the total of ACPs paid  
1082 for the Compliance Year to the ACP Rate for that Compliance Year.

1083           2. The ACP Rate for the RPS Class I Minimum Standard shall be \$50 per MWh for  
1084 Compliance Year 2003. For each subsequent Compliance Year, the Department shall publish the  
1085 ACP Rate by January 31 of the Compliance Year. The ACP Rate shall be equal to the previous  
1086 year's ACP Rate adjusted up or down according to the previous year's Consumer Price Index.

1087           3. The Retail Electricity Supplier shall include with its Annual Compliance Filing  
1088 copies of any ACP receipt(s) for ACPs made to the MassCEC for the Compliance Year.

1089           (b) Solar Carve-Out Renewable Generation Procedures. A Retail Electricity Supplier  
1090 shall receive Solar Carve-Out Alternative Compliance Credits from the Department, subject to  
1091 the following:

1092           1. The quantity of Credits, specified in MWhs, that can be applied to its obligations  
1093 under 225 CMR 14.07(2) shall be determined by calculating the ratio of the total of Solar Carve-  
1094 Out ACPs paid for the Compliance Year to the Solar Carve-Out ACP Rate for that Compliance  
1095 Year.

1096           2. The ACP Rate for the Solar Carve-Out Minimum Standard shall be \$600 per MWh.  
1097 The Department may reduce the Rate, but not by more than 10% in a Compliance Year. The  
1098 Department shall publish any new ACP Rate by January 31 of the Compliance Year with an  
1099 explanation of the change.

1100           3. The ACP Rate for that portion of a Retail Electricity Supplier's Solar Renewable  
1101 Energy Credit obligations that were contractually committed or renewed prior to January 1,  
1102 2010, shall be equal to the RPS Class I ACP Rate as calculated for the applicable Compliance  
1103 Year under 225 CMR 14.08(3)(a)(2). This provision does not apply to obligations that were  
1104 contractually committed or renewed on or after January 1, 2010.

1105           4. The Retail Electricity Supplier shall include with its Annual Compliance Filing  
1106 copies of any ACP receipt(s) for Solar Carve-Out ACPs made to the MassCEC for the  
1107 Compliance Year.

1108           (c) Use of Funds. The Department shall oversee the use of ACP funds by the MassCEC,  
1109 so as to further the commercial development of RPS Class I Renewable Generation Units and  
1110 Solar Carve-Out Renewable Generation Units.

1111           14.09: Annual Compliance Filings for Retail Electricity Suppliers

1112           (1) Date of Annual Compliance Filing. For each Compliance Year, the Retail  
1113 Electricity Supplier annually shall file an annual Compliance Filing with the Department no later  
1114 than the first day of July, or the first Business Day thereafter, of the subsequent Compliance  
1115 Year.

1116           (2) Contents of Annual Compliance Filing. For each Retail Electricity Product, the  
1117 Filing shall document compliance with the provisions of 225 CMR 14.07 and 14.08 to the  
1118 satisfaction of the Department and shall include, but not be limited to, the following:

1119           (a) Total Electrical Energy Sales to End-use Customers. Documentation of the total  
1120 MWhs of electrical energy allocated by the Retail Electricity Supplier to End-use Customers in  
1121 the Compliance Year. Such allocation is defined as the total quantity of the Supplier's  
1122 Certificates Obligation that the Supplier correctly allocated or should have allocated to all of the  
1123 Supplier's Massachusetts retail subaccounts in the NEPOOL GIS, in compliance with all  
1124 relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, or any successor rules.

1125 (b) Electrical Energy Sales to End-use Customers by Product. Documentation of the  
1126 total MWhs of each Retail Electricity Product allocated to End-use Customers in the Compliance  
1127 Year, verified by an independent third party satisfactory to the Department, consistent with the  
1128 Guidelines. Such allocation is defined as the quantity of the Supplier's Certificates Obligation  
1129 that the Supplier correctly allocated or should have allocated to each of the Supplier's  
1130 Massachusetts retail subaccounts at the NEPOOL GIS, in compliance with all relevant  
1131 provisions of Part 4 of the NEPOOL GIS Operating Rules, or any successor rules. The  
1132 Department shall keep product information confidential to the extent permitted by law.

1133 (c) Attributes Allocated from the Compliance Year. Documentation of the total MWhs  
1134 of each Retail Electricity Product allocated to End-use Customers that were derived from RPS  
1135 Class I Renewable Generation and Solar Carve-Out Renewable Generation during the  
1136 Compliance Year, and which may include electrical energy generated on End-use Customers'  
1137 sides of retail meters in the ISO-NE Control Area or by Off-grid Generation Units in  
1138 Massachusetts in the Compliance Year, as follows:

1139 1. For electrical energy transactions included in the ISO-NE Settlement Market System,  
1140 the Compliance Filings shall include documentation from the NEPOOL GIS administrator of the  
1141 Retail Electricity Supplier's ownership of GIS Certificates representing RPS Class I Renewable  
1142 Generation and Solar Carve-Out Renewable Generation during the Compliance Year.

1143 2. For electrical energy transactions not included in the ISO-NE Settlement Market  
1144 System, but for which the Retail Electricity Supplier has secured GIS Certificates from the  
1145 NEPOOL GIS, the Compliance Filings shall include documentation from the NEPOOL GIS of



1146 the Retail Electricity Supplier's ownership of GIS Certificates representing RPS Class I  
1147 Renewable Generation and Solar Carve-Out Renewable Generation during the Compliance Year.

1148 (d) Attributes Allocated from Banked Compliance. Allocation by Retail Electricity  
1149 Product of any quantity of RPS Class I Renewable Generation Attributes banked from one or  
1150 both of the two previous years pursuant to 225 CMR 14.08(2) that are used to demonstrate  
1151 compliance with the RPS Class I Minimum Standard in the current Compliance Year, and  
1152 allocation by Retail Electricity Product of any quantity of Solar Carve-Out Renewable  
1153 Generation Attributes banked from one or both of the two previous years pursuant to 225 CMR  
1154 14.08(2) that are used to demonstrate compliance with the Solar Carve-Out Minimum Standard  
1155 or the RPS Class I Minimum Standard in the current Compliance Year;

1156 (e) Alternative Compliance Credits. Allocation by Retail Electricity Product of any  
1157 Alternative Compliance Credits claimed pursuant to 225 CMR 14.08(3)(a), along with a copy of  
1158 any Alternative Compliance Payment receipt(s), and allocation by Retail Electricity Product of  
1159 any Solar Carve-Out Alternative Compliance Credits claimed pursuant to 225 CMR 14.08(3)(b),  
1160 along with a copy of any Solar Carve-Out Alternative Compliance Payment receipt(s); and

1161 (f) Attributes Banked for Future Compliance. Identification of any quantity of  
1162 Attributes from RPS Class I Renewable Generation or Solar Carve-Out Renewable Generation,  
1163 that the Retail Electricity Supplier anticipates claiming for purposes of Banked Compliance in  
1164 subsequent years under the Banked Compliance provisions of 225 CMR 14.08(2).

1165 (g) Contracts Subject to Lower ACP Rate under 225 CMR 14.08(3)(b)(3). Identification  
1166 of any contract for a specific term of years that was executed before January 1, 2010, and its  
1167 terms, including but not limited to, the execution and expiration dates of the contract and the

1168 annual volume of electrical energy supplied. Contracts eligible for the Lower ACP Rate shall  
1169 include only those contracts that were executed by a retail End-use Customer.

1170 14.10: Reporting Requirements

1171 (1) Certification. Any person required by 225 CMR 14.00 to submit documentation to  
1172 the Department shall provide:

1173 (a) the person's name, title and business address;

1174 (b) the person's authority to certify and submit the documentation to the Department;

1175 and

1176 (c) the following certification: "I hereby certify, under the pains and penalties of  
1177 perjury, that I have personally examined and am familiar with the information submitted herein  
1178 and based upon my inquiry of those individuals immediately responsible for obtaining the  
1179 information, I believe that the information is true, accurate, and complete. I am aware that there  
1180 are significant penalties, both civil and criminal, for submitting false information, including  
1181 possible fines and imprisonment."

1182 (2) Annual Renewable Energy Resource Report. The Department shall produce and  
1183 make available to the public an annual report that summarizes information submitted to the  
1184 Department by Retail Electric Suppliers in the Annual Compliance Filings submitted to the  
1185 Department pursuant to 225 CMR 14.09(2). Such report shall include non-confidential data that  
1186 provides the following:

1187 (a) the extent to which the Retail Electric Suppliers complied with the RPS Class I  
1188 Minimum Standard and the Solar Carve-Out Minimum Standard, both separately and combined;

1189 (b) the extent to which the Retail Electric Suppliers used Standard Compliance, Banked  
1190 Compliance, and Alternative Compliance in meeting the Minimum Standards; and

1191 (c) the names, locations, and types of RPS Class I Renewable Energy Generation Units  
1192 and Solar Carve-Out Renewable Energy Units from which the Retail Electric Suppliers, as an  
1193 aggregate, obtained the Renewable Energy Attributes used in meeting the Minimum Standards.

1194 (3) Identification of Renewable Generation Units, RPS Class I Generation Units and  
1195 Solar Carve-Out Renewable Generation Units. The Department shall inform the NEPOOL GIS  
1196 administrator which Generation Units should be designated as Renewable Generation Units, RPS  
1197 Class I Generation Units and Solar Carve-Out Renewable Generation Units pursuant to 225  
1198 CMR 14.00.

1199 14.11: Inspection

1200 (1) Document Inspection. The Department may audit the accuracy of all information  
1201 submitted pursuant to 225 CMR 14.00. The Department may request and obtain from any  
1202 Owner, Operator or Authorized Agent of an RPS Class I Renewable Generation Unit or a Solar  
1203 Carve-Out Renewable Generation Unit, including Aggregations, and from any Retail Electricity  
1204 Supplier information that the Department determines necessary to monitor compliance with and  
1205 enforcement of 225 CMR 14.00.

1206 (2) Audit and Site Inspection. Upon reasonable notice to a Retail Electricity Supplier or  
1207 to an RPS Class I or Solar Carve-Out Renewable Generation Unit Owner, Operator or  
1208 Authorized Agent, the Department may conduct audits, which may include inspection and  
1209 copying of records and/or site visits to an RPS Class I Renewable Generation Unit, Solar Carve-  
1210 Out Renewable Generation Unit, or a Retail Electricity Supplier's facilities, including, but not

1211 limited to, all files and documents that the Department determines are related to compliance with  
1212 225 CMR 14.00.

1213 14.12: Non-compliance

1214 Any Retail Electricity Supplier or Owner, Operator or Authorized Agent of a RPS Class I  
1215 Renewable Generation Unit, Solar Renewable Generation Unit or Aggregation that fails to  
1216 comply with the requirements of 225 CMR 14.00 shall be subject to the following provisions:

1217 (1) Notice of Non-compliance. A failure to comply with the requirements of 225 CMR  
1218 14.00 shall be determined by the Department. A written Notice of Non-compliance shall be  
1219 prepared and delivered by the Department to any Retail Electricity Supplier or Owner, Operator  
1220 or Authorized Agent of an RPS Class I Renewable Generation Unit or Solar Renewable  
1221 Generation Unit or Aggregation that fails to comply with the requirements of 225 CMR 14.00.  
1222 The Notice of Non-compliance shall describe the Requirement(s) with which the Retail  
1223 Electricity Supplier, Owner, Operator or Authorized Agent failed to comply and the time period  
1224 of such non-compliance.

1225 (2) Publication of Notice of Non-compliance. A Notice of Non-compliance may be  
1226 published on the Department's website and in any other media deemed appropriate by the  
1227 Department. Such publication may remain posted until the Retail Electricity Supplier or Owner,  
1228 Operator or Authorized Agent returns to compliance as determined by the Department.

1229 (3) Planning Requirement. A Retail Electricity Supplier that fails to meet the  
1230 requirements of 225 CMR 14.07 during a Compliance Year shall submit a plan for achieving  
1231 compliance for the subsequent three years. The plan shall be filed with the Department no later  
1232 than the first day of September of the Compliance Year subsequent to the Compliance Year for

1233 which the Retail Electricity Supplier was out of compliance or such date as the Department may  
1234 specify.

1235 (4) Suspension or Revocation of License. The Department shall refer its findings of  
1236 non-compliance to the Massachusetts Department of Public Utilities. A Retail Electricity  
1237 Supplier that fails to comply with 225 CMR 14.00 may be subject to the Massachusetts  
1238 Department of Public Utilities Licensure Action under 220 CMR 11.07(4)(c)1.

1239 14.13: Severability

1240 If any provision of 225 CMR 14.00 is declared invalid, such invalidity shall not affect  
1241 other provisions or applications that can be given effect without the invalid provision or  
1242 application.

1243 REGULATORY AUTHORITY

1244 225 CMR 14.00: M.G.L. c. 25A, § 11F.