



COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF
ENERGY AND ENVIRONMENTAL AFFAIRS
DEPARTMENT OF ENERGY RESOURCES
100 CAMBRIDGE ST., SUITE 1020
BOSTON, MA 02114
Telephone: 617-626-7300
Facsimile: 617-727-0030

Charles D. Baker
Governor

Matthew A. Beaton
Secretary

Karyn E. Polito
Lt. Governor

Judith F. Judson
Commissioner

June 27, 2016

VIA HAND DELIVERY

Steven T. James
Clerk of the House of Representatives
24 Beacon Street, Room 145
State House
Boston, MA 02133

RE: Proposed Amendments to 225 CMR 4.00; submission to General Court.

Dear Clerk James:

On behalf of the Massachusetts Department of Energy Resources, and in accordance with Section 12 of Chapter 25A of the Massachusetts General Laws ("Statute"), enclosed for filing please find proposed amendments to 225 CMR 4.00 Residential Conservation Services Program Regulations ("RCS Regulations"). The RCS Regulations govern how in-home energy audits and related energy efficiency services are provided to Massachusetts residents. The RCS Regulations are being updated to ensure comprehensive, consistent, quality services to residents, as well as transparency around contractor participation in the program.

These proposed revisions to the RCS Regulations are being submitted to your office for further action. Also enclosed herewith is a document summarizing the proposed changes to the RCS Regulations, in layman's terms, as required by the Statute. Should you have any questions please contact Tony Barletta, Director of Government Affairs, at 617-626-1109. Thank you for your attention to this matter.

Very truly yours,

Judith Judson
Commissioner

Chairman Benjamin B. Downing
Chairman Thomas A. Golden, Jr

Summary of Proposed Revisions to Residential Conservation Services Program Regulation (225 CMR 4.00) (“RCS Regulations”)

Background & Overview: The RCS Regulations are being streamlined and updated to:

- support energy justice and consistent services for multifamily (5 or more unit) buildings that are heated with oil or propane (i.e., relatively expensive fuels) by requiring Mass Save® to provide financial support for weatherization and efficient heating and hot water equipment in multifamily buildings heated with oil or propane—consistent with financial support available to multifamily buildings heated with gas or electricity;
- better integrate efficiency and renewable energy opportunities for all customers;
- remove barriers to fuel-switching and support informed consumer decision-making by providing comprehensive and transparent information about efficient HVAC and hot water system options, including renewable thermal systems, regardless of the heating fuel currently being used; and
- ensure that contractors deliver quality work and have a clear path for program participation.

In addition, the RCS Regulations have been significantly reorganized in order read more clearly.

Summary of Proposed Revisions:

Topics: Better integration of efficiency and renewable energy opportunities for the customer; remove barriers to fuel-switching and support informed consumer decision-making; provide comprehensive, transparent information about efficient HVAC and hot water system options, including renewable thermal systems, regardless of the heating fuel currently being used.

- 225 CMR 4.02(2)(e) and 225 CMR 4.04(1) clarify that DOER reviews and approves how energy auditors make recommendations to customers regarding various efficiency and renewable energy options.
- Additional changes to 225 CMR 4.02(2)(e) and 225 CMR 4.04(1) made in response to public comments: language was added to clarify that the purpose of DOER’s review is to ensure that recommendations are comprehensive, transparent, and objective. This language also clarifies that the DOER’s review of how recommendations are made is distinct from the Department of Public Utilities’ (DPU) review of the RCS budgets in conjunction with DPU review of the three-year Energy Efficiency investment Plans.
- 225 CMR 4.04(7)(b) requires reporting to the DOER, on a per-household basis, regarding home energy audits under the RCS program. This will help the DOER monitor how recommendations are being made to customers in order to ensure that recommendations are comprehensive, transparent, and objective.
- 225 CMR 4.04(5)(a) requires that a home energy audit include appropriate information about all applicable financial incentives to install efficiency or renewable technology options, not just those incentives provided by Mass Save®. For example, under 225 CMR 4.04(5), a Mass Save® energy audit will now include information about rebates for high efficiency cold climate heat pumps provided by the Massachusetts Clean Energy Center.

- Additional changes to 225 CMR 4.05(a) made in response to public comments: this language was originally in a different section of the RCS Regulations and was moved here, in response to comment.
- 225 CMR 4.04(6)(a) requires that, if an RCS program provides financial incentives to install certain efficiency or renewable energy options, such incentives must be available to all customers regardless of the fuel being used to heat the building. Currently, Mass Save® does not provide equipment rebates if the customer is “fuel switching.” This change is most relevant for oil heat customers who want to install high efficiency gas, cold climate heat pumps, or other renewable thermal equipment.
- 225 CMR 4.04(7)(b) requires reporting to the DOER, on a per-household basis, regarding home energy audits under the RCS program. This will help the DOER monitor how recommendations are being made to customers in order to ensure that recommendations are comprehensive, transparent, and objective.
- Additional changes to 225 CMR 4.04(7)(b) made in response to public comments: 225 CMR 4.07(b) was amended so that data must be reported on a form, and in the manner, prescribed by the DOER. This will ensure that data provided through RCS reporting is useful for monitoring program implementation and assessing program effectiveness.

Topic: Support energy justice and consistency for residents of multifamily (5+ unit) buildings regardless of the building’s heating fuel.

- The definition of “residential customer” in 225 CMR 4.01 is being updated to include residents in multifamily buildings comprised of five or more units. This update clarifies that financial support to install insulation and high efficiency HVAC and hot water equipment must be available to oil or propane heated multifamily homes consistent with financial support available to homes with four or fewer units. .
- Topic: Ensure that Mass Save® contractors deliver quality work to customers, as well as have a clear and transparent path into and out of the program.
- 225 CMR 4.06 puts a process in place for developing consistent minimum standards for contractors who provide RCS services (e.g., insulation contractors) with input from Mass Save® Program Administrators and other stakeholders.
- Additional changes to 225 CMR 4.06 made in response to public comments: 225 CMR 4.06 was amended such that the DOER reviews and approves proposed standards to ensure quality work, transparency, fairness, and appropriate consideration of stakeholder interests. 225 CMR 4.06 was further amended to require RCS program administrators to seek input from stakeholders, including program vendors, consumer (including low income consumer) representatives, in developing proposed standards.

HOUSE No. 4511

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 amendments to 225 CMR 13, DOER CO2 Budget Trading Program Auction Regulation. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand Sixteen

1 225 CMR: DEPARTMENT OF ENERGY RESOURCES

2 225 CMR 4.00: RESIDENTIAL CONSERVATION SERVICE PROGRAM

3 Section

4 4.01: Definitions RCS Program

5 4.02: RCS Program

6 4.03: Eligibility

7 4.04: RCS Program Requirements

8 4.05: Outcomes

9 4.06: Qualifications for Program Vendors

10 4.07: Coalition Action Plan

11 4.08: Municipal Action Plan

12 4.09: Enforcement of Compliance and Complaints Processing Procedures

13 4.10: Accounting and Costs

14 4.11: Home Heating Suppliers

15 4.12: Establish the State Plan and Other Reporting Requirements

16 4.01: Definitions

17 Ancillary Services. One or more services delivered to Residential Customers,
18 which provide education, technical assistance, or information without
19 requiring a visit to the customer’s home. These services may also help to
20 qualify a Residential Customer for the delivery of an on-site Audit, a Fuel
21 Neutral Reward, or the RCS Program.

22 Audit. An on-site assessment of a Residential Building by a Program Vendor
23 that provides a Residential Customer with accurate information about the
24 applicability of Program Measures or Fuel Neutral Rewards.

25 Coalition Action Plan. The plan developed by RCS Program Administrators
26 pursuant to 225 CMR 4.07.

27 Commissioner. The Commissioner of the Department of Energy Resources.

28 DOER. The Massachusetts Department of Energy Resources.

29 DPU. The Massachusetts Department of Public Utilities

30 Energy Efficiency Measure. A modification to a Residential Building that
31 decreases British thermal units (BTUs) or kilowatt hours (kWhs) used per
32 square-foot for that Residential Building.

33 Energy Efficiency Investment Plan (EEIP). Joint plan of the Massachusetts
34 energy efficiency Program Administrators pursuant to M.G.L. ch. 25 §21.

35 Fuel Neutral Reward. A financial incentive or rebate provided to residential
36 customers, regardless of the fuels being used in the building, that facilitates
37 the implementation of Program Measures.

38 Home Heating Supplier. A person who sells or supplies home heating fuel
39 (including but not limited to No. 2 heating oil, kerosene, butane, propane,
40 biomass, wood pellets, and wood chips) to a Residential Customer for
41 consumption in a Residential Building.

42 Municipal Aggregator. Any municipality or any group of municipalities
43 acting together within the Commonwealth to aggregate the electrical load of
44 interested electricity customers within its boundaries, as provided in M.G.L.
45 c. 164, § 134 (a), that also adopts an energy plan which shall define the
46 manner in which the municipality or municipalities may implement demand
47 side management programs and renewable energy programs as provided in
48 M.G.L. c. 164 § 134 (b). For purposes of 225 CMR 4.00, the term “RCS
49 Program Administrator” shall be understood to include a Municipal
50 Aggregator.

51 Outcomes. Performance standards used to assess the success of the RCS
52 program.

53 Person. A person is any individual, partnership, corporation, trust,
54 association, utility, agency or any political subdivision of the state.

55 Program Measure. An Energy Efficiency Measure or a Renewable Resource
56 Measure.

57 Program Requirement. A requirement adopted by the Commissioner under
58 225 CMR 4.00 or the State Plan, including, but not limited to, Ancillary
59 Services, Audits and Fuel Neutral Reward or any other requirement adopted
60 under M.G.L. c. 164 App. §§ 2-1 through 2-10.

61 Program Vendor. A person who provides services or products to Residential
62 Customers under 225 CMR 4.00 or the State Plan.

63 RCS Program Administrator. Any electric or gas distribution company as
64 defined in M.G.L. c. 164, § 1, or corporation as defined in M.G.L. c. 164, § 2
65 to include all persons, firms, associations and private corporations which own
66 or operate a distributing plant for distribution and sale of gas for heating and
67 illuminating purposes, or of electricity, within the commonwealth but shall
68 not include any alternative energy producer other than persons, firms,
69 associations, and private corporations expressly excluded from the definition
70 of “electric company” in M.G.L. c. 164, § 1. The terms “corporation”,
71 “electric company” and “gas company” shall include municipal corporations
72 which own or may acquire municipal lighting plants. RCS Program
73 Administrator shall also include Municipal Aggregators.

74 Renewable Resource Measure. A modification to a Residential Building that
75 substitutes energy produced from a stock resource (fossil or nuclear fuel)
76 with a renewable resource (including but not limited to solar thermal,
77 photovoltaic, biomass, and wind).

78 Residential Building. Any building or dwelling that is used, in whole or in
79 part, for residential occupancy and has a system for heating, cooling, or both,
80 regardless of fuel type or utility rate code designation.

81 Residential Customer. A person who owns or occupies a Residential Building
82 and receives a bill or bills from a Program Administrator based on energy
83 used in such Residential Building.

84 State. The Commonwealth of Massachusetts.
85 State Plan. The guideline prepared by the Commissioner to implement
86 M.G.L. c. 164 App. §§ 2-1 through 2-10.

87 4.02: RCS Program

88 (1) The purpose of 225 CMR 4.00 and the State Plan is to establish
89 requirements for the implementation of the Massachusetts Residential
90 Conservation Service (RCS) Program pursuant to M.G.L. c. 25A, § 11A,
91 11G, and c.164 App. §§ 2-1 through 2-10.

92 The Massachusetts RCS Program is designed to encourage residential
93 customers to conserve energy by providing them with:
94 a) accurate information concerning what they can do to save energy in their
95 own homes;
96 b) such services and programs as are practicable to facilitate the installation
97 and financing of Program Measures; and
98 c) consumer protection, such as through education, inspections, warranties,
99 complaint conciliation procedures, and redress procedures for poor work.

100 All RCS Program Administrators shall implement the RCS program.
101 Home Heating Suppliers may voluntarily participate in the RCS program
102 pursuant to 225 CMR 4.11.

103 (2) DOER shall:

- 104 a. Provide for a State Plan in the form of a guideline to implement the RCS
105 program.
106 b. Review the Coalition Action Plan to determine whether it complies with
107 the requirements of 225 CMR 4.00 and file a report of such review with the
108 DPU and Energy Efficiency Advisory Council as part of the EEIP process.
109 c. Establish Outcomes and monitor implementation of the Coalition Action
110 Plan and Municipal Action Plans to ensure that Outcomes are achieved.
111 d. Review and approve RCS operating budgets for those RCS Program
112 Administrators which are not subject to 220 CMR 7.00.
113 e. Review and approve the methodology for recommending Program
114 Measures to Residential Customers to ensure that such recommendations are
115 comprehensive, transparent, and objective.

- 116 f. Establish criteria for the implementation and inspection of Program
117 Requirements in the State Plan.
- 118 g. Approve the frequency of services provided under 225 CMR 4.04 (3-5) as
119 proposed by RCS Program Administrators, and include a process for
120 proposals and approvals in the State Plan.

121 (3) DPU shall administer the RCS program as directed under M.G.L. c. 164
122 App. §§ 2-1 through 2-10 and 220 CMR 7.00.

123 4.03: Eligibility

- 124 (1) The RCS program covers all Residential Buildings, regardless of the type
125 of fuels used in the building, the number of residential units in the building,
126 or whether there is commercial heating equipment in the building.
- 127 (2) All Residential Customers are eligible for a Fuel Neutral Reward under
128 225 CMR 4.04(7) regardless of the types of fuels used in the building.

129 4.04: RCS Program Requirements

130 To comply with 225 CMR 4.00, RCS Program Administrators shall:

- 131 (1) Every 3 years or sooner, if needed, provide to the DOER the methodology
132 for recommending Program Measures to Residential Customers referred to in
133 225 CMR 4.02(2)(e) for review and approval.
- 134 (2) As needed, provide to the DOER, proposed rules for audit frequency
135 referred to in 225 CMR 4.02(2)(g) for review and approval.
- 136 (3) Create a marketing plan that includes, but is not limited to, a strategy to
137 increase awareness of the program among eligible Residential Customers.
- 138 (4) Provide Ancillary Services to Residential Customers, including but not
139 limited to:
- 140 a. A telephone number to answer inquiries from Residential Customers.
- 141 b. Protocols for educating and qualifying Residential Customers regarding
142 Audits, Program Measures, and Fuel Neutral Rewards.
- 143 c. The maintenance and provision of data relevant to a Residential Building.
- 144 (5) Provide energy audits to residential customers.
- 145 a. The Audit shall provide Residential Customers with information about
146 Program Measures regardless of the types of fuels used in the building. Such
147 information shall include Program Measures for which RCS Program

148 Administrators provide Fuel Neutral Rewards and Program Measures which
149 are incented by other entities as approved by the DOER.

150 b. The Audit shall provide customers with estimates of the energy used in the
151 home and energy savings associated with recommended Program Measures.

152 (6) Include Program Measure implementation strategies.

153 a. The program may provide financial incentives to encourage adoption of
154 Program Measures. Such incentives shall be Fuel Neutral Rewards.

155 (7) Submit a quarterly report to DOER, which utilizes a form prescribed by
156 DOER. At minimum, each quarterly report shall include the following
157 information:

158 a. Program Outcomes pursuant to 225 CMR 4.05.

159 b. A report of Audits that consists of an electronic record, on a per household
160 basis, of the Residential Buildings' energy consumption characteristics and
161 recommended Program Measures. The electronic record will have a field that
162 chronicles if a Residential Customer implements a recommended Program
163 Measure.

164 (8) Work with RCS Program Administrators subject to 220 CMR 7.00 to
165 provide the program in a unified manner, regardless of fuel types.

166 (9) Comply with the State Plan.

167 (10) To ensure that Program Measures are installed correctly, an RCS
168 Program Administrator shall make available to Residential Customers a third
169 party inspection of a Program Measure(s) installed by a Program Vendor that
170 has a contractual relationship with said RCS Program Administrator.

171 4.05: Outcomes

172 (1) DOER shall establish Outcomes for the RCS program including, but not
173 limited to, gains in Residential Buildings' energy efficiency resulting from
174 the installation of Program Measures.

175 (2) DOER shall monitor implementation of the Coalition and Municipal
176 Action Plans to ensure that Outcomes are met.

177 4.06: Qualifications for Program Vendors

178 (1) On an as needed basis, RCS Program Administrators, with input from
179 Program Vendors and other stakeholders, including consumer and low
180 income consumer representatives, shall propose standards for the
181 qualification and retention of Program Vendors to the DOER. DOER will
182 review and approve the standards to ensure quality work, transparency,

183 fairness, and appropriate consideration of program vendor and stakeholder
184 interests.

185 (2) Program Vendors must demonstrate to RCS Program Administrators that
186 they meet the statewide standards established under 225 CMR 4.06.

187 4.07: Coalition Action Plan

188 (1) RCS Program Administrators subject to 220 CMR 7.00 shall submit a
189 Coalition Action Plan to DOER in accordance with the EEIP schedule. The
190 Coalition Action Plan shall describe how the RCS Program Administrators
191 will provide services in accordance with 225 CMR 4.00 and the State Plan.

192 (2) The Coalition Action Plan shall include plans for program assessment.
193 Such assessment shall support assessment of Outcomes pursuant to 225 CMR
194 4.05 and the State Plan, and may also support potential program
195 improvements.

196 (3) Budget approval for the Coalition Action Plan must comply with 220
197 CMR 7.00.

198 4.08: Municipal Action Plan

199 (1) Municipal utilities that do not participate in the Coalition Action Plan
200 shall submit a Municipal Action Plan to DOER either individually or in
201 coordination with other municipal utilities. Submission of a Municipal Action
202 Plan commits municipal utilities to achieve Program Requirements pursuant
203 to 225 CMR 4.04 and Outcomes pursuant to 225 CMR 4.05.

204 (2) Municipal Action Plans shall provide information in accordance with 225
205 CMR 4.00 and the State Plan.

206 (3) The RCS program budget for a municipal utility shall be at an annual
207 level equal to and not less than .0025 of its gross annual retail revenues. If a
208 municipal utility lacks sufficient budgetary means using the formula
209 established in 225 CMR 4.08(3) to implement the RCS Program pursuant to
210 225 CMR 4.00, the municipal utility may request of DOER a waiver from
211 some or all of the requirements of 225 CMR 4.00. The granting of such
212 waiver does not constitute an exemption from the DOER assessment pursuant
213 to 225 CMR 4.10(2) authorized under M.G.L. c. 164 App. § 2-7(e).

214 4.09: Enforcement of Compliance and Complaints Processing Procedures

215 (1) Pursuant to M.G.L. c. 164, App. §§ 2-1 through 2-10 any person
216 participating in the State Plan must comply with this State Plan.

217 (2) Program Vendors shall make available conciliation conferences to
218 Residential Customers for the purpose of resolving complaints regarding the
219 installation of Program Measure(s) by said Program Vendor or by any person
220 or entity that has a contractual relationship with said Program Vendor.

221 (3) Conciliation conferences shall also be made available, through the
222 Department of Public Utilities, against an RCS Program Administrator
223 subject to 220 CMR 7.00 with respect to the sale, installation, or financing of
224 a Program Measure(s) by a Program Vendor(s) who has a contractual
225 relationship with such RCS Program Administrator.

226 4.10: Accounting and Costs

227 (1) All amounts received or expended by RCS Program Administrators which
228 are attributable to the Massachusetts RCS Program shall be treated pursuant
229 to the terms established in 220 CMR 7.00 for those RCS Program
230 Administrators subject to 220 CMR 7.00.

231 (2) An RCS Program Administrator's share of the assessment under M.G.L.
232 c. 164 App. §2-7 shall be apportioned according to two factors: its number of
233 Residential Customers and the total British thermal units (BTUs) delivered to
234 its Residential Customers.

235 4.11: Home Heating Suppliers

236 (1) A Home Heating Supplier may qualify as an RCS Program Administrator
237 by contributing to program costs pursuant to 225 CMR 4.10.

238 (2) A Home Heating Supplier may qualify as a Program Vendor by
239 complying with standards set pursuant to 225 CMR 4.06.

240 4.12 State Plan and Other Reporting Requirements

241 (1) DOER shall establish the State Plan as guidelines that clarify these
242 regulations, including other reporting requirements. DOER may change or
243 modify the State Plan periodically.

244 (2) In the event that DOER proposes to change or modify the State Plan, it
245 will provide interested parties the opportunity to review and comment on
246 such proposed changes or modifications.

247 REGULATORY AUTHORITY

248 225 CMR 4.00; M.G.L. c. 25 §19; ch. 25A, §§ 6, 7, 11A, 11G; c. 164, §134; c. 164
249 App. §§2-1 through 2-10, St. 1997, c. 164, and St. 2012, c. 209, §32.