
Massachusetts Establishes Air Emission Public Benefit Set-Aside Program to Encourage Energy Efficiency and Renewable Energy Projects

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On July 2, 2004, the Massachusetts Department of Environmental Protection (the Department) established, as part of its existing air emission control regulations, a Public Benefit Set-Aside Program (the Program) to encourage the development of Energy Efficiency Projects (EEPs) and Renewable Energy Projects (REPs).

EEPs include voluntary projects that directly result in energy savings at a facility located in Massachusetts, such as the construction of a new building that exceeds the requirements of the Massachusetts Building Code, the installation of energy efficiency upgrades or equipment at an existing facility, or the use of combined heat and power systems with a minimum energy efficiency of 60%. REPs include generation units that are located in Massachusetts or are directly and solely connected to transmission facilities located in Massachusetts, and that generate energy using technologies that do not emit NOx (such as solar, wind, wave or hydro energy). Nuclear fuel, biomass, pumped storage hydro and landfill gas projects do not qualify as REPs under the Program.

The Department will allocate 5% of the total Massachusetts NOx state trading program budget to EEPs and REPs under the Program, which will be implemented as part of the Commonwealth's NOx Budget Trading Program (310 CMR 7.28). To be eligible for a NOx allowance, a project must have become operational after December 31, 1999. EEPs and REPs that receive allowances can then sell those allowances to other entities that need to acquire additional allowances to comply with the requirements of applicable state and/or federal law.

Individual projects will receive an allowance based on the amount of electrical or thermal energy that is saved (in the case of EEPs) or generated (in the case of REPs) by the project. EEPs can receive (on an annual basis) an allowance for up to seven years (the presumed useful life of the energy efficiency improvements), while REPs may continue to receive an allowance on an annual basis as long as the project is generating energy.

EEPs and REPs seeking allowances under the Program for activities in either calendar year 2002 or 2003 must submit their applications to the Department no later than September 1, 2004. In 2005

and each year thereafter, completed applications for allowances under the Program must be received by the Department on or before April 1 of each year.