16.05: continued

(l) Eligible Liquid Biofuel Suppliers List. The Department shall establish and maintain a list of suppliers of Eligible Liquid Biofuel on its website at www.mass.gov/orgs/massachusetts-department-of-energy-resources. A fuel supplier must complete and submit an application to the Department to be included on the Department's Eligible Liquid Biofuel suppliers list. Fuel suppliers must be registered in the Environmental Protection Agency's Renewable Fuel Standard (RFS2), 40 CFR §§ 80.1400 through 80.14.74, and must verify that they produce biodiesel from organic waste feedstocks. Fuel suppliers may be required to provide documentation to the Department after being added to the list in order to demonstrate continued compliance.

16.06: Statement of Qualification Process for APS Alternative Generation Units

(1) Statement of Qualification Application. A Statement of Qualification Application shall be submitted to the Department by the Owner or Operator of the Generation Unit or Aggregation. The applicant must use the most current forms and associated instructions provided by the Department, and must include all information, documentation, and assurances required by such forms and instructions. Applications for APS Renewable Thermal Generation Units shall be submitted through the online registration platform of the MassCEC.

(2) Review Procedures.

(a) The Department will notify the applicant when the Statement of Qualification Application is administratively complete or if additional information is required pursuant to 225 CMR 16.06(1).

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

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

(a) If the Department finds that all or a portion of the electrical energy output of a Generation Unit or of an Aggregation meets the requirements for eligibility as APS Alternative Generation pursuant to 225 CMR 16.05, the Department will provide the Owner or Operator of such Unit or Aggregation with an SQ.

(b) The SQ shall include any applicable restrictions and conditions that the Department deems necessary to ensure compliance by a particular Generation Unit or Aggregation with the provisions of 225 CMR 16.00.

(c) If the Generation Unit or Aggregation does not meet the requirements for eligibility as an APS Alternative Generation Unit, the Department shall provide written notice to the Owner or Operator, including the Department's reasons for such finding.

(4) APS Effective Date. The APS Effective Date shall be the earliest date on which electrical energy output of an APS Alternative Generation Unit can result in the creation of APS GIS Certificates, except that the APS Effective Date shall not be earlier than the date on which the Department determines that the Unit has commenced compliance with the applicable emission standards in its SQ. However, in no instance shall the APS Effective Date be earlier than January 1, 2009.

(5) Notification Requirements for Change in Eligibility Status. The Owner or Operator of an APS Alternative Generation Unit shall notify the Department of any changes in the technology, operation, emissions, fuel sources, energy resources, or other characteristics of the Generation Unit that would affect the eligibility of the Unit as an APS Alternative Generation Unit. The Owner or Operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented. The notice shall state the date the changes were made to the APS Alternative Generation Unit and describe the changes in sufficient detail to enable the Department to determine if a change in eligibility is warranted.

16.06: continued

(6) Notification Requirements for Change in Ownership, Generation Capacity, or Contact Information. The Owner or Operator of an APS Alternative Generation Unit shall notify the Department of any changes in the ownership, operating entity, generation capacity, NEPOOL GIS account, independent verification system for the Unit's or Aggregation's electrical energy output, or contact information for the Generation Unit or Aggregation. The Owner or Operator shall submit the notification to the Department no later than five days following the end of the month during which such changes were implemented.

(7) Time Limit for Project Implementation. Any SQ issued on or after June 12, 2009 shall expire 48 months after the issuance date of the SQ (the Expiration Date) unless the Commercial Operation Date of the Generation Unit or Aggregation is on or before the Expiration Date. The Department may, at its discretion, grant an extension of the Expiration Date of the SQ upon petition by the Owner or Operator of the Generation Unit or Aggregation. If the Owner or Operator of such Unit or Aggregation desires an extension, such Owner or Operator must submit a new SQ Application, and the decision of the Department on such new application may be made in accordance with the regulations and criteria that are applicable on the date that the Department receives that application.

(8) Term Limit for Qualification. Starting January 1, 2027, APS Alternative Generation Units using the technologies listed in 16.06(8)(a) through 16.06(8)(k) shall have a term for eligibility under 225 CMR 16.00. Such Generation Unit's SQ term shall expire on January 1st of the Compliance Year immediately following the ninth anniversary of the Generation Unit's APS Effective Date. If a Generation Unit's SQ expiration date would be prior to January 1, 2027, the Generation Unit's SQ term shall expire on January 1, 2027.

(a) Gasification
(b) Combined Heat and Power
(c) Flywheel Storage Unit
(d) Paper-derived Fuel
(e) Efficient Steam Technology
(f) Woody Biomass
(g) Biogas
(h) Liquid Biofuels
(i) Compost Heat Exchange Systems
(j) Fuel Cell
(k) Thermal Waste-to-energy

(9) Suspension or Revocation of Statement of Qualification. The Department may suspend or revoke an SQ if the Owner or Operator of an APS Alternative Generation Unit fails to comply with 225 CMR 16.00.

16.07: Alternative Energy Portfolio Standard

(1) APS Minimum Standard. The total annual sales of each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier, under contracts executed or extended on or after January 1, 2009, shall include a minimum percentage of electrical energy sales with APS Alternative Generation Attributes, as specified in 225 CMR 16.07: *Table*.

MASSACHUSETTS ALTERNATIVE ENERGY PORTFOLIO STANDARD

MINIMUM PERCENTAGES OF ANNUAL ELECTRICAL ENERGY SALES WITH APS ALTERNATIVE GENERATION ATTRIBUTES

16.07: continued

Compliance Year	Cumulative Minimum Percentage
2009	1.00
2010	1.50
2011	2.00
2012	2.50
2013	3.00
2014	3.50
2015	3.75
2016	4.00
2017	4.25
2018	4.50
2019	4.75
2020	5.00
2021	5.25
2022	5.50
2023	5.75
2024	6.00
2025	6.25
2026	6.50
2027	2.00
2028	1.50
2029	1.25

(2) Post-2029 Minimum Standard. After 2029, the Minimum Standard shall be 1%.

16.08: Compliance Procedures for Retail Electricity Suppliers

(1) Standard Compliance. Each Retail Electricity Supplier shall be deemed to be in compliance with 225 CMR 16.00 if the information provided in the Compliance Filing submitted pursuant to 225 CMR 16.09 is true and accurate and demonstrates compliance with 225 CMR 16.07. A Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that APS Alternative Generation Attributes used for compliance have not otherwise been, nor will be, sold, retired, claimed, used or represented as part of electrical energy output or sales, or used to satisfy obligations in jurisdictions other than Massachusetts.

(2) Banked Compliance. A Retail Electricity Supplier may use APS Alternative Generation Attributes produced in one Compliance Year for compliance in either or both of the two subsequent Compliance Years, subject to the limitations in 225 CMR 16.08(2) and provided that the Retail Electricity Supplier is in compliance with 225 CMR 16.00 for all previous Compliance Years. In addition, the Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that such Attributes:

(a) were in excess of the APS Alternative Generation Attributes needed for compliance in the Compliance Year in which they were generated, and that such excess Attributes have not previously been used for compliance with 225 CMR 16.00;

(b) do not exceed 30% of the APS Alternative Generation Attributes needed by the Retail Electricity Supplier for compliance with the APS Minimum Standard in the year they were generated, subject to 225 CMR 16.09(2)(d);

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

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

16.08: continued

(3) Alternative Compliance. A Retail Electricity Supplier may discharge its obligations under 225 CMR 16.07, in whole or in part, for any Compliance Year by making an Alternative Compliance Payment (ACP) to the Massachusetts Clean Energy Technology Center, established by M.G.L. c. 23J, § 2. Such funds shall be held in an account separate from other accounts of the Corporation.

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

1. The quantity of Credits, specified in MWhs, that can be applied to its obligations under 225 CMR 16.07(1) shall be determined by calculating the ratio of the total of ACPs paid for the Compliance Year to the ACP Rate for that Compliance Year.

2. The ACP Rate for the APS Minimum Standard shall be $20 per MWh for Compliance Year 2009. For each subsequent Compliance Year, the Department shall publish the ACP Rate by January 31st of the Compliance Year. The ACP Rate shall be equal to the previous year's ACP Rate adjusted up or down according to the previous year's Consumer Price Index.

3. The Retail Electricity Supplier shall include with its Annual Compliance Filing copies of any ACP receipt(s) for ACPs made to the Massachusetts Clean Energy Technology Center during the Compliance Year.

(b) Use of Funds. The Department shall oversee the use of ACP funds by Massachusetts Clean Energy Technology Center, so as to further the commercial development of Alternative Generation.

16.09: Annual Compliance Filings for Retail Electricity Suppliers

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

(2) Contents of Annual Compliance Filing. For each Retail Electricity Product, the Filing shall document compliance with the provisions of 225 CMR 16.07 and 225 CMR 16.08 to the satisfaction of the Department and shall include, but not be limited to, the following:

(a) Total Electrical Energy Sales to End-use Customers. Documentation of the total MWhs of electrical energy allocated by the Retail Electricity Supplier to End-use Customers in the Compliance Year. Such allocation is defined in 225 CMR 16.09(2)(a) as the total quantity of the Supplier's Certificates Obligation that the Supplier correctly allocated or should have allocated to all of the Supplier's Massachusetts retail subaccounts in the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules.

(b) Electrical Energy Sales to End-use Customers by Product. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers in the Compliance Year, verified by an independent third-party satisfactory to the Department, consistent with the Guidelines. Such allocation is defined in 225 CMR 16.09(2)(b) as the quantity of the Supplier's Certificates Obligation that the Supplier correctly allocated or should have allocated to each of the Supplier's Massachusetts retail subaccounts at the NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules. The Department shall keep product information confidential to the extent permitted by law.

(c) Attributes Allocated from the Compliance Year. Documentation of the total MWhs of each Retail Electricity Product allocated to End-use Customers that were derived from both APS Alternative Generation during the Compliance Year, and which may include electrical energy generated on End-use Customers' sides of retail meters in the ISO-NE Control Area or by Off-grid Generation Units in Massachusetts in the Compliance Year, as follows:

1. For electrical energy transactions included in the ISO-NE Settlement Market System, the Compliance Filings shall include documentation from the NEPOOL GIS administrator of the Retail Electricity Supplier's ownership of GIS Certificates representing APS Alternative Generation during the Compliance Year.

2. For electrical energy transactions not included in the ISO-NE Settlement Market System, but for which the Retail Electricity Supplier has secured GIS Certificates from the NEPOOL GIS, the Compliance Filings shall include documentation from the NEPOOL GIS of the Retail Electricity Supplier's ownership of GIS Certificates representing APS Alternative Generation during the Compliance Year.

16.09: continued

(d) Attributes Allocated from Banked Compliance. Allocation by Retail Electricity Product of any quantity of Attributes banked from one or both of the two previous years pursuant to 225 CMR 16.08(2) that are used to demonstrate compliance in the current Compliance Year;
(e) Alternative Compliance Credits. Allocation by Retail Electricity Product of any Alternative Compliance Credits claimed pursuant to 225 CMR 16.08(3), along with a copy of any Alternative Compliance Payment receipt(s);
(f) Attributes Banked for Future Compliance. Calculation of the quantity of any Attributes from APS Alternative Generation that the Retail Electricity Supplier anticipates claiming for purposes of Banked Compliance in subsequent years under the Banked Compliance provisions of 225 CMR 16.08(2); and
(g) Exempt Contracts under Minimum Standard. Identification of any contract for a specific term of years that was executed before January 1, 2009, and its terms including, but not limited to, the execution and expiration dates of the contract and the annual volume of electrical energy supplied.

16.10: Reporting Requirements

(1) Certification. Any person required by 225 CMR 16.00 to submit documentation to the Department shall provide:
(a) the person's name, title and business address;
(b) the person's authority to certify and submit the documentation to the Department; and
(c) the following certification: "I hereby certify, under the pains and penalties of perjury, that I have personally examined and am familiar with the information submitted herein and based upon my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties, both civil and criminal, for submitting false information, including possible fines and imprisonment."

(2) Annual Alternative Energy Resource Report. The Department shall produce an annual report that summarizes information submitted to the Department by Retail Electric Suppliers in the Annual Compliance Filing submitted to the Department pursuant to 225 CMR 16.09(2).

(3) Identification of APS Alternative Generation Units. The Department shall inform the NEPOOL GIS administrator which Generation Units should be designated as APS Alternative Generation Units pursuant to 225 CMR 16.00.

16.11: Inspection

(1) Document Inspection. The Department may audit the accuracy of all information submitted pursuant to 225 CMR 16.00. The Department may request and obtain from any Owner or Operator of an APS Alternative Generation Unit, supplier of Eligible Biomass Fuel, and any Retail Electricity Supplier information that the Department determines necessary to monitor compliance with and enforcement of 225 CMR 16.00.

(2) Audit and Site Inspection. The Department may implement an audit and inspection program to assess compliance with 225 CMR 16.00. Upon reasonable notice to a Retail Electricity Supplier, supplier of Eligible Biomass Fuel, or APS Alternative Generation Unit Owner or Operator, the Department may inspect and copy any records and/or conduct site visits to an APS Alternative Generation Unit, supplier of Eligible Biomass Fuel or a Retail Electricity Supplier's facilities including, but not limited to, all files and documents that the Department determines are related to compliance with 225 CMR 16.00.

16.12: Non-compliance

Any Retail Electricity Supplier or Owner or Operator of an APS Alternative Generation Unit that fails to comply with the requirements of 225 CMR 16.00 shall be subject to the following provisions:

16.12: continued

(1) Notice of Non-compliance. A failure to comply with the requirements of 225 CMR 16.00 shall be determined by the Department. A written Notice of Non-compliance shall be prepared and delivered by the Department to any Retail Electricity Supplier or Owner or Operator of an APS Alternative Generation Unit that fails to comply with the requirements of 225 CMR 16.00. The Notice of Non-compliance shall describe the Requirement(s) with which the Retail Electricity Supplier, Owner, or Operator failed to comply and the time period of such non-compliance.

(2) Publication of Notice of Non-compliance. A Notice of Non-compliance may be published on the Department's website at www.mass.gov/orgs/massachusetts-department-of-energy-resources and in any other media deemed appropriate by the Department. Such publication may remain posted until the Retail Electricity Supplier or Owner or Operator returns to compliance as determined by the Department.

(3) Planning Requirement. A Retail Electricity Supplier that fails to meet the requirements of 225 CMR 16.07 during a Compliance Year shall submit a plan for achieving compliance for the subsequent three years. The plan shall be filed with the Department no later than the first day of September of the Compliance Year subsequent to the Compliance Year for which the Retail Electricity Supplier was out of compliance or such date as the Department may specify.

(4) Suspension or Revocation of License. The Department shall refer its findings of non-compliance to the Massachusetts Department of Public Utilities. A Retail Electricity Supplier that fails to comply with 225 CMR 16.00 may be subject to the Massachusetts Department of Public Utilities Licensure Action under 220 CMR 11.07(4)(c)1.

16.13: Severability

If any provision of 225 CMR 16.00 is declared invalid, such invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.

REGULATORY AUTHORITY

225 CMR 16.00: M.G.L. c. 25A, §§ 6 and 11F½.