

Reducing greenhouse gas emissions in aftermath of Kain decision - by Susan Bernstein

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Last May, the Massachusetts Supreme Judicial Court (the Court) ruled in *Kain et al. v. Department of Environmental Protection (MassDEP)* that the state's Global Warming Solutions Act (the Act) required the MassDEP to: impose a limit on greenhouse gas (GHG) emissions, limit the aggregate emissions released from each group of regulated sources, set enforceable emissions limits for each year, and set limits that decline on an annual basis. The Court's ruling is aimed at more fully complying with the Act's requirements, found in MGL c. 21N, §3(d).

In September 2016, Mass. governor Charles Baker issued Executive Order Number 569 to address the Court's requirements. The state's Executive Office of Energy and Environmental Affairs was ordered to coordinate the response to the Court's decision and to ensure that the state met the deadlines for emission limits stated in the Act.

MassDEP released proposed regulations late in 2016 to address these substantive sections and will hold public hearings during February 2017 in locations throughout the state. The public comment

period closes on February 24, 2017.

The proposed regulations include six new provisions and amendments to reduce and limit GHG emissions. These include: sulfur hexafluoride emissions from gas-insulated switchgear, methane emissions from the natural gas distribution network, emissions from electricity generation, and carbon dioxide emissions from the transportation sector. These provisions will be added to the existing Air Pollution Control and Air Pollution Control for Mobile Sources regulations, as well as updating the state's Clean Energy and Climate Plan 2020 (CECP). Based on progress to date, according to the MassDEP, GHG emission levels have achieved an overall reduction of 19.7% below 1990 GHG emission levels, with only an additional 5.3% reduction remaining to meet the 2020 goal.

Once promulgated, these regulations will require both existing stationary and mobile sources to comply with more stringent emission provisions.

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