



## States' Biofuels Statutes

### STATE OF MASSACHUSETTS

*This project was undertaken in partnership with the USDA Office of the Chief Economist, The Office of Energy Policy and New Uses. For information on the full project, visit [States' Biofuels Statutory Citations](#). These statutes are placed in reverse chronological order using the date of the most recent amendment to the statute. Many biofuels laws were enacted as amendments to previously passed laws.*

*Current through the 2013 Legislative Session of the Massachusetts General Assembly.*

#### **§ 295G ½ . Classification as eligible diesel substitute fuel; minimum content requirements; application of percentage requirements on statewide average basis; inspection of samples; quality assurance; accreditation**

(1) As used in this section, the following words shall have the following meanings:-

“BQ-9000”, the National Biodiesel Accreditation Program for producers and marketers of biodiesel fuel, operated by the National Biodiesel Accreditation Commission.

“Commissioner”, the commissioner of the department of energy resources.

“Department”, the department of energy resources within the executive office of energy and environmental affairs.

“Diesel substitute fuel”, fuel that is derived predominantly from renewable biomass; that meets American Society for Testing and Materials specifications for use in diesel engines, or that meets such other quality certification standards as are approved by the department for the application involved. For diesel substitute fuel used in on-road motor vehicles, the fuel shall meet the registration requirements for fuels and fuel additives established by the United States Environmental Protection Agency under section 211C of the Clean Air Act, 42 USC section 7545.

“Eligible diesel substitute fuel”, diesel substitute fuel that yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions relative to average emissions for petroleum-based diesel fuel sold in 2005, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Feedstock”, the raw material used to produce a fuel.

“Lifecycle greenhouse gas emission”, the aggregate quantity of greenhouse gas emissions, including

direct emissions and significant indirect emissions such as significant emissions from land use changes, as determined by the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, related to the full fuel lifecycle, including all stages of fuel and feedstock production and distribution, from feedstock generation or extraction through the distribution and delivery and use of the finished fuel to the ultimate consumer, where the mass values for all greenhouse gases are adjusted to account for their relative global warming potential.

“Low carbon fuel standard”, a legal requirement that the average lifecycle greenhouse gas emissions attributable to use of energy in an economic sector are equal to or below a specified numeric level, or a similar standard or system, such as the requirement contained in California Executive Order S-1-07. The level may be stated as units of greenhouse gas emissions per unit of delivered energy, corrected for differences in the efficiency of the energy in the particular end use; for example the difference between efficiency of a gasoline engine and an electric motor in powering a vehicle. The standard may apply to energy used in motor vehicles or to another energy consuming sector.

“Renewable biomass”, non-fossil fuel based material, including: planted crops; crop residues; planted trees and tree residues from sustainably managed forests; waste materials including animal waste, animal by-products, organic portions of municipal solid waste, grease trap waste, construction and demolition debris; and algae, or as otherwise determined by the department in consultation with the department of environmental protection and the executive office of energy and environmental affairs.

“Waste feedstock”, previously used or discarded solid, liquid or contained gaseous material with heating value resulting from industrial, commercial or household food service activities that would otherwise be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to: waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of wastewater and grease trap waste. Waste feedstocks shall not include petroleum-based waste or waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the department of environmental protection.

(2) Manufacturers and wholesale distributors of diesel substitute fuel doing business in the commonwealth who wish to have their fuel classified as eligible diesel substitute fuel shall provide documentation satisfactory to the department that such fuel yields at least a 50 per cent reduction in lifecycle greenhouse gas emissions per unit of delivered energy, in comparison to the petroleum-based diesel fuel displaced.

In determining the percentage lifecycle greenhouse gas reductions achieved by particular fuels, the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall use information and best practices available from other sources, including other states, the federal Environmental Protection Agency, foreign governments, academic research and private and non-profit organizations.

If the department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, determines through an initial review that a particular waste feedstock will clearly yield at least a 50 per cent lifecycle greenhouse gas reduction, is free of hazardous materials and hazardous waste, and meets any other conditions set by regulations promulgated by the department, the department may exempt fuel produced from such a material from a full lifecycle

greenhouse gas emissions analysis.

For supplies that the department determines meet the criteria above for reductions in greenhouse gas emissions, the department shall, by regulation, certify the supplies as eligible diesel substitute fuel and shall provide documentation or certificates to suppliers of such fuel showing the number of gallons of neat eligible diesel substitute fuel supplied. The department shall, by regulation, determine which suppliers the documentation shall apply to, and create a mechanism for tracking such supplies.

(3) Except as provided in subsection (4), the following shall apply to all diesel motor vehicle fuel and all other liquid fuel used in motor vehicle diesel engines, offered for sale to end-users, retail sellers or to any other entity that will be providing such fuel directly to end-users in the commonwealth for use in transportation. All such fuel must contain at least 2 per cent eligible diesel substitute fuel, measured by available energy content or in such other manner as determined by the department no later than July 1, 2010. Except as provided in subsection (4), all such fuel must contain at least 3 per cent eligible diesel substitute fuel no later than July 1, 2011, 4 per cent eligible diesel substitute fuel no later than July 1, 2012, and 5 per cent eligible diesel substitute fuel no later than July 1, 2013.

The department may delay these implementation dates for the period of time which it determines, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, that providing sufficient supplies of the required eligible diesel substitute fuel to end-use consumers is not feasible due to lack of supply, lack of blending facilities or unreasonable cost. If the department delays implementation as provided in the preceding sentence, the commissioner shall file a report within 30 days of such decision with the clerks of the house of representatives and senate who shall forward the same to the house and senate committees on ways and means, the joint committee on telecommunications, utilities and energy, the joint committee on environment, natural resources and agriculture and the joint committee on transportation explaining the reasons for any such decision to delay implementation.

If a low carbon fuel standard or a similar standard or system, that will achieve equal or greater reductions in greenhouse gas emissions to the minimum content requirement specified by this section is adopted by the commonwealth, or a standard applying to the commonwealth is adopted by the federal government, then at least 60 days prior to the effective date of the standard, the department shall submit a statement to the general court that the standard shall become effective on the particular date, and the department of environmental protection's determination that the standard will achieve the specified reduction in emissions. If the general court takes no action, the minimum content requirement specified by this section shall expire on the date that the regulations implementing the standard or system becomes effective, or at such other date specified by the department, but in any case within 1 year of implementation of the regulations. If the department chooses an expiration date other than the effective date of the regulations it shall submit a statement to the general court explaining its reasons for doing so prior to said effective date.

(4) The department, in consultation with the department of environmental protection and the executive office of energy and environmental affairs, shall study the feasibility, benefits and costs, including benefits and costs to consumers, producers and the commonwealth, of making the percentage mandates in subsection (3) apply on a statewide average basis rather than for every gallon of diesel motor fuel sold. If the department implements such a system, the department shall promulgate regulations allowing

and tracking sales of certificates or other documentation from the department that show use of eligible diesel substitute fuel in the commonwealth. Entities may meet their percentage requirements for use of eligible diesel substitute fuel by purchasing certificates or other documentation, and such certificates may be re-sold.

(5) Manufacturers and wholesale distributors of eligible diesel substitute fuel, and of fuel blended from petroleum diesel and eligible diesel substitute, doing business in the commonwealth shall furnish samples of such products to the department, shall permit the entry and inspection by the division and department of the premises of such manufacturers or distributors and the inspection and sampling of fuel stored thereon.

(6) Manufacturers of eligible diesel substitute fuel that is sold in the commonwealth shall meet quality assurance criteria or accreditation requirements determined by the department, in consultation with the department of environmental protection. Manufacturers shall submit documentation of quality assurance or accreditation to the department on or before November 1, 2009, or at least 3 months prior to the date on which the department certifies their fuel as eligible diesel substitute fuel, and must submit documentation to the department showing that their accreditation remains current every 2 years thereafter.

(7) The department shall evaluate the feasibility and desirability of requiring BQ-9000 or other comparable accreditation requirement for producers and wholesale distributors of diesel substitute fuel and petroleum-based motor fuel blended with diesel substitute fuel operating in the commonwealth. If the department concludes that such accreditation is feasible and desirable in order to protect consumers and the environment, the department shall promulgate regulations to implement an accreditation requirement.

(8) The department shall promulgate regulations to implement the provisions of this section.

(9) No person shall sell or offer to sell heating fuel, including eligible diesel substitute fuel, that does not conform to this section.

(10) Notwithstanding section 249H, failure to comply with subsection (9) shall constitute an unfair or deceptive act under the provisions of chapter 93A, and may be enforced as provided therein.

**Credits:** Added by St.2008, c. 206, § 3, eff. July 28, 2008.