

Green Legal News

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Green Building

Federal

The EPA has published its Advance Notice of Proposed Rulemaking (ANPR) for regulating Greenhouse Gas Emissions under the Clean Air Act. The regulations are in response to the U.S. Supreme Court's ruling in *Massachusetts v. EPA*. Comments on the proposed rules must be received within 120 days of publication in the Federal Register (not yet done). The proposed rules and requested comments seek submittals relating to the scope of the EPA's jurisdiction and the sources of emissions that should be regulated. The EPA describes the Clean Air Act as "outdated" and "ill-suited for the task of regulating global greenhouse gases." Included within the ANPR are comments from the many federal agencies that will be impacted from the rulemaking proceeding, which demonstrates the broad effect that the potential regulations will have across the economy.

California

A bill would require the adoption of standards that would reduce the energy consumption per gross square foot of floorspace of new residential and new nonresidential buildings, from offsite sources, by not less than 20 percent of the standards adopted in 2003 no later than 2015. The bill would also require the goal of zero net energy for new residential buildings by 2020 and zero net energy for new nonresidential buildings by 2030. AB 1065.

District of Columbia

A new net metering regulation was enacted which allows customers to be credited the "Full Retail Rate" for excess generation each month. The credit carries forward each month until exhausted.

Unlike the Massachusetts rules (reported below), the D.C. rules do not provide a mechanism for the customer to be paid for excess generation. 55 D.C. REG. 7301.

Massachusetts

Massachusetts amended its net metering rules by establishing various classes of net metering and allowing liberal credits for each class. A "class I net metering credit" is a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located. (ii) Distribution kilowatt-hour charge. (iii) Transmission kilowatt-hour charge and (iv) Transition kilowatt-hour charge. A "class I net metering facility" is a plant or equipment that is used to produce, manufacture or otherwise generate electricity and that is not a transmission facility and that has a design capacity of 60 kilowatts or less.

A "class II net metering credit" is a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located. (ii) Distribution kilowatt-hour charge. (iii) Transmission kilowatt-hour charge and (iv) Transition kilowatt-hour charge. A "class II net metering facility" is an agricultural net metering facility, solar net metering facility, or wind net metering facility with a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt.

A "class III net metering credit" is a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-

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hour charge in the ISO-NE load zone where the customer is located. (ii) Transmission kilowatt-hour charge and (iii) Transition kilowatt-hour charge. A "class III net metering facility" is an agricultural net metering facility, solar net metering facility or wind-net-metering facility with a generating capacity of more than one megawatt but less than or equal to two megawatts.

A "neighborhood net metering credit" is a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located. (ii) Transmission kilowatt-hour charge and (iii) Transition kilowatt-hour charge provided. A "neighborhood net metering facility" is a Class I, II or III net metering facility that: (i) is owned by, or serves the energy needs of, a group of 10 or more residential customers that resides in a single neighborhood and is served by a single distribution company and (ii) is located within the same neighborhood as the customers that own or are served by the facility.

If the electricity generated by the Class I or Class II net metering facility during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for zero kilowatt-hour usage and the excess Class I or Class II net metering credits shall be credited to the customer's account. Credits may be carried forward from month to month. A Class I or Class II wind or solar net metering facility may designate customers of the same distribution company to which the Class I or Class II wind or solar net metering facility is interconnected and that are located in the same ISO-NE load zone to receive such credits in amounts attributed by the Class I or Class II wind or solar net metering facility.

If the electricity generated by the Class III net metering facility during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for zero kilowatt-hour usage and the excess Class III net metering credits shall be credited to the customer's

account. Credits may be carried forward from month to month. A Class III net metering facility may designate customers of the same distribution company to which the Class III net metering facility is interconnected and that are located in the same ISO-NE load zone to receive such credits in amounts attributed to such customers by the Class III net metering facility. A distribution company may elect not to allocate such credits and instead may purchase net metering credits from the facility

If the electricity generated by the neighborhood net metering facility during a billing period exceeds its kilowatt-hour usage during the billing period, the neighborhood net metering facility shall be billed for zero kilowatt-hour usage and the excess neighborhood net metering credits shall be credited to those customers identified by the neighborhood net metering facility as being served by the same company to which the neighborhood net metering facility is interconnected, residing in the same neighborhood in which the neighborhood net metering facility is located and having an ownership interest in the neighborhood net metering facility. The amount of the excess neighborhood net metering credits to be attributed to each such customer shall be determined by the allocation provided by the neighborhood net metering facility. Credits may be carried forward by such customers from month to month.

Upcoming Conferences

- Connecticut Business and Industry Assoc., Effectively Controlling Your Energy Costs in Your Family Business, North Haven, CT, August 6, 2008
- ICSC Green Retail and Trade Expo, Addison, TX, September 15-16, 2008
- West Coast Green, San Jose, CA, September 25-27, 2008
- ULI Tour of Energy Freedom Pioneers Eco-Industrial Park, Pedricktown, NJ, October 8, 2008

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- USGBC Greenbuild 2008, Boston, MA, November 19-21, 2008
- ICSC Centerbuild Conference, Scottsdale, AZ, December 3-6, 2008
- NAHB National Green Building Conference, Dallas, TX, May 8-10, 2009

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