

§10109. Regional Greenhouse Gas Initiative Trust Fund

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Carbon dioxide allowance" has the same meaning as in Title 38, section 580-A, subsection 2. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. "Trade association aggregator" means an entity that gathers individual members of a trade association together for the purpose of receiving electrical efficiency services or bidding on electrical efficiency contracts. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. "Trust fund" means the Regional Greenhouse Gas Initiative Trust Fund established in subsection 2. [PL 2009, c. 372, Pt. B, §3 (NEW).]
[PL 2009, c. 372, Pt. B, §3 (NEW).]

2. Establishment of Regional Greenhouse Gas Initiative Trust Fund. The Regional Greenhouse Gas Initiative Trust Fund is established and is the successor to the fund that was established under former section 10008. The trust fund is established to support the goals and implementation of the carbon dioxide cap-and-trade program established under Title 38, section 580-B. The trust fund is established as a nonlapsing fund administered by the trust for the purposes established in this section. The trust is authorized to receive, and shall deposit in the trust fund and expend in accordance with this section, revenue resulting from the sale of carbon dioxide allowances, pursuant to Title 38, section 580-B, and any forward capacity market or other capacity payments from the regional transmission organization that may be attributable to projects funded by the trust under this section. The trust fund may not be used for any other purpose and money in the trust fund is considered to be held in trust for the purposes of benefiting consumers.

A. The trustees have a fiduciary duty to the customers of the State's transmission and distribution utilities in the administration of the trust fund. Upon accepting appointment as a trustee, each trustee must acknowledge the fiduciary duty to use the trust fund only for the purposes set forth in this section. [PL 2009, c. 372, Pt. B, §3 (NEW).]

B. The trustees shall ensure that the goals and objectives of the trust fund, as established in this section and in rules adopted by the trust, are carried out. The trustees shall represent the interests of the trust fund in the development of the triennial plan. [PL 2009, c. 372, Pt. B, §3 (NEW).]
[PL 2009, c. 372, Pt. B, §3 (NEW).]

3. Ceiling on energy efficiency spending.
[PL 2013, c. 369, Pt. A, §14 (RP).]

3-A. Payments. The trust shall transfer funds, to the extent funds are available, to the commission each year during fiscal years 2017-18, 2018-19 and 2019-20 in accordance with this subsection to be used by the commission for disbursements to affected customers. An affected customer who uses the entire disbursement received by that customer toward an efficiency measure approved by the trust in the fiscal year in which it is received must receive \$1 of assistance from the trust for every \$3 of the disbursement plus any additional customer funds that are applied by the affected customer toward the cost of the approved efficiency measure as long as the total of assistance from the trust and the disbursement allocated by the commission under this subsection for that customer for that fiscal year does not exceed 65% of the total measure cost.

For the purposes of this subsection, "affected customer" means a customer who is not primarily in the business of selling electricity, is receiving service at a transmission or subtransmission voltage level as defined in section 10110, subsection 6 within the electrical utility transmission system administered by an independent system operator of the New England bulk power system or a successor organization and is an energy-intensive manufacturer, as defined in reports prepared by the U.S. Energy Information

Administration. The commission may also determine that a manufacturer not defined as an energy-intensive manufacturer in reports prepared by the U.S. Energy Information Administration is an affected customer if that manufacturer meets the other requirements of the definition under this subsection.

A. The commission shall direct funds to be disbursed quarterly during fiscal years 2017-18, 2018-19 and 2019-20 for the benefit of affected customers in proportion to their retail purchase of electricity as measured in kilowatt-hours for the prior calendar year. The total amount to be disbursed from the fund, to the extent those funds are available, must be \$2,500,000 in fiscal year 2017-18, \$2,500,000 in fiscal year 2018-19 and \$1,000,000 in fiscal year 2019-20. [PL 2017, c. 282, §1 (AMD).]

B. During fiscal years 2017-18, 2018-19 and 2019-20, an affected customer who receives a disbursement under this subsection is not eligible to receive financial or other assistance from the trust fund established in this section except as allowed under this subsection. This ineligibility does not apply to any trust program opportunity notices issued before July 1, 2016 or to any affected customer that elects in writing to the commission prior to October 1, 2017 to not receive a disbursement under this subsection for the full period of fiscal years 2017-18 to 2019-20. The commission shall reduce the total amount to be disbursed under paragraph A as necessary to reflect the share of load represented by affected customers electing to opt out. [PL 2017, c. 282, §1 (AMD).]

C. The commission shall include in its annual report pursuant to section 120, subsection 7 to the joint standing committee of the Legislature having jurisdiction over public utilities matters a description of the commission's activities in carrying out the requirements of this subsection, a list of affected customers receiving disbursements, a list of those who elected to use the disbursements toward efficiency measures and the results of the activities under this subsection. [PL 2015, c. 498, §1 (NEW).]

[PL 2017, c. 282, §1 (AMD).]

4. Expenditures; projects. Except for transfers required under subsection 3-A and other costs authorized in accordance with this chapter, funds in the trust fund must be expended in accordance with this subsection.

A. Trust funds must be allocated for measures, investments, loans, technical assistance and arrangements that reduce electricity consumption, increase energy efficiency or reduce greenhouse gas emissions and lower energy costs at commercial or industrial facilities and for investment in measures that lower residential heating energy demand and reduce greenhouse gas emissions. The measures that lower residential heating demand must be fuel-neutral and may include, but are not limited to, energy efficiency improvements to residential buildings, energy storage systems and upgrades to efficient heating systems that will reduce residential energy costs and greenhouse gas emissions, as determined by the board. The trust shall ensure that measures to reduce the cost of residential heating are available for low-income households as defined by the trust. When promoting electricity cost and consumption reduction, the trust may consider measures at commercial and industrial facilities that also lower peak capacity demand, including energy storage systems. Subject to the apportionment pursuant to this subsection, the trust shall fund conservation programs that give priority to measures with the highest benefit-to-cost ratio, as long as cost-effective collateral efficiency opportunities are not lost, and that:

- (1) Reliably reduce greenhouse gas production and heating energy costs by fossil fuel combustion in the State at the lowest cost in funds from the trust fund per unit of emissions; or
- (2) Reliably increase the efficiency with which energy in the State is consumed at the lowest cost in funds from the trust fund per unit of energy saved. [PL 2021, c. 298, §3 (AMD).]

B. Expenditures from the trust fund relating to conservation of electricity and mitigation or reduction of greenhouse gases must be made predominantly on the basis of a competitive bid process for long-term contracts, subject to rules adopted by the board under section 10105. Rules adopted by the board to implement the competitive bid process under this paragraph may not include an avoided cost methodology for compensating successful bidders. Bidders may propose contracts designed to produce greenhouse gas savings or electricity conservation savings, or both, on a unit cost basis. Contracts must be commercially reasonable and may require liquidated damages to ensure performance. Contracts must provide sufficient certainty of payment to enable commercial financing of the conservation measure purchased and its installation. [PL 2009, c. 372, Pt. B, §3 (NEW).]

C. The board may target bid competitions in areas or to participants as they consider necessary, as long as the requirements of paragraph A are satisfied. [PL 2009, c. 372, Pt. B, §3 (NEW).]

D. Community-based renewable energy projects, as defined in section 3602, subsection 1, may apply for funding from the trust to the extent they are eligible under paragraph A. [PL 2013, c. 369, Pt. A, §16 (AMD).]

E. The size of a project funded by the trust fund is not limited as long as funds are awarded to maximize energy efficiency and support greenhouse gas reductions and to fully implement the triennial plan. [PL 2009, c. 372, Pt. B, §3 (NEW).]

F. No more than \$800,000 of trust fund receipts in any one year may be used for the costs of administering the trust fund pursuant to this section. The limit on administrative costs established in this paragraph does not apply to the following costs that may be funded by the trust fund:

(1) Costs of the Department of Environmental Protection for participating in the regional organization as defined in Title 38, section 580-A, subsection 20 and for administering the allowance auction under Title 38, chapter 3-B; and

(2) Costs of the Attorney General for activities pertaining to the tracking and monitoring of allowance trading activity and managing and evaluating the trust's funding of conservation programs. [PL 2009, c. 372, Pt. B, §3 (NEW).]

G. In order to minimize administrative costs and maximize program participation and effectiveness, the trustees shall, to the greatest extent feasible, coordinate the delivery of and make complementary the energy efficiency programs under this section and other programs under this chapter. [PL 2009, c. 372, Pt. B, §3 (NEW).]

H. The trust shall consider delivery of efficiency programs by means of contracts with service providers that participate in competitive bid processes for reducing energy consumption within individual market segments or for particular end uses. [PL 2009, c. 372, Pt. B, §3 (NEW).]

I. A trade association aggregator is eligible to participate in competitive bid processes under this subsection. [PL 2009, c. 372, Pt. B, §3 (NEW).]

J. Trust fund receipts must, upon request by the Department of Environmental Protection, fund research approved by the Department of Environmental Protection in an amount of up to \$100,000 per year to develop new categories for carbon dioxide emissions offset projects, as defined in Title 38, section 580-A, subsection 6, that are located in the State. Expenditures on research pursuant to this paragraph are not considered administrative costs under paragraph F, subparagraph (1). [PL 2013, c. 369, Pt. A, §17 (AMD).]

[PL 2021, c. 298, §3 (AMD).]

5. Effective date. This section takes effect July 1, 2010.

[PL 2009, c. 372, Pt. B, §3 (NEW).]

SECTION HISTORY

PL 2009, c. 372, Pt. B, §3 (NEW). PL 2009, c. 565, §6 (AMD). PL 2009, c. 565, §9 (AFF). PL 2013, c. 369, Pt. A, §§14-17 (AMD). PL 2015, c. 498, §§1, 2 (AMD). PL 2017, c. 282, §§1, 2 (AMD). PL 2019, c. 69, §1 (AMD). PL 2021, c. 298, §3 (AMD).

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