

June 13, 2013

Kenneth Kimmell, Commissioner
Department of Environmental Protection
One Winter Street
Boston, MA

Re: Kids vs Global Warming Rulemaking Petition to MassDEP

Dear Commissioner Kimmell:

The undersigned appreciate the opportunity to comment on the November 2012 rulemaking petition (“the Petition”) submitted to Mass DEP by Kids vs. Global Warming (“Kids”) seeking “promulgation of a rule to strictly limit and regulate greenhouse gas emissions and to establish an effective annual emissions reduction strategy that will achieve Massachusetts’ statutory obligations.” We stand with these brave Kids in calling upon DEP to adopt clear rules to reduce greenhouse gas (GHG) emissions across all sectors in Massachusetts, as required by law and firmly bolstered by scientific consensus. Swift action is essential to ensure Massachusetts meets its 2020 GHG reduction target, establishes pathways to the steeper reductions needed by 2050, and does its part to help avert the most significant impacts of climate change.

We believe that recent transformative changes in Massachusetts energy policies set the stage well for the Commonwealth to transition away from dependence on carbon-intensive fossil fuel energy sources and toward cleaner, cost-effective and locally available resources with demonstrable environmental, public health, jobs and other benefits. Yet the Massachusetts General Court’s adoption of key laws such as the Massachusetts Global Warming Solutions Act (GWSA) is not, in and of itself, sufficient: effective implementation is essential.

As noted by the Petition, in accordance with the GWSA GHG emissions must be reduced 25% below 1990 levels by 2020 and at least 80% below 1990 levels by 2050. These targets are consistent with scientific consensus regarding the scale of the minimum emissions reductions required to avert the most significant negative effects of climate change. As the Petition aptly notes, the urgency of the need to reduce emissions to meet or beat these targets has only increased since the GWSA was adopted and the 2020 target was set.

The GWSA statute establishes a clear and non-discretionary duty for MassDEP to adopt regulations to ratchet down GHG emissions to meet the 2020 target, as well as clearly identified deadlines for finalizing and commencing implementation of the new rules:

[§(3)](d) The department [of environmental protection] shall promulgate regulations establishing a desired level of declining annual aggregate emission limits for sources or categories of sources that emit greenhouse gas emissions.¹

The department of environmental protection shall promulgate regulations pursuant to subsection (d) of said section 3 of said chapter 21N not later than January 1, 2012, which regulations shall take effect on January 1, 2013, and shall expire on December 31, 2020.²

¹ G.L. c. 21N, § (3)(d).

² GWSA Section 16.

We believe MassDEP has failed to comply with either the letter or the spirit of the GWSA law that calls for these specific regulations. While the requirement to adopt GWSA rules is clear and action is long overdue, MassDEP should respond to the Petition by taking action now, without further delay.

There are a variety of approaches MassDEP could take in establishing rules that are consistent with the GWSA's mandate for an annual downward ratchet in GHG emissions. For example, Massachusetts might follow California's lead in establishing a comprehensive GHG cap and trade system running across all sectors and sources of emissions, or seek to join California's program. Alternatively, sector-specific declining limits could be set – e.g., with separate annual limits for the transportation, buildings, electric and non-energy sectors; these limits could be combined with sector-specific cap-and-trade programs or absolute declining GHG limits on stack emissions, tailpipes, etc. These comments are not intended to specifically endorse any specific approach among the options that are consistent with the GWSA. Further delay, however, is not an option. MassDEP must take action swiftly to adopt and implement rules to establish “declining annual aggregate emissions limits for sources or categories of sources of greenhouse gas emissions” sufficient to meet the 2020 target.

The absence of regulations required by the GWSA already is demonstrably harming Massachusetts' ability to reduce GHGs and hold the line against carbon-intensive energy sources. We are all paying dearly for the societal costs of carbon emissions – for example, as an increasingly destabilized climate brings more frequent intense and damaging storms, temperature extremes, and the spread of pests and allergens – yet these costs are not adequately taken into account when energy decisions are made. Without regulatory limits on GHG emissions, fossil fuel-intensive new infrastructure continues to be permitted without any assurance of consistency with the GWSA's 2020 and 2050 GHG reduction mandates. Without regulations placing a meaningful value on avoided carbon emissions, Massachusetts is falling short even with respect to its own energy efficiency targets set in the 2020 Clean Energy & Climate Plan, missing out on some of the lowest hanging fruit available for achieving cost-effective GHG reductions that promote jobs, clean energy, climate benefits and customer savings.

The Kids have now stepped forward to call for action. This is about their future, and ours. We stand with the Kids in calling on MassDEP to take action now to adopt and implement the regulations required and needed to ensure the GWSA's targets are met.

Sincerely,

Sue Reid, VP and Director, CLF-Massachusetts
Conservation Law Foundation

Eugenia T. Gibbons, Program Director
Environmental League of Massachusetts

Tedd Saunders, Chief Sustainability Officer
The Saunders Hotel Group

Berl Hartman, New England Director
Environmental Entrepreneurs (E2)

Rob Garrity, Executive Director
Massachusetts Climate Action Network

Larry Chretien, Executive Director
Mass. Energy Consumers Alliance

Penn Loh, Lecturer and Director of Community
Practice

Tufts Department of Urban & Environmental
Policy and Planning

Bill Ravanese, Senior Director of Health Care
Green Building and Energy Program
Health Care Without Harm

Johanna Neumann, Regional Director
Environment Massachusetts

Sylvia Broude, Executive Director
Toxics Action Center

Cindy Luppi, New England Director
Clean Water Action

Daniel P. Goldman
GreatPoint Energy, Inc.

Ryan Black, Chapter Director
Sierra Club of Massachusetts

Craig Altemose, Executive Director
Better Future Project

Vincent Maraventano, Executive Director
Massachusetts Interfaith Power & Light, Inc.