

The Honorable Deval Patrick, Governor
Commonwealth of Massachusetts
State House
Room 105
Boston, Mass. 02133

November 5, 2014
Also delivered via e-mail

Dear Governor Patrick,

As clean energy advocates, it has been a privilege for us to have worked with members of your administration over the last eight years in shaping the energy future of the Commonwealth. From the Green Communities Act to the Global Warming Solutions Act, the policies championed by the Patrick administration have not only placed Massachusetts at the forefront of energy leadership nationally, but set in place a framework that will serve the state's residents and businesses for years to come.

However, there is one policy that, when first enacted, truly exemplified vision and leadership on clean energy, but which has, unfortunately, been left to linger during your second term. That is the so-called "stretch" energy code, or the appendix adopted as part of the updated building energy code in 2009 that was the first of its kind in the nation. As supporters of the vast majority of your energy policies during your time in office, we are writing now to implore you to adopt an updated stretch energy code before your term ends. Such action will help to cement the legacy of the Patrick administration as arguably the most progressive gubernatorial administration in state history on energy policy.

The stretch code justifiably earned your administration national accolades when first adopted, including recognition from the U.S. Department of Energy in 2010 with the Jeffrey Johnson Award for Excellence in the Advancement of Building Energy Codes and Performance. It also served as the cornerstone of the Green Communities program, providing an avenue for cities and towns to meet the requirement that "all new residential construction over 3,000 square feet and all new commercial and industrial real estate construction ... minimize, to the extent feasible, the life-cycle cost of the facility by utilizing energy efficiency, water conservation and other renewable or alternative energy technologies."

We then came to anticipate that it would be updated when the Board of Building Regulations and Standards next updated the state's baseline building energy code. Indeed, Northeast Energy Efficiency Partnerships, the regional energy efficiency organization supporting Northeast states, worked with your administration to deliver the next stretch energy code to the BBRS in March of 2012. However, the code update cycle came and went, without any action on the stretch code.

Two-and-a-half years later, as you prepare to leave office, failure to act on a new stretch code has not only set Massachusetts back in its energy policies, but left cities and towns abandoned as they seek Green Communities status. As guidance from your Department of Energy Resources (DOER) notes: "The recommended way for cities and towns to meet this requirement [for establishing life-cycle costing for building construction] is by adopting the Board of Building Regulations and Standards (BBRS) Stretch Code (780 CMR 115.AA)." In fact, no new Green Communities have been designated since last December.

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Beyond Green Communities, failure to adopt an updated stretch code has created difficulties regarding your own Executive Order 484, which requires “all new construction at state agencies and significant renovation projects over 20,000 square feet to meet a Mass. LEED Plus building standard.” That LEED Plus standard, as further explained in your executive order, calls for building energy performance 20 percent better than the Massachusetts energy code. Without the stretch code to most easily, effectively and uniformly inform that pathway toward 20 percent better energy performance, agencies are left on their own to model energy performance, creating greater possibility of state buildings being built to inferior energy standards.

In a similar vein, not having an updated stretch code has hindered the progress of the MA-CHPS (Mass. Collaborative for High Performance Schools) protocol for new K-12 school design and construction, as administered by the state’s School Building Authority. As MA-CHPS also directs an energy savings target above code, lacking consistent guidance from the BBRS on the pathway to those savings has left MA-CHPS – and the cities and towns that look to it and the SBA for guidance – in limbo as well.

Last, but by no means least, failure to adopt a new stretch code has hindered the state’s ability to meet its goals in the Global Warming Solutions Act related to new building construction. Your administration’s Clean Energy and Climate Plan, when published in 2010, noted that “Massachusetts recently adopted a requirement that building energy codes meet or exceed the latest International Energy Conservation Code (IECC) and stay current with its three-year update cycle.” It goes on to explain that a stretch code would put the state on a pathway toward a “performance-oriented code,” and move it away “from the traditional code approach that prescribes specific energy measures that must be installed...” Such progressive thinking on building energy policy was laudable at the time, recognizing the need to allow developers flexibility in meeting energy requirements. Indeed, it was such a performance-based code that was delivered to the BBRS in 2012 that we anticipated would become the next stretch code.

At the time of the publication of the Clean Energy and Climate Plan, your staff noted that: “In taking a leadership position on energy efficient design and construction Massachusetts-based firms are also likely to become national leaders in green design and to grow demand for their services in the increasingly global building design and engineering sector.” They also noted that a “shift” from prescriptive to performance codes “is one of the clearest ways to improve energy codes,” and such a shift would not only allow the state “to build on its recent leadership in energy codes by developing a clear roadmap for both residential and commercial code reform over the next decade,” but also put Massachusetts “on a path to zero-net energy buildings, and provide improved competitiveness for our nation-leading design, construction and developer communities.”

Sadly, none of those developments has come to pass. While your administration has sought comment on an updated stretch code, no further action has been taken.

Therefore, we, the undersigned organizations, ask that you direct the Board of Building Regulations and Standards and Department of Energy Resources to set, at the earliest possible date, a public hearing on an updated stretch energy code, and, as soon as practical following that hearing, to bring that code to a vote of the BBRS, with the clear and strong support of your office.

Sincerely,

Susan Coakley, Executive Director
Northeast Energy Efficiency Partnerships

George Bachrach, President
Environmental League of Massachusetts

Berl Hartman, New England Chapter Director
Environmental Entrepreneurs (E2)

Eugenia Gibbons, Clean Energy Program
Director
Massachusetts Energy Consumers Alliance

Cynthia Luppi, New England Director
Clean Water Action

Daniel Sosland, President
Acadia Center (formerly ENE)

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

Craig S. Altemose, Executive Director
Better Future Project

Marc Breslow
Climate XChange

Shanna Cleveland, Acting Program Director,
Clean Energy and Climate Change
Conservation Law Foundation

John Nunnari, Executive Director
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Grey Lee, Executive Director
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