

October 21, 2010

Via electronic mail

Philip Giudice, Commissioner
Massachusetts Department of Energy Resources
100 Cambridge St., Suite 1020
Boston, MA 02114

Re: Proposed Revisions to MA RPS Biomass Regulations

Dear Commissioner Giudice,

The undersigned stakeholders from the environmental community commend the Department of Energy Resources (the “Department”), as well as Secretary of Energy and Environmental Affairs Ian Bowles, for your groundbreaking work to adapt the Commonwealth’s existing biomass incentives to changing circumstances regarding the science of bio-energy carbon accounting, the increasingly urgent imperative to reduce greenhouse gas emissions, and the pressing need to maintain the ecological integrity of our forests in the face of burgeoning markets for bio-energy resources. We would like to offer the following comments regarding the proposed revisions to regulations pertaining to the eligibility of biomass units pursuant to the Massachusetts Renewable Energy Portfolio Standard (RPS) that were released by the Department for public comment on September 17, 2010.

We greatly appreciate that the proposed regulations – which are grounded in the results of the Department-commissioned study led by the Manomet Center for Conservation Sciences and the mandates of the Massachusetts Global Warming Solutions Act (“GWSA”) – reflect a meaningful commitment to address the critical issues of (1) greenhouse gas (GHG) accounting and limits; (2) sustainability of biomass fuel resources; and (3) efficient use of limited biomass resources. We also are pleased to see that the proposed regulations address the eligibility of existing biomass power plants, and provide a reasonable timeframe for these facilities to comply with the new standards (or have their eligibility terminated). In general, we believe that the regulations are reasonable, and reflect important progress toward ensuring that only responsible biomass projects will be eligible for Massachusetts RPS incentives.

1. We strongly support the requirement to reduce lifecycle GHG emissions by 50% as compared to natural gas, measured over a 20 year lifecycle. This requirement is comparable to the GHG mandate in the Massachusetts Clean Energy Biofuels Act, and is critically important for ensuring that incentives are directed only to those facilities that will promote – not undermine – the GWSA’s statutory mandates. It is also consistent with the RPS requirement for “low emissions” biomass facilities.¹ [Proposed Rules, Section 14.05(7)(f)]

2. The proposed efficiency thresholds are essential, and should be tightened to require a minimum of 60% efficiency consistent with the Massachusetts Green

¹ Although the Manomet Study and proposed regulations are focused on GHG emissions and forest sustainability, ideally the Department also should revisit its biomass guidelines to ensure that more protective limits are set regarding other pollutants, such as particulate matter.

Communities Act goal of 60% minimum efficiency for combined heat-and-power (CHP). In addition, we oppose the inclusion of “merchantable bio-products,”² especially highly questionable “biochar,” in the calculation of system efficiency. Although we appreciate that the proposed regulations are designed to reward greater degrees of efficiency starting at 40%, we believe the floor should be set at 60% consistent with (a) Secretary Bowles’ letter of July 7, 2010, (b) the goals of the Green Communities Act, and (c) the RPS mandate that incentives be made available only for “advanced” biomass power conversion facilities.³ A robust efficiency threshold is extremely important, and “partial” RECs should not be made available to inefficient facilities. It makes no sense to allocate incentives to the deployment of infrastructure that is likely to waste precious biomass resources for decades to come – particularly considering that more efficient technologies and uses are available. [Section 14.05(1)(a)(7)(f)(ii); 14.05(8)(b)(2),(3)]

3. **The proposed rules appropriately limit biomass fuel eligibility to residues, forest salvage (e.g., trees removed due to pest infestations) and energy crops that do not displace agricultural crops, and set a clear limit of 15% of all forest products removed.** The proposed fuel definitions will help to protect forests from over-harvesting and ensure that the GHG reduction requirements are met. The 15% limit, although not sufficient in and of itself to promote responsible forestry, will help protect against over-harvesting and ensure that sufficient tree tops and limbs are left on-site to replenish soil nutrients and provide habitat. Further, by limiting eligibility to a portion of tree tops and limbs from harvested wood, carbon accounting is greatly simplified under the Manomet approach whereby this material is treated as having very low net carbon emissions when used for biomass fuel. Important assurances are expected to be provided through the requirements for filing fuel plans in advance, on an annual basis, and requirements for fuel certification, tracking and verification with the involvement of licensed foresters. In addition, we also read the fuel definitions to appropriately preclude eligibility for contaminated construction and demolition (C&D) debris and/or materials derived from C&D debris. Nonetheless, several of the undersigned stakeholders will submit more detailed comments proposing discreet modifications to these provisions to promote clarity and predictability. [Sections 14.02, 14.05(8)]

4. **The “sunset” provisions with respect to existing biomass facilities strike a reasonable balance in providing several years of notice for facilities to come into compliance with these important new requirements.** Although it is not simple to dramatically overhaul existing policies, including eligibility for coveted economic incentives – there are circumstances, such these, where it is essential to do so in order to adapt to changing knowledge and circumstances. It is always important that RPS incentives be deployed only to the extent consistent with the Commonwealth’s laws, including the GWSA and Green Communities Act. We therefore appreciate that the proposed regulations require existing biomass facilities to come into compliance by 2015, with meaningful advance notice. [Section 14.05(8)(c)]

² While we appreciate the Department’s apparent intent to promote the maximum beneficial output from any given biomass feedstock, “merchantable bio-products,” by definition, already possess inherent economic incentives without need for further incentives under the RPS.

³ It is also important to note that the carbon debt payback periods calculated by the Manomet study assumed 75% efficiency for CHP systems; units with lower efficiencies would have correspondingly longer carbon debt payback periods.

In short, we believe the proposed biomass regulations establish a strong foundation for fostering biomass only to the extent it is consistent with Commonwealth's objectives in reducing GHG emissions, protecting its forests, and making efficient use of resources. We look forward to working with the Department to refine and implement these critical new rules.

Respectfully submitted,



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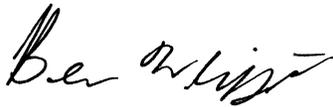
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