



**Via electronic mail**

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June 18, 2012

Rick Sullivan, Secretary  
Executive Office of Energy & Environmental Affairs  
100 Cambridge Street  
Boston, MA 02108

Mark Sylvia, Commissioner  
Department of Energy Resources  
100 Cambridge Street  
Boston, MA 02108

Re: Proposed Final Regulations Governing Eligibility of Biomass under the MA RPS  
225 CMR 14.00 et seq. (released April 27, 2012)

Dear Secretary Sullivan and Commissioner Sylvia:

The Clean Air Task Force (CATF) applauds the Commonwealth's efforts to sort out the complexities surrounding the net climate impact of biomass-based electricity generation. In particular, CATF appreciates the Department of Energy Resources' (DOER's) extensive work to ensure consistency between the Massachusetts Renewable Energy Portfolio Standard (RPS) regulations governing the eligibility of woody biomass and the requirements of the Massachusetts Global Warming Solutions Act (GWSA), as reflected in the proposed final regulations and guidance for RPS eligibility released on April 27, 2012. With the latest revisions, we expect the proposed final regulations and guidance will guard against inefficient and carbon-intensive uses of woody biomass that would undermine Massachusetts's compliance with the GWSA. In doing so, the revised rules establish nation-leading standards for biomass policy in terms of robust carbon accounting, greenhouse gas (GHG) emission limits, minimum efficiency thresholds, and biomass harvest residue retention standards.

We commend DOER for striving to ensure that the proposed final regulations and guidance are based on the latest science, notably as reflected in the June 2010 Biomass Sustainability

and Carbon Policy Study prepared by the Manomet Center for Conservation Sciences (“Manomet Study”). We particularly welcome the most recent revisions to the carbon accounting and forest harvest residue retention requirements. These revisions make the regulations more consistent with the Manomet Study and with the growing body of carbon accounting science, and respond to key recommendations set forth in the June 10, 2011 recommendations of the co-Chairmen of the Joint Committee on Telecommunications, Utilities & Energy (“June 10 Committee Report”).

Based on our own investigation of the relevant scientific research and commercial practice, CATF has concluded that the best way to achieve GHG reductions in the Northeast using biomass is to displace the consumption of oil for heating, by using biomass wastes (*e.g.*, residues of several sorts), dedicated energy crops (subject to appropriate limitations), or potentially even whole tree chips from salvage operations. In our view it is important to capitalize on the GHG reduction opportunity that these types of biomass fuels offer, as parts of Massachusetts and the Northeast are heavily dependent on oil for heating. It would be unfortunate if these regulations – which, indeed, are well-suited to electric generation units – established regulatory precedents that inadvertently prevent the Commonwealth from taking advantage of the opportunity to reduce GHG emissions from thermal applications that may be achievable using certain sources and uses of biomass. Two provisions in these regulations that could, if extended to other regulatory contexts, limit the displacement of oil heat by appropriately sourced and converted biomass are: the restriction on the percentage of harvested biomass that can be used for bioenergy applications and the requirement that salvage wood is eligible for use only when it has been harvested pursuant to a government order or its equivalent (many small, scattered stands need salvaging to address issues such as birch bark disease).

In light of the CO<sub>2</sub> emissions reduction opportunities that certain biomass fuels can provide when used to displace oil in heating, CATF urges DOER, if and when it develops fuel specifications for such uses, to consider whether there is an administratively simpler way to ensure that GHG reductions are achieved and the forest environment is protected. For example it may be possible to achieve these objectives and increase the chance that these fuels are effectively utilized by increasing the responsibilities placed on specially trained and authorized professional foresters. CATF would be pleased to work with state officials to consider this and other possibilities for developing simplified approaches that ensure thermal applications take full advantage of the opportunity that certain biomass fuels provide for reducing CO<sub>2</sub> emissions.

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Some of the most important corrections to the rules governing woody biomass eligibility for the Massachusetts RPS are detailed below, along with several suggestions for further refinements that DOER should consider adopting:

**The revised GHG accounting guidelines represent a substantial, essential and well-founded improvement over the draft guidelines released in May 2011.** We appreciate that the guidelines for determining the GHG profiles of eligible woody biomass have been realigned to promote consistency with relevant science. The carbon accounting distinction that the revised guidance draws between harvest byproducts – *i.e.*, “residues” – on the one hand, and thinned whole trees, on the other, is an important correction. While the revised guidance cannot be expected to perfectly capture the exact carbon profile of every material used as biomass fuel, the revisions strike a practical balance that can be expected to promote greater reliance on residues rather than whole trees, consistent with the basic instructions of the Manomet Study and the emerging worldwide body of related carbon accounting science. Importantly, these changes to the carbon accounting guidelines will, in turn, help secure the benefits of the rules’ requirement for a 50% reduction in GHGs as compared to natural gas over a 20-year time frame.

**The revised biomass eligibility guidelines also make important progress toward protecting the resilience of forests by avoiding incentives that would have rewarded overly extensive removal of forest harvest residues.** The May 2011 draft guidelines would have rewarded substantial overharvesting of tree tops and limbs as biomass fuel, in that up to 100% removal of harvested tree tops and limbs would have been allowed without RPS eligibility repercussions. By requiring that at least 25% of all such harvest residues be retained in the forest after a harvest, and that 100% of residues be retained in locations where soil quality is poor, the revised guidelines will promote the replenishment of soil nutrients and other ecological services in the forests where harvests occur. This, in turn, will help protect the resilience of our forests that serve so many critical ecological functions – including their essential role as carbon sinks.

**CATF supports the requirement for eligible facilities in most instances to meet a 50% minimum efficiency threshold to qualify for partial incentives.** By increasing the minimum efficiency threshold for eligible biomass power conversion units to 50%, in most instances, in order to secure partial Renewable Energy Certificates, the revised rules will push electricity generation in a direction that is consistent with the Massachusetts GWSA’s requirements as well as the RPS requirement that biomass eligibility be limited to “low emission advanced biomass conversion technology.”

**DOER should clarify when and how the requirements pertaining to the use of salvage biomass will be met.** In particular, there may be instances in which biomass from decadent stands can be appropriately harvested for bioenergy applications, but the stands are too small to be the subject of a federal or state declaration, rule, or order (per 225 CMR 14.02 (definition of “forest salvage”). CATF would be pleased to discuss with DOER the possibility of additional approaches to salvage harvest in atypical stands, such as the development of a decay curve for decadent stands.

Given that Massachusetts is ahead of every other state in the nation with respect bringing its biomass/RPS policies into line with relevant science as well as the Commonwealth's robust GHG reduction mandate, and in view of the as-yet untested nature of the revised Massachusetts biomass/RPS rules, **implementation of the regulations and guidelines warrant close monitoring to ensure success.** The eligible woody biomass fuel compliance tracking and monitoring mechanisms, in particular, may call for refinement over time if they prove to be insufficient to demonstrate actual compliance with a reasonable degree of confidence. Likewise, some of the policies and protocols that currently are laid out in *guidelines* ultimately may prove (partly or wholly) to be better suited for inclusion in *regulations* in light of the typically more enduring and predictable nature of regulations, as well as the procedural safeguards that govern rule modifications. We expect to track implementation closely to ascertain whether and/or to what extent such further adjustments may be warranted, and anticipate that DOER will do the same.

In closing, CATF appreciates the substantial work that DOER has done to improve the May 3, 2011 version of the draft rules governing woody biomass eligibility pursuant to the Massachusetts RPS, and for offering this opportunity to comment on the proposed final rules. We commend your leadership and commitment to groundbreaking science-based biomass policy. And we urge you to move forward expeditiously to finalize and implement the proposed final regulations and guidance.

Respectfully submitted,

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