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August 20, 2012

Maeve Vallely-Bartlett, Director, MEPA
100 Cambridge Street, Suite 900
Boston, MA 02114

Ken Kimmell, Commissioner, DEP
One Winter Street
Boston, MA 02108

Mark Sylvia, Commissioner, DOER
100 Cambridge Street, Suite 1020
Boston, MA 02114

Dear Director Bartlett, Commissioner Kimmell and Commissioner Sylvia:

I write to address the ongoing policy development concerning the use of woody biomass fuel for power generation and to request action by your offices consistent with the policy directives provided herein.

As a result of recent proposals to construct biomass energy facilities in the Commonwealth, this Secretariat has received extensive public comments and inquiries concerning the requirements for permitting and construction of biomass power facilities in the Commonwealth. In particular, these inquiries have highlighted concerns about the impact biomass facilities have on greenhouse gas (GHG) emissions in light of the *Biomass Sustainability and Carbon Policy Study* by the Manomet Center for Conservation Sciences ("the Manomet Study") commissioned in 2010 by the Department of Energy Resources (DOER). The findings presented in the Manomet Study indicated that the GHG impact of



biomass power plants is complicated, and runs counter to previous and commonly-held views of biomass as “carbon neutral.”

Based on the Manomet Study and after an extensive public comment process, the Department of Energy Resources promulgated regulations pertaining to the eligibility of new biomass generation units for obtaining RPS Class I renewable energy credits (RECs). These requirements are based on the science presented in the Manomet Study and will ensure that public incentives for renewable energy under the Massachusetts Renewable Portfolio Standard (RPS) are only awarded to those biomass facilities that can meet stringent fuel supply and efficiency requirements. These requirements also ensure that any facilities awarded Class I RECs will provide near-term carbon emissions reductions and advance the Commonwealth’s GHG reduction efforts as required under the Massachusetts Global Warming Solutions Act (GWSA). Given that the initial amendment of the RPS regulations focused only on Class I facilities, I now direct the Department of Energy Resources to pursue a rulemaking process that will apply the biomass eligibility regulations in RPS Class I to the RPS Class II program, which supports pre-1998 renewable energy generation. The public policy reasons that led the recent regulatory process – assuring GHG reductions that will serve the state reduction commitments and protecting forest sustainability – should apply equally to the Commonwealth’s support for Class II biomass facilities. In addition, I ask DOER to immediately suspend its efforts to qualify woody biomass units for the RPS Class II program, until such time as the rulemaking process is complete. Notwithstanding these RPS revisions, I am persuaded that placing limitations on incentives for use of biomass should be coupled with regulatory requirements to address GHG emissions from these facilities. In order to achieve the GWSA requirement that statewide greenhouse gas emissions be limited to 25 percent below 1990 levels by the year 2020, there is nevertheless a need for biomass facilities to be subject to the GHG reduction requirements. I am therefore directing the Massachusetts Environmental Policy Act (MEPA) Office and the Department of Environmental Protection (MassDEP) to build upon existing state policy under the MEPA GHG Policy and Protocol and undertake new regulatory initiatives to require environmental impact review and

permitting of greenhouse gas emissions from large biomass power plants.

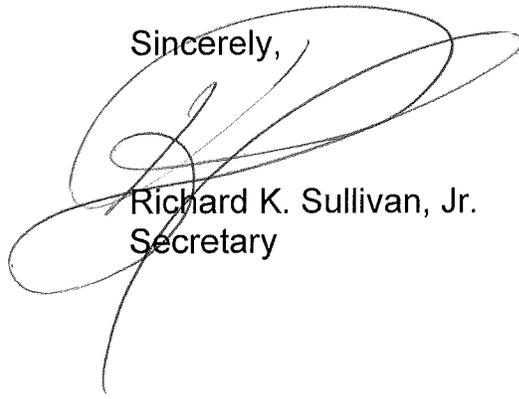
With respect to MEPA, the MEPA Office is moving forward with a new regulatory threshold for environmental impact review of all large-scale emitters of GHGs, including biomass plants. Such a requirement is consistent with the express directive contained in Section 7 of the Global Warming Solutions Act to require consideration of climate change impacts and GHG emissions as part of MEPA review. I anticipate the MEPA Office filing regulations with the Secretary of State in September, for public review and comment, that will impose a numeric threshold for requiring preparation of an Environmental Impact Report (EIR), based on potential direct emissions of GHGs (after construction and the imposition of required controls), which would allow for a comprehensive review of project emissions. Such an EIR will allow MEPA and state permitting authorities to consider the sustainability of a project's fuel source, energy conversion efficiency, and other factors before any state permits are issued. As directed, MEPA will also propose the thresholds that have been established by the United States Environmental Protection Agency (US EPA) under the "Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule." However, unlike regulations recently proposed by US EPA, I request that those thresholds be applied to all direct sources of GHG emissions, regardless of fuel source. Such a requirement would ensure that large-scale biomass power plants prepare an EIR to address their environmental impacts, including a thorough review of their GHG emissions.

Next, I ask that MassDEP use its authority to promulgate permitting requirements to complement the requirement for MEPA review and create enforceable requirements for controlling GHG emissions in large facilities. I note that MassDEP has recently agreed to take delegation of the federal Prevention of Significant Deterioration (PSD) program. The PSD program includes the EPA Tailoring Rule, which requires power plants that emit GHGs over a certain amount to use best available control technology (BACT) to reduce GHG emissions. EPA has elected to defer the Tailoring Rule as it applies to carbon dioxide emissions from biomass

projects. I do not support exempting biomass plants from this review, and therefore request that MassDEP use its authority under state law to require the same BACT review of biomass plants as would be required for other power plants under the EPA Tailoring Rule. This will ensure a level playing field and advance the Commonwealth's greenhouse gas reduction goals. In addition, for projects below the tailoring rule threshold (biomass or otherwise), MassDEP should consider whether to require a BACT review for GHG emissions.

When coupled with the forthcoming requirements for biomass eligibility for the RPS program, implementation of environmental review and permitting requirements for GHG emissions should provide sufficient regulatory mechanisms for reviewing proposed biomass facilities. I believe these efforts are necessary to meet Massachusetts' existing GHG reduction requirements and I hope they will give the public confidence that biomass power facilities proposed in the future will be reviewed with appropriate regulatory scrutiny.

Sincerely,



Richard K. Sullivan, Jr.
Secretary