

MASSACHUSETTS FOREST ALLIANCE

249 Lakeside Avenue, Marlborough Massachusetts 01752-4503
www.MassForestAlliance.org | (617) 455 - 9918 | info@MassForestAlliance.org



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John Wassam
Department of Energy Resources
100 Cambridge St, Suite 1020
Boston, MA 02114

Mr. Wassam:

The Massachusetts Forest Alliance represents forest landowners, foresters, timber harvesters, and forest products companies in Massachusetts.

I'm writing with comments regarding the proposed Renewable Portfolio Standard (RPS) regulations. I will be directing my remarks to Category A and Category B as you have defined in your rulemaking announcement.

As we said in our previous comments when these draft regulations were revised last year, we applaud DOER's efforts to simplify the process of qualifying woody biomass in the RPS regulations, which we were glad to see have been retained in the new proposal. The existing regulations, while well-intentioned, were in practice a severe burden for foresters to comply with. Foresters estimated that compliance with the regulations would in some cases require them to double their time spent on a job, resulting in economic loss to them or the landowner, with no offsetting economic gain.

As a result, little to no forest-derived woody biomass was used in either of the two eligible biomass combined-heat-and-power (CHP) facilities in Massachusetts. Instead, those facilities relied on material from land-clearing for development or solar, which is no longer eligible under the new proposed regulations.

The revised regulations take a simpler approach based on common sense and are in alignment with the qualification requirements for the Alternative Portfolio Standard (APS), reducing confusion for foresters and streamlining the process. We're glad that these changes have been retained from the regulations previously proposed.

When these regulations were revised in 2021, we did not object to the environmental justice setback language, which eliminate any woody biomass CHP systems from eligibility for the RPS if they are within five miles of an environmental justice (EJ) community. This was a grave error on our part, which we try to address with these comments.

It is clear that DOER did not understand the full impact of this regulation when originally proposed. To be fair, as stated above, we also completely

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failed to grasp the impact. That's because no maps of EJ communities were available at the time, and it turned out that the Commonwealth's current definition of an EJ community is so overbroad that wealthy suburbs such as Lexington, where the average home price is \$1.5 million, were somehow classified as EJ communities. This meant the five-mile limit reached nearly 90% of the state.

As an example of this confusion, DOER was working with one of our members on an exciting new ultra-efficient wood chip combined-heat-and-power (CHP) system. This containerized system was to be imported from Europe, and it was to be the first one installed in North America (Senator Pacheco heavily praised these systems during a hearing on the RPS regulations). The US Forest Service helped support this demonstration project with a grant, given its national importance, and DOER was working through how the system would be regulated in the RPS... *well after* the EJ setbacks were proposed, even though the setback language would ban the system from RPS eligibility because of a trailer park within the five-mile limit. The idea that a tiny CHP system that fits on the back of a truck would somehow represent a serious threat to the health of trailer park residents some distance away (a trailer park which incidentally has a number of residential fire pits) is obviously false.

We support the goal of protecting vulnerable urban populations already overburdened with pollution. We did not support the proposed utility-scale Springfield biomass power plant and believed it to be very poorly sited (across the street from a low-income neighborhood). However, it's clear that the *intent* of the setback language is quite different from the *actual impact* of the language in practice.

DOER's intent with the setback language was to prevent giant utility-scale biomass power plants like the 42-megawatt Springfield plant from being built in urban areas. But the actual result was the banning of **tiny CHP** systems in **rural** areas.

The EJ setback language also does not align with the climate bill passed last year. While that bill has language about air impacts five miles from EJ communities, it doesn't call for a ban on anything with emissions in that zone. Instead, it calls for closer scrutiny. As DEP works on developing a cumulative impact analysis regulation for EJ communities, it is focused on large systems with significant emissions, not smaller systems with little impact on air quality.

After we became aware of the full impact of the EJ setback language, we suggested to DOER staff that one possible fix was for DOER to place a size limit on it, having it only apply to woody biomass systems that produce more than five megawatts of electricity or larger (again, the Springfield plant would have generated more than 40 megawatts). Upon further consideration, this limitation could be placed as low as just two megawatts or larger, which aligns with the net metering limit, or perhaps even just a single megawatt or larger.

DOER's refusal to make this change, especially when given a second chance at the regulation, is puzzling. Instead, DOER chose to grandfather in the two existing CHP facilities which produce a few hundred kilowatts of power – both of which have operated for years with no issues and would have lost eligibility under the EJ setback regulation.

While we're grateful for grandfathering in the existing systems instead of booting them from the RPS program, this approach is insufficient compared to permanently fixing the problem. We urge you to reconsider and bring the setback language impact into alignment with the purpose for which it was intended. It's not too late to make this simple change.

Finally, we believe that systems utilizing biogas fuel to create electricity, even if such biogas was manufactured from woody biomass (such as in a biochar system that does not combust wood), should be exempt from environmental justice setbacks – just as systems using biogas produced from other organic materials like manure and food waste are – because they all have a similar air emissions profile. The EJ setback regulation is related to air impacts, and so it makes little sense to apply it to biochar facilities with virtually identical air impacts to anaerobic digesters merely because the fuel stock is different.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Egan", written in a cursive style.

Christopher Egan
Executive Director