



Massachusetts Association of Conservation Commissions

protecting wetlands, open space and biological diversity through education and advocacy

January 29, 2014

By email to DOER.SREC@state.ma.us

Michael Judge
Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 02114

Re: Comments on proposed amendments to portions of 225 CMR 14 -- Renewable Energy Portfolio Standard -- Class I ("RPS Class I")

Dear Mr. Judge:

The Massachusetts Association of Conservation Commissions (MACC) submits these comments on the proposed amendments to portions of 225 CMR 14--Renewable Energy Portfolio Standard -- Class I ("RPS Class I"). The proposed amendments would establish a second phase of the RPS Class I "Solar Carve-Out" and make several non-solar revisions to the RPS Class I program.

As we explain below, we urge the Department of Energy Resources (DOER) to include a provision in the amended regulations to ensure there is no Solar Renewable Energy Credit (SREC) incentive or other financial advantage for a solar array that is sited in an area subject to protection under the Massachusetts Wetlands Protection Act. Such regulatory provision is necessary because the regulations as currently proposed would provide a SREC incentive for generation units in landfills and brownfields even though those properties, as well as other properties for which a SREC incentive would be available, may be in areas subject to protection under the Wetlands Protection Act.

MACC is the professional association of Massachusetts conservation commissions. We represent more than 2,100 conservation commissioners throughout Massachusetts who are responsible for protecting the natural resources of their communities under the Conservation Act (M.G.L. c.40, § 8c) and for administering and enforcing the Wetlands Protection Act (M.G.L. c.131, § 40) and municipal wetlands laws and regulations. We protect wetlands, open space, and biological diversity across Massachusetts by supporting conservation commissions through education and advocacy. We advocate for strong science-based laws, regulations, and policies that function well. MACC has been doing that work since 1961.

In the past few years, solar array projects have been proposed for wetlands without any clear or articulated state policy on whether such projects should ever be approved or how such projects should be considered and evaluated. Some of those proposed projects have been stopped, with DEP expressing opposition to the projects, but others are proposed and continue to advance. DOER's proposed regulations, if adopted without modification, would appear to create by implication a state policy in favor of solar arrays in at least some wetlands.

The growing temptation to place large solar arrays on wetlands -- because the wetlands are there and for good reasons not built upon -- is a serious threat to our natural resources. State law recognizes that

wetlands perform many vital ecological functions that require protection, including flood control, storm damage prevention, improved water quality, and as wildlife habitat (flora and fauna). Wetlands also play an important function in climate mitigation and adaptation, including by absorbing carbon and storm water flows. Covering wetlands with solar arrays is inconsistent with the interests protected by the Wetlands Protection Act. That concerns MACC and, we think, should concern DOER.

State wetlands are not automatically protected from harm and degradation. Thus, DOER's proposed regulations, providing an incentive for a generating unit in an area subject to protection under the Wetlands Protection Act, would be very detrimental. DOER's proposed regulations, by incentivizing solar arrays in some wetland areas, might tip the balance in locations and result in significant losses of wetland resources.

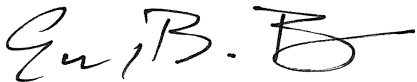
For example, there have been recent proposals to construct solar arrays on current and former farmed wetlands. Provisions in the wetlands regulations intended to allow farmers to develop structures necessary for agriculture production within wetlands are being cited by developers as justification to construct commercial-scale solar arrays where the majority of the electricity would not be used on the farm but instead sent off site. We support solar arrays for farms to offset their electricity consumption and as a supplemental source of income. Financial incentives, however, should be for siting arrays on existing buildings or in locations away from wetlands or other sensitive resources. It is not enough for DOER to reduce the amount of incentives for such projects. Construction of solar arrays and associated structures within wetland resource areas should be disqualified from receiving SRECs.

We urge DOER to include a provision in the regulations that would disqualify a SREC incentive or other financial advantage to a generating unit in "an area subject to protection under M.G.L. c.131, § 40, and 310 C.M.R. § 10.02(1) or a local wetlands bylaw or ordinance." Without that provision, there will be time consuming and costly disputes as solar arrays are proposed for wetland resource areas. Some wetland resources will be saved; others will be lost or degraded and the benefits they provide eliminated or reduced significantly. Opportunities to construct solar arrays elsewhere will be lost or delayed.

MACC is very concerned about the impacts of a warmer climate. We have supported Massachusetts' leadership role in reducing greenhouse gas emissions and preparing for a warmer climate. We support renewable energy generation, but that generation must not result in the destruction or degradation of wetland resources. Wetlands and open space are part of the solution to climate change because they sequester carbon and provide ecosystem resilience, not because they can be incentivized as locations for solar generating units.

Please contact me if you require further information or to follow up on these comments. Thank you.

Respectfully submitted,



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cc: MACC Board Advocacy Committee
Lealdon Langley, Director, MA DEP Wetlands and Waterways Program