

Michael Judge
Director, Renewable and Alternative Energy
Massachusetts Department of Energy Resources
100 Cambridge Street, 10th Floor
Boston, MA 02114

June 29, 2016

Dear Mr. Judge:

We appreciate the opportunity to comment on the regulations (225 CMR 16.00) promulgated in response to *An act relative to credit for thermal energy generated with renewable fuels* (Chapter 251 of the acts of 2014). We also include comments on the companion *Guideline on Biomass, Biogas, and BioFuels*. Expanding the eligible renewable thermal technologies in the Alternative Energy Portfolio Standard (APS) will help the Commonwealth meet its renewable energy and emissions reduction policy goals.

The Nature Conservancy is a leading conservation organization working around the world to protect ecologically important lands and waters for nature and people. The Conservancy and its members have protected over 22,000 acres of habitat in Massachusetts. We provide input based on best-available science to help landowners, communities, agencies and non-profits, and legislators conserve and manage forests in a way that maximizes the clean water and air, forest products, wildlife habitat, recreation, and economic benefits of forests. We are supportive of many different types of renewable energy, but have limited our comments here to wood heat, given the several ways wood heat impacts our mission of protecting the lands and waters on which all life depends.

We support the expansion of the Massachusetts APS to include wood heat because the APS regulations address fuel sustainability, energy efficiency, and air pollution. However, we agree with the overwhelming consensus of scientists who are currently urging Congress not to designate all wood energy as carbon neutral, without restriction as to how the wood was harvested or how efficiently it is used.

These regulations will allow efficient and sustainably fueled wood heat facilities to receive Alternative Energy Credits. These guidelines generally balance the need to use wood as an energy resource that can substitute for fossil fuels with the need to safeguard forest and water habitat and functions. **We offer two suggestions for clarifying the regulations and/or allowing for updates as new science on forests and carbon emerges. We also provide one major concern we have with the draft regulations.**

Clarifying comments:

1. In the definitions section of the regulations (16.02), consider defining forest-derived residues, forest-derived thinnings, and salvage briefly and moving the current lengthier definitions to the *Guideline on Biomass, Biogas, and BioFuels*. Possible text for the regulations could include the definition of woody biomass by the US Forest Service¹: “The trees and woody plants, including limbs, tops, needles, leaves, and other woody parts, grown in a forest, woodland, or rangeland environment, that are the by-products of forest management.” This would streamline the regulations themselves and make it easier to update the specific definitions of forest residues and thinnings within the Guidelines in the likely eventuality that new research emerges on the carbon balance of varying types and parts of forest trees.
2. In the *Guideline on Biomass, Biogas, and Biofuels*, section 3A (page 3), consider clarifying and streamlining the section about forester attestation. As written, it is difficult to understand what credentials are equivalent to a Massachusetts licensed forester in states outside of Massachusetts.

Major concern:

We are concerned that while the regulations require wood removed from forests that will remain forests (timber harvest) to be harvested sustainably, they also appear to define wood removed from forests being converted to development (deforestation) as sustainable.

In 2011, when regulations were being drafted regarding wood fuel under the Renewable Portfolio Standard, a draft set of regulations included language requiring that those seeking to sell wood from permanent destruction of forest land as Renewable Energy Credit-eligible fuel demonstrate that in clearing forest land, they had retained as much growing stock as possible. In other words, that they had made some attempt to minimize the loss of carbon sequestration capacity that results from conversion of forest to non-forest. Despite a consensus letter (attached) uniting groups ranging from supporters to opponents of incentivizing wood energy, corrected language was not included in the final regulations due to concerns over referencing a Massachusetts-specific set of Smart Growth actions in regulations that would also govern other states.

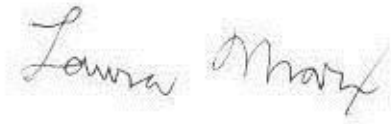
In 2015, as regulations governing wood fuel under the Alternative Portfolio Standard were being drafted, these diverse organizations again commented to the Department of Energy Resources regarding our concerns that trees removed to convert forest land to developed land appeared in the draft regulations to be automatically eligible as wood fuel. **We respectfully request that just as wood removed from a forest must be harvested under best management practices and follow reasonable biomass harvesting guidelines in order to be eligible fuel, wood removed from a forest that is being permanently converted should be required to take reasonable actions to partially mitigate the loss of forest and soil carbon and the permanent loss of carbon sequestration that results from deforestation.** These actions might be presented as a menu and could be flexible and non-state specific in order to allow developers in any state equal access to the market. Similar to the chain-of-custody requirement for wood from timber harvest, wood coming from land clearing should be required to document that one or more reasonable actions were taken to partially offset the loss of forest carbon

¹ The definition can be found in the US Forest Service’s [Memorandum of Understanding on Policy Principles for Woody Biomass Utilization for Restoration and Fuel Treatments in Forests, Woodlands, and Rangelands](#).

and sequestration capacity in order for that wood to be eligible for financial incentives designed to address climate change.

If done right, wood heat has the potential to help reduce carbon emissions as compared to oil heat and to connect people and communities to a local natural resource. For these reasons, we supported amending the Alternative Energy Portfolio Standard to add wood heat. We appreciate the robust stakeholder process from 2015 and the current opportunity to comment on the regulations and companion guidelines governing wood heat within the APS. We would be happy to answer any questions about these comments. Thank you for your time and consideration.

Sincerely,

A handwritten signature in cursive script that reads "Laura Marx". The ink is dark and the signature is written on a light-colored background.

Laura Marx

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