



1 Beacon Street, 16th Floor
Boston, MA 02108

www.aimnet.org | 617.262.1180 | fax 617.536.6785

By email to: DOER.RPS@mass.gov

May 28, 2019

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

RE: Comments of Associated Industries of Massachusetts (AIM) to proposed regulations to amend portions of 225 CMR 14 - Renewable Energy Portfolio Standard – Class I (“RPS Class I”) and 225 CMR 15 - Renewable Energy Portfolio Standard – Class II (“RPS Class II”)

Dear Mr. Wassam:

Associated Industries of Massachusetts (AIM) is pleased to provide the following comments to the above-mentioned proposed regulations.

AIM is the largest general trade association in Massachusetts. AIM’s mission is to promote the prosperity of the Commonwealth of Massachusetts by improving the economic climate, proactively advocating fair and equitable public policy, and providing relevant, reliable information and excellent services.

Background

On April 5, 2019 the Department of Energy Resources (DOER) filed draft regulations to amend portions of 225 CMR 14 - Renewable Energy Portfolio Standard – Class I (“RPS Class I”), 225 CMR 15 - Renewable Energy Portfolio Standard – Class II (“RPS Class II”) and 225 CMR 16.00 - Alternative Energy Portfolio Standard (“APS”). Comments on 225 CMR 14 and 225 CMR 15 were requested by June 7, 2019. Changes to 225 CMR 16.00 were considered emergency regulations and the comment period has passed. As such, our comments will address only portions of 225 CMR 14 and 225 CMR 15.

We want to thank the Department for continuing this discussion in an open and transparent manner.

225 CMR 14 - Renewable Energy Portfolio Standard – Class I (“RPS Class I”)

AIM supports Section 14.06(3)f which clarifies that SREC I facilities may not continue to generate SRECs after the first 40 quarters in which they are eligible. This change is not only consistent with the intent of the program but will generate significant savings for ratepayers.

AIM supports Section 14.07(1) – RPS Class I Minimum Standard as it is consistent with Section 12 of Chapter 227 of the Acts of 2018.

AIM supports 14.08(3)(a)2 which establishes Alternative Compliance Payments (ACP) for Class I resources at \$70 per MWh beginning in 2020 with stakeholder reviews every 5 years beginning in 2025. This change will provide certainty to ratepayers and developers and save ratepayers money. The need for the ACP will be reduced substantially as large amounts of offshore wind come on line due to recent approval of long-term contracts for these resources.

Finally, AIM supports the clarification in 14.08(3)(d)2 for the use of ACP funds.

225 CMR 15 - Renewable Energy Portfolio Standard – Class II (“RPS Class II”)

AIM supports changes to 15.07(2) - RPS Class II Waste Energy Minimum Standard which increases the RPS Class II Waste Energy Minimum Standard from the current 3.5% of load to 3.7% for compliance years 2019-2025, with stakeholder review every 5 years beginning 2025. AIM is concerned however, about the automatic reversion to 3.5% in 2026. The purpose of the review is to determine the appropriate level in 2026 - the level should not default to any amount. The review could conclude that the level should be lower than 3.5%. Defensible data should be used to determine the level based on an analysis close to the review period in question.

AIM also supports 15.08(4)(a)2 which increases the ACP for RPS Class II Waste Energy to the ACP rate for RPS Class II Renewable Energy (as determined by 225 CMR 15.08(3)(a)2) until 2026. This change will provide certainty to ratepayers and operators and better align all RPS Class II rates. Like the minimum standard reversion above, an automatic reduction to \$11.50 per MWh in 2026 is simply not defensible. The appropriate level should be determined as part of the 5-year review contained in 15.08(5).

The 5-year review window for the minimum standard and ACP in 15.07(2) and 15.08(5) is appropriate and AIM supports consistency between these programs and the solid waste management plan. While certainly longer time periods between reviews provide more certainty for some operators, the fact of the matter is that the energy and solid waste industries are undergoing rapid changes that may result in less, or more, subsidy in later years. The five-year automatic review period will protect ratepayers from long-term stranded costs, while at the same time giving some level of certainty to the industry.

This is not unlike the review for the Alternative Energy Portfolio Standard (which AIM supports). On April 5, 2019, DOER began the process for reviewing this program to determine, among other things, the appropriate APS Minimum Standard. This is exactly the type of review that the waste-to-energy industry should be subject to in 2025.

Waste-to-energy facilities are vital for efficient disposal of residential and commercial waste and energy production. As landfills around the region close, the alternative to using in-state waste-to-energy facilities would be shipping this solid waste long distances by truck or rail. This would not only increase costs to household and commercial entities, it will also increase carbon emissions.

Even ignoring increasing use of trucking and its emissions, disposing the materials out-of-state could result in the use of less environmentally secure landfills or less efficient waste-to-energy facilities. Landfills will create more greenhouse gases due to decomposing trash.

Likewise, waste-to-energy facilities are vital for our energy needs. They produce large amounts of power – nearly 4% of the total power load in Massachusetts, all produced 24/7. Were these facilities not available, power would need to be supplied by greenhouse gas producing facilities. The slightly higher subsidies contained in these proposed regulations would allow additional capital expenditures necessary to make further efficiency and environmental improvements.

Additionally, as per regulation, 50% of the monies collected from Class II Waste Energy RECS are used to fund recycling infrastructure through DEP grants to cities and towns. This is particularly important now that the recycling market is in a state of flux, with many towns paying as much for disposal of recyclable materials as to dispose of solid waste. DEP's grants can help cities and towns cope with this hopefully short-term issue.

The legislature determined that waste-to-energy facilities are crucial to Massachusetts when they included them as part of the Class II RPS. While AIM does not normally support increasing subsidies for individual types of technologies, the need to protect waste-to-energy resources overrides these short-term increases and we believe the 5-year review will prevent these increases in minimum standards and ACP rates from becoming permanent without proper review and justification.

At the end of the day, the goal should be to reduce carbon and use resources efficiently and this means that many different types of sources are needed, including renewable power and waste-to-energy facilities. The alternatives are worse for the environment.

Thank you for allowing us to make these comments and we look forward to working with your office in any way possible on this and other issues.

Should you have any questions please do not hesitate to contact me.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert A. Rio". The signature is fluid and cursive, with the first name "Robert" being more prominent.

Robert A. Rio, Esq.
Senior Vice President and Counsel
Government Affairs