

Dear RPS/APS Stakeholder,

On April 5, 2019, the Department of Energy Resources (DOER) filed three amended draft regulations with the Secretary of State's office. These regulations include 225 CMR 14.00: Renewable Energy Portfolio Standard – Class I (RPS Class I), 225 CMR 15.00: Renewable Energy Portfolio Standard – Class II (RPS Class II), and 225 CMR 16.00: Alternative Energy Portfolio Standard (“APS”). The changes to the APS regulation were filed as an emergency regulation and therefore are effective immediately. The unofficial versions of each of the regulations filed with the Secretary of State's office have been posted to DOER's website for stakeholder review and comment. Information on the RPS rulemaking can be found [here](#) and information on the APS rulemaking can be found [here](#).

The proposed changes to each regulation are summarized below:

APS

On January 1, 2019, the ability for Small Renewable Thermal Generation Units (i.e. Air Source Heat Pumps, Ground Source Heat Pumps, and Solar Thermal) to receive 100% of their alternative energy certificates following their first quarter of eligibility (Pre-minting) was eliminated. This change was triggered due to the ratio of APS market supply and demand in 2018 and resulted in Small Renewable Thermal Generation Units installed on or after January 1, 2019, receiving their alternative energy certificates spread out evenly over a 10-year period (Forward Minting).

In response to industry concerns about this transition and the impact that it would have on the economics of projects and the adoption of these technologies, DOER filed an emergency regulation that eliminates the transition from Pre-minting to Forward Minting. Eliminating this transition will allow owners of such Small Renewable Thermal Generation Units to continue to receive 100% of their alternative energy certificates following their first quarter of eligibility, significantly improving their ability to offset upfront installation costs. As an emergency regulation, this change was effective immediately on the date of filing, April 5, 2019.

APS Study

In addition to the targeted program changes addressed in the APS rulemaking, DOER issued a Request for Quotes (RFQ) to vendors on the Commonwealth's PRF 62 list on April 5, 2019. The RFQ seeks the services of a consultant to:

1. Evaluate the existing incentive levels provided to different eligible technologies under the program and their impact on technology adoption;
2. Review and recommend potential expansion of the program to cover additional technologies or scale back the support for existing technologies;
3. Review supply and demand levels required for a sustainable market, including an examination of expanding the program compliance requirements; and
4. Conduct an examination into the ratepayer costs and benefits associated with the program.

DOER expects that the analysis conducted as part of this study will be used to inform its broader 2020 review of the APS program, as required by regulation.

RPS Class I

The proposed changes to both RPS Class I and II include those required by Chapter 227 of the Acts of 2018, changes made to improve the regulation, streamline requirements, reduce costs, and eliminate unnecessary or onerous provisions as contemplated by Executive Order 562, and other policy related changes that were identified by DOER during its comprehensive review of the existing regulations. The changes to RPS Class I include the following:

1. Minimum Standard Revisions

DOER has modified the RPS Class I Minimum Standard percentage requirements for 2020 and beyond consistent with the changes required by Chapter 227 of the Acts of 2018. These changes increase the growth rate for the RPS Class I Minimum Standard percentage from 1% per year to 2% per year from 2020 – 2029. In 2030 and beyond, the requirement continues to increase at a rate of 1% per year.

2. Eligibility Criteria and Ongoing Generator Compliance Requirements

- a. General Eligibility Criteria

DOER proposes eliminating capacity commitment obligation requirements that are applicable to certain types of generators in order to streamline the regulation and improve market efficiency.

- b. Woody Biomass

DOER proposes eliminating several definitions as well as making changes to the lifecycle greenhouse gas emissions reduction calculation, overall efficiency requirements, and fuel sourcing requirements. These proposed changes align with the APS requirements for woody biomass wherever possible. Certain reporting requirements that were deemed onerous or administratively burdensome have also been proposed to be eliminated, but the stringency of sustainable forestry requirements for forest derived fuels have been maintained.

In addition to the changes that align the RPS regulation with the APS regulation, DOER has also proposed no longer allowing fuel sourced from land clearings related to development to qualify for the RPS. DOER has additionally proposed eliminating the ability for generators to make payments to DOER in order to retain their Statement of Qualification in the event they are unable to demonstrate compliance with the lifecycle greenhouse gas requirements in a particular year.

With respect to the overall efficiency requirement, DOER has proposed eliminating the sliding scale that allowed facilities to earn between ½ REC and a full REC based on their overall efficiency. Under the proposed draft regulation, the overall efficiency requirement is set at 50% to earn a full REC for facilities utilizing fuel that is comprised

of 5% or more Forest Derived Thinnings or Forest Derived Residues. Facilities utilizing fuel that is comprised of more than 95% Forest Salvage or Non-Forest Derived Residues, will not be subject to an overall efficiency requirement in order to earn a REC. These proposed changes simplify and streamline requirements and reflect the significant differences between the lifecycle greenhouse gas impacts of utilizing these different types of woody biomass.

c. Small Hydroelectric

DOER proposes eliminating the requirement that small hydroelectric facilities must renew their Low Impact Hydropower Institute certification in order to remain qualified, consistent with the recommendations of DOER's 2016 [Report on Permitting Small and Low Impact Hydropower Projects in Massachusetts](#). Further consistent with the recommendations of the report, DOER plans to require all qualified facilities to self-certify at intervals specified by DOER that they continue to meet any conditions imposed and operate in a manner consistent with their initial certification.

d. RPS Class I Solar Carve-out (SREC I) Renewable Generation Units

DOER proposes clarifying that SREC I facilities may not continue to generate SRECs after the first 40 quarters in which they are eligible. DOER estimates this change has the potential to provide over \$150 million in cost savings to ratepayers from 2020 - 2023 by transitioning SREC eligible projects to Class I RECs sooner.

e. Import Generation Units

DOER proposes eliminating certain requirements for generators outside of ISO-NE related to certificate tracking and requiring off-taker contracts with entities within the region. This streamlines the regulation by removing unnecessary and duplicative tracking requirements that are challenging to enforce.

3. Compliance Procedures for Retail Electricity Suppliers

a. Financial Security Posting

DOER proposes requiring that competitive retail electricity suppliers post financial security that can be collected by DOER in the event of non-compliance. This change protects ratepayers by enhancing DOER's ability to collect Alternative Compliance Payments from non-compliant retail suppliers.

b. Alternative Compliance Payment (ACP) Rate Cap

DOER proposes capping the RPS Class I ACP at \$70/MWh beginning in 2020 with a review scheduled for every five years thereafter. This will reduce ratepayer exposure to higher program costs, particularly as Minimum Standard percentage requirements continue to increase.

4. Other Administrative Changes

DOER has also proposed various other changes eliminating definitions or requirements that are no longer relevant (e.g. Solar Carve-out and Solar Carve-out II Minimum Standard calculation formulae that are no longer in use), or that better align regulatory requirements and definitions.

RPS Class II

1. Eligibility Criteria and Ongoing Generator Compliance Requirements

a. General Eligibility Criteria

DOER proposes eliminating capacity obligation requirements consistent with the proposed changes to these requirements RPS Class I.

b. Woody Biomass

Proposed changes to woody biomass provisions to RPS Class II are consistent with the changes proposed to RPS Class I.

c. Small Hydroelectric

Proposed changes to small hydroelectric eligibility under RPS Class II are consistent with the changes proposed to RPS Class I.

d. Import Generation Units

Proposed changes to certain requirements for generators outside of ISO-NE related to certificate tracking and requiring off-taker contracts with entities within the region are consistent with the changes proposed to RPS Class I.

2. Compliance Procedures for Retail Electricity Suppliers

a. Increase RPS Class II Waste-to-Energy Minimum Standard

DOER proposes to increase the RPS Class II Waste-to-Energy Minimum Standard from 3.5% to 3.7% for 2019 through 2025 to align supply and demand with current retail load figures and address issues related to persistent oversupply. Under the draft regulation, the Minimum Standard would revert to 3.5% in 2026 with a review conducted every five years beginning in 2025, at which point it could be modified following consultation with MassDEP over its consistency with the Commonwealth's solid waste management plan.

NOTE: DOER's proposed change to the Waste-to-Energy Minimum Standard is subject to change following further consultation with MassDEP regarding its consistency with the Commonwealth's solid waste management plan and review of comments from stakeholders.

b. Increase Class II Waste-to-Energy ACP Rate

DOER proposes to increase the RPS Class II Waste-to-Energy ACP rate to align with the RPS Class II Renewable Energy ACP rate beginning in 2019. This will help improve revenues for Waste-to-Energy facilities for the period of 2019 through 2025, with half of the revenues earned by facilities designated to fund state recycling programs. The Waste-to-Energy ACP rate would be lowered to \$11.50/MWh beginning in 2026.

NOTE: DOER's proposed change to the Waste-to-Energy ACP Rate is subject to change following further consultation with MassDEP regarding its consistency with the Commonwealth's solid waste management plan and review of comments from stakeholders.

c. ACP Rate Caps

DOER proposes capping the RPS Class II ACP rates at 50% of the RPS Class I rate (\$35/MWh). This will reduce ratepayer exposure to higher future program costs and better align RPS Class II ACP rates with the RPS Class I ACP rate.

3. Other Administrative Changes

DOER has also proposed various other changes eliminating definitions or requirements that are no longer relevant or better align regulatory requirements and definitions.

Public Hearings and Written Comment Periods

One public hearing will be conducted in Boston to receive verbal and written comments on all three proposed regulations.

Location: 100 Cambridge Street, 2nd Floor Conference Room
Boston, MA 02114
Date: May 13, 2019
1:00 – 4:00 PM

Two additional public hearings will be conducted to receive verbal and written comments on the proposed RPS Class I and II regulations. More information on these hearings can be found [here](#).

Location: UMass Amherst
Integrated Science Building, Room 221
661 North Pleasant Street
Amherst, MA 01003
Date: May 16, 2019
1:00 – 3:00 PM

Location: Mt. Wachusett Community College
Arthur F. Haley Academic Building, Multi-Purpose Room #115
444 Green Street
Gardner, MA 01440
Date: May 17, 2019
1:00 – 3:00 PM

Location: UMass Center at Springfield
Classroom 14
1500 Main Street
Springfield, MA 01115

Date: May 29, 2019
6:30 – 8:30 PM

Verbal and written testimony will be accepted at the hearing(s); however, parties are requested to provide written copies of their testimony.

Written comments will be accepted on the APS regulation until 5 PM on May 13, 2019. Please submit written comments on the APS regulation to Samantha Meserve electronically to Thermal.DOER@mass.gov or via mail to the Department of Energy Resources, 100 Cambridge Street, Suite 1020, Boston, MA 02114.

Written comments on the RPS Class I and RPS Class II Regulations will be accepted until 5 PM on June 7, 2019. Please submit written comments on the RPS Class I and RPS Class II regulations to John Wassam electronically to DOER.RPS@mass.gov or via mail to the Department of Energy Resources, 100 Cambridge Street, Suite 1020, Boston, MA 02114.

Copies of the proposed regulations may be downloaded from the DOER rulemaking websites for [APS](#) and [RPS](#), or by contacting DOER at thermal.DOER@mass.gov or DOER.RPS@mass.gov, respectively.

Regards,

Judith F. Judson
Commissioner
Department of Energy Resources