

HOUSE No. 4022

Communication from the Division of Energy Resources of the Executive Office of Energy and Environmental Affairs (under the provisions of section 12 of Chapter 25A of the General Laws) submitting amendments to 225 CMR 15, Renewable Energy Portfolio Standard (RPS) Class II. Telecommunications, Utilities and Energy.

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act Communication from the Division of Energy Resources of the Executive Office of Energy and Environmental Affairs (under the provisions of section 12 of Chapter 25A of the General Laws) submitting amendments to 225 CMR 15, Renewable Energy Portfolio Standard (RPS) Class II.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 April 1, 2014

2 VIA HAND DELIVERY

3 Steven T. James

4 Clerk of the House of Representatives

5 24 Beacon Street, Room 145

6 State House

7 Boston, MA 02133

8 RE: Proposed Amendments to 225 CMR 15; Submission to General Court

9 Dear Clerk James:

10 On behalf of the Massachusetts Department of Energy Resources, and in accordance with
11 Section 12 of Chapter 25A of the Massachusetts General Laws (“Statute”), enclosed for filing
12 please find proposed amendments to 225 CMR 15—Renewable Energy Portfolio Standard (RPS)
13 Class II. The regulation requires each retail electricity supplier serving load in Massachusetts

14 (except for municipal light departments) to meet a very small percentage of its retail load
15 (“Minimum Standard”) from qualified, pre-1998 renewable energy generation sources located in
16 MA and the region and from in-state waste energy plants, a.k.a., municipal solid waste plants.
17 The RPS program began in 2002, while the Class II program began in 2009 having been created
18 in the Green Communities Act of 2008. The proposed amendments address the following: 1)
19 change the Class II Minimum Standard to reduce the program reliance on ACP; 2) increase of
20 the eligible hydro capacity from 5 to 7.5 MW in accordance with statutory change; 3) include
21 biomass provisions from Class I regulation; and 4) adjust the banking provision for Waste
22 Energy Certificates to avoid perpetual oversupply in that fixed supply/demand market.

23 These proposed revisions to the RPS Regulations are being submitted to your office for
24 further action, after complying with all applicable provisions of Chapter 30A of the
25 Massachusetts General Laws, except Section five. Also enclosed herewith is a document
26 summarizing the proposed changes to the EMS Regulations, in layman’s terms, as required by
27 the Statute.

28 Thank you for your attention to this matter.

29

30 Very truly yours,

31 Mark Sylvia

32 Commissioner

33 Enclosures

34 Summary of Revisions to 225 CMR 15.00

35 Renewable Energy Portfolio Standard [RPS] – Class II

36 Summary of Initial Changes

37 1. The regulation requires each retail electricity supplier serving load in
38 Massachusetts (except for municipal light departments) to meet a very small percentage of its
39 retail load (“Minimum Standard”) from qualified, pre-1998 renewable energy generation sources
40 located in MA and the region and from in-state waste energy plants, a.k.a., municipal solid
41 waste plants. The RPS program began in 2002, while the Class II program began in 2009 having
42 been created in the Green Communities Act of 2008. The proposed revisions would accomplish
43 the following:

44 a) Meet the Legislature’s expressed intent in Section 45 of the 2012 Act Relative to
45 Competitively Priced Electricity in the Commonwealth (the 2012 Act) to reduce the expensive
46 overreliance on Alternative Compliance Payments (ACPs) for RPS Class II Renewable Energy

47 compliance in the absence of sufficient generation to meet the current Minimum Standard
48 percentage. This will be done by sharply lowering the percentage and providing a methodology
49 for automatic, future adjustments in the percentage, as recommended by DOER in a 12/31/12
50 study mandated by Section 45. This will benefit most electricity customers and the compliance
51 entities. Lowering the percentage must occur early as possible in 2014 in order to begin
52 providing this benefit for the entire year and thereafter. In absence of this change, ratepayers and
53 their suppliers will continue to incur the large, unnecessary expense.

54 b) Bring the Class II eligibility criteria for woody biomass fueled power plants into
55 alignment with the environmental sustainability and climate protection based criteria used in
56 RPS Class I, as instructed by the Secretary in a letter dated 8/20/12. This would end the current
57 suspension (put in place by the Secretary's letter) on accepting applications from woody biomass
58 plant owners and end the resulting uncertainty about woody biomass eligibility. The state's
59 environment and thus all residents will benefit from the change, which is also supportive of the
60 goals of Global Warming Solutions Act.

61 c) Comply with Section 16 of the 2012 Act, which raised the maximum capacity of
62 hydroelectric plants eligible for Class II from 5 MW to 7.5 MW. This change was effective on
63 11/1/12, pursuant to the 2012 Act and, therefore, must be included in the Regulation.

64 d) Eliminate the current persistent and counterproductive surplus of Waste Energy
65 Certificates used for Class II Waste Energy compliance by adjusting the "banking" provision,
66 with the result that the owners of the seven eligible plants in the state should be able to sell all of
67 their WECs each year (after a two year transition) and, therefore, remit a larger sum to the
68 MassDEP for support of the latter's waste recycling programs, which benefits municipalities and
69 the general public. Absent the change, the surplus will be continued into the indefinite future, to
70 the benefit only of retail electricity suppliers and to the detriment of plant owners, the MassDEP
71 recycling programs, and the general public.

72 2. The changes would affect all regulated entities (electricity suppliers), owners of
73 all pre-1998 renewable generation units that voluntarily choose to participate in the program
74 (consisting of hydropower and landfill methane plant owners in MA and the region, some small
75 and local, some large and multinational), the two owners of the seven in-state waste energy
76 plants (large, national companies), and all retail electricity customers.

77 DOER discussed the change in the Minimum Standard percentage with the Bay State
78 Hydro Association and with the New England Energy Council, both of which were cautiously
79 accepting. The change is designed to continue to support the financial viability of pre-1998
80 renewable plant operation and to avoid the emergence of any significant surplus in supply over
81 demand, so plant owners should not adversely affected. All others will benefit from the cost
82 savings of much reduced reliance on ACP purchases.

83 DOER had extensive discussions with biomass plant owners and other stakeholders when
84 previously revising the Class I woody biomass eligibility provisions. These changes for Class II
85 may be less unsettling for the industry than for Class I because the one potentially eligible plant
86 in MA has already qualified for the RPS of a neighboring state, and the region's other older
87 biomass plants are in the northern New England states. The older plants participate in and benefit
88 from the RPS programs of their own and other states in the region. Environmental groups will
89 respond favorably.

90 DOER discussed the Waste Energy revision with one of the two generation owners and
91 with the MassDEP. Neither had any concerns.

92 The hydropower change in capacity is required by statute and is not expected to be
93 opposed.

94 Summary of Changes Made Following Public Comments

95 Public comments received by DOER that were within the scope of the rulemaking were
96 limited to a relatively narrow range of issues. Specifically, the comments addressed the
97 following:

98 - Concerns from generators that the reduction to the Class II Renewable Minimum
99 Standard could lead to an oversupply should a large amount of eligible capacity, particularly ME
100 biomass and NY hydro, qualify in the next 2-3 years.

101 - Concerns from generators that the reduction in demand will reduce the interest
102 level among generators to qualify for RPS Class II.

103 - Concerns from both generators and retail suppliers that not enough was being
104 done to expand supply rather than just focusing on reducing demand.

105 - Requests from suppliers for clarity regarding the ability to bank Waste to Energy
106 certificates in Compliance Year 2013.

107 - Concerns from suppliers that the introduction of a formula to determine future
108 Class II Renewable Minimum Standards beginning in Compliance Year 2017 adds an
109 unnecessary level of complexity to the program.

110 - Concerns from suppliers that the elimination of the ability to bank Waste to
111 Energy certificates in Compliance Years 2014 and 2015 is unnecessary given current market
112 behavior.

113 DOER carefully considered each of these comments and made the following changes to
114 the initial draft:

115 225 CMR 15.02

116 Correction was made to the definition of Percent Under-Compliance to clarify that it
117 applies to RPS Class II Renewable Generation Units.

118 225 CMR 15.05(1)(a)8.d.ii.

119 Correction was made by removing language referring to "Advancement of Biomass
120 Conversion Generation Units" that was mistakenly incorporated into the first draft of the
121 regulation.

122 225 15.08(2)(b)

123 Divided into two subsections, one for Waste to Energy banking and the other for
124 Renewable Energy banking. This removes ambiguity around the applicability of these provisions
125 identified in public comments.

126 225 CMR 15.00 RENEWABLE ENERGY PORTFOLIO STANDARD –
127 CLASS II

128 Section

129 15.01: Authority

130 15.02: Definitions

131 15.03: Administration

132 15.04: Applicability

133 15.05: Eligibility Criteria for RPS Class II Renewable Generation Units

134 15.06: Qualification Process for RPS Class II Renewable Generation Units

135 15.07: Renewable Energy Portfolio Standard

136 15.08: Compliance Procedures for Retail Electricity Suppliers

137 15.09: Annual Compliance Filings for Retail Electricity Suppliers

138 15.10: Reporting Requirements

139 15.11: Inspection

140 15.12: Non-compliance

141 15.13: Severability

142 15.01: Authority

143 225 CMR 15.00 is promulgated pursuant to M.G.L. c. 25A, § 11F.

144 15.02: Definitions

145 Aggregation. A group of one or more Generation Units that receives a single Statement
146 of Qualification from the Department under criteria and procedures set forth in 225 CMR
147 15.05(4).

148 Alternative Compliance Credit. A credit obtained by a Retail Electricity Supplier upon
149 making an Alternative Compliance Payment. Such credit is used to document compliance with
150 225 CMR 15.07. One unit of credit shall be equivalent to the RPS Class II Renewable
151 Generation Attribute associated with one MWh of electrical energy output from an RPS Class II
152 Renewable Generation Unit, excluding Waste Energy Generation Units, and one unit of credit
153 shall be equivalent to the RPS Class II Waste Energy Generation Attribute associated with one
154 MWh of electrical energy output from an RPS Class II Waste Energy Generation Unit.

155 Alternative Compliance Payment (ACP). A payment of a certain dollar amount per
156 MWh, resulting in the issuance of Alternative Compliance Credits, which a Retail Electricity
157 Supplier may submit to the Department in lieu of providing RPS Class II Renewable Generation
158 Attributes or RPS Class II Waste Energy Generation Attributes required under 225 CMR 15.07.

159 Biomass Fuel Certificate. A certificate issued in accordance with rules established by the
160 Department in the Biomass Eligibility and Certificate Guideline that

161 (a) represents one ton, equal to 2000 pounds, of supply of Eligible Biomass Woody Fuel

162 (b) specifies the source of the wood and

163 (c) specifies the woods eligibility as Forest Derived Residues, Forest Derived Thinnings,
164 Forest Salvage, Non-Forest Derived Residues, or Dedicated Energy Crops.

165 For Forest Derived Residues and Forest Derived Thinnings, the Certificate shall reference
166 the relevant Eligible Forest Biomass Tonnage Report, and include any additional information
167 deemed necessary by the Department.

168 Biomass Input Heat Content. The thermal energy content, measured in MWh, of biomass
169 fuel as it is input into a Generation Unit over a period of time. For the purpose of wood chips,
170 the value will be determined using a methodology provided by the Department in the Overall
171 Efficiency and Greenhouse Gas Analysis Guideline. The methodology includes a weighted
172 average of all the metered weight of utilized biomass fuel types (as differentiated by typical
173 moisture content), and an assigned heat content from referenced literature to each biomass type.
174 For processed biomass fuels, the thermal energy content shall be documented to the satisfaction
175 of the Department by an independent testing laboratory.

176 Blended Fuel. A liquid or gaseous fuel that is blended from both Eligible RPS Class II
177 Renewable Fuel(s) and ineligible fuel(s), a portion of whose electrical energy output may qualify
178 as RPS Class II Renewable Generation under criteria set forth in 225 CMR 15.05(2).

179 Business Day. A business day shall mean Monday through Friday, exclusive of state and
180 federal legal holidays.

181 Certificates Obligation. A term defined in the NEPOOL GIS Operating Rules at Rule
182 4.1(b), or any successor rule.

183 Co-Mingled Biomass Woody Fuel. Any woody biomass fuel, that is clean and devoid of
184 non-woody biomass, paints, stains or other contaminants, and fossil fuel derived materials, and
185 which is physically co-mingled or mixed with Eligible Biomass Woody Fuel.

186 Commercial Operation Date. The date that a Generation Unit first produced electrical
187 energy for sale within the ISO-NE Control Area or within an adjacent Control Area. In the case
188 of a Generation Unit that is connected to the End-use Customer's side of the electric meter or
189 produces Off-grid Generation, the date that such Generation Unit first produced electrical
190 energy.

191 Compliance Filing. A document filed annually by a Retail Electricity Supplier with the
192 Department documenting compliance with 225 CMR 15.07, consistent with the format set forth
193 in the Guidelines and submitted no later than the first day of July, or the first Business Day
194 thereafter, of the subsequent Compliance Year.

195 Compliance Year. A calendar year beginning January 1 and ending December 31, for
196 which a Retail Electricity Supplier must demonstrate that it has met the requirements of 225
197 CMR 15.07 and 15.08.

198 Control Area. A geographic region in which a common generation control system is used
199 to maintain scheduled interchange of electrical energy within and without the region.

200 Current Use Program. A state administered program that permits a property owner to
201 have a

202 parcel of land taxed at a rate based on the current use of the land including but not limited
203 to open space, active forestry, or agriculture as opposed to the fair market or development value
204 of the property.

205 Department. The Massachusetts Department of Energy Resources (DOER), established
206 by M.G.L. c. 25A, § 1.

207 DCR. The Massachusetts Department of Conservation and Recreation (DCR) established
208 by M.G.L. c. 21 § 1.

209 Eligible Biomass Fuel. Fuel sources consisting of Eligible Biomass Woody Fuel, Co-
210 Mingled Biomass Woody Fuel, Manufactured Biomass Fuel; by-products or waste from animals
211 or agricultural crops; food or vegetative material; algae; organic refuse-derived fuel; anaerobic
212 digester gas and other biogases that are derived from such resources; and neat Eligible Liquid
213 Biofuel that is derived from such fuel sources; but shall not include Construction and Demolition
214 Waste as defined in 310 CMR 19.006.

215 Eligible Biomass Woody Fuel. Woody fuels that are derived from the following sources,
216 consistent with the requirements of 225 CMR 15.05(5):

217 (a) Forest Derived Residues:

218 1. Tops, crooks, and other portions of trees produced as a byproduct during the
219 normal course of harvesting material, such as timber, pulpwood, or cordwood.

220 2. Other woody vegetation that interferes with regeneration or the natural growth of
221 the forest, limited to locally invasive native species and non-native invasive woody vegetation.

222 (b) Forest Derived Thinnings:

223 1. Unacceptable growing stock which is defined as trees considered structurally
224 weak or have low vigor and do not have the potential to eventually yield a 12 foot sawlog or
225 survive for at least the next 10 years.

226 2. Trees removed during thinning operations, the purpose of which is to reduce stand
227 density and enhance diameter growth and volume of the residual stand.

228 (c) Forest Salvage: Damaged, dying, or dead trees removed due to injurious agents, such
229 as wind or ice storms or the spread of invasive epidemic forest pathogens, insects, and diseases
230 or other epidemic biological risks to the forest, but not removed due to competition. Such
231 eligible trees may be removed without limitation for biomass fuel, only if a major threat to forest
232 health or risk to private or public resources, and if the USDA Animal Health and Plant
233 Inspection Service (APHIS), the USDA Forest Service, or appropriate federal or state
234 governmental agency has issued a declaration, rule, or order declaring a major threat to forest
235 health or risk to private or public resources. Forest Salvage also includes trees removed to
236 reduce fire hazard within Fire-adapted Forest Ecosystems, as certified by a letter to the
237 Department from the state agency responsible for forestry in consultation with the appropriate
238 environmental state agencies.

239 (d) Non-Forest Derived Residues:

240 1. Primary forest products industry: Lumber mill residues or lumber processing
241 residues consisting of the slabs, shavings, trimmings, sawdust, bark, end pieces of wood, and log

242 cores that result from the various processing operations occurring in sawmills, pulp mills, and
243 veneer and plywood plants.

244 2. Secondary forest products industry: Wood waste produced as a byproduct of the
245 production of finished wood products, including but not limited to clean residues from
246 woodworking shops, furniture factories, and truss and pallet manufacturing.

247 3. Land use change – non-agricultural: Trees cut or otherwise removed in the
248 process of converting forest land to non-forest and non-agricultural uses provided that such
249 development has already received all applicable state and local permits for the development.

250 4. Land use change – agricultural: Trees cut or otherwise removed in the process of
251 converting forest land to agricultural usage, either for new or restored farm land.

252 5. Yard waste: Leaves, grass clippings, prunings, and other natural organic matter
253 discarded from yards and gardens.

254 6. Wood waste: Non-treated pallets; pruned branches, stumps, and whole trees
255 removed during the normal course of maintenance of public or private roads, highways,
256 driveways, utility lines, rights of way, and parks.

257 (e) Dedicated Energy Crops. Wood grown for the purpose of producing fuel, provided
258 that such wood was not grown on land that sequestered significant amounts of carbon, such as a
259 forest, and provided that such land does not have the economic potential to support production of
260 any other agricultural crop grown for human consumption as food.

261 Eligible Forest Biomass Tonnage Report. The report certified by a Professional Forester
262 under the provisions of 225 CMR 15.05(5) that details the amounts of Forest Derived Thinnings
263 and Forest Derived Residues that may be removed from a harvest site to be Eligible Biomass
264 Woody Fuel. In the case of a Forest Derived Residue, the Report further details whether such
265 Forest Derived Residue is derived from harvest by-products or invasive species, as defined in the
266 subcategories of Forest Derived Residue.

267 Eligible Liquid Biofuel. A liquid fuel that is derived from Eligible Biomass Fuel, but is
268 not Eligible Biomass Woody Fuel or Co-Mingled Biomass Woody Fuel, and that yields at least a
269 50% reduction in Lifecycle Greenhouse Gas Emissions relative to average lifecycle greenhouse
270 gas emissions for petroleum distillate fuel sold in 2005, as determined by the Department in
271 consultation with the MassDEP and the Executive Office; or that is derived from waste
272 feedstocks consisting of previously used or discarded solid, liquid or contained gaseous material
273 resulting from industrial, commercial or household food service activities that would otherwise
274 be stored, treated, transferred or disposed. Waste feedstock shall include, but not be limited to
275 waste vegetable oils, waste animal fats, substances derived from wastewater and the treatment of
276 wastewater, or grease trap waste. Waste feedstock shall not include petroleum-based waste or

277 waste that otherwise meets the definition of hazardous waste, unless otherwise determined by the
278 MassDEP.

279 Eligible RPS Class II Renewable Fuel. An Eligible Biomass Fuel, landfill methane gas,
280 municipal solid waste, hydrogen derived from such fuels or hydrogen derived from water using
281 the electrical output of a Renewable Generation Unit, but not hydrogen derived using RPS Class
282 I or Class II Renewable Generation if the RPS Class I or Class II Renewable Generation
283 Attributes of such Generation are sold, retired, claimed, used or represented as part of electrical
284 energy output or sales, or used to satisfy regulatory obligations in any jurisdictions, and not
285 hydrogen derived directly or indirectly from ineligible fuels.

286 End-use Customer. A person or entity in Massachusetts that purchases electrical energy
287 at retail from a Retail Electricity Supplier, except that a Generation Unit taking station service at
288 wholesale from ISO-NE or self-supplying from its owner's other generating stations, shall not
289 be considered an End-use Customer.

290 Executive Office. The Executive Office of Energy and Environmental Affairs
291 established by M.G.L. c. 6A § 2.

292 Fire-adapted Forest Ecosystem. Natural forest communities characterized by vegetation
293 including, but not limited to, pitch pine and/or scrub oak occurring on droughty soils, and that

294 (a) have evolved with fire as a natural process;

295 (b) support and renew associated wildlife species and habitats; and

296 (c) are identified on the most recently updated U.S. Department of Interior, Geological
297 Survey national LANDFIRE map.

298 Generation Attribute. A non-price characteristic of the electrical energy output of a
299 Generation Unit including, but not limited to, the Unit's fuel type, emissions, vintage and RPS
300 eligibility.

301 Generation Unit. A facility that converts a fuel or an energy resource into electrical
302 energy.

303 Geothermal Energy. Heat energy stored in the Earth's crust that can be accessed for
304 electric power generation.

305 GIS Certificate. An electronic record produced by the NEPOOL GIS that identifies
306 Generation Attributes of each MWh accounted for in the NEPOOL GIS.

307 Guidelines. A set of clarifications, interpretations, and procedures, including forms,
308 developed by the Department to assist in compliance with the requirements of 225 CMR 15.00.
309 The Department may issue new or revised Guidelines from time to time. Each Guideline shall

310 be effective on its date of issuance or on such date as is specified therein, except as otherwise
311 provided in 225 CMR 15.00.

312 Hydroelectric Energy. Electrical energy from a Generation Unit that uses flowing
313 freshwater as the primary energy resource, with or without a dam structure or other means of
314 regulating water flow, and that is not located at a facility that uses mechanical or electrical
315 energy to pump water into a storage facility.

316 Impacted Watershed. All water bodies or areas of land hydrologically connected to a
317 hydroelectric facility, whether located upstream or downstream, which may experience any
318 alteration of their physical, biological, or ecological characteristics as a result of the operation or
319 increased capacity expansion of a Generation Unit.

320 Intermittent Generation Unit. A Generation Unit that utilizes solar photovoltaic energy,
321 solar thermal electric energy, wind energy, run-of-river Hydroelectric Energy, or other resources
322 regarding which the timing or magnitude is not predictable or controllable, as determined by the
323 Department.

324 ISO-NE. ISO New England Inc., the independent system operator for New England, the
325 regional transmission organization for most of New England, which is authorized by the Federal
326 Energy Regulatory Commission (FERC) to exercise for the New England Control Area the
327 functions required pursuant to the FERC's Order No. 2000, the FERC's corresponding
328 regulations, and any successor FERC orders and regulations.

329 ISO-NE Settlement Market System. The ISO-NE's electronic database system into
330 which all real-time load and generation data are entered and from which such data are provided
331 to the NEPOOL GIS.

332 Lifecycle Greenhouse Gas Emissions. The aggregate quantity of greenhouse gas
333 emissions, including direct emissions and significant indirect emissions such as significant
334 emissions from land use changes, and temporal changes in forest carbon sequestration and
335 emissions resulting from biomass harvests, regrowth, and avoided decomposition as determined
336 by the Department in consultation with the MassDEP and the Executive Office, related to the full
337 fuel lifecycle, including all stages of fuel and feedstock production and distribution, from
338 feedstock generation or extraction through the distribution and delivery and use of the finished
339 fuel at the Generation Unit, where the mass values for all greenhouse gases are adjusted to
340 account for their relative global warming potential.

341 Low Impact Hydro Power Institute (LIHI). A non-profit 501(c)(3) organization, whose
342 stated purpose is to reduce the impacts of hydropower generation through the certification of
343 hydropower projects that have avoided or reduced their environmental impacts pursuant to the
344 Low Impact Hydropower Institute's criteria.

345 Manufactured Biomass Fuel. A biomass fuel that is prepared, other than by means of
346 fuel drying, through a fuel processing facility that is separate from a Generation Unit and that
347 utilizes Eligible Biomass Woody Fuel for production. Examples include, but are not limited to,
348 the mechanical production of wood pellets or bio-dust, and the refinement of bio-oil through
349 pyrolysis.

350 Marine or Hydrokinetic Energy. Electrical energy derived from waves, tides and currents
351 in oceans, estuaries and tidal areas; free-flowing water in rivers, lakes, streams, and human-made
352 channels, provided that such water is not diverted, impounded, or dammed; or differentials in
353 ocean temperature, called ocean thermal energy conversion.

354 Massachusetts Clean Energy Technology Center (MassCEC). The center established in
355 M.G.L. c. 23J, § 2.

356 MassDEP. The Massachusetts Department of Environmental Protection established by
357 M.G.L. c. 21A, § 7.

358 Megawatt-hour (MWh). A unit of electrical energy or work equivalent to one million
359 watts of power operating for one hour.

360 Merchantable Bio-Products. Products that are refined from a biomass fuel by a bio-
361 refinery project in which the Generation Unit is integral. Products include but are not limited to
362 merchantable chemicals such as additives, lubricants, or specialty chemicals, and other products
363 which can be permanently sequestered for carbon reductions.

364 NEPOOL GIS. The NEPOOL Generation Information System, which includes a
365 generation information database and certificate system, operated by the New England Power
366 Pool (NEPOOL), its designee or successor entity, that accounts for Generation Attributes of
367 electrical energy consumed within, imported into, or exported from the ISO-NE Control Area.

368 North American Electric Reliability Council (NERC) Tag. An identification of an
369 electrical energy interchange transaction assigned in accordance with rules set forth by the North
370 American Electric Reliability Council.

371 Off-grid Generation. The electrical energy produced by a Generation Unit that is not
372 connected to a utility transmission or distribution system.

373 Operator. Any person or entity who has charge or control of a Generation Unit subject to
374 225 CMR 15.00, including without limitation a duly authorized agent or lessee of the Owner, or
375 a duly authorized independent contractor.

376 Overall Efficiency. For a Generation Unit using an Eligible Biomass Woody Fuel, the
377 calculation shall be the sum of:

378

379 (a) Renewable Generation not utilized behind-the-meter, plus

380 (b) Renewable Energy utilized behind-the-meter divided by 0.92, or 92%, which is one
381 minus the average distribution and transmission line losses of the electrical grid, which, for the
382 purpose of this calculation, is 8%, plus

383 (c) Useful Thermal Energy, plus

384 (d) Merchantable Bio-Products;

385 and this summation shall be divided by the Biomass Input Heat Content.

386 Owner. Any person or entity who, alone or in conjunction with others, has legal
387 ownership, a leasehold interest, or effective control over the real property or property interest
388 upon which a Generation Unit is located, or the airspace above said real property, including
389 without limitation a duly authorized agent of the Owner. For the purposes of 225 CMR 15.02,
390 Owner does not mean a person or entity holding legal title or security interest solely for the
391 purpose of providing financing.

392 Percent Under-Compliance. The difference, if positive, between 50% and the reported
393 lifecycle greenhouse gas emissions over 20 years as reported in a Biomass Unit Annual
394 Compliance Report by an RPS Class II Renewable Generation Unit that utilizes Eligible
395 Biomass Woody Fuel, as provided in 225 CMR 15.05(5)(d). The difference, if negative, shall not
396 be considered under-compliance as related to 15.05(5)(d)(3).

397

398 Professional Forester. A person who is certified by the Society of American Foresters,
399 licensed and/or certified by the host state of the harvest site, or certified by the Department
400 where the Department has received documentation that the Professional Forester has proficiency
401 and experience in forestry.

402 Relevant Hydroelectric Agency. A federal, state or provincial agency with oversight over
403 fish and wildlife, water quality, river flows, fish passage and protection, mitigation and
404 enhancement opportunities, related to a hydroelectric facility located in the Impacted Watershed
405 or that impacts downstream or upstream passage of fish and wildlife.

406 Renewable Generation. The electrical energy output of a Renewable Generation Unit.

407 Renewable Generation Attribute. The Generation Attribute of the electrical energy
408 output of a specific Generation Unit that derives from the Unit's production of Renewable
409 Generation.

410 Renewable Generation Unit. A Generation Unit that uses an Eligible RPS Class II
411 Renewable Fuel, Hydroelectric Energy, waste-to-energy that is a component of conventional

412 municipal solid waste plant technology in commercial use, or any of the fuels, energy resources
413 or technologies set forth in 225 CMR 15.05(1)(a).

414 Retail Electricity Product. An electrical energy offering that is distinguished by its
415 Generation Attributes and that is offered for sale by a Retail Electricity Supplier to End-use
416 Customers.

417 Retail Electricity Supplier. A person or entity that sells electrical energy to End-use
418 Customers in Massachusetts, including but not limited to electric utility distribution companies
419 supplying basic service or any successor service to End-use Customers. A Municipal Lighting
420 Plant shall be considered a Retail Electricity Supplier; however, it shall be exempt from the
421 obligations of a Retail Electricity Supplier under 225 CMR 15.00 so long as and insofar as it is
422 exempt from the requirements to allow competitive choice of generation supply pursuant to
423 M.G.L. c. 164, § 47A.

424 RPS Class II Renewable Generation. The electrical energy output of an RPS Class II
425 Renewable Generation Unit, or that portion of the electrical energy output of an RPS Class II
426 Generation Unit that qualifies under

427 (a) a Co-firing and Blended Fuel Waiver, pursuant to 225 CMR 15.05(2);

428 (b) the Special Provisions for a Generation Unit Located in a Control Area Adjacent to
429 the ISO-NE Control Area, pursuant to 225 CMR 15.05(3); or

430 (c) any other applicable provision of 225 CMR 15.00.

431 RPS Class II Renewable Generation Attribute. The Generation Attribute of the electrical
432 energy output of a specific RPS Class II Generation Unit that derives from the Unit's production
433 of RPS Class II Renewable Generation, excluding Attributes derived from the production of
434 Waste Energy.

435 RPS Class II Renewable Generation Unit. A Generation Unit or Aggregation that has
436 received an RPS Class II Statement of Qualification from the Department.

437 RPS Class II Waste Energy Generation Attribute. The Generation Attribute of the
438 electrical energy output of a specific Waste Energy Generation Unit that derives from the Unit's
439 production of Waste Energy.

440 Statement of Qualification (SQ). A written document from the Department that qualifies
441 a Generation Unit or Aggregation as an RPS Class II Qualified Generation Unit, or that qualifies
442 a portion of the annual electrical energy output of a Generation Unit or Aggregation as RPS
443 Class II Renewable Generation.

444 Useful Thermal Energy. Energy:

445 (a) in the form of direct heat, steam, hot water, or other thermal form that is used in
446 production and beneficial measures for heating, cooling, humidity control, process use, or
447 other valid thermal end use energy requirements; and
448 (b) for which fuel or electricity would otherwise be consumed.
449 Thermal energy used for the purpose of drying or refining biomass fuel shall not be
450 considered Useful Thermal Energy.

451 Valid Air Permit. Within the United States, a current and effective authorization, license,
452 certificate, or like approval to construct and/or operate a source of air pollution, issued or
453 required by the regulatory agency designated in the applicable State Implementation Plan to
454 issue permits under the Clean Air Act, 42 U.S.C. §§ 7401, et seq. In jurisdictions outside of the
455 United States, it shall be a document demonstrating an equivalent authorization.

456 Waste Energy. Electrical energy generated from the combustion of municipal solid
457 waste.

458 Waste Energy Generation Unit. A Generation Unit that utilizes conventional municipal
459 solid waste plant technology in commercial use to generate Waste Energy.

460 15.03: Administration

461 225 CMR 15.00 shall be administered by the Department.

462 15.04: Applicability

463 225 CMR 15.00 applies to Retail Electricity Suppliers and to the Owners or Operators of
464 RPS Class II Generation Units.

465 15.05: Eligibility Criteria for RPS Class II Generation Units

466 (1) Eligibility Criteria. A Generation Unit may qualify as an RPS Class II Generation
467 Unit subject to the limitations in 225 CMR 15.05.

468 (a) Fuels, Energy Resources and Technologies. The Generation Unit shall use one or
469 more of the fuels, energy resources and/or technologies listed in 225 CMR 15.05(1)(a)1 through
470 10.

471 1. Solar photovoltaic or solar thermal electric energy.

472 2. Wind energy.

473 3. Ocean thermal, wave or tidal energy.

- 474 4. Fuel cells using an Eligible RPS Class II Renewable Fuel.
- 475 5. Landfill methane gas, provided that such gas is collected and conveyed directly to the
476 Generation Unit without use of facilities used as common carriers of natural gas.
- 477 6. Hydroelectric. An Generation Unit that uses Hydroelectric Energy may qualify as an
478 RPS Class II Generation Unit, subject to the limitations in 225 CMR 15.05(1)(a)6.
- 479 a. The Unit has a nameplate capacity up to 7.5 megawatts.
- 480 b. The Unit does not involve any dam or water diversion structure constructed after
481 December 31, 1997, or pumped storage of water.
- 482 c. The Unit does not generate Marine or Hydrokinetic Energy.
- 483 d. The Unit meets appropriate and site-specific standards that address adequate and
484 healthy river flows, water quality standards, fish passage and protection measures and mitigation
485 and enhancement opportunities in the impacted watershed, as determined by the Department in
486 consultation with Relevant Hydroelectric Agencies. The Unit shall demonstrate compliance with
487 such standards by submitting the documentation required in either 225 CMR 15.05(1)(a)6.d.i or
488 ii.
- 489 i. LIHI Certification of the Unit; except that in either of the two circumstances provided
490 in 225 CMR 15.05(1)(a)6.d.i, the Department may request further information from the applicant
491 and the Relevant Hydroelectric Agencies as part of its review of the applicant's Statement of
492 Qualification Application. The Department shall notify the applicant of any such input from a
493 Relevant Hydroelectric Agency not later than 30 days after receiving such input and shall
494 provide the applicant an opportunity to respond to the Department not later than 30 days after the
495 applicant's receipt of such notice from the Department.
- 496 A. If a Relevant Hydroelectric Agency identified an environmental concern and a
497 proposed remedy to LIHI during the LIHI certification process, and such concern was not
498 addressed in the LIHI certification to the satisfaction of the Agency, and the Agency consulted
499 with the Owner or Operator of the Unit; or
- 500 B. If, between issuance of the LIHI certification and the Department's determination of
501 the Unit's eligibility, a Relevant Hydroelectric Agency submits to the Department evidence of a
502 significant environmental problem not previously known by such Agency, after consulting with
503 the Owner or Operator of the Unit.
- 504 ii. A denial of certification from LIHI specifying the reasons the certification was denied
505 and the applicant's proposed rationale for why the project should nevertheless receive a
506 Statement of Qualification. In this instance, the Department shall notify and seek input from the
507 Relevant Hydroelectric Agencies, which shall have 30 days from the date of their receipt of such

508 notification to provide feedback to the Department. The Owner or Operator of the Unit shall be
509 notified of any such input and shall have 30 days from receipt of such notice to respond to the
510 satisfaction of the Department as to why its Statement of Qualification Application should be
511 approved. The Department thereafter shall make finding of whether the Unit meets appropriate
512 environmental safeguards despite the lack of LIHI certification.

513 e. The Owner or Operator of the Unit must serve notice to all Relevant Hydroelectric
514 Agencies of its application for LIHI certification and provide opportunity for comment within 30
515 days of such notice, with regard to its submission of a Statement of Qualification Application
516 and must provide notice of such service to the Department.

517 f. If LIHI fails to act to certify or deny certification within 180 days from the date of
518 submission of the Unit's application to LIHI, the Owner or Operator shall file notice of such
519 event with the Department. The Department shall review the federal, state or provincial permits
520 for the Unit and any submissions to LIHI by Relevant Hydroelectric Agencies, and shall make a
521 final determination as to whether the Unit meets environmental standards specified in 225 CMR
522 15.05(1)(a)6.d.

523 g. If LIHI is unable to review for certification a Unit that is located in a Control Area
524 adjacent to the ISO-NE Control Area and outside the United States of America, the Owner or
525 Operator of such Unit may petition the Department for certification using the LIHI standards by
526 an independent third party acceptable to the Department.

527 7. Waste to Energy. A Generation Unit that uses Waste Energy may qualify as an RPS
528 Class II Generation Unit subject to the following limitations:

529 a. Has received approval from the MassDEP of the Unit's participation in or
530 operation of an authorized recycling program;

531 b. Maintains participation in or operation of such recycling program and confirms this
532 maintenance by submitting an annual report to the Department and MassDEP of its compliance.

533

534 c. Complies with the applicable requirements of 310 CMR 7.08(2).

535 d. Complies with the applicable requirements of 310 CMR 19.000.

536 8. Low-emission, biomass power conversion technologies using an Eligible Biomass
537 Fuel. A Generation Unit may qualify as an RPS Class II Generation Unit, provided it uses an
538 Eligible Biomass Fuel, subject to the limitations in 225 CMR 15.05(1)(a)8.

539 a. The Department shall set forth in Guidelines low-emission eligibility criteria which
540 will become effective on their date of issuance. Any emission eligibility criteria in subsequently
541 revised Guidelines shall become effective 24 months from their date of issuance.

542 b. A Generation Unit must demonstrate to the satisfaction of the Department that its
543 emissions are consistent with criteria set forth in the Guidelines that are applicable for the date
544 on which the Department receives the Unit's Statement of Qualification Application.

545 c. In the case of a Generation Unit for whose size, type, or fuel the Guidelines do not
546 provide applicable emission limits, the Department will determine appropriate limits in
547 consultation with the MassDEP.

548 d. A Generation Unit that uses an Eligible Biomass Woody Fuel, Co-Mingled Biomass
549 Woody Fuel, or a Manufactured Biomass Fuel, must provide to the Department as part of their
550 Statement of Qualification Application the following items:

551 i. A fuel supply plan indicating the anticipated fuel types, sources, and amounts.
552 The Unit shall provide a report of the anticipated fuel supply for that Compliance Year no later
553 than January 1 of each year on an annual basis.

554 ii. A design and operational plan that demonstrates that the Unit will achieve an
555 Overall Efficiency, as calculated in 225 CMR 15.05(5)(c)(2)-(4), of at least 50% on a quarterly
556 basis.

557 iii. An analysis of net Lifecycle Greenhouse Gas Emissions, that demonstrates, to the
558 satisfaction of the Department, that such emissions, over a 20 year life cycle, yield at least a 50%
559 reduction of greenhouse gas emissions relative to the Lifecycle Greenhouse Gas Emissions from
560 the aggregate use of the operation of a new combined cycle natural gas electric generating
561 facility using the most efficient commercially available technology as of the date of the
562 Statement of Qualification Application for the portion of electricity delivered by the Generation
563 Unit and, if applicable, the operation of the fossil fuel fired thermal energy unit being displaced,
564 or in the case of new Useful Thermal Energy, a gas-fired thermal energy unit using the most
565 efficient commercially available technology as of the date of Statement of Qualification
566 Application for the portion of the Useful Thermal Energy delivered by the Generation Unit. The
567 Department shall provide in the Overall Efficiency and Greenhouse Gas Analysis Guideline as
568 part of the Statement of Qualification Application a standard analytical methodology to meet this
569 requirement, including a full accounting of greenhouse gas emissions associated with any fuel
570 processing.

571 e. In the case of a Generation Unit that uses anaerobic digester gas or another biogas
572 that is an Eligible Biomass Fuel, such gas may be either

573 1. Conveyed directly to the Generation Unit without the use of facilities used as common
574 carriers of natural gas, or

575 2. Transported to a Generation Unit within the ISO-NE Control Area or an adjacent
576 Control Area via a common carrier of natural gas, in which instance the gas would be subject to
577 the following provisions:

578 i. the gas is produced entirely within the ISO-NE Control Area or an adjacent Control
579 Area; and

580 ii. documentation is provided, satisfactory to the Department, regarding the gas
581 transportation and related contracts; and

582 iii. demonstration is provided, satisfactory to the Department, that the gas can be
583 physically delivered to the Generation Unit.

584 9. Marine or Hydrokinetic Energy.

585 10. Geothermal Energy.

586 (b) Commercial Operation Date. The Commercial Operation Date shall be on or before
587 December 31, 1997.

588 (c) Metering. The electrical energy output from a Generation Unit shall be verified by
589 the ISO-NE or by an independent verification system or person participating in the NEPOOL
590 GIS accounting system as an independent Third Party Meter Reader, as defined in Rule 2.5(j) of
591 the NEPOOL GIS Operating Rules, or any successor rule, and approved by the Department.

592 (d) Location. The Generation Unit location is subject to the following limitations:

593 1. Off-grid Generation. If the Generation Unit produces Off-grid Generation, such Unit
594 must be located in Massachusetts.

595 2. Behind-the-meter Generation. If the Generation Unit is wired to the electrical system
596 on the End-use Customer's side of a retail electric meter, such Unit must be located inside the
597 ISO-NE Control Area and have a nameplate capacity of 25 megawatts or less.

598 (e) Capacity Obligation. The Generation Unit's generating capacity is subject to the
599 following obligations:

600 1. The amount of the generation capacity of the Generation Unit whose electrical energy
601 output is claimed as RPS Class II Renewable Generation shall not be committed to any Control
602 Area other than the ISO-NE Control Area unless such Generation Unit has entered into a
603 Capacity Obligation in another Control Area before the start of the first available compliance
604 year for the ISO-NE Forward Capacity Market, in which case this subsection shall apply upon
605 the expiration of that Capacity Obligation. However, if the Generation Unit executed a contract
606 for the sale of RPS Class II Renewable Generation Attributes or RPS Class II Renewable
607 Generation, or both, before January 1, 2009, for a term of at least two years, the contract price of

608 which relied on the receipt of capacity payments from a control area adjacent to the ISO-NE
609 Control Area, and the Generation Unit can demonstrate such reliance to the satisfaction of the
610 Department, this requirement shall not take effect for that Generation Unit until the expiration of
611 that contract.

612 2. The Owner or Operator of a Generation Unit that is not an Intermittent Generation
613 Unit shall commit to the ISO-NE Control Area the amount of the capacity of that Unit claimed as
614 RPS Class II Renewable Generation by submitting by the applicable deadline a show of intent
615 for the ISO-NE Forward Capacity Auction that is the earliest available for the Unit after the
616 Owner or Operator has submitted a Statement of Qualification Application.

617 3. An RPS Class II Renewable Generation Unit that was deemed unqualified by the ISO-
618 NE for participation in the ISO-NE Forward Capacity Market for technical reasons may commit
619 capacity to another control area and may receive GIS Certificates for the energy sold into ISO-
620 NE Control Area, subject to a determination by the Department.

621 (2) Co-Firing and Blended Fuel Waiver. All or a portion of the electrical energy output
622 of a Generation Unit that uses ineligible fuel in conjunction with an Eligible RPS Class II
623 Renewable Fuel, whether by co-firing such fuels or by using a Blended Fuel, may qualify as RPS
624 Class II Renewable Generation provided the Generation Unit meets the eligibility requirements
625 of 225 CMR 15.05, subject to the limitations in 225 CMR 15.05(2).

626 (a) The portion of the total electrical energy output that qualifies as RPS Class II
627 Renewable Generation in a given time period shall be equal to the ratio of the net heat content of
628 the Eligible RPS Class II Renewable Fuel consumed to the net heat content of all fuel consumed
629 in that time period.

630 (b) If using a Co-Mingled Biomass Woody Fuel, such fuel shall be considered an
631 ineligible fuel unless such fuel is accompanied by Biomass Fuel Certificates as provided in 225
632 CMR 15.05(5)(a)(2)b.

633 (c) If using a Blended Fuel of which the eligible portion is an Eligible Biomass Fuel or
634 if co-firing an ineligible fuel with an Eligible Biomass Fuel, the entire Generation Unit must
635 meet the requirements of an advanced biomass Power Conversion Technology as set forth in 225
636 CMR 15.05(1)(a)8.

637 (d) If using an Eligible Biomass Fuel, the Generation Unit must demonstrate to the
638 satisfaction of the Department that the emission rates for the entire Generation Unit are
639 consistent with rates prescribed by the MassDEP for comparably fueled Generation Units in the
640 Commonwealth. The Department may require the Generation Unit Owner or Operator to retain
641 at its own expense a third-party consultant deemed satisfactory to the Department, to provide the
642 Department and the MassDEP with assistance in this determination.

643 (e) The Generation Unit must provide with its Statement of Qualification Application a
644 fuel supply plan that specifies each and every fuel that it intends to use, in what relative
645 proportions either in co-firing or in a Blended Fuel, and with what individual input heat values.
646 Such plan shall include the procedures by which the Unit will document to the satisfaction of the
647 Department its compliance with the plan.

648 (f) The provisions of this subsection shall not apply to the incidental use of ineligible
649 fuels for the purpose of cold starting a Generation Unit that otherwise exclusively uses an
650 Eligible RPS Class II Renewable Fuel.

651 (3) Special Provisions for a Generation Unit Located in a Control Area Adjacent to the
652 ISO-NE Control Area. The portion of the total electrical energy output of an RPS Class II
653 Generation Unit located in a Control Area adjacent to the ISO-NE Control Area that qualifies as
654 RPS Class II Renewable Generation shall meet the requirements in Rule 2.7(c) and all other
655 relevant sections of the NEPOOL GIS Operating Rules or any successor rule, and the following
656 requirements:

657 (a) The Generation Unit Owner or Operator shall provide documentation, satisfactory to
658 the Department, of a contract or other legally enforceable obligation(s) (“Legal Obligation”) that
659 is executed between the Generation Unit Owner or Operator and an electrical energy purchaser
660 located in the ISO-NE Control Area for delivery of the Unit's electrical energy to the ISO-NE
661 Control Area. Such documentation shall include provisions for obtaining associated
662 transmission rights for delivery of the Unit's electrical energy from the Unit to the ISO-NE
663 Control Area. The Generation Unit Owner or Operator shall pay for evaluation and verification
664 of the provisions of such documentation by an independent party that is engaged or approved by
665 the Department.

666 (b) The Generation Unit Owner or Operator shall provide documentation, satisfactory to
667 the Department, that:

668 1. the electrical energy delivered pursuant to the Legal Obligation was settled in the
669 ISO-NE Settlement Market System;

670 2. the Generation Unit produced, during each hour of the applicable month, the amount
671 of MWhs claimed, as verified by the NEPOOL GIS administrator; if the originating Control
672 Area employs a Generation Information System that is comparable to the NEPOOL GIS,
673 information from that system may be used to support such documentation;

674 3. the electrical energy delivered under the Legal Obligation received a NERC Tag
675 confirming transmission from the adjacent Control Area to the ISO-NE Control Area; and

676 4. the RPS Class II Renewable Generation Attributes or RPS Class II Waste Energy
677 Generation Attributes have not otherwise been, nor will be, sold, retired, claimed, used or

678 represented as part of electrical energy output or sales, or used to satisfy obligations in
679 jurisdictions other than Massachusetts.

680 (c) The Generation Unit Owner or Operator must provide an attestation in a form to be
681 provided by the Department that it will not itself or through any affiliate or other contracted
682 party, engage in the process of importing RPS Class II Renewable Generation into the ISO-NE
683 Control Area for the creation of RPS Class II Renewable GIS Certificates, and then exporting
684 that energy or a similar quantity of other energy out of the ISO-NE Control Area during the same
685 hour.

686 (d) The quantity of electrical energy output from an RPS Class II Generation Unit
687 outside the ISO-NE Control Area that can qualify as RPS Class II Renewable Generation at the
688 NEPOOL GIS during each hour is limited to the lesser of the RPS Class II Renewable
689 Generation actually produced by the Unit or the RPS Class II Renewable Generation actually
690 scheduled and delivered into the ISO-NE Control Area.

691 (4) Special Provisions for Aggregations. An Aggregation of Generation Units that are
692 located behind the customer meter or that are Off-grid Generation Units, each of which could
693 independently meet the relevant requirements of 225 CMR 15.05, may receive a single
694 Statement of Qualification and be treated as a single RPS Class II Renewable Generation Unit
695 under the following criteria and procedures:

696 (a) Each Generation Unit in such Aggregation must use the same fuel, energy
697 resource and technology as all other Units in the Aggregation.

698 (b) Each of the Owners or Operators of Generation Units within the Aggregation
699 must enter into an agreement with a person or entity that serves as the Authorized Agent for the
700 Aggregation in all dealings with the Department and with the NEPOOL GIS, and such
701 agreement must include procedures by which the electrical energy output of each Unit shall be
702 monitored and reported to the NEPOOL GIS.

703 (c) The Authorized Agent of the Aggregation must establish and maintain a
704 Generator account at the NEPOOL GIS under the NEPOOL GIS Operating Rules, including all
705 provisions for Non-NEPOOL Generator Representatives, as that term is defined in Rule
706 2.1(a)(vi) of those Rules, or any successor rules.

707 (d) The electrical energy output of each of the Generation Units in the Aggregation
708 must be individually monitored and recorded, and it must be reported to the NEPOOL GIS as
709 part of an aggregated total for the Aggregation, by an independent Third Party Meter Reader, as
710 defined in Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule, and approved
711 by the Department.

712 (5) Special Provisions for Generation Units Using Eligible Biomass Woody Fuels,
713 Co-Mingled Biomass Woody Fuels, or Manufactured Biomass Fuels.

714 (a) Eligible Biomass Woody Fuel or Manufactured Biomass Fuel Certification,
715 Verification, and Enforcement. An Owner, Operator, or Authorized Agent of a Generation Unit
716 that uses an Eligible Biomass Woody Fuel or a Manufactured Biomass Fuel must meet the
717 following provisions:

718 1. Over each Compliance Year, the tonnage of all Eligible Biomass Woody Fuel
719 input to the Generation Unit shall be documented by the Owner or Operator in a Biomass Unit
720 Annual Compliance Report provided in 225 CMR 15.05(5)(d). The documentation shall
721 demonstrate that the Owner or Operator of the Generation Unit has obtained a quantity of
722 Biomass Fuel Certificates representing an equal or greater quantity than the tonnage of Eligible
723 Biomass Woody Fuel in the Report. For Manufactured Biomass Fuel, the Biomass Fuel
724 Certificates shall be for the required tonnage of Eligible Biomass Woody Fuel necessary for the
725 production of the volume of Manufactured Biomass Fuel delivered to the unit.

726 2. Biomass Fuel Certificates shall be originated, procured, and transacted in
727 accordance with the Department's Biomass Eligibility and Certificate Guideline. Certificates
728 shall be valid only in one of the following instances:

729 a. Biomass Fuel Certificates that accompany the shipment of Eligible Biomass
730 Woody Fuel from its original source and:

- 731 i. is delivered directly to an RPS Class II Renewable Generation Unit; and
732 ii. has not been modified or mixed with other fuels or materials.

733 b. Biomass Fuel Certificates that accompany the shipment of Eligible Biomass
734 Woody Fuel from its original source and which is delivered directly to a retailer of Eligible
735 Biomass Woody Fuel. If the fuel is subsequently co-mingled by the retailer, the Certificate
736 accompanying the co-mingled fuel must represent the original Eligible Biomass Woody Fuel
737 tonnage delivered to the retailer. The newly Co-Mingled Biomass Woody Fuel must then be
738 delivered by the same retailer directly to an RPS Class II Renewable Generation Unit.

739 c. Biomass Fuel Certificates obtained by and transacted between the Owners,
740 Operators, or Authorized Agents of Generation Units that have received Statements of
741 Qualification from the Department under 225 CMR 14.00, 225 CMR 15.00, or 225 CMR 16.00.

742 3. For Forest Derived Residues and Forest Derived Thinnings the Biomass Fuel
743 Certificate shall be issued consistent with the Eligible Forest Biomass Tonnage Report and
744 signed by a Professional Forester.

745

746 4. The Eligible Forest Biomass Tonnage Report shall include certification by the
747 Professional Forester of compliance with all eligibility requirements for Eligible Biomass
748 Woody Fuels under 225 CMR 15.00. This may include evidence that the fuel has been received
749 from land certified by the Forest Stewardship Council (FSC), Sustainable Forest Initiative (SFI),
750 USDA Forest Service; Forest Stewardship Program, or the host state's Current Use Program.

751 5. For Forest Derived Residues and Forest Derived Thinnings, the Eligible Forest
752 Biomass Tonnage Report shall also include each of the following:

753 a. A certification from a Professional Forester that the amount to be removed for Eligible
754 Biomass Woody Fuel is no more than the allowable percent of the total weight of all forest
755 products harvested from a given forest harvest site;

756 b. A certification from a Professional Forester that the prescribed harvest meets the
757 forest sustainability thresholds provided in the Department's Biomass Eligibility and Certificate
758 Guideline;

759 c. The total tons of Eligible Biomass Woody Fuel prescribed for harvesting under the
760 category of Forest Derived Residues; and

761 d. The total tons of Eligible Biomass Woody Fuel for harvesting under the category of
762 Forest Derived Thinnings. The total weight of the forest products shall be calculated utilizing
763 weight standards by species provided in the Department's Biomass Eligibility and Certificate
764 Guideline. The allowable percent removal limit shall be determined as prescribed in the
765 Department's Biomass Eligibility and Certificate Guideline to protect soil nutrient retention in
766 varying soil conditions.

767 6. For Non-Forest Derived Residue fuels, Forest Salvage, and Dedicated Energy Crops,
768 the Biomass Fuel Certificate shall be completed by the fuel supplier and certified by the Owner,
769 Operator, or Authorized Agent duly verifying the fuel supplier, tonnage, source, and that the
770 Non-Forest Derived Residue fuels, Forest Salvage, and Dedicated Energy Crops meet the criteria
771 of an Eligible Biomass Woody Fuel as provided in the Department's Biomass Eligibility and
772 Certificate Guideline.

773 (b) Verification Provision. The Department or independent third-parties contracted for
774 by the Department, shall conduct document inspections, audits, or site visits under 225 CMR
775 15.11, as often as the Department determines is necessary to verify compliance with all relevant
776 provisions of 225 CMR 15.00 pertaining to use of an Eligible Biomass Woody Fuel. Verification
777 by the Department shall follow the recommendations of the Advisory Panel and Forest Impact
778 Statement, as established in 225 CMR 14.05(8)(b)(1)-(2).

779 (c) A Generation Unit that uses Eligible Biomass Woody Fuel, Co-Mingled Biomass
780 Woody Fuel, or Manufactured Biomass Fuel must report to the Department the following

781 information on a quarterly basis. The Generation Unit will be provided RPS Class II Renewable
782 Generation Attributes as a function of its Overall Efficiency.

783 1. Each quarter, the designated independent Third-Party Meter Reader, as defined in
784 Rule 2.5(j) of the NEPOOL GIS Operating Rules, or any successor rule, and approved by the
785 Department, of a Generation Unit, must report: Biomass Input Heat Content, Useful Thermal
786 Energy, Merchantable Bio-Products, Renewable Generation, Renewable Generation utilized
787 behind-the-meter, and the Overall Efficiency. For all reported data and prior to the calculation
788 of Overall Efficiency, all energy units must be expressed in MWh. For Useful Thermal Energy
789 and Biomass Input Heat Content the conversion of energy units shall consider that each 3412
790 thousand BTUs is equivalent to one MWh. For Merchantable Bio-Products the product shall be
791 prescribed an energy content based on its enthalpy of reaction, as determined by a standard
792 independent laboratory analysis, and those units of energy appropriately converted to MWhs.

793 2. Each quarter, a Generation Unit shall be provided an amount of Renewable Energy
794 Attributes on the NEPOOL GIS calculated as follows:

795 a. A Generation Unit achieving 60% or higher Overall Efficiency in a quarter will
796 receive one RPS Class II Renewable Energy Attribute for each MWh of RPS Class II Renewable
797 Energy Generation.

798 b. A Unit achieving greater than 50% and less than 60% Overall Efficiency in a
799 quarter will receive one RPS Class II Renewable Energy Attribute for each MWh of RPS Class
800 II Renewable Energy Generation times a pro-rated fraction calculated as follows: $0.5 + 5 \times$
801 $(\text{Overall Efficiency} - 0.5)$, whereby the Overall Efficiency is expressed as a decimal (e.g. 51% is
802 expressed as 0.51).

803 c. A Unit achieving 50% Overall Efficiency in a quarter will receive one-half RPS
804 Class II Renewable Energy Attribute for each MWh of RPS Class II Renewable Energy
805 Generation.

806 (d) Annual Compliance of Generation Units using Eligible Biomass Woody Fuel, Co-
807 Mingled Biomass Woody Fuel, or Manufactured Biomass Fuel. An Owner, Operator, or
808 Authorized Agent of a Generation Unit using Eligible Biomass Woody Fuel, Co-Mingled
809 Biomass Woody Fuel, or Manufactured Biomass Fuel shall provide to the Department by
810 January 31 of each year a Biomass Unit Annual Compliance Report and be subject to the
811 following:

812 1. Within the Biomass Unit Annual Compliance Report, in a format set forth in the
813 Department's Overall Efficiency and Greenhouse Gas Analysis Guideline, the Owner, Operator,
814 or Authorized Agent shall identify the Owner's ownership of Biomass Fuel Certificates denoting
815 the fuel consumption for the Compliance Year by the Generation Unit by tons of fuel,
816 categorized as Forest Derived Residues, Forest Derived Thinnings, Non-Forest Derived

817 Residues, Forest Salvage, and Dedicated Energy Crops. The Owner, Operator, or Authorized
818 Agent shall retain copies of all Biomass Fuel Certificates for five years. The Report must
819 explain any variances with the proposed Fuel Supply Plan filed with the Department for that
820 Compliance Year.

821 2. The Biomass Unit Annual Compliance Report must include a greenhouse gas analysis
822 for the Compliance Year. The analysis shall be prepared in accordance with the Department's
823 Overall Efficiency and Greenhouse Gas Analysis Guideline and the fuel use as represented by
824 the Biomass Fuel Certificates owned for the Compliance Year. This Report must also
825 document the Generation Unit's performance with respect to the lifecycle greenhouse emissions
826 requirements in 225 CMR 15.05(1)(a)(8)(d)(iii), including the actual percent lifecycle
827 greenhouse gas emissions reduction over 20 years, as determined in the Department's Overall
828 Efficiency and Greenhouse Gas Analysis Guideline. The Report shall document any under-
829 compliance and the Percent Under-Compliance with the lifecycle greenhouse gas emission
830 reduction requirement.

831 3. For Generation Units that report a Percent Under-Compliance in 225 CMR
832 15.05(5)(d)(2), the following provisions shall apply.

833 a. The Generation Unit shall be placed in a probationary status and the Department
834 shall notify the Owner that its Statement of Qualification shall be revoked at the end of five
835 Compliance Years following the Compliance Year for which the Percent Under-Compliance was
836 reported, as provided under 225 CMR 15.06(7). The Generation Unit's probationary status shall
837 be rescinded and the Generation Unit's Statement of Qualification shall no longer be subject to
838 revocation if either:

839 i. For any three Compliance Years of the probationary period the Biomass Unit Annual
840 Compliance Report demonstrates that the Generation Unit is complying with the lifecycle
841 greenhouse gas emissions requirements; or

842 ii. The Generation Unit's accumulated Percent Under-Compliance is offset by any net
843 over-compliance with the lifecycle greenhouse gas emissions requirement as demonstrated in the
844 Unit's Annual Compliance Reports during the probationary period.

845 b. For any Compliance Year for which a Generation Unit reports under compliance
846 with the lifecycle greenhouse emissions requirements, the Generation Unit shall demonstrate
847 compliance through the Under-Compliance Mechanism as follows:

848 i. The Generation Unit shall demonstrate compliance by making an Under-
849 Compliance Payment to the MassCEC. Such payment shall be equal to the product of the
850 Generation Unit's Percent Under-Compliance for the relevant year times \$0.50 for each RPS
851 Class II Renewable Energy Attribute settled for RPS Class II compliance in Massachusetts that
852 was generated by the Generation Unit in the relevant Compliance Year. The Generation Unit

853 shall provide to the Department copies of any receipt(s) for Under-Compliance Payment made to
854 the MassCEC for the Compliance Year.

855 ii. All Under-Compliance Payments received by the MassCEC shall be held in an
856 account separate from other accounts of the MassCEC. The use of all Under-Compliance
857 Payments shall be overseen by the Department. The use of the funds shall be limited to the
858 provision of financial support for either:

859 (i) investments across the supply chain for Forest Derived Residues, such as but not
860 limited to, investments in residue biomass harvest equipment, investment in residue fuel
861 handling and trucking, and incremental investments needed by Generation Units to handle and
862 utilize residue biomass material; or

863 (ii) activities that increase carbon sequestration through the growth of biomass, for
864 example the planting of trees.

865 iii. The Generation Unit shall have up to one calendar year, after the filing of its
866 Biomass Unit Annual Compliance Report, to make its total Under-Compliance Payment. If the
867 Generation Unit fails to make full payment in this time, its Statement of Qualification shall be
868 revoked, in accordance with 225 CMR 15.06(7), after the end of that calendar year.

869 c. A Generation Unit that is subject to a probationary status shall meet the following
870 requirements to demonstrate its ability to operate within compliance. If, in any Compliance
871 Year, the following requirements are not followed, the Generation Unit's Statement of
872 Qualification will be revoked, as provided under 225 CMR 15.06(7).

873 i. For the first year in a Generation Unit's probationary status, the Generation Unit
874 shall provide to the Department by April 1, a revised Fuel Supply Plan demonstrating corrective
875 action from previous year's procurement practices that will provide for the necessary annual
876 supply of Non-Forest Residues and Forest Derived Residues.

877 ii. For the second year in a Generation Unit's probationary status, the Generation
878 Unit shall provide to the Department by April 1, a revised Fuel Supply Plan that demonstrates
879 that at least 25% of the necessary annual supply of Non-Forest Residues and Forest Derived
880 Residues are procured under a contract with a fuel supplier.

881 iii. For the third year in a Generation Unit's probationary status, the Generation Unit
882 shall provide to the Department by April 1, a revised Fuel Supply Plan that demonstrates that at
883 least 50% of the necessary annual supply of Non-Forest Residues and Forest Derived Residues
884 are procured under a contract with a fuel supplier.

885 iv. For the fourth year in a Generation Unit's probationary status, the Generation
886 Unit shall provide to the Department by April 1, a revised Fuel Supply Plan that demonstrates

887 that at least 75% of the necessary annual supply of Non-Forest Residues and Forest Derived
888 Residues are procured under a contract with a fuel supplier.

889 v. For the fifth year in a Generation Unit's probationary status, the Generation Unit
890 shall provide to the Department by April 1, a revised Fuel Supply Plan that demonstrates that
891 100% of the necessary annual supply of Non-Forest Residues and Forest Derived Residues are
892 procured under a contract with a fuel supplier.

893 15.06: Statement of Qualification Process for RPS Class II Renewable Generation Units

894 (1) Statement of Qualification Application (SQA). An SQA shall be submitted to the
895 Department by the Owner or Operator of the Generation Unit or Aggregation. The applicant
896 must use the most current forms and associated instructions provided by the Department, and
897 must include all information, documentation, and assurances required by such forms and
898 instructions.

899 (2) Review Procedures.

900 (a) The Department will notify the applicant when the SQA is administratively complete
901 or if additional information is required pursuant to 225 CMR 15.06(1).

902 (b) The Department may, in its sole discretion, provide an opportunity for public
903 comment on any SQA.

904 (3) Issuance or Non-Issuance of an SQ.

905 (a) If the Department finds that all or a portion of the electrical energy output of a
906 Generation Unit or of an Aggregation meets the requirements for eligibility as RPS Class II
907 Renewable Generation pursuant to 225 CMR 15.05, the Department will provide the Owner or
908 Operator of such Unit or Aggregation with an SQ.

909 (b) The Statement of Qualification shall include any applicable restrictions and
910 conditions that the Department deems necessary to ensure compliance by a particular Generation
911 Unit or Aggregation with the provisions of 225 CMR 15.00.

912 (c) If the Generation Unit or Aggregation does not meet the requirements for
913 eligibility as an RPS Class II Generation Unit, the Department shall provide written notice to the
914 Owner or Operator, including the Department's reasons for such finding.

915 (4) RPS Effective Date. The RPS Effective Date shall be the earliest date on which
916 electrical energy output of an RPS Class II Generation Unit can result in the creation of RPS
917 Class II GIS Certificates, with the following limitations:

918 (a) In the case of a Biomass Generation Unit, the RPS Effective Date shall not be earlier
919 than the date on which the Department determines that the Biomass Generation Unit has
920 commenced compliance with the low-emission conditions in its SQ;

921 (b) In the case of a Hydroelectric Unit, the RPS Effective Date shall not be earlier than
922 the date on which the Department determined that the Hydroelectric Generation Unit has
923 commenced compliance with the environmental conditions in its SQ;

924 (c) In the case of a Waste Energy Generation Unit, the RPS Effective Date shall not be
925 earlier than the date on which the Department determines that the Waste Energy Generation Unit
926 has commenced compliance with the recycling program conditions in its SQ.

927 In no instance shall the RPS Effective Date occur before January 1, 2009.

928 (5) Notification Requirements for Change in Eligibility Status. The Owner or Operator
929 of an RPS Class II Generation Unit shall notify the Department of any changes in the
930 technology, operation, emissions, fuel sources, energy resources, or other characteristics of the
931 Generation Unit that may affect the eligibility of the Generation Unit as an RPS Class II
932 Generation Unit. The Owner or Operator shall submit the notification to the Department no later
933 than five days following the end of the month during which such changes were implemented.
934 The notice shall state the date the changes were made to the RPS Class II Renewable Generation
935 Unit and describe the changes in sufficient detail to enable the Department to determine if a
936 change in eligibility is warranted.

937 (6) Notification Requirements for Change in Ownership, Generation Capacity, or
938 Contact Information. The Owner or Operator of an RPS Class II Generation Unit shall notify the
939 Department of any changes in the ownership, operating entity, generation capacity, NEPOOL
940 GIS account, independent verification system for the Generation Unit's or Aggregation's
941 electrical energy output, or contact information for the Generation Unit or Aggregation. The
942 Owner or Operator shall submit the notification to the Department no later than five days
943 following the end of the month during which such changes were implemented.

944 (7) Suspension or Revocation of Statement of Qualification. The Department may
945 suspend or revoke a Statement of Qualification if the Owner or Operator of an RPS Class II
946 Generation Unit fails to comply with 225 CMR 15.00.

947 15.07: Renewable Energy Portfolio Standard – Class II

948 (1) RPS Class II Renewable Generation Minimum Standard. The total annual sales of
949 each Retail Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity
950 Supplier, under contracts executed or extended on or after January 1, 2009, shall include a
951 minimum percentage of electrical energy sales with RPS Class II Renewable Generation

952 Attributes. The RPS Class II Renewable Generation Minimum Standard shall be calculated as
953 follows:

954 (a) The RPS Class II Renewable Generation Minimum Standard shall be equal to 1.50%
955 of the Total Electrical Energy Sales to End-use Customer, as provided in 225 CMR 15.09(2)(a),
956 for Compliance Year 2013, 1.75% for Compliance Year 2014, and 2.00% for Compliance Year
957 2015.

958 (b) For each Compliance Year thereafter, the Department shall announce the RPS Class II
959 Renewable Generation Minimum Standard no later than August 30 two years prior to the
960 Compliance Year. The RPS Class II Renewable Generation Minimum Standard shall be
961 determined by the following formula:

962 The RPS Class II Renewable Generation Minimum Standard for each Compliance Year
963 (CY) shall be equal to the RPS Class II Renewable Generation Minimum Standard for the prior
964 Compliance Year (CY-1), plus the number of RPS Class II Renewable Generation Attributes
965 settled for compliance in Compliance Year three years prior (CY-3), divided by the total MWh
966 of electrical energy sales by Retail Electricity Suppliers to End-use Customers in Compliance
967 Year three years prior (CY-3), minus the number of RPS Class II Renewable Generation
968 Attributes settled for compliance in Compliance Year four years prior (CY-4) divided by the
969 total MWh of electrical energy sales by Retail Electricity Suppliers to End-use Customers in
970 Compliance Year four years prior (CY-4). For the purpose of these calculations, the total MWh
971 of electrical energy sales by Retail Electricity Suppliers to End-use Customers shall be
972 determined in the manner specified in 225 CMR 15.09(2)(a), and Attributes settled for
973 compliance in a given Compliance Year shall be represented by the total of all RPS Class II
974 qualified GIS Certificates that are determined by the Department to qualify for RPS Class II
975 Renewable Energy compliance in the Compliance Year in which the energy that they signify was
976 generated.

977 (c) Notwithstanding the calculation in 225 CMR 15.07(1)(b), the RPS Class II Renewable
978 Generation Minimum Standard shall not exceed 3.6% of the Total Electrical Energy Sales to End-
979 use Customer, as provided in 225 CMR 15.09(2)(a).

980 (2) RPS Class II Waste Energy Minimum Standard. The total annual sales of each Retail
981 Electricity Product sold to Massachusetts End-use Customers by a Retail Electricity Supplier,
982 under contracts executed or extended on or after January 1, 2009, shall include a minimum
983 percentage of electrical energy sales with RPS Class II Waste Energy Generation Attributes.
984 The RPS Class II Waste Energy Minimum Standard shall be equal to 3.5%.

985 15.08: Compliance Procedures for Retail Electricity Suppliers.

986 (1) Standard Compliance. Each Retail Electricity Supplier shall be deemed to be in
987 compliance with 225 CMR 15.00 if the information provided in the Compliance Filing submitted

988 pursuant to 225 CMR 15.09 is true and accurate and demonstrates compliance with 225 CMR
989 15.07. A Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that
990 RPS Class II Renewable Generation Attributes and RPS Class II Waste Energy Generation
991 Attributes used for compliance have not otherwise been, nor will be, sold, retired, claimed, used
992 or represented as part of electrical energy output or sales, or used to satisfy obligations in
993 jurisdictions other than Massachusetts.

994 (2) Banked Compliance. A Retail Electricity Supplier may use RPS Class II Renewable
995 Generation Attributes and RPS Class II Waste Energy Generation Attributes produced in one
996 Compliance Year for compliance over the course of the following two subsequent Compliance
997 Years, subject to the limitations in this subsection and provided that the Retail Electricity
998 Supplier is in compliance with 225 CMR 15.00 for all previous Compliance Years. In addition,
999 the Retail Electricity Supplier shall demonstrate to the satisfaction of the Department that such
1000 Attributes:

1001 (a) were in excess of the RPS Class II Renewable Generation Attributes and RPS Class
1002 II Waste Energy Generation Attributes needed for compliance in the Compliance Year in which
1003 they were generated, and that such excess Attributes have not previously been used for
1004 compliance with 225 CMR 15.00;

1005 (b) do not exceed 30% of the RPS Class II Renewable Generation Attributes and 30% of
1006 the RPS Class II Waste Energy Generation Attributes needed by the Retail Electricity Supplier
1007 for compliance with the RPS Class II Renewable Generation Minimum Standard, and RPS Class
1008 II Waste Energy Minimum Standard in the year they were generated, subject to 225 CMR
1009 15.09(2)(d) and subject to the following limitations:

1010 1. For RPS Class II Waste Energy Generation Attributes:

1011 a. In Compliance Years 2014 and 2015 no excess RPS Class II Waste Energy Generation
1012 Attributes shall be available as Banked Compliance;

1013 b. Commencing with Compliance Year 2016, bankable excess RPS Class II Waste
1014 Energy Generation Attributes shall not exceed 5% of the RPS Class II Waste Energy Generation
1015 Attributes needed by the Retail Electricity Supplier for compliance with the RPS Class II Waste
1016 Energy Minimum Standard in the year they were generated; and

1017 2. If the effective date of this subsection is on or after June 1, 2014, then a Retail
1018 Electricity Supplier may bank an amount of RPS Class II Renewable Generation Attributes
1019 generated in Compliance Year 2013 that it would have been required to use for compliance
1020 under 225 CMR 15.08(2) had the RPS Class II Renewable Generation Minimum Standard been
1021 unchanged from 3.6% by 225 CMR 15.07(1)(a). The Retail Electricity Supplier may also bank
1022 an additional amount of RPS Class II Renewable Generation Attributes generated in Compliance
1023 Year 2013 as long as this additional banked amount does not exceed 30% of RPS Class II

1024 Renewable Generation Attributes that would have been needed for compliance with the RPS
1025 Class II Renewable Generation Minimum Standard had it been unchanged from 3.6% by 225
1026 CMR 15.07(1)(a).

1027 (c) were produced during the Compliance Year in which they are claimed as excess by
1028 the generation of electrical energy sold to End-use Customers in the ISO-NE Control Area, by
1029 the generation of electrical energy on End-use Customers' sides of retail meters in the ISO-NE
1030 Control Area, or by the generation of electrical energy from Off-grid Generation Units in
1031 Massachusetts; and

1032 (d) have not otherwise been, nor will be, sold, retired, claimed or represented as part of
1033 electrical energy output or sales, or used to satisfy obligations in jurisdictions other than
1034 Massachusetts.

1035 (3) Alternative Compliance for RPS Class II Renewable Generation Minimum Standard.
1036 A Retail Electricity Supplier may discharge its obligations under 225 CMR 15.07(1), in whole or
1037 in part, for any Compliance Year by making an ACP to the MassCEC. Such funds shall be held
1038 in an account separate from other accounts of the Corporation.

1039 (a) Procedures. A Retail Electricity Supplier shall receive Alternative Compliance
1040 Credits from the Department, subject to the following:

1041 1. The quantity of Credits, specified in MWhs, that can be applied to its obligations
1042 under 225 CMR 15.07(1) shall be determined by calculating the ratio of the total of ACPs paid
1043 for the Compliance Year to the ACP Rate for that Compliance Year.

1044 2. The ACP Rate for the RPS Class II Renewable Generation Minimum Standard shall
1045 be \$25 per MWh for Compliance Year 2009. For each subsequent Compliance Year, the
1046 Department shall publish the ACP Rate by January 31 of the Compliance Year. The ACP Rate
1047 shall be equal to the previous year's ACP Rate adjusted up or down according to the previous
1048 year's Consumer Price Index.

1049 3. The Retail Electricity Supplier shall include with its Annual Compliance Filing
1050 copies of any ACP receipt(s) for ACPs made to the MassCEC during the Compliance Year.

1051 (b) Use of Funds. The Department shall oversee the use of ACP funds by the
1052 MassCEC.

1053 (4) Alternative Compliance for RPS Class II Waste Energy Minimum Standard. A
1054 Retail Electricity Supplier may discharge its obligations under 225 CMR 15.07(2), in whole or in
1055 part, for any Compliance Year by making an ACP to the MassCEC. Such funds shall be held in
1056 an account separate from other accounts of the Corporation.

1057 (a) Procedures. A Retail Electricity Supplier shall receive Alternative Compliance
1058 Credits from the Department, subject to the following:

1059 1. The quantity of Credits, specified in MWhs, that can be applied to its obligations
1060 under 225 CMR 15.07(2) shall be determined by calculating the ratio of the total of ACPs paid
1061 for the Compliance Year to the ACP Rate for that Compliance Year.

1062 2. The ACP Rate for the RPS Class II Waste Energy Minimum Standard shall be \$10
1063 per MWh for Compliance Year 2009. For each subsequent Compliance Year, the Department
1064 shall publish the ACP Rate by January 31 of the Compliance Year. The ACP Rate shall be equal
1065 to the previous year's ACP Rate adjusted up or down according to the previous year's Consumer
1066 Price Index.

1067 3. The Retail Electricity Supplier shall include with its Annual Compliance Filing
1068 copies of any ACP receipt(s) for ACPs made to the MassCEC during the Compliance Year.

1069 (b) Use of Funds. The Department shall oversee the use of ACP funds by the
1070 MassCEC.

1071 (5) Presumption of Attribute Ownership. Unless ownership is explicitly transferred by
1072 contract, the RPS Class II Renewable Generation Attributes and RPS Class II Waste Energy
1073 Attributes shall be issued to the RPS Class II Renewable Generation Unit or RPS Class II Waste
1074 Energy Unit.

1075 15.09: Annual Compliance Filings for Retail Electricity Suppliers

1076 (1) Date of Annual Compliance Filing. For each Compliance Year, the Retail
1077 Electricity Supplier annually shall file an annual Compliance Filing with the Department no later
1078 than the first day of July, or the first Business Day thereafter, of the subsequent Compliance
1079 Year.

1080 (2) Contents of Annual Compliance Filing. For each Retail Electricity Product, the
1081 Filing shall document compliance with the provisions of 225 CMR 15.07 and 15.08 to the
1082 satisfaction of the Department and shall include, but not be limited to, the following:

1083 (a) Total Electrical Energy Sales to End-use Customers. Documentation of the total
1084 MWhs of electrical energy allocated by the Retail Electricity Supplier to End-use Customers in
1085 the Compliance Year. Such allocation is defined as the total quantity of the Supplier's
1086 Certificates Obligation that the Retail Electricity Supplier correctly allocated or should have
1087 allocated to all of the Retail Electricity Supplier's Massachusetts retail subaccounts in the
1088 NEPOOL GIS, in compliance with all relevant provisions of Part 4 of the NEPOOL GIS
1089 Operating Rules, or any successor rules, as specified in the Department's Guideline on the
1090 Determination of Sales to End-Use Customer.

1091 (b) Electrical Energy Sales to End-use Customers by Product. Documentation of the
1092 total MWhs of each Retail Electricity Product allocated to End-use Customers in the Compliance
1093 Year, verified by an independent third party satisfactory to the Department, consistent with the
1094 Guidelines. Such allocation is defined as the quantity of the Supplier's Certificates Obligation
1095 that the Retail Electricity Supplier correctly allocated or should have allocated to each of the
1096 Retail Electricity Supplier's Massachusetts retail subaccounts at the NEPOOL GIS, in
1097 compliance with all relevant provisions of Part 4 of the NEPOOL GIS Operating Rules, or any
1098 successor rules, as specified in the Department's Guideline on the Determination of Sales to
1099 End-Use Customer. The Department shall keep product information confidential to the extent
1100 permitted by law.

1101 (c) Attributes Allocated from the Compliance Year. Documentation of the total MWhs
1102 of each Retail Electricity Product allocated to End-use Customers that were derived from both
1103 RPS Class II Renewable Generation and RPS Class II Waste Energy generation during the
1104 Compliance Year, and which may include electrical energy generated on End-use Customers'
1105 sides of retail meters in the ISO-NE Control Area or by Off-grid Generation Units in
1106 Massachusetts in the Compliance Year, shall be as follows:

1107 1. For electrical energy transactions included in the ISO-NE Settlement Market System,
1108 the Compliance Filings shall include documentation from the NEPOOL GIS administrator of the
1109 Retail Electricity Supplier's ownership of GIS Certificates representing both RPS Class II
1110 Renewable Generation and RPS Class II Waste Energy generation during the Compliance Year.

1111 2. For electrical energy transactions not included in the ISO-NE Settlement Market
1112 System, but for which the Retail Electricity Supplier has secured GIS Certificates from the
1113 NEPOOL GIS, the Compliance Filings shall include documentation from the NEPOOL GIS of
1114 the Retail Electricity Supplier's ownership of GIS Certificates representing both RPS Class II
1115 Renewable Generation and RPS Class II Waste Energy generation during the Compliance Year.

1116 (d) Attributes Allocated from Banked Compliance. Allocation by Retail Electricity
1117 Product of any quantity of Attributes banked from one or both of the two previous years pursuant
1118 to 225 CMR 15.08(2) that are used to demonstrate compliance in the current Compliance Year,
1119 except that banked RPS Class II Waste Energy Generation Attributes cannot be used for
1120 compliance with the RPS Class II Renewable Generation Minimum Standard and banked RPS
1121 Class II Renewable Generation Attributes cannot be used for compliance with the RPS Class II
1122 Waste Energy Generation Minimum Standard.

1123 (e) Alternative Compliance Credits. Allocation by Retail Electricity Product of any
1124 Alternative Compliance Credits claimed pursuant to 225 CMR 15.08(3), along with a copy of
1125 any ACP receipt(s).

1126 (f) Attributes Banked for Future Compliance. Identification of any quantity of RPS
1127 Class II Renewable Generation Attributes and of any RPS Class II Waste Energy Generation

1128 Attributes that the Retail Electricity Supplier anticipates claiming for purposes of Banked
1129 Compliance in subsequent years under the Banked Compliance provisions of 225 CMR 15.08(2),
1130 except that RPS Class II Waste Energy Generation Attributes that are in excess of the quantity of
1131 such Attributes needed for the RPS Class II Waste Energy Minimum in Compliance Years 2014
1132 and 2015 cannot be used for Banked Compliance.

1133 (g) Exempt Contracts under the RPS Class II Renewable Generation Minimum Standard
1134 and the RPS Class II Waste Energy Minimum Standard . Identification of any contract for a
1135 specific term of years that was executed before January 1, 2009, and its terms including but not
1136 limited to, the execution and expiration dates of the contract and the annual volume of electrical
1137 energy supplied.

1138 15.10: Reporting Requirements

1139 (1) Certification. Any person required by 225 CMR 15.00 to submit documentation to
1140 the Department shall provide:

1141 (a) the person's name, title and business address;

1142 (b) the person's authority to certify and submit the documentation to the Department;
1143 and

1144 (c) the following certification: "I hereby certify, under the pains and penalties of
1145 perjury, that I have personally examined and am familiar with the information submitted herein
1146 and based upon my inquiry of those individuals immediately responsible for obtaining the
1147 information, I believe that the information is true, accurate, and complete. I am aware that there
1148 are significant penalties, both civil and criminal, for submitting false information, including
1149 possible fines and imprisonment."

1150 (2) Annual Renewable Energy Resource Report. The Department shall produce an
1151 annual report that summarizes information submitted to the Department by Retail Electricity
1152 Suppliers in the Annual Compliance Filing submitted to the Department pursuant to 225 CMR
1153 15.09(2).

1154 15.11: Inspection

1155 (1) Document Inspection. The Department may audit the accuracy of all information
1156 submitted pursuant to 225 CMR 15.00. The Department may request and obtain from any
1157 Owner or Operator of an RPS Class II Renewable Generation Unit and any Retail Electricity
1158 Supplier information that the Department determines necessary to monitor compliance with and
1159 enforcement of 225 CMR 15.00.

1160 (2) Audit and Site Inspection. Upon reasonable notice to a Retail Electricity Supplier or
1161 RPS Class II Renewable Generation Unit Owner or Operator, the Department may conduct

1162 audits, which may include inspection and copying of records and/or site visits to an RPS Class II
1163 Renewable Generation Unit or a Retail Electricity Supplier's facilities, including, but not limited
1164 to, all files and documents that the Department determines are related to compliance with 225
1165 CMR 15.00.

1166 15.12: Non-compliance

1167 Any Retail Electricity Supplier or Owner or Operator of an RPS Class II Renewable
1168 Generation Unit that fails to comply with the requirements of 225 CMR 15.00 shall be subject to
1169 the following provisions:

1170 (1) Notice of Non-compliance. A failure to comply with the requirements of 225 CMR
1171 15.00 shall be determined by the Department. A written Notice of Non-compliance shall be
1172 prepared and delivered by the Department to any Retail Electricity Supplier or Owner or
1173 Operator of an RPS Class II Renewable Generation Unit that fails to comply with the
1174 requirements of 225 CMR 15.00. The Notice of Non-compliance shall describe the
1175 Requirement(s) with which the Retail Electricity Supplier, Owner, or Operator failed to comply
1176 and the time period of such non-compliance.

1177 (2) Publication of Notice of Non-compliance. A Notice of Non-compliance may be
1178 published on the Department's website and in any other media deemed appropriate by the
1179 Department. Such publication may remain posted until the Retail Electricity Supplier or Owner
1180 or Operator returns to compliance as determined by the Department.

1181 (3) Planning Requirement. A Retail Electricity Supplier that fails to meet the
1182 requirements of 225 CMR 15.07 during a Compliance Year shall submit a plan for achieving
1183 compliance for the subsequent three years. The plan shall be filed with the Department no later
1184 than the first day of September of the Compliance Year subsequent to the Compliance Year for
1185 which the Retail Electricity Supplier was out of compliance or such date as the Department may
1186 specify.

1187 (4) Suspension or Revocation of License. The Department shall refer its findings of
1188 non-compliance to the Massachusetts Department of Public Utilities. A Retail Electricity
1189 Supplier that fails to comply with 225 CMR 15.00 may be subject to the Massachusetts
1190 Department of Public Utilities Licensure Action under 220 CMR 11.07(4)(c)1.

1191 15.13: Severability

1192 If any provision of 225 CMR 15.00 is declared invalid, such invalidity shall not affect
1193 other provisions or applications that can be given effect without the invalid provision or
1194 application.

1195 REGULATORY AUTHORITY

