

MASSACHUSETTS BIOFUELS MANDATE

PROGRAM DESIGN DECISIONS AND IMPLEMENTATION PLAN

Department of Energy Resources
August 18, 2009

The MA Department of Energy Resources, in coordination with the Executive Office of Energy and Environmental Affairs, is pleased to announce the following decisions and plans for implementing the Biofuels Mandate as provided in the Clean Energy Biofuels Act of 2008. Over the course of the last 4-6 months, DOER has greatly appreciated the input from all stakeholders, which has been of tremendous value in reaching these decisions. We acknowledge that meeting the objectives and concerns of parties on all sides of this market has been a difficult challenge for the design of the mandate, but we feel that we have reached a solution that will serve the objectives of the statute and will place Massachusetts in the forefront of opening new markets for advanced biofuels in a manner that will maintain market stability, yield the level of reductions in greenhouse gas emissions required by the Act, and be adaptable to the changing scientific and federal landscape with regard to the qualification of advanced biofuels.

The key decisions and plans to implement the Biofuels Mandate are as follows.

The Biofuels Mandate will begin July 1, 2010, as provided in the Act, and as qualified below.

The 1st- year (July 1, 2010 – June 30, 2011) Mandate will be structured as follows:

- Mandated volume will be waived for first year, but Early Action Credit will be provided for all gallons of qualified advanced biofuels, which will be applied to 2nd-year mandate obligations.
- Compliance Entities (petroleum terminal operators that supply heating oil and diesel fuel consumed in MA) will be subject to Mandatory Reporting of the following information, and in a format/procedure to be established by DOER.
 - Heating Fuel Oil sales (gallons)
 - Diesel Fuel sales (gallons)
 - Non-qualified biodiesel content in all shipments received (B0-B5 levels)
 - Qualified Advanced Biodiesel volume sold (gallons sold by each supply source) for Early Action Credit.
- DOER will announce by December 31, 2010 whether the 2nd-year Biofuels Mandate will be at the 2% or 3% level.
- The Mandate will be implemented in subsequent years on an “averaging basis” such that Compliance Entities must show that sufficient volume of qualified advanced biofuels was supplied to meet the required percentage on average, over the course of the full compliance year.

Prior to July 2010, the following actions will be accomplished.

- Final Draft Regulations will be prepared by December 31, 2009 and a 30A Public Hearing process will commence, with regulations promulgated by May 2010.
- Statement of Qualification Application forms will be prepared, and DOER will begin accepting applications for qualifying Advanced Biofuels by October 2009.
 - Until further notice, DOER will only accept applications for biofuels derived from waste feedstocks which, as defined and provided in the statute, are exempt from a detailed greenhouse gas reduction analysis, provided a preliminary analysis based on both CARB and EPA methodologies indicate such waste feedstocks will yield the 50% greenhouse gas reduction threshold in the Massachusetts law.
 - DOER and MassDEP will continue to track and engage with federal and California efforts to establish analytical methodologies and protocols for evaluating non-waste feedstock biofuels, and will expeditiously seek to adopt such protocols, as they become available, for the purpose of the Massachusetts Biofuels Mandate.
 - Biofuels that are produced from a mix of waste and non-waste feedstocks can seek qualification from DOER for the portion of the finished biofuel that is attributable to the waste feedstock.
- DOER will work with the Massachusetts Department of Revenue to prepare an Advanced Biofuels Mandate Schedule for possible inclusion with tax filings by Compliance Entities, by November 2009.
- DOER will assess needs and options for enforcement, tracking of credits, and trading platform, by November 2009.