



**American
Forest & Paper
Association**

March 18, 2010

Midwestern Greenhouse Gas Reduction Accord Advisory Group
c/o Mr. Jesse Heier
Washington Director
Midwestern Governors Conference
Council of State Governments
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Dear Advisory Group Members:

The American Forest & Paper Association (AF&PA) appreciates the opportunity to submit comments to the Midwestern Greenhouse Gas Reduction Accord (MGA) Advisory Group on the latest Draft Model Rule dated February 23, 2010.

The American Forest & Paper Association is the national trade association of the forest products industry, representing pulp, paper, packaging and wood products manufacturers, and forest landowners. Our companies make products essential for everyday life from renewable and recyclable resources that sustain the environment. The forest products industry accounts for approximately 6 percent of the total U.S. manufacturing GDP, putting it on par with the automotive and plastics industries. Industry companies produce \$200 billion in products annually and employ approximately 1 million people earning \$54 billion in annual payroll. The industry is among the top 10 manufacturing sector employers in 48 states.

AF&PA greatly appreciates the Advisory Group's consideration of our comments throughout the MGA development process. In this latest draft we would like to comment on the definition of combined heat and power unit, the definition of eligible biomass, and on the offsets provisions.

Definition of Combined Heat and Power Unit

The current MGA definition inaccurately characterizes a combined heat and power system as a unit and its production of thermal power and electricity as simultaneous

rather than sequential. AF&PA recommends that MGA adopt the definition contained in the Public Utility Regulatory Policies Act of 1978 (18 CFR Section 292) as follows:

Title 18: Conservation of Power and Water Resources

PART 292—REGULATIONS UNDER SECTIONS 201 AND 210 OF THE PUBLIC UTILITY REGULATORY POLICIES ACT OF 1978 WITH REGARD TO SMALL POWER PRODUCTION AND COGENERATION

Subpart B—Qualifying Cogeneration and Small Power Production Facilities

Cogeneration facility means equipment used to produce electric energy and forms of useful thermal energy (such as heat or steam), used for industrial, commercial, heating, or cooling purposes, through the sequential use of energy.

Alternatively MGA could reference the Cogeneration Qualifying facility definition in the regulations

§ 292.203 General requirements for qualification.

(a) *Small power production facilities.* Except as provided in paragraph (c) of this section, a small power production facility is a qualifying facility if it:

- (1) Meets the maximum size criteria specified in §292.204(a);
- (2) Meets the fuel use criteria specified in §292.204(b); and
- (3) Has filed with the Commission a notice of self-certification, pursuant to §292.207(a); or has filed with the Commission an application for Commission certification, pursuant to §292.207(b)(1), that has been granted.

(b) *Cogeneration facilities.* A cogeneration facility, including any diesel and dual-fuel cogeneration facility, is a qualifying facility if it:

- (1) Meets any applicable operating and efficiency standards specified in §292.205(a) and (b); and
- (2) Has filed with the Commission a notice of self-certification, pursuant to §292.207(a); or has filed with the Commission an application for Commission certification, pursuant to §292.207(b)(1), that has been granted.

§ 292.205 Criteria for qualifying cogeneration facilities.

(a) *Operating and efficiency standards for topping-cycle facilities* —(1) *Operating standard.* For any topping-cycle cogeneration facility, the useful thermal energy output of the facility must be no less than 5 percent of the total energy output during the 12-month period beginning with the date the facility first produces

electric energy, and any calendar year subsequent to the year in which the facility first produces electric energy.

(b) *Efficiency standards for bottoming-cycle facilities.* (1) For any bottoming-cycle cogeneration facility for which any of the energy input as supplementary firing is natural gas or oil, and the installation of which began on or after March 13, 1980, the useful power output of the facility during the 12-month period beginning with the date the facility first produces electric energy, and any calendar year subsequent to the year in which the facility first produces electric energy must be no less than 45 percent of the energy input of natural gas and oil for supplementary firing.

Definition of Eligible Biomass

AF&PA appreciates the changes made to the definition to ensure the inclusion of residues and byproducts from forest products industry facilities. AF&PA remains concerned over the potential for each jurisdictions' Regulatory Agency to create inconsistent definitions of "sustainably harvested" potentially creating market distortions for biomass users. The entire MGA region should adopt one set of parameters to determine "sustainably harvested." In addition, an exemption for commonly recycled paper should be included to ensure that recovered fiber is recycled and not burned for energy.

We suggest the following changes:

(a) *Eligible biomass.* Eligible biomass includes: sustainably harvested woody and herbaceous fuel sources that are available on a renewable or recurring, including dedicated energy crops and trees, agricultural crop residues, aquatic plants, wood and wood residues; residues and byproducts from wood, pulp, and paper product facilities; animal wastes; other eligible organic wastes; and biogas and neat liquid biofuels derived from such fuel sources, **but does not include commonly recycled paper. A common definition of** sustainably harvested and eligible organic wastes will be determined **across MGA jurisdictions. by the REGULATORY AGENCY.**

Offsets

AF&PA is currently participating in a broad stakeholder effort with U.S. and Canadian forestry and environmental groups to develop a North American consensus forest carbon measurement standard. The goal of this new consensus standard, developed under a process accredited by the American National Standards Institute (ANSI) and the

Standards Council of Canada, is to harmonize existing and emerging forest carbon measurement protocols from state, provincial, regional, and national climate policies and programs. The resulting bi-national consensus standard will establish uniform policies across North America to provide a broadly-supported basis for forest carbon protocols in both countries. AF&PA recommends that MGA consider this standard as it develops its own offset protocols.

Finally, the definition of “additional” in the MGA Model Rule includes the subjective, and as a result, problematic concept of “business as usual.” It also incorporates the concept of “financial additionality” which is unrealistic given that offset projects are the result of business decisions undertaken for a variety of reasons and may require additional sources of funding beyond the revenue from the offset credit itself. We suggest the definition of additional be simplified as follows:

Additional. Means that the reductions resulting from offset projects must be shown to be “in addition to” ~~a baseline. reductions that would have occurred without the incentive provided by offset credit.~~ To be eligible for offsets, offset projects cannot be required by law or regulations, and must exceed baseline criteria. The baseline should use standardized criteria including but not limited to, performance standards, financial feasibility criteria, market penetration, and project start date. ~~that serve to exclude “business as usual” projects from eligibility.~~

In Closing

Again, we appreciate the opportunity to comment on the design of the Midwestern Greenhouse Gas Reduction Accord Model Rule. Please do not hesitate to contact us if you have any questions or if we can be of assistance in any way.

Sincerely,



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