

American Forest & Paper Association
Statement Submitted for the Record
House Committee on Agriculture
American Clean Energy and Security Act of 2009

June 11, 2009

On behalf of the American Forest & Paper Association (AF&PA), I am pleased to submit the following statement regarding HR 2454, the American Clean Energy & Security (ACES) Act of 2009. AF&PA is the national trade association of the forest products industry, representing forest landowners, pulp, paper, paperboard, and wood products manufacturers. Our companies are in the business of producing products essential for everyday life from renewable & recyclable resources that sustain the environment.

The forest products industry accounts for approximately 6 percent of the total U.S. manufacturing output and employs approximately a million people with an estimated annual payroll exceeding \$50 billion. We are leaders in efforts to reduce carbon emissions and to increase the use of renewable energy. Between 2000 and 2006, AF&PA member companies reduced their greenhouse gas emissions intensity by 14 percent. Our recycling efforts help prevent the emission of 21.1 million metric tons of CO₂ from landfills, and managed forests and forest products store enough carbon each year to offset approximately 10 percent of US CO₂ emissions.

We are also the leading producer and user of renewable biomass energy. We produce 28.5 million megawatt hours annually, enough to power 2.7 million homes. In fact, the energy we produce from biomass exceeds the total energy produced from solar, wind, and geothermal sources combined. Sixty-five percent of the energy used at AF&PA member paper and wood products facilities is generated from carbon-neutral renewable biomass.

As a leader in sequestration of greenhouse gases and renewable energy use, we are concerned about two key issues in the American Climate and Energy Security Act of 2009 that could have a major impact on our businesses. First, we strongly urge you to adopt a simpler definition of renewable biomass that includes clear sustainability requirements and that explicitly includes residues for wood, pulp, and paper product facilities. Second, we strongly urge you to include well designed domestic forestry projects as eligible offset under the offsets provisions (Title VII, Subpart D).

Definition of Renewable Biomass:

This Committee is well aware of our industry's concerns regarding the definition of renewable biomass. We share the concerns voiced by many committee members regarding the overly narrow definition of renewable biomass that was adopted as part of the Renewable Fuel Standard in 2007. We are pleased to see that the Energy & Commerce Committee's bill includes an expanded, but still insufficient and overly complex definition of renewable biomass for the RFS, as well as the for the emissions reduction and renewable energy provisions of ACES.

The definition of renewable biomass in the current version of ACES includes five different categories of woody biomass removed from various types of private lands (including anything removed from within 600 feet of a building, various categories of woods-based biomass from both managed natural forests and actively managed tree plantations, non-plantation forests, and then from yet to be planted forests which were planted for the sole purpose or restoring native forest types), and puts in place unnecessary restrictions on renewable biomass from Federal public lands. The definition also uses new, ambiguous language regarding "residues from and byproducts of milled logs," which may or may not result in residues from our facilities meeting the definition.

We believe a preferable approach would be to adopt a simpler definition of renewable biomass, such as the one used in the 2008 Farm Bill, with the addition of reasonable sustainability requirements such as a written harvest or forest management plan developed by a credentialed forestry professional, or adherence to a forest management or wood procurement certification system. A more inclusive definition of renewable biomass would ensure that, in the climate title of ACES, the biomass used in forest products facilities properly would qualify as carbon-neutral biomass and not require the remittance of allowances. This would accord with the bill's provision of allowances based solely on our mills' fossil fuel usage. It is also consistent with the views of the US EPA, the Canadian government, the European Union, and the UN Intergovernmental Panel on Climate Change regarding the carbon neutrality of emissions from the combustion of biomass. This would avoid a potential perverse and unintended consequence of creating an incentive for forest products facilities to use fossil fuels in lieu of carbon neutral biomass.

Further, it is critical that the final legislation explicitly recognize that residue or byproducts from wood, pulp, or paper product facilities qualify as renewable biomass. Doing so is the only way that the legislation can ensure that our forest, wood, and paper sectors can contribute to our renewable energy portfolio while remaining competitive with other potential sources of renewable energy. If the legislation fails to include this definition, thousands of additional jobs could be lost in our country.

We continue to believe that promoting the development of renewable energy must be accomplished while providing adequate safeguards to ensure that new mandates do not create undue economic or environmental harm. With that in mind, we recommend that

the committee include a comprehensive study of the impact of renewable energy mandates on both economic and environmental factors, with a provision allowing a waiver from all or part of the renewable electricity standard if it is necessary to prevent economic or environmental harm. We have attached specific language which we believe would accomplish these objectives.

We are concerned that the current legislation unnecessarily restricts the use of wood biomass from Federal public lands. As this committee has heard recently from the Administration, between 60 to 80 million acres of National Forests are densely stocked and at risk of catastrophic fire. The current version of ACES restricts harvesting of renewable biomass from a number of categories of Federal lands, most of which are not open to commercial activities under most circumstances. While we believe these restrictions to be mostly redundant, the provision prohibiting the removal of biomass from “old growth or mature forest stands” is particularly damaging.

This provision basically undercuts the other portions of the definition pertaining to Federal public lands, including the provision allowing fiber to qualify if it is removed “as part of a federally recognized timber sale.” Many forest types, including Aspen, lodgepole pine, and many mixed hardwood stands in the Eastern US are not harvested until the stand has reached biological maturity. The term “old growth” is highly controversial and many forest plans adopt differing definitions, and differing goals regarding the development and retention of old growth. In our view, all byproducts of legitimate hazardous fuels reduction projects or any Forest Service timber sale which complies with the extensive projections required under existing law should qualify as renewable biomass.

Forestry Offsets

The legislation as reported by the Energy & Commerce Committee leaves too many details about acceptable emissions offsets projects up to Federal agencies. AF&PA believes the legislation should list what types of projects qualify as legitimate offsets, and that USDA should play a prominent role in administering this portion of the program.

More than half the forestland in the U.S. is privately owned-- roughly 424 million acres. Of that, 354 million acres are actively managed for timber. Private landowners in the U.S. plant about 4 million trees each day.¹ Domestic forestry projects should be included in legislation as eligible offset project types. These include afforestation, reforestation, and forest management.

We strongly suggest that the development and implementation of domestic forestry project protocols be delegated to the U.S. Department of Agriculture. EPA already relies on the Forest Service to develop the land use and forestry related portions of the National Emissions Inventory reported to the UN Framework Convention on Climate

¹ Forest Resources of the United States, 2007; Draft RPA Review Tables: U.S. Dept. of Agriculture, http://www.fia.fs.fed.us/documents/pdfs/2007_RPA_REVIEW_TABLESv2c.pdf; Tree planting in the United States - 1999

Change (UNFCCC) annually. USDA clearly has the expertise necessary to develop forest related offsets that balance both environmental integrity and administrative burden.

In developing measurement protocols, the USDA should consider voluntary consensus standards developed pursuant to the National Technology Transfer and Advancement Act of 2005, OMB Circular A-119, developed under procedures accredited by the American National Standards Institute.

While we agree that additionality and baseline criteria should be determined by forest project type, we are opposed to the use of “business as usual” (BAU) criteria for determining baselines. There are two fundamentally flawed assumptions inherent in a BAU baseline approach. The first is the assumption that BAU actually exists in dynamic markets and the second is the assumption that BAU baseline carbon levels will be maintained in a market system that does not recognize their value. For forestry projects, we support a baseline year approach in which incremental increases in carbon are measured from the carbon inventory level calculated at the start of the project. Carbon stocks in US forests continue to grow at a rate of over 800 million metric tons of CO₂ equivalents per year². On US timberland which supplies wood to the forest products industry, carbon stocks are stable or increasing³.

Business as usual and additionality criteria, as defined in current legislation, effectively excludes project types that are responsible for the levels of carbon sequestration and storage in forests and products that the U.S. enjoys today, essentially taking it for granted. It is important that policymakers create incentives for maintaining these sequestration levels. It is important that incentives exist to help forestland owners maintain their forests when more lucrative options exist.

Adequate offset credits should be available for purchase in the first year of the program (2012). It is imperative that an initial set of eligible offset projects types be listed in the legislation to ensure that measurement methods and protocols are developed well in advance of implementation of the rule. Furthermore, for certain classes of offset project types that are straightforward in nature, EPA should develop streamlined approval or pre-approval processes to insure the timely availability of offset credits at a large enough scale in order to perform their cost containment function. Significant delays in the availability of offsets will increase costs of the program for regulated entities.

Early Offset Supply

Offset credit should be accepted from voluntary programs in addition to those “established by state or tribal law or regulation”. For example, offset projects registered by the Chicago Climate Exchange undergo rigorous approval processes and third party

² US Environmental Protection Agency, *Inventory of U.S. greenhouse gas emissions and sinks: 1990 - 2007*.

³ National Council for Air and Stream Improvement, Inc. (NCASI). 2008. Special Report No. 08-05. *The greenhouse gas and carbon profile of the U.S. Forest Products Sector*

verification and should be eligible to be part of the early offsets program. Further, the date of eligibility should be the same as the date of the offset project inception (back to January 2001), rather than January 1, 2009.

Environmental Considerations

While forest offset projects can provide valuable co-benefits, these benefits should be encouraged but not required. Offsets should be focused on impacts to atmospheric concentrations of carbon. Environmental co-benefits may be beneficial, but are not necessarily relevant to whether additional carbon is being sequestered. Biodiversity can be measured in many ways across many forest types. Depending on how EPA assesses biodiversity (and native species), these requirements could potentially run counter to the goal of climate mitigation if too narrowly considered. Given that forestry practices are not even listed in the proposal as eligible offset project types, it is premature and inappropriate to single out and dictate environmental considerations for one specific project type. There are no doubt environmental considerations associated with all project types. They are understandable considerations, but should not be required in protocol requirements for offset projects unless they directly impact the enhanced sequestration or emission reduction of carbon dioxide or other greenhouse gases.

Conclusion:

AF&PA appreciates the opportunity to provide input on these key items in the American Clean Energy & Security Act of 2009. We share the Committee's concerns about the potential impact of this legislation on the competitiveness of American businesses, and hope that the above suggestions can go some distance to ensuring that these concerns are addressed.

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Attachment A: Farm Bill Definition of Biomass, with additional sustainability measures:

(1) BIOMASS.—The term ‘biomass’ means the following types of organic materials:

(A) materials, pre-commercial thinnings, or removed exotic species that--

(i) are byproducts of preventive treatments (such as trees, wood, brush, thinnings, chips, and slash), that are removed--

(I) to reduce hazardous fuels;

(II) to reduce or contain disease or insect infestation; or

(III) to restore ecosystem health;

(ii) would not otherwise be used for higher-value products; and

(iii) are harvested from National Forest System land or public lands (as defined in section 103 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702)), in accordance with--

(I) Federal and State law;

(II) applicable land management plans; and

(III) the requirements for old-growth maintenance, restoration, and management direction of paragraphs (2), (3), and (4) of subsection (e) of section 102 of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6512) and the requirements for large-tree retention of subsection (f) of that section;

(B) any organic matter that is available on a renewable or recurring basis from non-Federal land or land belonging to an Indian or Indian tribe that is held in trust by the United States or subject to a restriction against alienation imposed by the United States, including--

(i) renewable plant material, including

(I) feed grains;

(II) other agricultural commodities;

(III) other plants and trees harvested in accordance with state water quality best management practices and consistent with sustainable management practices; and

(IV) algae; and

(ii) waste material, including--

(I) crop residue;

(II) other vegetative waste material (including wood waste, wood residues);

(III) animal waste and byproducts (including fats, oils, greases, and manure);

(IV) construction, demolition, and disaster waste and debris; and

(V) food waste and yard waste; or

(C) residues or byproducts from wood, pulp or paper products facilities.

Add new definition:

Sustainable Management Practices: the term sustainable management practices means any of the following:

(I) a written harvest plan, that provides for forest regeneration, developed by a credentialed forestry professional;

(II) a written forest management plan, that is equivalent to a forest stewardship plan (as defined under the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2103));

(III) state wood biomass harvesting guidelines that address water, soil, wildlife and other on-site resources, if such guidelines exist;

(IV) a third-party audited forest certification program or similar land management protocol, including a wood fiber procurement system that is third-party certified to a standard specifying responsible procurement practices;

(V) Other programs and services as determined by the state forester that achieve sustainable management of biomass using such regulatory or voluntary policies as may be appropriate; or

(VI) in the case of conservation forest land, additional practices, determined by the state forester, that help maintain or enhance ecological conditions of such forests over time.

Conservation Forest Land. – The term ‘conservation forest land’ means a forested ecological community that is not federal land and is identified by a state forester or equivalent state official through a public process as having unique ecological value.

Add the following provision:

(_) The provisions of sections (insert relevant sections) shall be administered by the Secretary of Agriculture in partnership with the state forester or equivalent state official in each state.

INTER-AGENCY BIOMASS SUSTAINABILITY STUDY.—

(A) IN GENERAL.—The Secretary of Agriculture, in consultation with the Secretary of the Interior shall conduct a study that assesses the impacts of biomass harvesting for energy production on—

- (i) landscape-level water quality, soil productivity, wildlife habitat, and biodiversity; and
- (ii) conservation forest land.

(B) TIMING.—The Secretary shall—

- (i) complete the study required under this paragraph not later than 5 years after the date of enactment of this subsection; and
- (ii) update the study not later than every 5 years thereafter.

(C) BASIS.—The Secretary shall base the study on the best available data and science.

(D) RECOMMENDATIONS.—The Secretary shall include in the study such recommendations as are appropriate to reduce the impacts described in subparagraph (A).

(E) PUBLIC PARTICIPATION AND AVAILABILITY.—In carrying out this paragraph, the Secretary shall—

- (i) consult with States, Indian tribes, and other interested stakeholders;
- (ii) make available, and seek public comment on, a draft version of the study results; and
- (iii) make the final study results available to the public.

