

**VIA ELECTRONIC DELIVERY**

**February 5, 2019**

Mr. Michael Judge  
Director, Renewable & Alternative Energy Division  
Massachusetts Department of Energy Resources  
100 Cambridge St. Suite 1020  
Boston, MA 02114

***Re: Clean Peak Standard (CPS) Stakeholder Questions***

Dear Director Judge:

The Environmental Markets Association (“EMA”) appreciates the opportunity to provide its responses to the set of questions the Massachusetts Department of Energy Resources (“DOER”) recently posted regarding the design and development of the Clean Peak Energy Portfolio Standard (“CPS”) that was established pursuant to the enactment of Chapter 227 of the Acts of 2018. While there is no shortage of challenges associated with creating such a complex and comprehensive program, EMA is very excited about the prospects for the CPS and believes DOER has the opportunity to design a market-based mechanism that will serve as the template for many other states that are interested in pursuing similar clean energy objectives. We appreciate DOER’s inclusive approach to this important undertaking and look forward to participating in this process to assist the Commonwealth in meeting its economic and environmental sustainability policy objectives in the most efficient and cost-effective manner possible.

The EMA is a US-based trade association representing companies that have interests in the trading, legislation, and regulation of environmental markets. EMA was founded in 1997 as a 501(c)(6) not-for-profit organization. The members have decades of extensive, first-hand experience with market instruments related to federal and regional cap-and-trade programs in sulfur dioxide (“SO<sub>2</sub>”), nitrogen oxide (“NO<sub>x</sub>”), renewable fuels (“RINs”), and greenhouse gas emissions (carbon allowances and offsets), as well as state-driven renewable energy certificate (“REC”) programs. EMA’s diverse member group represents a wide variety of participants in the clean energy markets, from utilities and electricity suppliers to renewable energy project developers and investors. Our members have extensive operational experience with renewable portfolio standards (“RPS”) compliance, REC trading, and renewable energy investment and, collectively, have significantly contributed to the aggregate economic investment to achieve the Commonwealth’s RPS. The EMA has a vested interest in the continued success of comprehensive and inclusive market-based mechanisms and RPS programs, including the CPS. Relying on our broad-based membership and their cumulative experience in these programs, we believe that EMA can provide a unique perspective as it relates to DOER’s Policy Deliberative.

As a general statement of our positions, EMA members are pleased to share a pair of guiding documents created by the collaboration of our experienced members: *Best Practice Principles for Renewable Energy Certificate Markets* (attached as Appendix A) and a *Supplemental Guidance Document* (attached as Appendix B). In them, EMA explains areas that are crucial to a well-functioning and efficient credit market that can maximize CPS benefits. Specifically, these principles are:

- 1) Tradeable Products**
- 2) Market-Based Pricing**
- 3) Market Design that Fosters Transparency, Competition, and Liquidity**
- 4) Market Oversight**
- 5) Market Integrity and Stability**

EMA's principles and supplemental design practices encourage private market investment and result in well-functioning and efficient markets that achieve the stated goals at the most competitive price to ratepayers. EMA's market principles provide guidance for a CPS market-based mechanism designed to efficiently work with the Commonwealth's retail electric choice policy to the benefit of ratepayers.

To be certain, DOER faces many important decisions that will serve as the foundation of the CPS program, and EMA does not believe that it is appropriate for us to comment on some of these issues where our members may have differing opinions. We are confident that many of our members will be submitting their own responses to DOER's Policy Deliberative independently of the EMA. For example, we do not feel we should express any preferences regarding technology, interconnection and/or geographic eligibility for either Clean Peak Resources or Qualified RPS Resources. However, at its core EMA and its members support liquid markets that foster competition among different resources to achieve the stated goals of the program in the most efficient manner possible. While the use of tiers to individually support different types of resources is sometimes warranted, we would caution that such an approach in the CPS should be avoided if at all possible.

EMA does feel it is within its purview to express our thoughts on certain aspects of the CPS, specifically relating to the questions posed in the sections "Metering", "Value of Certificates" and "Long-term Contracts":

- **Metering:**

While we will not comment on the specific merits of the Independent Third-Party Meter Reader approach, we would like to express our support for a program design incorporating stream-lined processes and the use of state-of-the-art technologies that could create validated credits in a timely and cost-effective manner. As an example, in the case of transmission level storage, attaching the actual retired RECs to the CPS credit would result in an auditable record. In addition, the hourly uploading and tracking of generation data from NEPOOL is critical. Thorough and transparent procedures such as these give markets the confidence that create the necessary liquidity to achieve the program objectives.

- **Value of Certificates:**

**29. How much value is likely needed on a per MWh basis to incentivize different types of existing resources to operate during peak windows and/or new resources developed or financed using CPS revenue streams?**

**30. How should DOER establish these values?**

Given the wording of question 29, it would appear that DOER is inclined to derive an appropriate ACP level by determining the “revenue-gap” facing various technologies that would be eligible under the CPS. However, such a cost-based approach, while on the surface logical, is inherently difficult given the complex nature of this proposed program. Many of the different technologies are already eligible for multiple funding streams under both renewable (e.g. RECs and the storage adder under the SMART program) as well as traditional energy (e.g. FCM and Ancillary Services payments) market programs. Absent the use of separate tiers for different technologies and/or credit adders/multipliers, it would seem that this level of granularity is not achievable.

In referencing our *Supplemental Guidance Document* mentioned above, EMA would encourage DOER to establish the ACP’s “at sufficiently high enough levels that both encourage... investment and market tradability/liquidity”. A high ACP does not necessarily result in a high cost of compliance to ratepayers; mechanisms such as banking/borrowing as well as the allocation of ACP funds collected can serve to mitigate such costs. Our recommendation therefore would be to establish as high an ACP as can be justified by the highest cost technology, and to include these other mechanisms.

- **Long-term Contracts:**

**In establishing certificate values, DOER “may include a process by which electric distribution companies competitively procure clean peak certificates from clean peak resources and enter into long-term contracts, subject to the approval of the department of public utilities”**

**31. If DOER does require competitive procurements:**

- a) What types of facilities should be able to participate in solicitations? Should it be limited to certain types of facilities (e.g. facilities that are either new and/or not already supported by another type of long-term contract or financing tool)?**
- b) How frequently should solicitations take place?**
- c) How large should the procurements be (e.g. percentage of total load or annual requirement)?**
- d) How should the contract price be established? Pay as bid? Reverse auction mechanism with a single clearing price for all resources? Other?**

The Massachusetts Legislature has laid out many ambitious goals for achieving a clean energy future, and DOER is faced with achieving these goals while balancing the needs of ratepayers for affordable energy. We acknowledge in our Best Practice Principles that:

*“tradable RECs and long-term contracting programs can successfully coexist; however, long-term contracting programs should not be legislated in replacement of, or at the expense of, open and competitive tradable markets that go above and beyond the designated contract volumes in the long-term contracting programs”*

In answering the specific question posed by DOER, we would suggest:

- a) Not appropriate for EMA to comment
- b) Regarding frequency, we would suggest smaller more frequent procurements, but only after the market has had a chance to establish itself and for the relevant cost curves to be better identified. It is our experience at EMA that inclusion of long-term contracts conducted by state agencies often leads to higher costs of compliance for ratepayers, especially with brand new markets for emerging technologies. We would argue that DOER should give the market sufficient time to develop before conducting such procurements.
- c) The procurements should be relatively small unless it can be shown that significant economies of scale are achievable. In our opinion the role of such procurements would be to inform DOER as to the depth of participants and the relative economics of the various technologies providing CPS services, rather than as an attempt to deliver overall program compliance.
- d) Not appropriate for EMA to comment.

Separate from these CPS policy recommendations, the EMA also encourages policymakers and stakeholders to begin to explore how credit trading programs might be used to meet some of the ambitious clean energy objectives introduced in the Massachusetts Legislature this session in SD 1625 and HD 3092.

Thank you for your consideration of our comments. EMA appreciates DOER's thorough and inclusive approach to the design of this ground-breaking program and is prepared to offer additional input or clarification of our responses as required by DOER as the Commonwealth moves towards its clean energy future.

Sincerely,



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## **Appendix A – Best Practice Principles for Renewable Energy Certificate Markets**



## Best Practice Principles for Renewable Energy Certificate Markets

The Environmental Markets Association (EMA) is focused on promoting market-based solutions for environmental challenges through sound public policy, industry best practices, effective education and training, and member networking. EMA represents a diverse membership including large utilities, renewable energy certificate (REC) traders and brokers, financial exchanges, law firms, project developers, investors, consultants, academics, non-governmental organizations, and government agencies. EMA strongly supports the utilization of markets to achieve environmental policy goals. Well-designed markets yield many benefits including, but not limited to, transparent price signals determined through competition, risk mitigation opportunities, incentives for technological innovation, efficient allocation of capital and resources, investor certainty, and ratepayer protection. In support of RPS objectives, EMA endorses the following set of Best Practice Principles for REC Markets:

### **EMA Best Practice Principles for REC Markets**

1. **Tradable RECs**
2. **Market-Based Pricing**
3. **Market Design That Fosters Transparency, Competition, and Liquidity**
4. **Market Oversight**
5. **Market Integrity and Stability**

In the case of Renewable Portfolio Standards (RPS), EMA believes that market-based programs will enable the most cost-effective, flexible, and innovative approach to maximizing renewable energy. EMA further believes that this is best accomplished through open, transparent, and competitive markets, and the use of tradable RECs as the primary means of RPS compliance. As such, well-designed RPS policies and REC markets offer stakeholders many advantages toward achieving their economic, social, and environmental objectives:

### **EMA RPS Advantages from Best Practice Principles**

- |   |  |
|---|--|
| ✓ <b>Accountable Policy Objectives</b>    | ✓ <b>Investor Certainty</b>                |
| ✓ <b>Pricing Transparency</b>             | ✓ <b>Information Feedback Signals</b>      |
| ✓ <b>Compliance Flexibility</b>           | ✓ <b>Market Efficiency &amp; Liquidity</b> |
| ✓ <b>Policy Cost-Effectiveness</b>        | ✓ <b>Financial Innovation</b>              |
| ✓ <b>Ratepayer Protection</b>             | ✓ <b>Lower Costs of Capital</b>            |
| ✓ <b>Market Integrity &amp; Stability</b> | ✓ <b>Diverse Participant Bases</b>         |

For additional information about these Best Practice Principles for Renewable Energy Certificate Markets and their RPS advantages, please view our Supplemental Guidance Document for REC Markets [here](#).



**Appendix B – Supplemental Guidance Document**



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**Supplemental Guidance Document**  
**Best Practice Principles for**  
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**1. Tradeable RECs**

- ◆ EMA supports the use of tradeable RECs for renewable portfolio standard (RPS) compliance. Clearly defined tradeable RECs (e.g., by vintage period, useful life, resource and compliance eligibility) provide a means for facilitating commercial transactions through bilateral markets that enable participants to trade RECs on the spot market (for immediate delivery) and in the forward market (for future delivery). Spot markets facilitate the monetization of RECs. Forward markets facilitate the management of risk. Bilateral REC markets occur when participants trade directly among each other outside of a centralized procurement or auction process. RECs obtained at auction can be later resold through bilateral markets.
- ◆ Tradable RECs allow for market participants, who may not have entitlements or compliance obligations, to provide market liquidity and risk management services to those entities with future entitlements to the product (e.g., renewable resource developers) and to those entities with future compliance obligations (e.g., load-serving entities).
- ◆ Open and competitive REC markets attract a more diverse participant base, which in turn increases market liquidity. For renewable resource developers, this translates into more counterparties to purchase RECs. For compliance entities, this means more flexibility to procure RECs at times, and in volumes, that match RPS obligations. For all market participants, this results in more avenues to meet specific transactional needs and credit requirements. Open and competitive markets are essential to creating efficient REC price discovery and liquid trading on a forward basis (i.e., for future compliance vintages).

**2. Market-Based Pricing**

- ◆ EMA supports the price discovery of RECs through market-based mechanisms as opposed to the assignment of prices through administrative processes by government agencies. Collectively, REC trading participants will always have access to more information through markets. As such, the formation of REC prices should be driven by information and competition that accounts for the economic and risk preferences of market participants.
- ◆ Market-driven REC prices provide transparent and dynamic economic signals to participants for investment and resource allocation decisions. This enables efficient compliance by helping participants to dispatch the lowest cost solutions that fulfil the RPS.
- ◆ RPS design that allows for “floating” REC prices that can respond in real-time to new information is an important concept. Allowing prices to adjust in real-time to changes in supply and demand and other existing policies (e.g., the Public Utility Regulatory Policies Act, net energy metering, and tax law) guides



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## **Supplemental Guidance Document** **Best Practice Principles for** **Renewable Energy Certificate Markets**

the market towards the most cost-effective achievement of RPS objectives. Benefits include ratepayer protection and the establishment of reference prices for financial innovation:

- **Ratepayer Protection** – While high REC prices are a signal to invest, low REC prices are a signal to slow the development of new resources vs. current RPS targets established by law. Allowing prices to fall when renewable technologies become cheaper, when other policy-based incentives are at play, or when markets become oversupplied is critical to protecting ratepayers from unnecessary or irresponsible investment and forces market participants to be more thoughtful about expenditures, risk management, and resource allocation. If investments exceed stated regulatory targets, or are negatively impacted by company governance or exogenous market factors, ratepayers are protected from investment losses. This supports overall market efficiency.
- **Financial Innovation** – Tradable RECs priced by vintage create reference prices for both physical and financial REC contracts (e.g., forward and futures contracts, respectively) that can be used to facilitate project investment through contracted revenue and to manage price risk. By helping to lower the risk of an economic activity, or by giving market participants tools to transfer risk, the availability of financial products can lower the cost of capital for renewable resource investments. This supports lower REC prices and lower RPS costs.
- ◆ Generally, the more compliance entities, producers, market makers, and financial participants that take part in a market, the more effective that market will be in facilitating price discovery, price transparency, market liquidity, and the efficient allocation of resources. Centralized compliance obligations with a single entity or a small group of entities should be avoided, if possible, to decrease the risk of market manipulation and increase market liquidity. Likewise, central procurement mechanisms that do not take advantage of the benefits from competitive market participation should be avoided or minimized.

### **3. Market Design That Fosters Transparency, Competition, and Liquidity**

- ◆ Transparency, competition, and liquidity are mutually reinforcing market phenomena that will help promote the cost-effective achievement of RPS policies. The more cost-effective resources become at fulfilling RPS targets, the higher that RPS targets can be set without adversely impacting ratepayers.
- ◆ EMA supports market design features that create transparent and reliable price signals capable of facilitating market or auction objectives that channel RECs to participants who most highly value them.
- ◆ RPS design components should ensure that all participants have both an incentive and interest to ensure that efficient price discovery occurs and is revealed to the market in a timely and transparent manner.



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- ◆ If design components include features such as price boundaries, such as alternative compliance payments (ACPs) or price floors, such features must be transparent to market participants on a forward-looking basis, must facilitate competitive market outcomes, and must support the integrity of the market. Statutory price floors in and of themselves will not necessarily support pricing or liquidity in an oversupplied market without an additional back-stop mechanism or capitalized facility.
- ◆ EMA supports market design that enables diverse participation and competition in environmental markets, since a competitive market reduces liquidity risk and ensures that no one entity can unduly influence the market.
- ◆ Any regulation should be carefully evaluated as to its impact on market liquidity, transparency, competition, and costs to participants. EMA does not support efforts to limit participation in REC markets or REC auctions to only those entities with compliance obligations.

Key RPS Design Components and REC Market Features	
RPS Component	REC Market Feature
<b>REC Tier / Class Product Definitions</b>	<ul style="list-style-type: none"> <li>▪ REC tier / class product definitions include technology type, generator vintage (i.e., online) eligibility dates, and other environmental attribute considerations.</li> <li>▪ REC tiers within an RPS should be clearly defined to distinguish between existing and new entry renewable resources, which may require different revenues to adequately account for different cost-recovery rates.</li> <li>▪ Each REC tier will have its own distinct REC market if it has a unique ACP schedule and requires obligated entities to fulfill compliance targets with REC purchases. Although REC tier pricing may be influenced indirectly by other REC markets in jurisdictions that have resource eligibility overlap, it will exhibit unique supply / demand fundamentals and price signals to market participants.</li> <li>▪ If separate RPS tiers are created to support less commercialized technologies, or to accelerate already commercialized technologies that provide unique RPS benefits, these tiers should be additional to other technology tiers and each tier should deploy best practice market design principles if possible and cost-effective.</li> <li>▪ REC standard of units (e.g., megawatt hours of power generation per single REC issuance) should be clearly defined and to the extent possible, standardized with adjacent RPS jurisdictions.</li> <li>▪ REC tiers should be clearly defined as to whether they are carve outs of another tier, or a set aside (an additional, cumulative, target) within the overall RPS.</li> </ul>
<b>Vintage Periods</b>	<ul style="list-style-type: none"> <li>▪ Vintage period should be clearly defined in regard to the span of dates in which generation from an eligible resource can issue a compliance-eligible REC for use in a particular compliance year(s). Calendar Year and Energy Year is common.</li> <li>▪ Vintage-based compliance periods ensure RPS policy accountability through periodically verified REC retirements (annual retirements are encouraged).</li> </ul>



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<b>Compliance Eligibility</b>	<ul style="list-style-type: none"> <li>▪ REC tiers should be clearly defined in regard to which resources can generate compliance-eligible RECs for compliance.</li> <li>▪ Compliance-eligible REC vintages for a given reporting year (e.g., RY2018) should also be clearly defined (this is often referred to as REC banking or useful life).</li> <li>▪ Compliance due dates for REC retirements should be clearly posted and have administratively straightforward reporting processes.</li> <li>▪ ACP payments should be required in a timely manner following the end of an RPS compliance requirement year.</li> </ul>
<b>Resource Eligibility</b>	<ul style="list-style-type: none"> <li>▪ Broad RPS technology eligibility among a diverse array of clean energy technologies is encouraged.</li> <li>▪ The more technologies that are RPS eligible, the greater the number of potential REC producers in a market and the greater the competitive pricing benefits (e.g., economic and employment) across multiple industries. Allowing multiple technologies to compete for grid access also supports electrical grid fuel diversity and resiliency.</li> <li>▪ Resource eligibility has an extremely high impact on the supply / demand fundamentals of a REC tier and therefore a high impact on whether a market exhibits low or high REC pricing vs. the ACP schedule.</li> <li>▪ The number of vintage periods a generator is certified to issue RECs for RPS compliance within a particular REC tier (sometimes referred to as "qualification life"), should be clearly defined in advance, even if only to confirm that no vintage eligibility limitations apply to RECs issued by RPS certified generators.</li> <li>▪ Generator vintage eligibility (the date in which a generator is considered to have come on line for the purposes of an RPS) should be clearly defined for each REC tier within an RPS.</li> </ul>
<b>Geographic Eligibility</b>	<ul style="list-style-type: none"> <li>▪ Geographic, or jurisdictional, eligibility of renewable resource generators should be clearly defined for each REC tier. A narrow definition of geographic eligibility is in-state located resources. A broad definition is national eligibility. Variations exist for adjacent state and regionally located resources.</li> <li>▪ Geographic eligibility has an extremely high impact on the supply / demand fundamentals of a REC tier and therefore a high impact on whether a market exhibits low or high REC pricing vs. the ACP schedule.</li> <li>▪ REC import eligibility (with or without the energy transfer) has an extremely high impact on the supply / demand fundamentals of a REC tier and therefore a high impact on whether a market exhibits low or high REC pricing vs. the ACP schedule.</li> </ul>
<b>Fixed RPS Compliance Targets and Forward-Looking RPS Schedules</b>	<ul style="list-style-type: none"> <li>▪ First, RPS compliance schedules should be fixed at pre-set percentage levels of retail electricity sales in advance of compliance years. EMA recommends that RPS targets (and therefore compliance action) step up annually according to a pre-set schedule that is transparent to market participants. Percentage-based targets ensure that REC demand is responsive to load variation, which provides an additional cost-containment mechanism to ratepayers in the event of load decline or ensures that as load grows so does the mix of renewable resources and associated clean energy benefits.</li> </ul>



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	<ul style="list-style-type: none"> <li>▪ Second, RPS compliance year schedules should have tenor (i.e., be transparently established as far into the future as possible) to support long-term market and investment certainty. This creates transparency and is important to enabling tradability and investor confidence.</li> <li>▪ Third, RPS target terminal years (sometimes referred to as sunset language) should be clearly defined. Terminal year RPS targets should always be maintained at their final levels (i.e., the procurement percentage should not drop down to zero or begin to decline once achieved) to ensure that RECs generated from investments post the last compliance year can continue to be sold and delivered to compliance entities and that the overall penetration of renewables in the electricity mix continues to comply with the law.</li> <li>▪ Fourth, under no circumstances should a compliance year's RPS target ever be set lower than any previously established compliance year target.</li> </ul>
<p><b>Fixed Alternative Compliance Payment (ACP) Rates and Forward-Looking ACP Schedules</b></p>	<ul style="list-style-type: none"> <li>▪ ACP mechanisms are a pre-requisite for REC market trading and timely, accountable, RPS compliance, since they create penalties on obligated entities for failing to procure and retire RECs.</li> <li>▪ ACP rate schedules should be forward-looking and align with the RPS compliance year schedules (on a vintage-by-vintage basis) to support long-term market certainty. This creates transparency and is important to enabling investor confidence, a lower cost of capital, and cost-effective RPS achievement.</li> <li>▪ ACP rates should be fixed and set at sufficiently high enough levels that both encourage renewable energy investment and market tradability / liquidity. High ACP rate schedules should not be interpreted to imply high RPS compliance costs.</li> <li>▪ Whenever possible, ACP rates should be set at levels which reflect regional circumstances to address REC shuffling / attrition between RPS jurisdictions.</li> <li>▪ ACP payments should also be required after each compliance year and payments should be required in a reasonable timeframe.</li> <li>▪ Non-published ACP schedules, or opaque formulas pegged to complicated calculations or market pricing, creates market uncertainty and should be avoided.</li> <li>▪ ACP rates should be the only cost-containment mechanism built into an RPS. Other forms of cost-containment mechanisms, such as when an RPS freeze is tied to electricity price increases beyond a certain percentage threshold create considerable investment uncertainty and should be avoided.</li> <li>▪ Reductions to ACP schedules post establishment is strongly discouraged. If ACP schedules are adjusted downward, considerable thought should be given as to the lower ACP schedules impact on pre-existing investments and forward sale REC contracts (which may become invalidated by change-in-law provisions).</li> <li>▪ The general use of ACP proceeds should be disclosed to market participants. Policymakers that want to limit the impact of ACP payments on ratepayers can implement a pro-rata bill credit based on total ACP proceeds to ease RPS costs in short supplied markets.</li> </ul>
<p><b>Applicable Electricity Sales and Exemptions</b></p>	<ul style="list-style-type: none"> <li>▪ Applicable retail sales, exemptions, and the obligated entities required to procure for RPS compliance should be clearly defined.</li> </ul>



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	<ul style="list-style-type: none"> <li>▪ Generally, electricity exemptions, which reduce total applicable retail sales applied to RPS requirements, weaken demand for renewable resources, may create uncertainty in calculating REC demand, and may mislead the public about published RPS targets.</li> </ul>
<p><b>REC Banking (Useful Life)</b></p>	<ul style="list-style-type: none"> <li>▪ Clearly defined banking of RECs (useful life) is encouraged. Banking of RECs helps facilitate a more efficient market by ensuring that RECs issued in previous years maintain value long enough for participants to transact them.             <ul style="list-style-type: none"> <li>○ For producers, this gives them the option to hold RECs into fundamentally short years, which defers current cashflow in exchange for the potential to earn a higher price later.</li> <li>○ For compliance entities, this gives them the opportunity to bank lower cost RECs from oversupplied years into fundamentally undersupplied years, thereby providing the option to manage their compliance costs in response to the market environment or specific capital / credit constraints.</li> </ul> </li> </ul>
<p><b>REC Multipliers, Factors, and Forward Crediting (Borrowing)</b></p>	<ul style="list-style-type: none"> <li>▪ Multipliers provide higher incentives to projects through awarding each megawatt hour of generation a greater proportional amount of RECs. All else equal, this increases the amount of revenue a project receives for the same unit of production, but dilutes published RPS targets and may lower REC pricing through increased supply. The use of REC multipliers should be weighed against the potential for market distortion and decreased market liquidity.</li> <li>▪ Factors provide lower incentives to projects through awarding each megawatt-hour of generation a lower proportional amount of RECs. All else equal, this lowers the amount of revenue a project receives for the same unit of production. Factors have the potential to create economic attribute waste (i.e., clean energy generation that does not count towards RPS achievement but still provides environmental benefits) if the non-factor proportion of generation cannot issue other RECs saleable for RPS compliance. REC factors should be avoided if they apply to the main, or overarching, tier of an RPS.</li> <li>▪ Multipliers and factors must be considered carefully as they have wide ranging impacts on different project segments (e.g., utility, commercial, residential). If implemented improperly, they can distort market pricing and make the market allocate capital less efficiently, meaning power purchasers (and ultimately end-users or ratepayers) pay more for electricity. In practice, this can cause expensive projects to deploy at the expense of economically more efficient new entry units (for example, smaller but higher cost projects which have access to net energy metering at retail rates vs. larger but lower-cost projects with economies of scale that must compete in the wholesale markets). Multipliers can end up weakening overall RPS targets if implemented poorly.</li> <li>▪ Forward Crediting, or the borrowing of RECs from future production periods that can be sold today, distorts market pricing and should not be deployed in any environmental market. Since REC issuance and cashflow would occur upfront with forward crediting, this decreases the incentive to maintain the project and increases the risk that the project will not deliver its RECs for future RPS compliance. Forward crediting runs the risk of creating an artificially</li> </ul>



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	oversupplied REC market with lower prices that subsequently damages the investment signal participants require to develop new resources.
<b>Long-term Contracting Programs</b>	<ul style="list-style-type: none"> <li>▪ Tradable RECs and long-term contracting programs can successfully coexist; however, long-term contracting programs should not be legislated in replacement of, or at the expense of, open and competitive tradable REC markets that go above and beyond the designated contract volumes in the long-term contracting programs.</li> <li>▪ Long-term contracting programs that award a REC offtake contract in advance of when a generator comes online should make sure that adequate financial security is posted until the project comes online. This will discourage bidders from bidding into procurements with unrealistic economic assumptions that tie up scarce resources (i.e., contract awards) that may prevent other, more viable, projects from being developed.</li> </ul>
<b>RPS Reporting</b>	<ul style="list-style-type: none"> <li>▪ RPS compliance reports should be written and released to the public for each requirement year on a timely basis. Wherever possible, RPS compliance reports should provide sufficient data (e.g., on applicable retail electricity sales and exemptions, RECs retired, RECs banked forward, etc...) that is helpful to participants in assessing the status of the RPS and its REC markets.</li> </ul>
<b>Interaction with Compliance Carbon Cap-and-Trade Programs</b>	<ul style="list-style-type: none"> <li>▪ REC markets and carbon allowance / carbon offset markets can coexist in the same jurisdictions. Current best practice keeps fungibility separate (i.e., RECs cannot be used for carbon market compliance and carbon allowances / carbon offsets cannot be used for RPS compliance). Clear and thoughtful definitions of which environmental attributes are embodied by each environmental commodity can help eliminate confusion between market participants and regulators while promoting market liquidity.</li> </ul>
<b>Private Investment</b>	<ul style="list-style-type: none"> <li>▪ Market design should foster private investment and market participation.</li> <li>▪ Leveraging private investment and capital markets in achieving RPS policy is important. Well-designed RPS policies and competitive REC markets will shift investment risk away from ratepayers or taxpayers to private investors. If a project fails, it does not receive cost-recovery through REC payments (because it does not generate any RECs). If a project receives a lower investment return because of overly optimistic REC price forecasts, ratepayers are shielded from this economic miscalculation.</li> </ul>

**4. Market Oversight**

- ◆ EMA supports clearly-defined independent market oversight, with stakeholder input, to maximize the benefits of competitive commercial behavior in achieving policy goals and providing transparency, while guarding against fraud and manipulation and minimizing systemic risk. Successful RPS design must include measures that protect the market from activity that is illegal or detrimental to the market's function.

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- ◆ EMA supports independent oversight of the market structure and operation, which may include periodic review, and as needed, recommendations with stakeholder input for addressing any identified market design flaws.
- ◆ Over-the-counter spot and forward REC contracts currently qualify for the forward exclusion definition of a "swap" under the Commodity Exchange Act (CEA) if intended for physical delivery. As such, RECs are classified as non-financial commodities by the Commodity Futures Trading Commission (CFTC) and regulated accordingly under the CEA. Financial REC futures and options contracts are regulated by the CFTC and must trade on an approved commodity exchange.

### **5. Market Integrity and Stability**

- ◆ RPS laws, regulations, and regulatory guidance documentation should strive to maintain the integrity of REC markets and RPS policy in all aspects. Long-term regulatory and policy certainty will allow a robust market-based system to evolve with healthy price discovery and liquidity. Flawed market design rules, even minor ones, can have a harmful impact on market liquidity and increase RPS compliance costs. When establishing and enforcing local preferences (e.g., resource eligibility, generator vintage eligibility, biomass emissions limits) regulators should be careful not to interfere directly with a market's price discovery process. RPS frameworks mobilize private investment that generates environmental and economic benefits. Long-term certainty and stability in the political institutions can help lower the cost of capital by instilling integrity in the regulatory commodity.
- ◆ Frequently changing rules creates investment uncertainty and can stifle market development. Regulatory policy changes that are applied retroactively to a market (such as the lowering of an ACP schedule once established or the retroactive decertification of previously qualified RPS generators) damage investor confidence and should be avoided. Vague or ambiguous regulatory language also damages investor confidence, all of which increases the cost of capital for renewable energy investments.
- ◆ High, low, or volatile REC pricing, at points in time, should not be interpreted as a sign of market failure. Prices, in essence, represent information. In competitive tradable markets, when information changes, prices change. Indeed, price fluctuations are an indication of a healthy market that is responding to information and adjusting to changing operating conditions. When RPS policies are well-designed, high REC prices will encourage the development of new renewable energy resources that in turn eventually lowers market pricing and vice versa.



## **Supplemental Guidance Document** **Best Practice Principles for** **Renewable Energy Certificate Markets**

- ◆ Tradable RECs support accountable policy objectives and information transparency by ensuring that RPS achievement is measured, tracked, and reported on in a timely manner. EMA supports the usage of secure and robust tracking mechanisms and methodologies to provide certainty of REC ownership. Well-implemented REC registry systems will avoid double counting of RECs and the dilution of RPS benefits. Failure to implement a system to track ownership of environmental compliance products can undermine the success of the market. Developing such registry mechanisms and methodologies must be a part of the market design process and must be completed prior to implementing any new REC market. Any issues with attribute ownership, claims of benefits, or means of tracking the RECs must be clarified before the start of any program. Failure to do so can greatly undermine confidence in the market, stifle liquidity, and hinder the program's full potential of benefits.
- ◆ EMA supports legislative, regulatory, and rulemaking efforts to establish stable, clearly-defined, and transparent market regimes. EMA promotes the inclusion of experienced market participants at all stages of the development process and post-implementation market review process in order to contribute to the overall strength and vibrancy of the markets. Both the design process and the post-implementation review process must be transparent to all stakeholders.
- ◆ Maintaining market integrity is the responsibility of both market participants and regulators.

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### **About EMA**

EMA is a U.S.-based trade association representing the interests of companies that are involved in the trading, legislation, and regulation of environmental markets. EMA was founded in 1997 as a 501(c)(6) not-for-profit organization. Our members have decades of extensive, first-hand experience with market instruments related to Federal and regional cap-and-trade programs in SO<sub>2</sub>, NO<sub>x</sub>, and GHG emissions as well as state-driven RPS programs throughout the U.S. The EMA represents a wide variety of participants in the clean energy markets, from utilities and load-serving entities to renewable project developers and investors. EMA members have extensive operational experience with RPS compliance, REC trading, and renewable energy investment and, collectively, have made significant historical contributions to achieving state RPS targets. The EMA has a vested interest in the continued success of market-based mechanisms and RPS programs throughout the U.S. and encourages active discussion and collaboration among all industry participants. Inquiries about the EMA, or these Best Practice Principles for REC Markets may be directed [here](#).