

# Virginia Forestry Biomass BMPs

## Enforcement Process and Guidance

May 28, 2024

### Biomass BMP Revision

In the 2023 General Assembly session, HB2026 and SB1231 amended the Virginia Clean Economy Act (VCEA) to enable woody biomass to continue to be used as a source of electric power generation at three Dominion Energy plants and for these to be included as eligible sources in the renewable energy standard.

The energy produced can be used to generate Renewable Energy Certificates (RECs), provided that the material is harvested in accordance with best management practices (BMPs) for the sustainable harvesting of biomass. Virginia Department of Forestry (DOF) was directed to develop these BMPs.

DOF provided a report with preliminary biomass BMPs to the stakeholder workgroup in December 2023, and requested their review and feedback. Based on stakeholder feedback and further consideration by agency staff, DOF determined that a revised approach was necessary.

These biomass BMPs address stakeholder concerns related to clarity for compliance and enforcement and providing the opportunity for real-time cure and redress of issues prior to determination of non-compliance. Also, this approach can be performed without additional agency resources and implemented readily.

### Virginia Forestry Biomass BMPs

Per Virginia Code § 10.1-1308.1 A.1, REC-eligible biomass can include the following forest-derived materials: mill residues, logging residues, forest thinnings, slash, brush, low-commercial value materials, undesirable species and woody material harvested for the purpose of forest fire fuel reduction or forest health and watershed improvement.

Any of these materials harvested such that:

1. there is no sedimentation of state waters, and
  2. the harvesting of biomass does not reduce the productive capacity of the site for forest growth,
- will be considered to be harvested in accordance with best management practices for the sustainable harvesting of biomass.

### DOF Enforcement Process

1. Timber harvesters will self-identify whether a harvest will include "REC-eligible biomass," as part of the mandatory timber harvest notification process. This will alert the DOF inspector to monitor the harvest for biomass BMP compliance.
2. Along with the normal timber harvest water quality inspections, the DOF inspector will monitor these harvests for three factors that would disqualify the harvest from meeting the standard for sustainable harvesting of biomass:
  - a. Potential for sedimentation of state waters.
  - b. In-eligible forest derived materials based on § 10.1-1308.1 A.1 being collected for biomass.
  - c. Potential for harvesting biomass to reduce the productive capacity of the site for forest growth.

3. Concerns related to biomass harvesting will be handled in the same manner as DOF procedures related to sedimentation issues. The DOF inspector will notify the timber harvester if any concerns are identified. If the concerns cannot be readily addressed, the DOF regional water quality specialist or engineer will be engaged to work with the timber harvester. DOF will conduct repeat inspections to provide the opportunity to address concerns before the harvest is closed out.
4. Biomass harvesting enforcement will differ from enforcement of sedimentation in that DOF does not have authority to issue special orders to enforce biomass harvesting issues.
5. During the final harvest inspection, DOF will determine and record if all three factors for biomass REC-eligibility have been met.
6. DOF will also include the two additional REC-eligible biomass questions in the BMP audit process.

## DOF Internal Guidance

1. **Forest derived materials eligible for biomass harvesting based on § 10.1-1308.1 A.1 include:**
  - a. **Mill Residues** – Not applicable here, these are not covered by biomass BMPs.
  - b. **Logging Residues** – Material generated as a byproduct of a timber harvest that is conducted for a purpose other than solely for generating REC-eligible biomass.
  - c. **Forest Thinnings** – All the material harvested, including the byproducts generated, during a thinning harvest.
  - d. **Slash** – Material generated as a byproduct of a timber harvest, naturally shed by trees or resulting from storm damage.
  - e. **Brush** – Material from small diameter trees and shrubs.
  - f. **Low-Commercial Value Materials** – Material from trees or portions of trees that the harvester cannot economically merchandize for a higher commercial value.
  - g. **Undesirable Species** – All the material harvested from trees in species that the owner deems undesirable. Typically, this would include species with limited merchantability, invasive species, or species that are prone to disease or storm damage.
  - h. **Woody Material Harvested for the Purpose of Forest Fire Fuel Reduction or Forest Health and Watershed Improvement** – All the material from trees harvested for these purposes.
2. **Potential for the harvesting of biomass to reduce the productive capacity of the site for forest growth.** This would involve changes to site conditions impacting a significant proportion of the tract such as rutting, soil compaction, or changes to surface water flow that would prevent regeneration or forest growth.