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SUBMITTED VIA E-MAIL

EPA Docket Center
Attention: Docket OAR-2011—0083
Mail Code 2822T
1200 Pennsylvania Ave NW
Washington, DC 20460

Attention: Docket ID No. EPA–HQ–OAR–2011–0083

Re: Deferral for CO₂ Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs: Proposed Rule, 76 Fed. Reg. 15249 (March 21, 2011)

Dear Administrator Jackson:

Wild Virginia (WV), Georgia ForestWatch (GFW), and the Southern Environmental Law Center (SELC) (collectively, Southeastern Commenters) respectfully submit these comments in response to the proposal by U.S. EPA (EPA or Agency) to defer for a period of three years the application of the Prevention of Significant Deterioration (PSD) and Title V permitting requirements to biogenic carbon dioxide (CO₂) emissions from bioenergy and other biogenic stationary sources (Proposal). EPA proposes to take this action as part of the process of granting the Petition for Reconsideration filed by the National Alliance of Forest Owners (NAFO) on August 3, 2010, related to the PSD and Title V Greenhouse Gas Tailoring Rule.

WV is a not-for-profit, membership-supported organization with the mission of preserving forest ecosystems in Virginia's national forests. GFW is a not-for-profit, membership-supported organization dedicated to restoring, protecting and increasing appreciation of the national forests in the state of Georgia and the watersheds, native plants and wildlife that exist within those forests. SELC, a non-profit, regional environmental organization dedicated to the protection of natural resources throughout the Southeast, particularly in Alabama, Georgia, Tennessee, North Carolina, South Carolina, and Virginia. All three organizations have worked extensively on biomass and climate change issues in the Southern U.S. and promote policies that avoid, reduce, or eliminate greenhouse gas emissions from biomass harvesting and combustion, the emissions of conventional pollutants from biomass combusting facilities, and the harmful clearing or conversion of national forests land to produce woody biomass to feed biomass facilities.

Southeastern Commenters oppose the Proposal. We believe that a regulatory regime might be crafted that is consistent with the current science, is lawful under the Act, and reasonably ensures that the negative climate change impacts caused by burning biomass at an energy source are counterbalanced. However, the approach proposed by EPA in which all biomass is exempted from CO₂ regulation under the PSD and Title V programs forecloses that possibility. Our objections to the Proposal are provided more fully in separate comments submitted in this docket by the Clean Air Task Force and a number of other environmental organizations, including Southeastern Commenters.¹ We submit these southeastern-focused comments to supplement the factual record with information from our region that highlights the unlawfulness of EPA's *de minimis* justification for the Proposal. Specifically, this information demonstrates that in the Southeast standing trees will be an important, perhaps predominant, feedstock for the biomass industry, and helps establish that EPA has failed to show, as it must, that the circumstances of this rulemaking justify invoking the *de minimis* doctrine.

I. The Importance of the Utilization of Woody Biomass For Energy in the Southeast

The issue of whether and under what circumstances the combustion of biomass, particularly woody biomass, to produce electric energy, is in fact “carbon neutral” looms large over the Southeast.² First, as EPA has found, the Southeast is already suffering from observed climate change phenomena such as higher temperatures, increasing droughts, and rising sea levels, and the effects are projected to grow more severe.³ If the governing rules under the CAA for CO₂ emissions from biomass combustion fail to ensure true carbon neutrality, those rules will lead only to increased greenhouse gas pollution, exacerbating climate change and its impact on the people and environment of the region. Implementing a policy or set of rules that will guarantee biomass carbon neutrality would help address global climate change by establishing a zero-carbon alternative to traditional, carbon-heavy fossil fuel resources. Equally important for addressing the climate change threat, a sound policy will ensure that U.S. forests will continue to perform the hugely significant and active role they currently play in reducing atmospheric CO₂ levels. Existing forests serve as carbon sinks, sequestering 10% of the CO₂ emitted in the United States annually, and in doing so help reduce greenhouse gas emissions and slow climate change.⁴ By safeguarding the U.S. forest's carbon storage role and reducing carbon emissions from fossil fuel sources, a policy that effectively separates truly carbon-neutral biomass utilization from that which is not, can be an instrumental part of solving the climate change problem.

Second, the resolution of this issue will also widely impact the Southeast in terms of its forested landscape. The South has been called the “wood fiber basket of the world.” More than

¹ Clean Air Task Force Comments dated May 5, 2011 and filed in this docket (Joint Group Comments).

² Like EPA, we use “carbon neutral” as shorthand to describe a feedstock that, when combusted or oxidized, causes no net increase in greenhouse gas emissions on a lifecycle basis. Proposal, 76 Fed. Reg. at 15,256.

³ Technical Support Document for Endangerment and Cause or Contribute Findings for Greenhouse Gases under Section 202(a) of the Clean Air Act, 119 (December 7, 2009).

⁴ Birdsey, R., Pregitzer, K., Lucier, A., 2006. Forest carbon management in the United States: 1600–2100. *Journal of Environmental Quality* 35, 1461–1469. See also Proposal, at 15,254 (U.S. LULUCF sink is 12% of average gross emissions).

60% of the annual timber harvested in the U.S. is harvested from Texas to Virginia.⁵ Historically, standing trees were harvested for traditional forest product industries – saw timber and pulp and paper. But more recently the region’s forests are being tapped for their bioenergy potential. The combination of state and federal requirements (existing or proposed) to generate electricity and to manufacture transportation fuels from “renewable” resources, proposed federal climate change bills, and the international market for forest biomass have already begun to create a huge demand for the woody biomass from southeastern forests.⁶ And while comprehensive, nationwide climate change legislation has moved to the background, EPA regulation of CO₂ under the CAA has assumed a place of prominence in the list of legal requirements that may drastically boost or dampen demand for woody material.⁷

The temptation to meet or prepare for these requirements by tapping into the woody biomass supply is especially easy in the Southeast for electricity generation. Co-firing woody biomass in existing coal-fired electric plants is an established technology. With almost 60,000 megawatts (MW) of coal-fired electricity generating capacity in Virginia, the Carolinas, Georgia, Alabama and Tennessee, the Southeast presents abundant opportunities to pursue this co-firing practice

II. Information on the Southeastern Biomass Industry Undercuts EPA’s Justification for the Proposal

In the Proposal, EPA acknowledges that the three-year deferral would not be allowed under the plain language of the Act. Nevertheless, the Agency insists that it has implied authority to take the proposed action, primarily on the strength of the *de minimis* doctrine. As EPA states, under that rationale, an agency does not have to “concern itself with trifling matters [or] pointless expenditures of effort,” as long as the invocation of the *de minimis* doctrine does not depart from, but rather furthers, “legislative design.”⁸ Notably, as EPA correctly states, the agency seeking to rely on the justification bears the burden of showing that a matter is truly *de minimis*.⁹

The Agency attempts to make the required showing with two conclusory notions for which it does not provide adequate backing. First, EPA claims that regulating biomass CO₂ emissions would be trivial because certain biomass feedstocks, such as some kinds of wood waste or residuals, “that may be utilized to produce energy have a negligible impact on the net carbon cycle.”¹⁰ Second, the Agency asserts that it meets its burden because for other types of

⁵ Wear, D., and Abt, R., et al., “The South’s Outlook for Sustainable Forest Bioenergy and Biofuels Production,” p. 2, 2009, http://www.pinchot.org/bioenergy_paper Section 6.

⁶ According to Wear and Abt, “In the South, biomass export, biomass electricity, and advanced biofuels production would consume a total projected 308 million dry tons per year [of all types of biomass]. ...With no reductions in existing wood use, the demand nearly triples while the potential future supply doubles, and the future gap in supply versus demand exceeds the current total demand for pulpwood in the Southeast.” *Id.*, at p. 14.

⁷ See Section III below.

⁸ Proposal, at 15,261

⁹ *Id.*

¹⁰ *Id.*

biomass feedstocks “the potential may exist for EPA to determine that [their utilization to produce energy] would have a negligible impact on the net carbon cycle.”¹¹

Putting aside concerns about utilization of wood residuals and the assumption of its “negligible impact,” EPA’s justification is legally inadequate, if only for this reason: If it could ever be the case that the un-proven *potential* for a trivial impact excuses an agency’s departure from the plain meaning of a statute under the *de minimis* rationale, this is not that case. First, as explained in the Joint Group Comments and comments submitted on the Call For Information, current science overwhelmingly demonstrates that a blanket assumption of the carbon neutrality of non-wood waste biomass, such as standing trees, is patently unreasonable.

Moreover, and going to the focus of these comments, banking on the potential carbon neutrality, or negligible net CO₂ or climate impact, of standing trees is irrational simply given how much that feedstock will be utilized for producing energy, especially should EPA finalize the Proposal. The Agency makes no projections whatsoever about how much of the demand for bioenergy fuel it expects wood residuals, with their assumed carbon neutrality, will meet. In fact, as explained in the Joint Group Comments, in fact, the evidence nationally and from different regions of the country shows that standing trees will be the primary feedstock.

Certainly, this is true for the Southeast. Several facts establish the high degree of probability that standing trees will be utilized on a large scale in the region, even more so than they already are. A snapshot survey of existing and proposed biomass facilities, findings on biomass supply in peer-reviewed studies, statements from biomass developers, and growing exports of wood pellets, all show that a realistic projection of bioenergy demand in the southeast will require massive use of standing trees, particularly pulpwood. This evidence concerning biomass feedstock utilization in the region of the country that is “a leader in bioenergy generation” lays bare the unreasonable risk EPA is taking in relying on the unproven potential for standing trees to be carbon neutral to justify this Proposal.¹² The magnitude of the utilization of standing trees as biomass feedstock is so large that gambling that they are a carbon neutral fuel cannot be considered a rational basis for the Proposal and undercuts EPA’s attempt to meet its burden of demonstrating that the *de minimis* doctrine is properly invoked in this case.

A. A Snapshot of the Biomass Energy Sector in the Southeast

It is commonly believed that woody biomass is plentiful in the Southeast. The increasing number of operating or proposed biomass facilities testify to the fact that companies are acting on this belief. As a result, the regional picture is one of increasing and overlapping demand from facilities that burn woody biomass to produce electricity or manufacture wood pellets for burning inside and outside the region.

The attached map, entitled “Proposed and Existing Woody Biomass Facilities in the Southeast,” (Attachment 1) and accompanying table (Attachment 2) provide a snapshot of the biomass energy sector in the Southeast. The map shows proposed and existing woody biomass

¹¹ Id.

¹² Woody Biomass and Purpose-Grown Trees as Feedstocks for Renewable Energy, in *Plant Biotechnology for Sustainable Production of Energy and Co-products Biotechnology in Agriculture and Forestry*, Vol. 66, Mascia, Peter N. et al., p. 159; see also Wear and Abt, p. 1.

facilities known to us that are either located or proposed in Alabama, Georgia, North Carolina, South Carolina, Tennessee, and Virginia, and sourcing areas for those facilities. (The map also shows facilities that are outside those states, but have overlapping sourcing areas with plants in those states.) The table provides details on each facility, as well as additional notes and sources for the information.

The sourcing area for a unit is shown as a brown circle representing a 50 mile radius where wood feedstock will be harvested to supply each facility. Some facilities propose a larger sourcing area of up to 100 miles, and for all facilities actual sourcing areas would also be affected by existing road networks making them more irregular. Nevertheless, these circles are illustrative of the potential forestry impacts where many proposed facilities are close together.

This snapshot will change. It is reasonable to assume that not every one of the proposed facilities shown on the map will be built, at least as planned. But it is equally reasonable to assume that the map does not show facilities that have not yet been proposed but will be built to combust biomass or converted to do so, as would be the case for the many coal-fired EGUs located in the region. Some no doubt will be built or converted before EPA's proposed three-year deferral period would end. Regardless of the fate of individual proposed facilities, though, the general view this snapshot provides – a combined demand from existing and proposed plants of approximately 40 million green tons per year (gtpy) of biomass¹³ – indicates that demand will far outstrip the supply of wood residue and that a significant number standing trees will have to be harvested year in and year out to meet the looming biomass demand.

i. Examples of Local Biomass Demand

1. Southern Virginia

In Virginia, the largest utility and owner of the largest slice of electric generating capacity in the state, Dominion Virginia Power, currently operates a 79 MW baseload wood-fired power plant in Pittsylvania County, south of Lynchburg (shown on the map as VA-1). We estimate it consumes approximately 1 million gtpy of wood waste and chips. Dominion has also recently proposed to convert three smaller coal-fired peaking plants (63 MW). These plants individually would produce 50 MW of baseload power, each consuming approximately 650,000 gtpy. Dominion first announced the Altavista plant (VA-10), which is just across the Roanoke River from the Pittsylvania plant. The other two Dominion conversions would be the Hopewell Plant, in Hopewell (VA-11), and the Southampton Plant, near Franklin, in Southampton County (VA-12).

In addition, South Boston Energy, working with Northern Virginia Electric Cooperative (NOVEC), will be building a 50 MW wood-fired plant in South Boston, Virginia (VA-8). Its 50-mile sourcing radius overlaps with the Altavista (VA-10) and Pittsylvania (VA-1) Dominion plants. The sourcing area for these plants also overlaps with two proposed wood pellet mills in Southside, one in Gladys (VA-9), near Altavista, and one in Greensville County near I-95 (VA-5). Each of these new pellet plants is scaled to consume up to 300,000 gtpy, and is expected to

¹³ This total is based on information provided in Attachment 2. For EGUs, where no facility-specific data was available, the green tons per year number was based on 50 MW requiring 650,000 gtpy.

export to Europe. Further crowding the field would be a proposed plan to convert an International Paper mill to produce wood pellets (VA-7). Its developers are studying the feasibility of producing 500,000 tons of wood pellets each year, requiring 1,000,000 green tons annually.

These eight plants (one existing and seven new) could consume a total of 5.2 million gtpy. While a spokesman for the Gladys chip mill stated that it had “secured timber rights as insurance” to backup its plan to use sawmill residue, most of these facilities claim they will be using wood waste and logging residue.¹⁴ Assuming all these plants go forward, however, it is highly likely that standing trees will be chipped to supply them over time.

Nor can these Virginia-based facilities count on finding supplies of wood waste or logging residues in neighboring North Carolina. In fact, they can anticipate the opposite – additional biomass demand, thus increasing the likelihood of the burning of whole trees. There is a proposed wood pellet/torrefaction plant in North Carolina just south of the border (NC-7) whose sourcing area would overlap with the Dominion’s Pittsylvania and Altavista plants (VA-1 and VA-10, respectively), the NOVEC/South Boston Energy Plant (VA-8) and the Gladys wood pellet plant (VA-9). The North Carolina facility is proposed to produce 350,000 tons of pellets by 2012, consuming 700,000 green tons at full capacity.

Likewise, further east, two proposed plants in North Carolina will significantly overlap with the proposed Franklin pellet mill (VA-7), Southampton power plant (VA-12) and Greenville County pellet mill (VA-5) sourcing areas. Decker Energy is proposing a 60 MW wood-fired plant in Hertford County (NC-4). It planned to start operations in 2012, but now is on hold indefinitely. In addition, Enviva proposes to open a pellet mill in the same county that will produce 330,000 tons of wood pellets per year for shipment to Europe, consuming approximately 700,000 tons per year of green wood supplies (NC-6). As of Winter 2011, construction was underway, and the plant is reportedly on schedule to begin production at the end of 2011.¹⁵ The mill will send the equivalent of two truckloads per hour of finished product to the ports to be exported. A company spokesman observed that “[t]o support that volume, we’ll need to purchase somewhere in the neighborhood of 740,000 tons of wood a year; 120 truckloads a day, most of it round wood; some residuals.”¹⁶

2. South Georgia

The southern part of Georgia is experiencing similar demands on forest resources. Large wood pellet plants built for export to Europe are leading the way. In southeast Georgia, a European concern is opening a pellet mill in Waycross that will export 750,000 tons per year of wood pellets (GA-11). A nearby plant, Magnolia Biopower, will produce up to 1 million tons of pellets mostly for export and 30 MW of power (GA-17). These two plants alone would consume 3.5 million green tons of wood per year.

¹⁴ Export hardwood pellet mill coming to Central VA, May 26, 2010, RISI Wood Biomass Markets, <http://www.woodbiomass.com/news/timber/news/Export-hardwood-pellet-biomass-VA.html>.

¹⁵ Pellet plant construction progresses, February 18, 2011, Roanoke-Chowan News-Herald, <http://www.roanoke-chowannewsheald.com/2011/02/18/pellet-plant-construction-progresses/>.

¹⁶ Id. “Round wood” indicates that the wood be standing trees.

The biomass proponents in the area fully acknowledge that their feedstock source will be extensive pine plantations in this area. In a recent story on the Waycross plant, the interim director of the Okefenokee Area Development Authority stated: “The big story is everyone who is growing pine trees in South Georgia is going to have a market in which to sell them so they can be turned into wood pellets and shipped to Europe.” Echoing this, the chief financial and operational officer for plant developer said the company will purchase 1 to 2 million tons of pulp wood a year, which will be processed and compressed into pellets.¹⁷

Earlier, Oglethorpe Power, which has been investigating building one or two 100 MW wood fired power plants in eastern and southeastern Georgia (GA-14 and GA-13), stated in a press release on May 7, 2009: “The biomass plants will generate electricity by burning a woody biomass mixture expected to consist primarily of *whole tree chips and chipped pulpwood*, along with wood waste from saw mills and wood remaining in the forest after clearing.” (emphasis added). While these plants have been put on hold, the company says it will move forward with permitting and environmental impact studies.

Whatever the delays to individual facilities, the overall point remains: these projects are being located in south Georgia to access the standing pine plantations and other forests. There is simply not enough waste wood to support these multiple very large facilities. The developers and owners of the plants plan to use standing trees because that is what is required to meet the volume they need.

B. Projections of Biomass Markets in the Southeast Predict Whole Tree Harvesting to Meet Demand

It is not just static regional and local snapshots of the biomass sector that substantiate the magnitude of standing tree harvesting that will occur to meet the demand created by the industry's growth in the Southeast. Peer-reviewed studies that use dynamic models to project which feedstocks will be required to supply future biomass markets confirm the role of whole trees.

One study of the implications of increased demand for biomass in the Southeast focused on North Carolina. The authors found that wood residuals would fall far short of meeting the additional demand for biomass (in this instance, resulting from North Carolina's mandatory renewable electric portfolio standard (REPS)), failing to meet demand even in the first year of the REPS requirements. Instead, whole tree harvesting would fill the sizable gap left after available residuals were used up. This reliance on standing trees would continue until the last year of the study period, 2036, when whole trees would supply approximately 5 million green tons per year to meet the demand.¹⁸

¹⁷ Wood pellet plant in trial runs in Ware County, March 27, 2011, The Florida Times-Union. <http://jacksonville.com/news/georgia/2011-03-27/story/wood-pellet-plant-trial-runs-ware-county>

¹⁸ Effect of policy-based bioenergy demand on southern timber markets: A case study of North Carolina. Robert C. Abt, Karen L. Abt, Frederick W. Cabbage, Jesse D. Henderson, 2010.

A similar finding marks a study of the implications of co-firing 10% biomass in coal-fired EGUs across 10 southern states.¹⁹ In that study, the authors projected that at least 25 million green tons per year would come from pulp wood harvesting, even when they assumed that 50% of forest residuals could be captured for biomass electricity production.²⁰

C. Statements from Biomass Developers

As discussed above, biomass proponents associated with individual proposals will acknowledge the crucial role standing trees will play in sustaining those projects. But even divorced from specific biomass proposals, some developers contend that in general forest residues are inadequate to meet their co-firing fuel needs. For example, Duke Energy Carolinas objected to a narrow reading of the term of “biomass resource” which would limit the company to utilizing wood waste and preclude the use of standing trees in complying with North Carolina’s REPS. In testimony submitted to the North Carolina Utilities Commission, the company stated:

Duke Energy Carolinas would be forced to significantly alter its REPS compliance strategy if the definition of ‘biomass resource’ was interpreted as a matter of law to exclude all other wood fuel sources except “wood waste”. . . . [T]here is already limited ‘wood waste’ supply in the marketplace, and such a limiting interpretation would create an artificial premium for that supply. . . Also as the supply of ‘wood waste’ will be geographically dispersed, risks and limitation related to economical transport of fuel will further constrain actual supply. . . . Depending upon the transport distances in relation to the generation facility sites, there may simply not be enough “wood waste” fuel available to support the relative needs at Company-owned or third party sites.²¹

There is no reason given in the testimony to suspect that Duke’s opinion of the relative virtues of wood waste and standing trees as feedstock are unique to it.

D. Increasing Demand for Wood Pellets from the Southeast

It is more than in-region energy demand that is poised to quickly exhaust available wood residual supply, necessitating a reliance on standing trees. Out-of-region wood demand is also growing and is reflected by the export, to other regions or other countries, of wood in the form of pellets manufactured at plants located in the Southeast.

The North American wood pellet industry is relatively young. However, the industry has experienced increased growth with a promising future market, as illustrated in Figure 1 (extracted from Spelter & Toth 2009).

¹⁹ Abt, R.C, et al. 2010. The near-term market and greenhouse gas implications of forest biomass utilization in the Southeastern United States. Duke University, Durham, NC.

²⁰ Id. at p. 15, Fig. 5.

²¹ Testimony of Owen A. Smith, Duke Energy Corporation, before the North Carolina Utilities Commission, In re: Registration Statements of Buck and Lee Steam Stations as renewable Energy Facilities Pursuant to Rule R8-66, Docket No. E-7, SUB 939 and SUB 940, at 9.

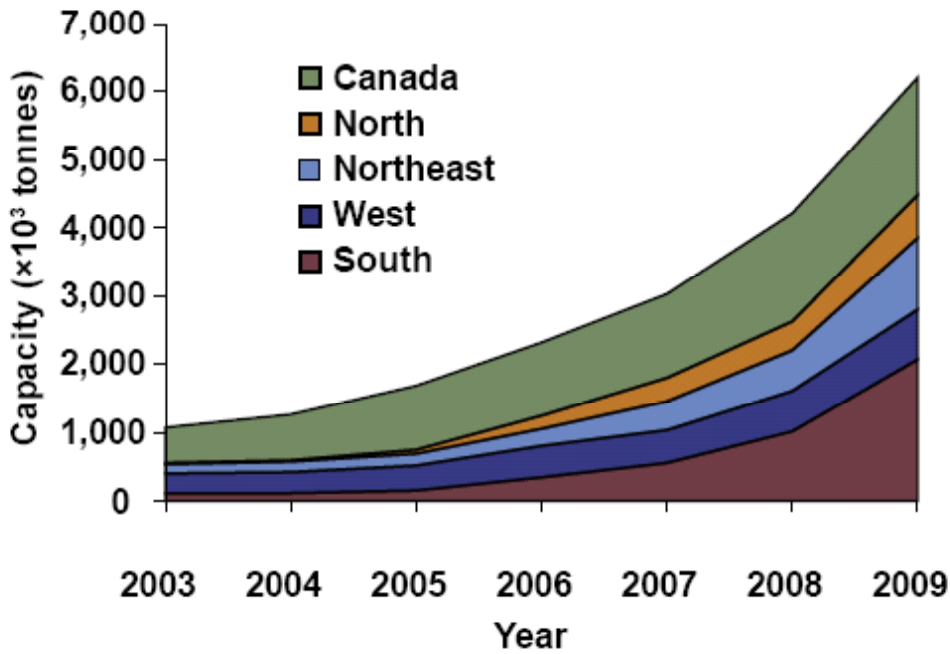


Figure 1: North American Pellet Capacity: 2003-2009.

This shows the significant role the American South currently plays in wood pellet production and undoubtedly will do so into at least the near future. Much of the production is being exported, particularly to Europe as the European Union looks toward meeting a 21% electricity and 20% heat renewable target by 2020. Total wood pellet exports from the U.S. are displayed below in Figure 2.²²

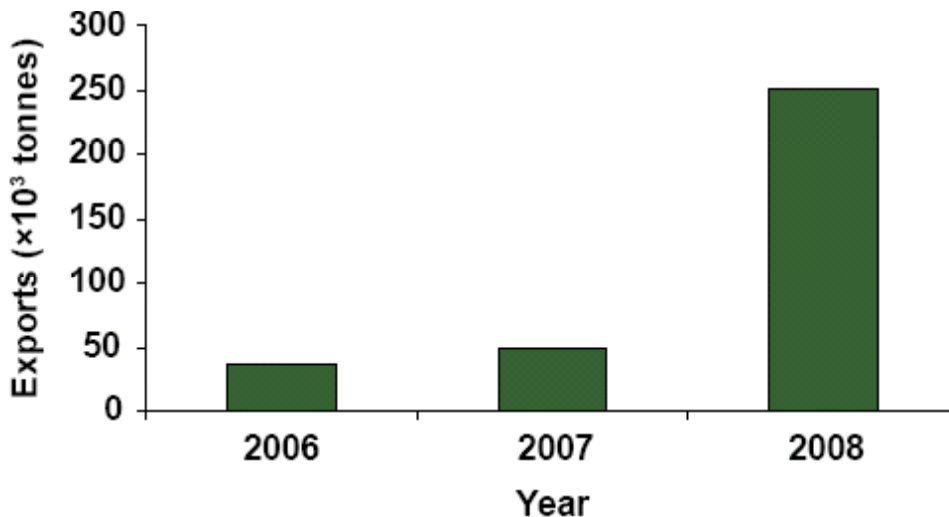


Figure 2. United States pellet and waste wood exports.

²² U.S. International Trade Commission. 2009. Interactive tariff and trade data web. <http://dataweb.usitc.gov/>.

As the European Union strives to meet its renewable targets by 2020, wood pellets will be a key to achieving these targets, especially in the heating sector. In total, annual pellet consumption in Europe amounts to about 6 million tons, with expected future growth, and “[t]he gap between European pellet supply and demand is expected to increase to between four and five million tonnes by 2010.”²³

North America and Russia both contribute significantly to the European pellet market. Unfortunately, the data does not indicate which region dominates the export market within the U.S. Based on climate and pellet stove use, it can be assumed that the North, West, and Northeast would be more inclined to use pellets produced regionally. The South, on the other hand, has little residential use for wood pellets and most production is either for domestic industry use or exportation. It is likely that anywhere from 50-100% of wood pellets produced in the South are exported. With growing demand and a relatively stable supply, the opportunity for the U.S. South to contribute to the EU pellet market is substantial.²⁴

The European market clearly plays a role in biomass utilization in the Southeast. Currently, at least one pellet plant in the region, Green Circle Energy of Florida, ships pellets exclusively to Europe; wood demand at this one plant is about 1.3 million green tons a year. A German and Swedish joint venture is pursuing a plant in Waycross, Georgia that would require 1.5 million green tons per year with a plan to ship the pellets to Europe. This growing market is also cited by those planning facilities.²⁵

III. The Carbon and Climate Change Implications of the Southeast’s Reliance on Standing Trees as a Biomass Feedstock Would Outlast the Deferral Period.

EPA attempts to discount the risk posed by its proposed approach by noting that even if a more detailed examination of the science of biogenic CO₂ demonstrates that the utilization of some biomass feedstocks, such as standing trees, for energy production will have a significant impact on the net carbon cycle, that such a risk is adequately managed by “proposing only a temporary, rather than a permanent, deferral.”

This conclusion does not stand up to serious scrutiny. First, the additional CO₂ released into the atmosphere during the three year study period will impact atmospheric CO₂ levels for 50-200 years. Second, and more significantly, the facilities that are permitted during the three year period will not necessarily have to automatically re-submit applications for permits if EPA ultimately determines to regulate biomass CO₂ emissions under the PSD and Title V programs.

²³ Wahl, Antje. 2008. “Wood Market Trends in Europe.” FP Innovations & Natural Resources Canada. http://www.solutionsforwood.ca/_docs/reports/EuropeMarketTrends.pdf

²⁴ Ukrainian Biofuel Portal. “Current Trends of the Wood Pellet Market.”

<http://pellets-wood.com/current-trends-of-the-wood-pellet-market-o2639.html>

²⁵ “The European market is expected to be using 100 million tons of wood pellets by 2020, up from the current 11 million tons... That increased usage by Europe is already reflecting in United States’ exporting of wood pellets, [Peter] O’Keefe said. [the country’s exports] increased to 600,000 tons in 2010, he said.” See “McAuliffe studying wood pellet industry for paper mill” April 22, 2011 by Allison T. Williams, www.ForestBusinessNetwork.com

Those facilities would be able to argue that they are essentially grandfathered and that they must obtain a PSD permit that includes a CO2 limit only if they modify the facility.

The motivation that the deferral period would give to companies to rapidly build or convert facilities before the three-year period expires is clear. NAFO's own chief executive officer has declared that "the deferral would spur the market for biomass energy and increase the biomass sales of NAFO's members by removing the regulatory uncertainty and compliance costs that has inhibited capital investment in biomass energy facilities.... Wood to electricity facilities are expected to be a central component of renewable fuel portfolios across the country and total capacity is expected to increase four-fold during the next decade.²⁶ On the reverse side, assessing the impacts of an EPA refusal to exempt CO₂ emissions from biomass combustion under the PSD and Title V programs, NAFO predicts that such a step would "reduce the demand for biomass products supplied by NAFO's members."²⁷ EPA, too, sees the relationship between the Proposal and biomass demand, stating that regulation of biogenic emissions would "discourage utilization of biomass feedstock as fuel" during the proposed three-year deferral.

We thank you for the opportunity to submit these comments.

Respectfully submitted,



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David Carr
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On Behalf of Georgia ForestWatch, Wild Virginia, and the
Southern Environmental Law Center

²⁶ Declaration of David P. Tenny, National Alliance of Forest Owners ¶ 11.a., Center for Biological Diversity v. EPA, D.C. Cir. No. 11-1101 (filed April 28, 2011).

²⁷ Id. ¶ 11.b.