

Renewable Energy Standard: The Way Forward in the U.S. Senate

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Washington, D.C., July 9, 2009 - The U.S. Congress and President Obama's Administration has stated support for climate and renewable energy legislation in the form of a cap & trade bill and energy bill. Included in these efforts are a Renewable Electricity Standard (RES) to mandate a certain percentage of energy come from renewable sources. Currently, the House of Representatives has passed both a cap & trade and energy bill, while the Senate has passed an energy bill out of the Energy and Natural Resources Committee. Below is a short summary of the actions in the House, Senate and the future outlook.

In the past, both legislative bodies have passed renewable energy bills that became public law. These efforts have included woody biomass as a renewable energy feedstock. In the past couple of years, due to concerns about the 'sustainability' of biomass, there have been many efforts to limit the type of woody biomass that would count as 'renewable'. This has been done by defining 'woody biomass' or 'renewable biomass' in a restrictive way. For example, in 2007 the Congress passed a Renewable Fuel Standard (RFS) which included a restrictive/prescriptive definition of woody biomass that was inserted in the bill at the 11th hour.

This definition excluded biomass from federal land and most natural forests, only allowing biomass from mill residuals or private land plantations established before enactment of the bill to count towards the RFS. Most in the forestry community assumed this to be an accident and thought Congress, once informed of the problem, would quickly re-define the term. Unfortunately, when the draft energy and cap & trade bill was released by Representatives Waxman and Markey (the two key authors of climate legislation in the House) a definition similar to the RFS was included in the bill. This affirmed the direction some members of the Congressional Leadership were headed on woody biomass. Numerous organizations have weighed-in with the Congress stating their concern for the 'sustainability' of woody biomass including concerns that federal or private forests could be deforested for renewable energy.

Members of Congress with forests in their districts were concerned with the restrictive definition included in the Waxman-Markey bill. The draft bill excluded federal lands and most private lands from producing biomass for energy counting towards a national Renewable Energy Standard. Further, it would also punish biomass energy producers who did not use 'eligible' biomass by treating them as if they produced energy from fossil fuels—in other words, under a cap and trade system, these biomass power

producers would have to buy 'offsets' for the energy they produced. Fortunately, many members of the House Energy & Commerce Committee expressed concern during the Committee's consideration of the Waxman-Markey bill and as a result the definition was expanded to include most private land and some public land. Old growth forests on both private and public land were excluded from this definition and new plantations on private land were prohibited. Troubling for public lands, the definition excluded biomass from 'mature' forest stands. The Forest Service calculated this term to apply to roughly 84 million acres of land where timber harvest is allowed (including roadless). Nonetheless, after a lengthy debate in the Committee and several amendments offered to improve the definition, the bill was passed by the Committee with this problematic language.

At that point, the Waxman-Markey bill went to the House Floor for full consideration by the House of Representatives. Again, many members of Congress with forests in their districts expressed dismay with the definition. While many members weighed-in, the charge was led by Rep. Colin Peterson (D-MN) the Chairman of the House Agriculture Committee. Chairman Peterson and members of the Agriculture Committee had significant concerns about the impact of the bill on agriculture and forestry. Chairman Waxman also knew that it would be very difficult to pass his bill without the support of agriculture and forestry state members. As a result the Agriculture Committee and Energy Committee entered into negotiations. Waxman and Markey came to an agreement with Peterson early on the morning of the vote in the House.

The result was an open an inclusive definition of biomass from private land and a less restrictive definition on public land. Specifically on public lands, the word 'mature' was removed and 'late successional' added in its place—prohibiting removal of biomass from late-successional stands unless the trees are "dead, badly infested or severely damaged". While this was a vast improvement from the first version of the definition, it certainly left something to be desired by those interested in the health of public forests.

The bill passed by two votes on June 26th, just before the Congress recessed for its annual 4th of July break. The bill now goes to the Senate, where it will largely be amended according to the political and policy desires of the Senate. The Senate Energy & Natural Resources Committee has already passed an energy bill which includes a Renewable Energy Standard (RES) and yet another definition of biomass. Some components of the definition are better than the House's version and some are worse. In the mean time, the Senate Environment and Public Works (EPW) Committee, Chaired by Senator Barbara Boxer (D-CA) has lead jurisdiction over cap & trade and renewable fuels. The EPW Committee is working from the House cap & trade bill to put together its version. Senator Boxer has said the bill will be up for approval by the Committee in September.

Several other Senate committees have jurisdiction over different pieces of cap & trade legislation. For example, the Senate Agriculture Committee will may have jurisdiction over agriculture and forestry offsets as well as some components of renewable energy. Majority Leader Harry Reid has set a target date of September 28th for the six committees of jurisdiction to complete their work on cap & trade. At that point, the

Senate will take the work product of each committee and combine it into one large bill that will go to the Senate Floor for approval by the entire Senate.

Why is this important? It is likely that an energy bill, at least, and a cap and trade bill, at most, could pass the Senate and eventually go to the President for signature. This could impact the ability to manage our domestic forests for generations. If the definition of biomass is too restrictive, it will be very difficult for biomass energy to compete with other renewables such as wind and solar. If the definition of biomass is open and inclusive, it could encourage much-needed forest management by offsetting some of the cost of removing and transporting biomass. This is also a tremendous opportunity to improve the health of forests (especially our national forests) while also keeping and creating family-wage jobs in rural communities, reduce carbon dioxide emissions, and reducing our dependence on foreign sources of energy.

If we lose the battle to get a workable definition of biomass, we will lose a political fight, and the opportunity to responsibly manage forests, especially federal forests, far into the future. Currently, material from forests used for biomass energy has little to no value. It generally costs more to transport the material than the value it generates. Congress, however, is toying with the idea of restricting biomass harvesting. Even commercial timber harvests on private land, producing much higher value products, are regulated by the states. On Federal lands, there are a host of laws, regulations and environmental analysis that are required before any action. Further, citizens can appeal and litigate if they don't like the actions of land management agencies. Why then, do we need further restrictions on where biomass can and cannot be removed for the purpose of fueling biomass power?

The Senate will consider this definition and likely re-write in July and August. Every senator with forests in their states should be contacted and educated about this problem. This has to be a priority for them and the only way for it to be a priority is by voters contacting their senators. The Senate has historically passed more reasonable definitions of biomass. The definition in the recent Farm Bill is a good example—it's open and inclusive while complying with existing law. We have a great opportunity to fix this problem in the Senate, but it will take time and work as there are many groups very concerned about the sustainability of forest biomass. They fear the demand for renewable energy will encourage deforestation. Most of these groups are not familiar with the state of our federal forests and the vast amount of biomass that could and should be removed for a host of reasons, nor the commitments to sustainability made by most private landowners. But all politics are local, and if voters are clear with their senators and senators are properly informed about the condition of our forests and the potential for biomass energy, rural community revitalization through family-wage jobs, renewable energy productions, and restoring our forests to health, we can win. The time to act is now.