Woody Biomass Energy

Federal Issues & Legislation

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We are very pleased at committee's interest and engagement on the issue of biomass energy. Woody biomass energy in particular has an extremely important role to play in our state. The value of maintaining our struggling forest industry, so that we continue to have the skills, equipment and knowledge needed to manage our forests in a cost-effective and sustainable manner, is an important consideration, especially as we face increasing development in the WUI, rising firefighting costs and increasingly challenging forest conditions.

As you know, biomass energy has unique value among renewables in the sense that it is available upon demand and can be scaled up or down as needed – it is a firming resource. (Biomass is also the only renewable that can be converted to liquid transportation fuel).

In addition to the benefits associated with its flexibility, there are a host of societal benefits that are not typically considered in rate-setting. Firefighting costs, community safety, costs of forest management, and rural economic activity are among them.

Any steps the state can take to ensure that the relative cost of biomass energy is considered in this larger context will be helpful to capturing these values.

EQC
SEPTEMBER 10, 2009
EXHIBIT 25

Two Interest Areas

- Whether and how forest management & or waste is considered in climate change policy
  - Renewable Energy & Fuels Definitions
- Federal incentives & their impacts
  - Biomass Crop Assistance Program
  - Thermal energy standard
  - On-site electrical production
  - PTC parity

There are two main interest areas regarding federal actions impacting woody biomass energy potential in MT.

As a starting point there are a couple of overarching themes we want to emphasize.

1. Renewable energy and fuels definitions are by far the most important of these federal issues related to woody biomass energy potential in Montana. If a large proportion of our forest biomass doesn't "count" as renewable, none of these projects will get done.
2. Our challenge is to encourage investments that grow this industry in rational ways, while striving to sustain or strengthen our existing businesses and supply infrastructure.

Federal Forest Policy and State Opportunities

Renewable Energy Standard (RES)

- S 536 Senator Wyden to amend the Clean Air Act to modify the definition of the term 'renewable biomass';
- S 523 Senator Tester to amend the Energy Policy Act of 2005 to establish pilot project offices to improve federal permit coordination for renewable energy;
- S 636 Senator Tester to amend the Clean Air Act to conform the definition of renewable biomass to the definition given the term in the 2002 Farm Bill;
- S 1462 Senator Bingaman 'American Clean Energy Leadership Act of 2009';
- HR 1111 Congressman Rehberg to promote as a renewable energy source the use of biomass removed from forest lands in connection with hazardous fuel reduction projects on certain federal lands;
- HR 1190 Congressman Herseth-Sandlin to promote the use of certain materials harvested from public lands in the production of renewable fuel; and
- HR 2454 Waxman-Markey 'American Clean Energy & Security Act of 2009'

S 536 introduced 3.5.09 by Ron Wyden (OR) and co-sponsor Jeff Merkley (OR) bill read twice and referred to the committee on Environment and Public Works

S 523 introduced 3.4.09 by Senators Jon Tester (MT) and Diane Feinstein (CA) Amends the Energy Policy Act of 2005 the definition of renewable energy included renewable biomass. Authorizes field and district offices housed under the BLM in AZ, CA, NM, NV, MT and WY to serve as Renewable Energy Pilot Project Offices for coordination of Federal permits for renewable energy projects and transmissions lines. Creates a MOU between the Governors of these states and the DOE. Permit Processing Improvement Fund modifies the Mineral Leasing Act. Read twice and referred to the Committee on Energy and Natural Resources.

S 636 introduced 3.18.09 by Senators John Thune (SD) and Jon Tester (MT) 7 co-sponsors Read twice and referred to the Committee on Environment and Public Works, amends the biomass definition in the Clear Air Act to conform with the definition in the 2008 Farm Bill.

S 1462 introduced 7.16.09 by Senator Jeff Bingaman (NM) (no co-sponsors) allows for the biomass removal from federal lands to count towards the Renewable Energy Standard with restrictions, i.e. old growth, conservation areas, follow management plans. 10 related energy bills (important to biomass/RES S 1175 and S 1189) placed on the Senate Calendar under General Orders 7.16.09 Senate Report 111-48.

HR 1111 introduced by Congressman Denny Rehberg (MT) 2.23.09 6 co-sponsors, referred to the House Committee on Energy and Commerce. 'Wildfire Risk Reduction and Renewable Biomass Utilization Act'. Expands the renewable biomass definition established in the 2007 Energy Independence and Security Act to include removals from federal lands, biomass removed in connection with an authorized HFR project using HFRA from lands within the WUI. With restrictions, i.e., old growth or LSR, unless the Secretaries of AG and Interior determines the removal from such lands is appropriate, wilderness, WSA, IRA, NPS or National Monuments.

HR 1190 introduced by Congresswoman Stephanie Herseth-Sandlin (SD) 2.25.09 with 31 co-sponsors referred to the House Committee on Energy and Commerce. 'Renewable Biomass Facilitation Act of 2009'. Amends the 2007 EISA. Allows removals from federal lands with restrictions.

HR 2454 introduced 5.15.09 by Congressmen Henry Waxman (CA) and Edward Markey (MA) passed the House by H Res 587 6.09 by 217 – 205, placed on the Senate calendar 7.7.09 by General Order HS Report 111-137.

Biomass Crop Assistance Program

- 2008 Farm Bill – FSA/CCC
  - Support the establishment and production of certain crops for conversion to bio-energy in project areas
  - Assist with collection, harvest, storage, and transportation of eligible material for use in a biomass conversion facility
- Draft EIS – **comment due Sept 24th**

The BCAP was created in the 2008 Farm Bill and is administered by the Farm Services Agency on behalf of the Commodity Credit Corporation. It is authorized through Sept 30, 2012.

Two components to the program.

The alternatives analyzed in this programmatic EIS look at how narrow or broad the Project Areas Program should be. It looks like this will have the most impact on agriculture – biomass energy crops – as opposed to forestry in the long run.

The second item is kind of a bridge program to get to the first, and it WILL have a potentially large impact on forestry sector in the near term.

Biomass Crop Assistance Program

- Cash incentives via CCC for biomass collection, harvest, storage, and transportation
- $1 per $1 up to $45/dry ton for up to 2 years
- Qualified Conversion Facilities – NY, CA, MO, FL, AL, WI

Because this funding is through the commodity credit corporation, it is separate from the federal appropriations process. According to the state FSA -- Commodity Credit Corporation serves as a sort of "line of credit" to FSA. As a result, checks can be written as applications are approved for this and other CCC programs then Congress makes CCC whole the following year.

Back of the envelope calculations of national potential woody biomass funds alone are about $6 billion annually.

Mainly this will temporarily subsidize ongoing activities. We are already working with forest biomass energy users in the state, (Smurfit-Stone, Eureka Pellet Mills, Fuels for Schools facilities), along with the state FSA office, to help them take advantage of these funds.

Biomass Crop Assistance Program

- Includes mill residues used for heat, energy, biofuels.
- Skews values causing concern for current residue users.
- Appears to allow a facility to be both a supplier and a qualified conversion facility.
- Likely not to result in long term increases in biomass utilization or renewable energy production.

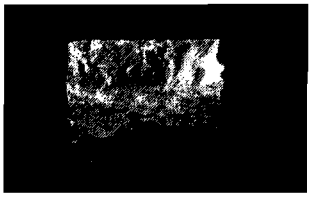
While there are some clear benefits of BCAP to existing biomass energy facilities/suppliers, which will make existing operations that are on tight margins more economically viable for a couple of years, this subsidy is unlikely to inspire long term increases in biomass energy.

Concerns have been raised already about the current design of the Collection Harvest Storage and Transportation subsidy program. These are the biggest issues.

Bottom Line – 2 lessons:

1. Subsidies can have many unintended consequences and must be crafted with extreme care in order for them to be effective.
2. Best way to increase utilization/energy production for the long term is to invest in new markets while striving not to disrupt current uses/markets.

Thermal Energy Efficiency Act 2009



- S. 1621 introduced by Sen. Sanders and Merkley
- Would establish competitive grant program
- 75% for construction-15% engineering/feasibility
- Split between industrial/commercial & public projects
- District heating systems, CHP or recoverable waste energy projects
- Funded via emission allowances under cap & trade

Overall we are VERY happy to see some attention to projects producing heat alone, and combined heat and power, in addition to electricity and biofuels. About 40% of the total energy consumed in the US is used in heating and air conditioning buildings and industrial process heat, but has been largely ignored when it comes to renewable energy policy.

One concern with this bill as currently written is that it requires 60% efficiency for combined heat and power facilities. DOE funding offered earlier this year for CHP project development had similar criteria.

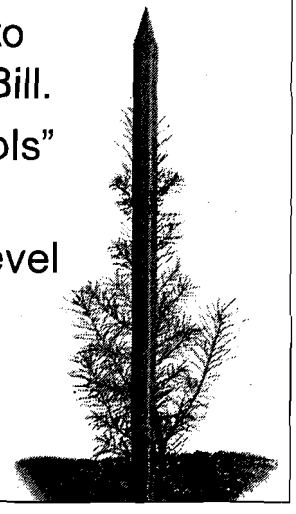
As background, straight energy generation is in the neighborhood of 25-30% efficient. CHP using all the waste heat productively can be as high as 80+%.

The mills in the state that have proposed combined heat and power projects weren't eligible for DOE CHP funding, because they did not have enough of a heat load on-site to get up to 60% efficiency. This criteria cuts out some great potential projects OR it can drive them to size plants to meet a funding source, instead of in the most economically rational manner.

Plants that generate both usable electricity and heat are always more efficient in energy recovery than an electrical plant alone.

Appropriations

- House and Senate drafts include funding for Community Wood to Energy title in the 2008 Farm Bill.
- Modeled after "Fuels for Schools" 6-state initiative.
- Funding would support state level programs similar to DNRC's.



Interior and related agency appropriations.

On-site Electrical Production

- H.R. 622 (Ways & Means)
- S. 870 (Finance)

- Amend 1986 IRS code to expand the tax credit for renewable energy production to include electricity produced from biomass for on-site use

57 cosponsors in the House – introduced by Michaud (ME), Platts and Gordon

5 cosponsors in Senate. Sponsor is Blanche (AR)

Biomass power industry opposes this. Pulp and paper co-gen plants are about 3X size of entire US biomass power industry that sells to the grid. This would be a huge amount of money out of the Treasury to subsidize something that is already happening.

This and our next slide raise what is THE major dilemma with incentives and carbon accounting – why shouldn't those ahead of the curve in developing and using renewables get some credit? Alternatively, why should taxpayers subsidize something that is happening anyway and that was done for legitimate business reasons?

How do we grow renenwable energy without putting existing renewable users out of business?

Siting requirements are one possibility, e.g., development has to be x distance away from any existing biomass user of y or larger size in order to be eligible for the credit. Try to encourage development of a dispersed network of users so that suppliers have several potential markets but each market draws material from as close in as possible.

Producer Tax Credit Parity

- Biomass credit is about half wind & solar
- Pulp & paper has resisted change
- Currently moot due to 30% grant in lieu
- Would mean 1.5 cent per kwh price reduction for the same return
- Sen. Wyden proposal

Renewable Energy Producer Tax Credit at the federal level has always been about ½ the amount for biomass as for wind and solar.

Biomass energy industry favors parity; pulp and paper industry opposes it. Same issues as raised in the previous slide.