

ISSUE: Federal Policies Relating to Energy Resulting from Biomass Removed from Public Lands Meeting Renewable Definition

Brief Description

The Energy Independence and Security Act of 2007 (EISA, P.L. 110-140) is an Act of Congress concerning the energy policy of the United States. The stated purpose of the act is "to move the United States toward greater energy independence and security, to increase the production of clean renewable fuels, to protect consumers, to increase the efficiency of products, buildings, and vehicles, to promote research on and deploy greenhouse gas capture and storage options, and to improve the energy performance of the Federal Government, and for other purposes." It included a definition of renewable biomass that outlined eligible feedstocks for use under the Renewable Fuel Standard (RFS), as well as a series of 'safeguards' intended to ensure that only sustainable and environmentally-friendly feedstocks are allowed. Unfortunately, these provisions exclude several feedstock sources based on broad ownership and management categories. For instance, biomass from public lands is excluded, as is municipal solid waste. Most woody biomass (except for slash and pre-commercial thinning) is excluded from private, non-industrial forests (NIPFs), even if that land is being sustainably managed.

Legislation regarding the definition of Renewable Biomass (in relation to EISA, P.L. 110-140) H.R.2454 : American Clean Energy and Security Act of 2009 (Sec. 553): Requires the EPA Administrator, the Secretary of Agriculture, and FERC to jointly arrange for NAS to evaluate how sources of renewable biomass contribute to the goals of increasing America's energy independence, protecting the environment, and reducing global warming pollution; Authorizes the EPA Administrator and FERC, after reviewing the NAS evaluation, to independently modify the non-federal lands portion of the definition of "renewable biomass" under the renewable fuel program to advance such goals; Requires the Secretary of the Interior, the Secretary of Agriculture, and the EPA Administrator to conduct a scientific review of how sources of biomass from federal lands could contribute to such goals; authorizes the Secretary of the Interior, the Secretary of Agriculture, and the EPA Administrator to modify the definition of "renewable biomass," as it applies to federal lands, to advance such goals. This Act has been passed by the House and has been placed on the Senate Legislative Calendar under General Orders. Calendar No. 97 (111-137 Part 1).

While this is the most successful piece of legislation thus far in addressing this issue, there has been a tremendous amount of debate around the exclusion of biomass materials harvested from federally managed lands from the renewable biomass definition. This debate appears to be centered mainly on concerns about maintaining the integrity of management in publicly owned forest lands while at the same time deriving economic benefits from some of the bi-products of management activities in those forests.

How does/has the policy issue impact(ed) the Sierra Nevada?

Much of the Sierra Nevada is public land, comprised mostly of forested lands. Yet the EISA's definition of renewable biomass that outlined eligible feedstocks for use under the RFS excluded biomass from public lands. California policy currently calls for 33 percent of its energy to be produced from renewable sources by 2020, with 20 percent of all renewable energy to be generated from biomass resources by 2010. Energy produced from biomass currently provides only 3 percent of the overall in-state energy produced. Estimates indicate that the greatest abundance of potential biomass feedstock in California, up to 41 percent, could come from forestry biomass, much of which is found on our public lands¹.

What is the current status?

Currently, this definition only affects the RFS, but it has set an unfortunate precedent that has impacted the discussion surrounding a federal renewable electricity standard, renewable energy tax credits, and a number of other state and federal laws affecting biomass energy. Currently, there are different (and sometimes conflicting) definitions of renewable biomass in energy policy, agricultural policy, and the tax code. Arbitrary distinctions between what is and what isn't considering 'renewable biomass' give farmers, foresters, and land managers mixed signals, and frustrate the development of biomass markets. What is needed is a universal definition that is flexible and functional and promotes feedstock diversification, ensures access for local and small-scale producers, and encourages improved land stewardship on all productive lands. The American Clean Energy and Security Act of 2009 (ACES, H.R. 2454), as passed by the House, has attempted to do that - creating a broadened definition of renewable biomass that applies to the RFS, a national Renewable Electricity Standard (RES), and climate legislation. This is a step in the right direction, but the definition still includes a number of non-germane exclusions and the bill does not attempt to amend the definition in every place where it appears in federal law, such as the tax code².

How does the policy relate to achieving SNFCI objectives?

This definition will not help improve the sustainability of biomass production. Clearly the opportunity for a significant contribution of renewable biomass energy - and the creation of jobs for local citizens - exists, but if biomass from public lands is excluded from this definition, much of that potential will remain unfulfilled. Maintaining existing facilities that process traditional dimensional wood products is likewise critical to the long-term sustainability of the Region. Opportunities also exist for energy production, as well as a variety of wood products, from the biomass removed from the forests. Developing appropriately scaled infrastructure to process the materials removed to restore forest health is essential for the Region to achieve a sustainable economy in forest communities. However, if the value of energy produced by biomass feedstock remains

¹ Environmental and Energy Study Institute, <http://www.eesi.org>

² Environmental and Energy Study Institute, <http://www.eesi.org>

as low as it is now, this is not a viable or sustainable process for the management of our public lands or local biomass to energy businesses. If these barriers are not addressed through high-level policy changes, the consequences for the Sierra Nevada, and SNFCI, are dire. Local economies will continue to flounder, watershed health will suffer, and our vast public forest lands will continue to burn at catastrophic levels.

Is there a potential role for the Coordinating Council?

The Coordinating Council may wish to take a position advocating the inclusion of public lands in the definition of renewable biomass that outlined what feedstocks would be eligible for use under the Renewable Fuel Standard (RFS) under the Energy Independence and Security Act of 2007 (EISA, P.L. 110-140) or recommending developing legislation similar to H.R.2454 : American Clean Energy and Security Act of 2009 that would amend the present definition to include public lands.