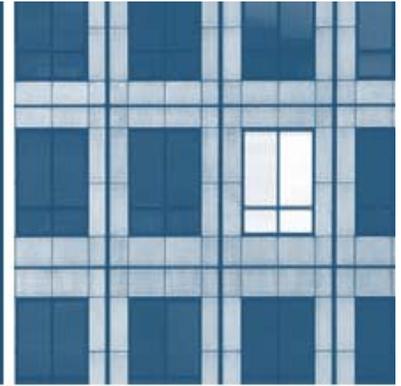


# On the Subject



## Energy & Commodities Advisory

October 1, 2010

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Stand-alone measures in the U.S. Senate seek to revise U.S. energy policy. One bill aims to establish a national renewable electricity standard by requiring utilities to supply a percentage of their load with electricity from renewable and other eligible sources, while another proposal hopes to add nuclear and clean coal generation as qualifying sources—setting the parameters of the next round of debate in this area.

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### “Clean” versus “Renewable” Power: Competing Proposals in the Senate

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On September 21, 2010, Senator Jeff Bingaman, chair of the U.S. Senate Committee on Energy and Natural Resources, and Senator Sam Brownback introduced the Renewable Electricity Promotion Act of 2010 (REPA) to establish a renewable electricity standard (RES). The RES would require each electric utility that sells electricity to electric customers for a purpose other than resale (utilities) to obtain a percentage of their power from renewable sources of energy.

REPA is an attempt to pass a RES as a stand-alone bill. In 2009 the U.S. House of Representatives passed the Waxman-Markey American Clean Energy and Security Act as a comprehensive reform of the United States’ environmental and energy policies. Waxman-Markey included a RES along with a cap-and-trade CO2 emissions reduction system and an overhaul of federal agencies’ authority to regulate greenhouse gas emissions. That same year the Senate Committee on Energy and Natural Resources passed the American Clean Energy Leadership Act

(ACELA). In addition to a RES, ACELA included clean energy financing, the construction of a national energy grid and national interconnection standards. Both Waxman-Markey and ACELA stalled in the full senate. When unveiling REPA, Senators Bingaman and Brownback acknowledged that there is insufficient support in the Senate for comprehensive energy reform, but went on to express confidence that a stand-alone RES could gain the necessary 60 votes.

Aside from a few date changes and a couple of technical alterations, REPA is very similar to the RES included in ACELA. The legislation would require utilities to supply a percentage of their load with electricity from “renewable” sources (including certain other eligible resources) and energy efficiency measures. The mandate would go into affect in 2012 when utilities would have to provide 3 percent of their load from renewable sources. The percentage would ramp up over the following nine years, eventually requiring 15 percent of the utility’s energy come from renewable sources in 2021. Utilities selling less than 4 million megawatt hours per year would be exempt from the requirements. Additionally, the federal RES will not affect states that already have a renewable electricity standard (renewable portfolio standard) of above the proposed national sliding scale. While the bill aims to maintain some coordination between the federal and state programs, there are no plans for formal interconnection in the operations of federal and state regulatory agencies.

Utilities will be required to submit an amount of federal renewable electricity credits (RECs) and demonstrated electricity savings equal to the annual percentage target multiplied by the supplier’s retail sales. The federal government will create a tracking program, similar to those currently used on a regional level, to track the creation of renewable energy, issue RECs and track their use to eliminate double counting. Further, a “market-making” entity will administer a national REC market and a national energy efficiency credit market to allow for the sale and trade of credits. It is envisioned that RECs will be traded in a competitive marketplace; however, it is unclear who will regulate the newly created market.

Generators of renewable electricity will receive one federal REC per megawatt hour of electricity generated from qualifying renewable sources, which include wind, solar, ocean, geothermal, biomass, landfill gas, incremental hydropower, hydrokinetic, new hydropower at existing dams and waste to energy. A REC can be sold separate from the power generated to utilities needing additional RECs for compliance purposes. Double credits will be issued for renewable energy generated on Indian lands and triple credits will be given for renewable energy generated by generators no larger than one megawatt. The details on how energy efficiency credits will be issued are to be drafted by the secretary of the U.S. Department of Energy after the legislation is signed into law. RECs and energy efficiency credits may be used for compliance in the year issued, sold or banked for use in any of the three immediately subsequent compliance years.

Utilities can meet the standard by either obtaining the required number of RECs, obtaining energy efficiency supply credits to meet up to 26.27 percent of the annual RES or making alternative compliance payments, which will charge 2.1 cents per kilowatt hour needed to meet the RES. Payments will be made directly to the state in which the utility is located if the payments are deposited directly into a fund with the state's treasury to be used to develop renewable resources or to offset those costs of carrying out the RES which are passed on to electric consumers.

In response to REPA Senator Lindsey Graham announced his intent to introduce the Clean Energy Act of 2010 (CEA) as an alternative bill in the Senate to establish a clean energy standard (CES). The proposal is nearly identical to REPA except that it includes nuclear generation and generation from clean coal as qualifying sources to count toward utilities' clean energy requirement. The CES would be administered through a market-based credit system where clean energy credits, could be bought, sold, or banked to meet the standard. While unveiling his bill, Senator Graham expressed a willingness to compromise with Sens Bingaman and Brownback.

Under Senator Graham's bill, clean energy credits would be issued for each megawatt hour of electricity produced by a qualified source, which would include all of those in the RES as well as electricity generated at nuclear facilities beginning operation after the CEA is signed into law, and coal generation at facilities that capture and permanently sequester or store at least

65 percent of greenhouse gases produced by the facility. Retired fossil fuel generation would also be a qualified source. In addition, the CEA would expand the definitions of biomass and hydroelectric energies. The CEA would require 13 percent of each utility's energy come from "clean" sources in 2012 and that percentage would increase incrementally until 2050 when the requirement would be 50 percent. Similar to REPA, CEA would allow utilities to meet their CES requirement by paying an alternative compliance payment of five cents per kilowatt hour, or using federal energy efficiency credits to meet up to 25 percent of the total.

For more information, please contact your regular McDermott lawyer, or:

**Gregory K. Lawrence:** +1 617 535 4030 [glawrence@mwe.com](mailto:glawrence@mwe.com)

\*Benjamin Chesson, associate, also contributed to this article.

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