

AMERICAN BIOGAS COUNCIL'S 2010 LEGISLATIVE REVIEW

What happened, and what happens next

American Biogas Council Update

www.americanbiogascouncil.org

Presentation by Norma McDonald, Co-Chair of the Legislative and Regulatory Affairs Committee of the American Biogas Council, given at the 2010 BioCycle Conference on Renewable Energy from Organics Recycling, October 18-20, Des Moines, Iowa.

Highlights:

- Review of 2010 Legislation
- Outlook on 2011 Legislation
- Analysis of which 2011 legislation is most promising and why
- Proposed strategy to maximize impact in 2011
- Suggested actions that American Biogas Council (ABC) members can take to support legislative efforts

EXISTING LEGISLATION THAT AIDS ANAEROBIC DIGESTER (AD) BIOGAS

- Energy Bill of 2005, 2007 and 2009
- 2008 Farm Bill – REAP (Rural Energy For America Program), Advanced Biofuels, Biorefineries
- CREBs (Clean Renewable Energy Bonds)
- BCAP (Biomass Crop Assistance Program)
- ARRA Stimulus Funding to State Renewable Energy Initiatives
- Section 48 Tax Credits and ARRA Section 1603 grant in lieu
- Clean Cities Fund
- State Renewable Portfolio Standards

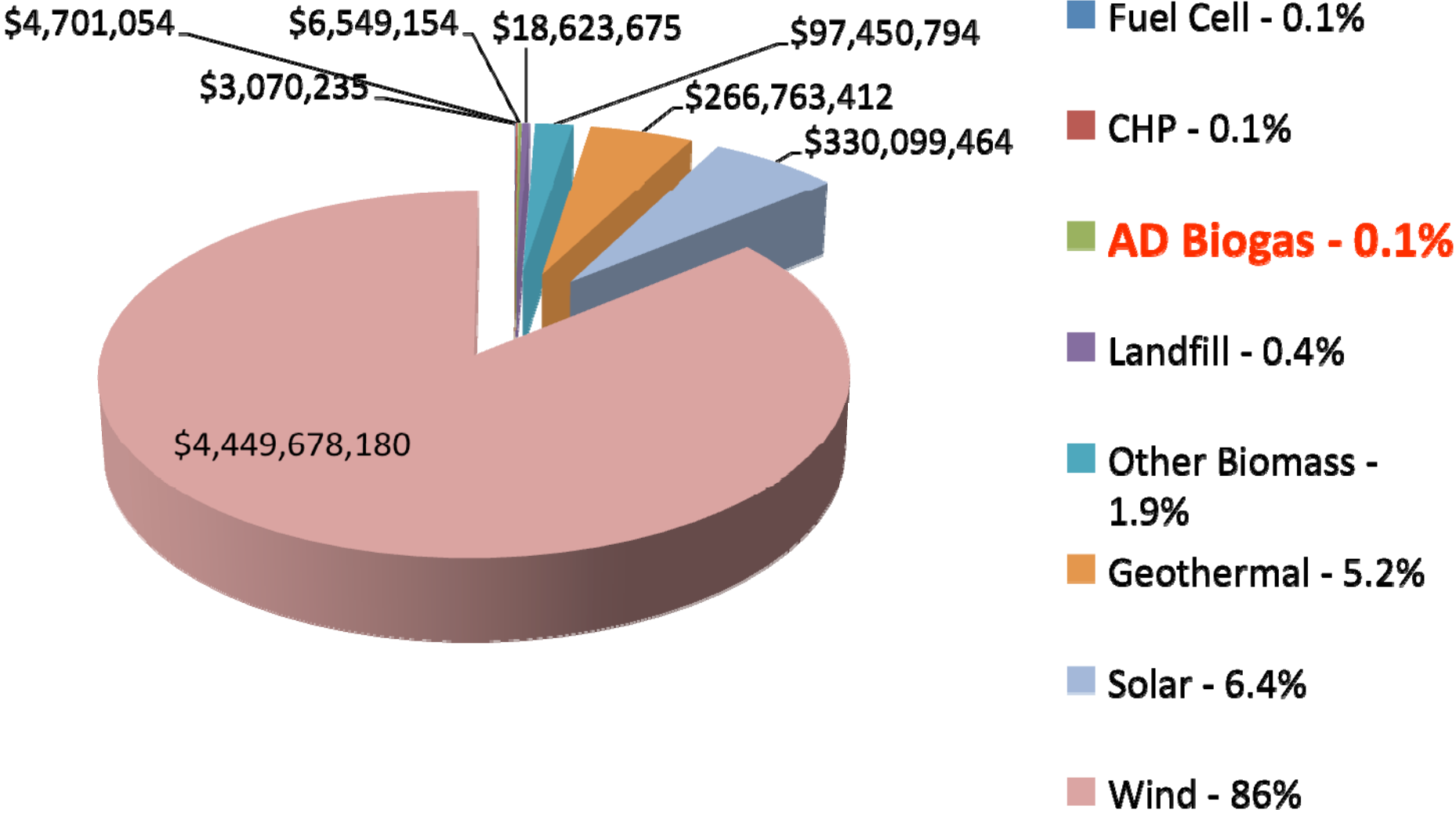


REAP ALLOCATIONS

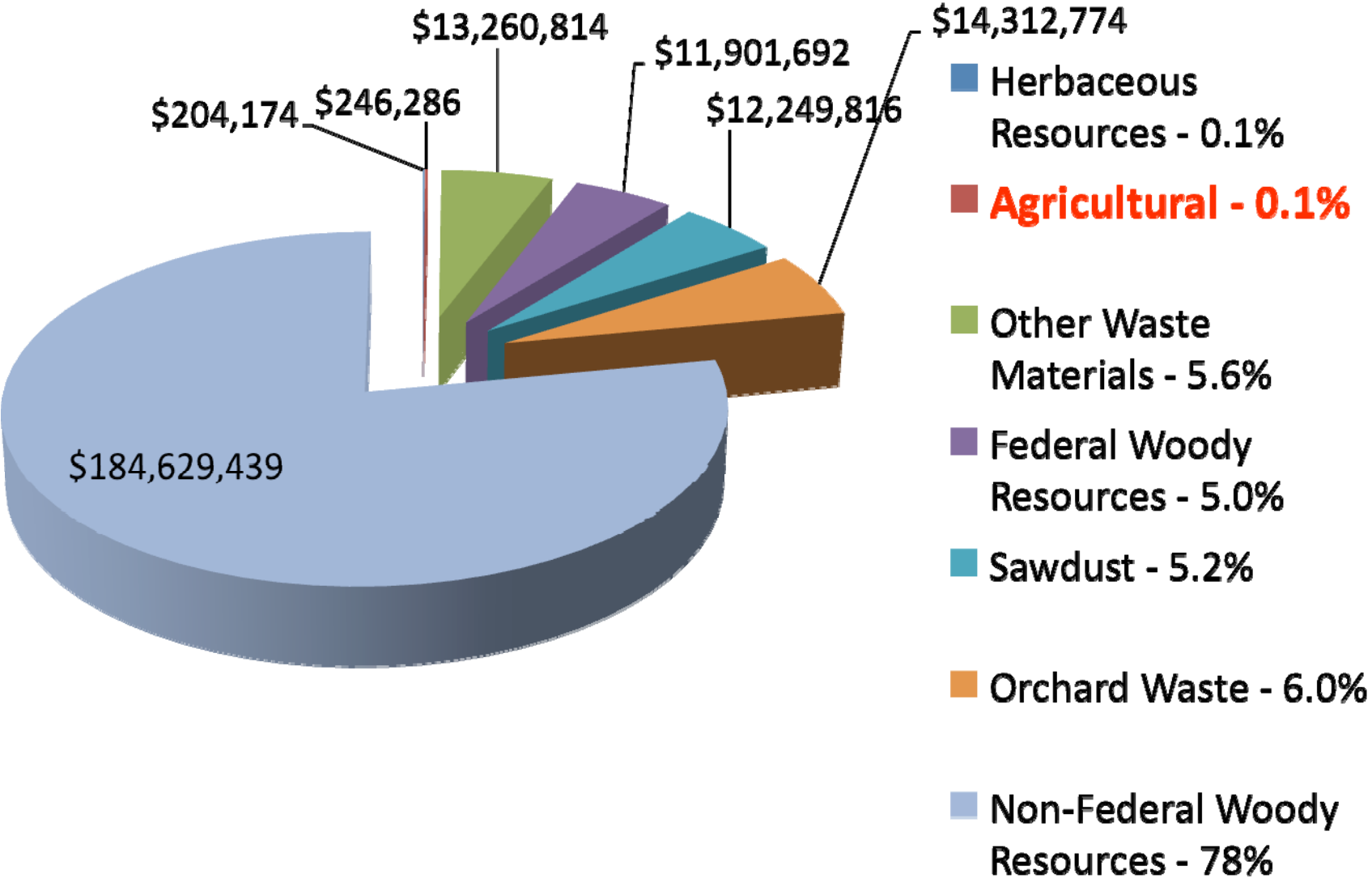
- Not yet completed for 2010; so AD Biogas share to be determined; historically 5-25% of \$77 million loan and grant pool
- Multiple efforts to improve program underway via USDA comment/input by ABC and strategic allies
- Common themes: Simplify process, recognize added environmental benefits, rationalize the loan guarantee program; harmonize Sections 9003-7 and REAP with other grant programs



SECTION 1603 FUNDS THROUGH 9/10 - \$5.2 billion



BIOMASS *CROP* ASST. PROGRAM - \$237 million



ADVANCED BIOFUELS ALLOCATION

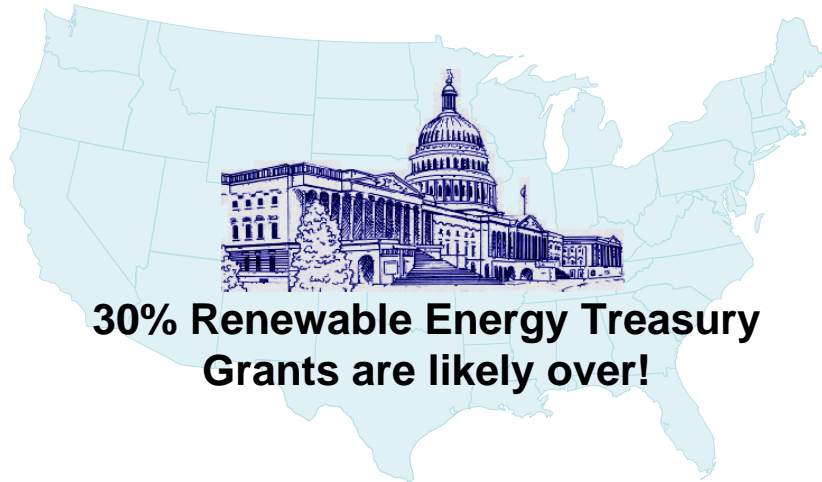
TOTAL AVAILABLE	AT THESE VALUES PER BTU (PARITY WITH ETHANOL AND 40% OF ETHANOL)		\$/MMBTU IF ALL APPLY AND SHARE \$30 MIL
\$ 30,000,000	\$ 0.00000427	\$ 0.000002	\$ 0.00000012
EQUIVALENT BTU	7,025,761,124,122	15,000,000,000,000	260,361,000,000,000
EQUIVALENT BIOFUEL			
scf biogas @ 600 Btu	11,709,601,874	25,000,000,000	ACTUAL
SVD-equiv farms	156	333	25
Landfills @ 1000 scfm	27	57	300
S.T. sites @ 250 scfm	107	228	1,500
gal eligible biodiesel	52,042,675	111,111,111	500,000,000
gal cell ethanol	78,064,012	166,666,667	150,000,000
		TOTAL btu'S	2.60361E+14
WHAT IF RATES WERE	\$ 0.00000427	\$ 0.00000200	\$ 0.00000012
SVD-FE	\$ 320,250	\$ 150,000	\$ 8,642
SVD-FR	\$ 320,250	\$ 150,000	\$ 8,642
GHF-OH	\$ 60,596	\$ 28,382	\$ 1,635
HILARIDES	\$ 656,461	\$ 307,476	\$ 17,714

PROPOSED HELPFUL LEGISLATION THAT DID NOT PASS – AND PROGNOSIS

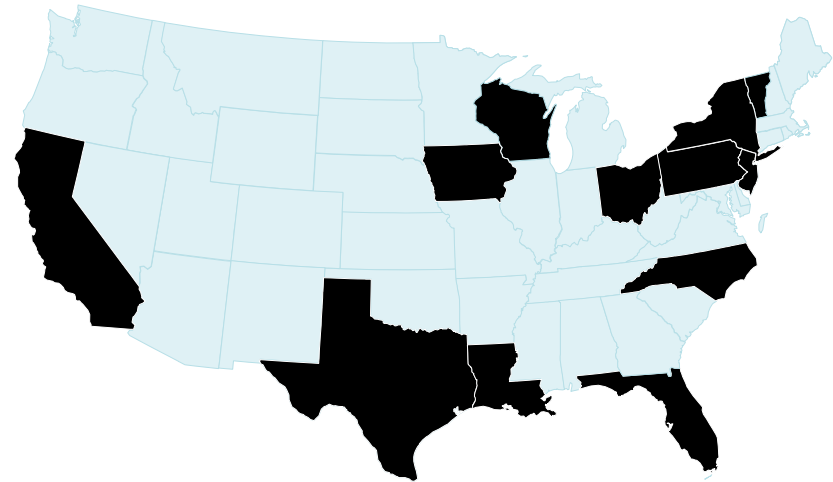
S306 - Biogas Production Incentive	A bill to promote biogas production. Direct incentive for the production of renewable biogas	Sen. Ben Nelson (NE)
HR1158 – Biogas Production Incentive	A bill to promote biogas production. Direct incentive for the production of renewable biogas	Rep. Brian Higgins (NY -27)
S.2899. Renewable Energy Incentive Act.	Amendment to ARRA to Extend 1603 Federal Cash Grant Incentive Through 2012. The Federal Cash Grant provides payments of 30% of qualified renewable energy system capital costs.	Sen. Feinstein (CA), Sen. Merkley
HR907	To amend the Internal Revenue Code to provide for a livestock energy investment credit	Rep Terry Lee (NE -2)
S.320	A bill to ensure that short - and long -term investment decisions critical to economic stimulus and job creation in clean energy are supported by Federal programs and reliable tax incentives	Sen Cantwell, Maria [WA]
S.433	A bill to amend the Public Utility Regulatory Policies Act of 1978 to establish a renewable electricity standard, and for other purposes	Sen Udall, Tom [NM]
S.826	A bill to promote renewable energy, and for other purposes	Sen Klobuchar, Amy [MN]
S.1094	A bill to amend the Internal Revenue Code of 1986 to provide for an energy carrier production tax credit, and for other purposes	Sen Wyden, Ron [OR]
H.R.2828	To provide the United States with a comprehensive energy package to place Americans on a path to a secure economic future through increased energy innovation, conservation, and production	Rep Bishop, Rob [UT-1]
H.R.2300	To provide the United States with a comprehensive energy package to place Americans on a path to a secure economic future through increased energy innovation, conservation, and production	Rep Bishop, Rob [UT-1]
H.R.2998	To create clean energy jobs, achieve energy independence, reduce global warming pollution and transition to a clean energy economy	Rep Waxman, Henry A. [CA-30]
H.R.2227	To greatly enhance America's path toward energy independence and economic and national security, to conserve energy use, to promote innovation, to achieve lower emissions, cleaner air, cleaner water, and cleaner land, and for other purposes	Rep Murphy, Tim [PA-18]
H.R.3919	To amend the Internal Revenue Code of 1986 to provide for the designation of Clean Energy Business Zones and for tax incentives for the construction of, and employment at, energy efficient buildings and clean energy facilities, and for other purposes	Rep Maffei, Daniel B. [NY -25]
H.R.4144	To amend the Internal Revenue Code of 1986 to modify the investment tax credit for combined heat and power system property	Rep Inslee, Jay [WA-1]
H.R.4599	To amend the Internal Revenue Code of 1986 to provide an elective payment for specified energy property	Rep Blumenauer, Earl [OR-3]
S.3021	A bill to amend the Public Utility Regulatory Policies Act of 1978 to authorize the Secretary of Energy to promulgate regulations to allow electric utilities to use renewable energy to comply with any Federal renewable electricity standard, and for other purposes	Sen Feingold, Russell D. [WI]

The state of US policy

Federal...expect little action



State...more action at a local level



<u>Policy</u>	<u>Time</u>	<u>Probability</u>
• Tax Extension	2010	80%
• Energy	2011	50%
• Climate, CO ₂	2012	30%
• Farm Bill	2010	100%

<u>Policy</u>	<u>Time</u>	<u>Probability</u>
• CHP Incentives	2010-11	80%
• DOE > 6 States		
• CA SGIP	2011	100%
• RPS....TX, FL	2012	50%

Strategically focus on state policy in 2011



The impact of regulation in the US

National Ambient Air Quality Standards

- Controls ground-level ozone > 0.060-0.070 ppm to protect public health
- Limits: 10-100 tons/yr (new sources), 0-40 tons/yr (upgrades) for NO_x and VOC's (ozone precursors)
- Affects 76% of US counties -
- **Impact on AD Biogas+Electric depends on size and genset choice**

January 2011, December 2013

Tailoring Rule (40 CFR, Part 98)

- Requires GHG permits for affected sources, including MSW, WWTP, CMM, to install BACT to control GHG's
- Limits: 100Ktons eCO₂ (new sources and upgrades)
- **Impact on AD Biogas depends on size – quite unlikely**

July 2011

Legislative Outlook, 2010

Which legislative vehicle will make it to the finish line?



Energy 'Bingaman' S.1462

RES

▲ If > 6%¹

▼ If < 6%¹

▲ CHP Credit²

CEPS

▲ NG Cogen

— No advantage to NNG

Interconnection

▲ All Distributed Generation

Climate 'Kerry-Lieberman' S.TBD

National Carbon Cap

▼ Initial \$12/ton floor, \$25/ton ceiling

Ag Offset Projects

▲ USDA oversight

▲ Domestic agriculture voluntary offsets

▲ Farm Exemption

Biomass Study

▲ Define which feedstocks are renewable

Tax and Jobs S.TBD, HR.TBD

ITC Grant Extension

▲ All renewable projects

▼ Reduces Project Deadline Pressure

Advanced CHP ITC

▲ NG Cogeneration

▲ CHP

Bonus/MACRS

Depreciation

▲ NG Cogeneration

▲ All Renewable Projects

2012 US Farm Bill

Governs USDA programs for next 5 years

- Improved integration of existing USDA programs, increased limits
- Incentives for Environmental and rural infrastructure upgrade
- Close engagement with House and Senate Ag Committees and USDA
- American Biogas Council advocacy

- Ensure that bill language is inclusive towards AD and biogas
- Multiplier incentives for on-farm biogas (double/triple credits, etc)

1. 2012 Goal
2. Shaheen Amendment

WHAT YOU CAN DO

- **Realize who your friends are – we are building a bigger pie, there are enough cherries for 2000% industry growth**
- **Join ABC and get involved**
- **Provide information (non-confidential and non-competitive) about your projects**
- **Write and visit your legislators**
- **Participate in public comment periods for rule-making and permitting processes**
- **Get on a local radio talk show**
- **Provide copy for newspapers, magazines and background video for TV stations**
- **Post something about your project on You Tube, etc.**