

**Federal Climate and Energy Activities Weekly Roundup**  
**May 11—May 15**

Events and News

House Energy and Commerce Committee Chairman Henry Waxman (D-CA) has announced the full Committee markup of the Waxman-Markey climate and energy legislation will begin May 18. This week Committee Democrats took a number of steps towards reaching consensus with one another. Committee Republicans are not expected to support the bill and have not been part of the negotiations. As of this writing, the revised draft has not been released, however, the following modifications have been announced:

- **Renewable Electricity Standard:** Utilities would be required to get 15 percent of their electricity from renewable sources by 2020 and ensure an additional 5 percent savings through energy efficiency measures, for a combined standard of 20 percent. Governors would have the authority to lower the renewables target to as low as 12 percent if they believe a utility is unable to reach the 15 percent standard, so long as the utility increases energy efficiencies by 8 percent, thereby maintaining the 20 percent combined target. The bill will not include the separate energy efficiency mandate included in the previous draft. Additionally, the revised draft includes a lower “alternative compliance payment” for utilities that do not meet RES requirements—2.5 cents per kilowatt-hour, rather than 5 cents as included in the original bill. Another modification to the original draft is that electricity from new nuclear construction and coal plants that use carbon capture and sequestration would be excluded from the baseline of the RES mandate.
- **Free Allowances:** Local electric distribution companies would receive 35 percent of the allowances without cost, and “trade exposed” industries such as cement, chemical, aluminum, glass and steel would receive 15 percent of the allowances without cost. In addition, the auto industry would receive 3 percent of the allowances without cost as an incentive to increase production of electric an advanced vehicles, and petroleum refineries would receive 2 percent of the allowances without cost. In all instances, the amount of free allowances would phase out over time.
- **Carbon Cap:** Rather than capping greenhouse gas emissions at 20 percent below 2005 levels in 2020, the revised bill would cap those emissions at 17 percent below 2005 levels in 2020. Long-term emissions caps would remain unchanged: 45 percent below 2005 levels in 2030, 65 percent below 2005 levels in 2040 and 85 percent below 2005 levels in 2050.
- **Offsets:** The modified bill would value a ton of carbon saved through an offset project within the United States equally with a ton of carbon emitted. During the first five years of the program, carbon saved by international offset projects would also be valued equally with carbon emitted, but after that period of time, carbon saved by international offset projects would be valued at only 4/5<sup>th</sup> of carbon emitted. For example, an emitter seeking to offset 4 tons of carbon dioxide with carbon dioxide saved at an international offset project would have to offset 5 tons of carbon dioxide. The original draft of the bill would have valued all carbon saved by offset projects at 4/5<sup>th</sup> of carbon emitted.

The Committee has not yet announced how it will define biomass for purposes of the RES. This is important to Southern states, as the original draft bill would adopt a narrow definition of biomass that would bar most of the timber produced in the South from counting towards the RES. However, it is unclear how and if Committee members will modify this. Some members from Western states are pushing to allow timber from federal lands to count as biomass, however this modification would provide little relief in the South where most timber is on private lands.

Members of the Senate Energy and Natural Resources Committee are still negotiating the percentage requirements for a possible Renewable Electricity Standard. The proposal released by Chairman Jeff Bingaman (D-NM) would require utilities to get 20 percent of their electricity from renewable sources by 2021. According to press reports, the Committee is now considering a compromise standard set at 15 percent and allowing utilities to meet 4 percent of that standard through energy efficiency improvements. However, the Committee has not yet reached a deal. Bingaman has said that if he is unable to find compromise within the Committee, he may instead attempt to add an RES to his larger energy bill as an amendment during floor consideration.

Senate Environment and Public Works Chairwoman Barbara Boxer (D-CA) announced this week that her Committee will likely hold a series of “workshops” to compare the House climate change bill once it passes through that chamber to the Lieberman-Warner cap and trade legislation Boxer’s Committee reported in the 110<sup>th</sup> Congress. She expects that the Senate will take up its own cap and trade bill later in the year, borrowing on the progress made in the House.

On May 13, the House Democratic Blue Dog Coalition released a list of principles that the group feels are integral to the development of a national Renewable Portfolio Standard. The principles include setting achievable targets for renewable energy development, allowing for regional flexibility to avoid regional wealth transfers, and allowing for a diverse mix of energy sources in the federal standard. The Blue Dog Coalition argues that any federal standard should allow energy produced from nuclear, clean coal, biomass (broadly defined), hydropower and waste heat.

On May 12, House Ways and Means Committee Chairman Charles Rangel (D-NY) stated that he expects his committee will have jurisdiction over the revenue generation components of climate change legislation that will come out of the House. At this time, it is uncertain how much revenue will be generated by a potential cap-and-trade program. Chairman Rangel has made it clear that his priority is to distribute the revenue to low-income families in order to help ease the burden of increased energy costs.

The Justice Department (DOJ), on behalf of the Department of the Interior (DOI), has asked an appellate court to alter or clarify an April ruling that vacated a portion of DOI’s outer continental shelf leasing program. The ruling, in response to environmental litigation, requires DOI to revise an environmental analysis underpinning its leasing program. According to DOJ, the ruling may require interruption of exploration and production activity in the Gulf of Mexico and other areas, calling into question 1,854 leases in the Gulf of Mexico alone. DOI maintains that the court should specify that the ruling does not require invalidation of existing leases. DOJ has petitioned that vacating the entire plan is unnecessary and that DOI has already begun addressing the court’s instructions to re-evaluate its environmental analysis.

### Hearings and Markups

On May 13 and 14, the Senate Energy and Natural Resources Committee held a markup of Chairman Jeff Bingaman's (D-NM) transmission line siting proposal. Like all the proposals under consideration in the Committee, this would become part of an omnibus energy bill. The Committee approved an amendment offered by Senator Bob Corker (R-TN) that would require that funding for the new transmission lines be derived from rate payers who reside only in those regions where consumers measurably benefit from the new lines, rather than having costs distributed more broadly. Senator Byron Dorgan (D-ND) plans to introduce an amendment when the bill reaches the Senate floor that would effectively neutralize Corker's amendment by specifying that the costs for construction be spread among communities through which the lines pass. The committee also adopted an amendment by Senator Jeanne Shaheen (D-NH) that would ensure that offshore wind energy be considered when determining high-priority transmission siting plans. The committee rejected an amendment by Senator Robert Menendez (D-NJ) that would have denied FERC the right of eminent domain to site new lines.

At a May 13 hearing before the Senate Appropriations Subcommittee on Interior, Environment and Related Agencies, EPA Administrator Lisa Jackson said EPA would focus its efforts to regulate greenhouse gases (GHG) on sources that emit more than 25,000 tons of GHG annually. Many in the business community have raised concerns that, based on the proposed endangerment finding under the Clean Air Act EPA released in March, EPA could regulate sources emitting as little as 250 tons of GHG annually, and might face law suits from environmental groups if it does not regulate those smaller sources. Jackson said she believes the Clean Air Act provides flexibility to allow EPA to make that determination.

On May 14, the Senate Energy and Natural Resources Committee held a hearing on a bill introduced by Committee Chairman Jeff Bingaman (D-NM) addressing liability issues surrounding geologic sequestration of carbon dioxide. The bill, which has co-sponsorship from both sides of the aisle, would create a national indemnity program through the Department of Energy for up to ten additional industrial scale carbon capture and sequestration projects. The bill addresses the ownership issues related with core space under federal lands, and deals with the liability issues of carbon capture and sequestration by having the Department of Energy assume liability for these projects. This bill will be combined with the other measures under consideration in the Committee into a large omnibus energy bill.

On May 13, the House Science and Technology Committee's Subcommittee on Energy and Environment approved by voice vote a bill by Chairman Bart Gordon (D-TN) that would establish a National Climate Service to provide a single point of contact for all federal agencies on climate change data, and information. The National Climate Service would be housed at the National Oceanic and Atmospheric Administration (NOAA) and would add forecasting, warnings, education and response to climate change to NOAA's duties. The Waxman-Markey draft climate and energy bill would also establish a National Climate Service within NOAA.

### New Legislation

- The Advanced Cable Deployment Authorization Act (H.R.2347) introduced May 12 by Rep. Steny Hoyer (D-MD). The bill would encourage the manufacture and use of efficient and advanced electric transmission cables.

Status: Referred to the Committee on Energy and Commerce, and in addition to the Committee on Science and Technology.

- The Financing Advanced and Superconducting Transmission Act (H.R.2348) introduced May 12 by Rep. Steny Hoyer (D-MD). The bill would amend the Internal Revenue Code of 1986 to encourage investment in electric transmission technologies that improve the efficiency of power delivery.

Status: Referred to the House Committee on Ways and Means.

- (H.R.2353) introduced May 12 by Rep. Jason Chaffetz (R-UT). The bill would require electric utilities to notify electric consumers of the cost of emission allowances associated with the electricity delivered to such consumers, and for other purposes.

Status: Referred to the House Committee on Energy and Commerce.

- The Renewable Energy Permitting Act (H.R.2362) introduced May 12 by Rep. Dean Heller (R-NV). The bill would amend the Energy and Policy Act of 2005 to reauthorize a provision relating to geothermal lease revenue, to direct the Secretary of the Interior to establish a pilot project to streamline certain Federal renewable energy permitting processes, and for other purposes.

Status: Referred to the House Committee on Natural Resources.

- (H.R.2364) introduced May 12 by Rep. Peter DeFazio (D-OR). The bill would amend section 211(o) of the Clean Air Act to change the definition of renewable biomass in the renewable fuel program, and for other purposes.

Status: Referred to the House Committee on Energy and Commerce.

- (H.R.2371) introduced May 12 by Rep. Christopher Murphy (D-CT). The bill would use tradable greenhouse gas emission allowances under the American Clean Energy and Security Act of 2009 to provide assistance to residential and commercial consumers of home heating oil and propane in reducing the effective costs of such fuels through State programs to deliver cost-effective efficiency programs and other consumer assistance.

Status: Referred to the House Committee on Energy and Commerce.

- The Rebating America's Deposits Act (H.R.2372) introduced May 12 by Rep. Erik Paulsen (R-MN). The bill would amend the Nuclear Waste Policy Act of 1982 to require the President to certify that the Yucca Mountain site remains the designated site for the development of a repository for the disposal of high-level radioactive waste, and for other purposes.

Status: Referred to the House Committee on Energy and Commerce.

- (S.283) introduced January 21 by Senator Olympia Snowe (R-ME). The bill would amend the Energy Policy and Conservation Act to modify the conditions for the release of products from the Northeast Home Heating Oil Reserve Account, and for other purposes.

Status: Committee on Energy and Natural Resources hearing held on May 12.

- The Strategic Petroleum Reserve Modernization Act (S.967) introduced May 4 by Senator Jeff Bingaman (D-NV). The bill would amend the Energy Policy and Conservation Act to create a petroleum product reserve, and for other purposes.

Status: Hearings held in the Committee on Energy and Natural Resources.

- (H.R.2385) introduced May 13 by Rep. Donna M. Christensen (D-VI). The bill would require the Secretary of Energy to assemble a team of technical, policy, and financial experts to address the energy needs of the insular areas of the United States and the Freely Associated States through the development of action plans aimed at reducing reliance on imported fossil fuels and increasing use of indigenous clean-energy resources.

Status: Referred to the House Committee on Energy and Commerce.

- (H.R.2386) introduced May 13 by Rep. Gregorio Sablan (I-MP). The bill would amend the Energy Policy Act of 2005 to include American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, Puerto Rico, and the Virgin Islands in certain efforts to reduce diesel emissions.

Status: Referred to the House Committee on Energy and Commerce.

- (H.R.2395) introduced May 13 by Rep. Eliot Engel (D-NY). The bill would enable state and local promotion of natural gas, flexible fuel, and high-efficiency motor vehicle fleets.

Status: Referred to the House Committee on Energy and Commerce.

- The National Climate Service Act (H.R.2407) introduced May 14 by Rep. Bart Gordon (D-TN). The bill would establish a National Climate Service at the National Oceanic and Atmospheric Administration.

Status: Referred to the House Committee on Science and Technology.

- (H.R.2409) introduced May 14 by Rep. Collin Peterson (D-MN). The bill would amend section 211(o) of the Clean Air Act.

Status: Referred to the House Committee on Energy and Commerce.

- (H.R.2448) introduced May 14 by Rep. Bart Stupak (D-MI). The bill would provide for regulation of futures transactions involving energy commodities, to regulate credit default swaps, to strengthen the enforcement authorities of the Federal Energy Regulatory

Commission under the Natural Gas Act, Natural Gas Policy Act of 1978, and the Federal Power Act.

Status: Referred to the Committee on Agriculture, and in addition to the Committees on Energy and Commerce, and Financial Services.

- (S.1046) introduced May 14 by Senator Blanche Lincoln (D-AR). The bill would amend the Internal Revenue Code of 1986 to extend the excise tax provisions and income tax credit for biodiesel.

Status: Read twice and referred to the Committee on Finance.