House Energy & Commerce Committee

Republicans

Joe Barton
Ranking Member

DAILY NEWS SUMMARY

Tuesday, May 12, 2009

Joe Barton

Newsmax.com

Rep. Barton: Even Democrats Divided on Climate Change

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By: Ronald Kessler

As if running a marathon isn't taxing enough, runners now have to worry about whether their breathing would violate Obama administration pollution standards and close down the New York and Boston marathons, Rep. Joe Barton of Texas tells Newsmax.

The ranking Republican on the House Energy and Commerce Committee, Barton says that under the Clean Air Act, the Environmental Protection Agency can impose limits on any source of pollution emitting more than 250 tons a year. The EPA technically should not consider an emission a pollutant unless it is listed as such by the act, he says. But the U.S. Supreme Court, in a 5-4 decision, has said that since the Clean Air Act didn't specifically exclude carbon dioxide, the EPA potentially could regulate it.

"The EPA could have just come out and said that for the following reasons carbon dioxide shouldn't be regulated," Barton says. "But what the Bush administration did was say we're going to conduct a notice of proposed rule making. We're going to go out and open a record, accept public comments, and then make a decision. Well they left, and the Obama administration came in, and they immediately said yeah, we think it should be regulated."

Under Obama, the EPA has issued an endangerment finding saying that carbon dioxide is a hazard to public health.

"Of course, they've not really given any explicit examples of that, because they can't," Barton says. "There's never been anybody who's been treated in an emergency room for CO2 poisoning. It doesn't cause asthma; it doesn't cause your eyes to water; it doesn't cause cancer."

Barton says the average healthy adult exhales between four-tenths of a ton and seven-tenths of a ton of CO2 a year.

"So if you put 20,000 marathoners into a confined area, you could consider that a single source of pollution, and you could regulate it," Barton says. "The key would be whether the EPA said that 20,000 people running the same route was one source or not."

One indication that the EPA likely would consider 20,000 runners a single source of pollution is that the agency is trying to regulate waste-water runoff and emissions of drilling rigs in oil fields by attempting to define entire areas as a single source of pollution, Barton says.

"So if you have 10 wells, they try to amalgamate those wells into one single source," Barton says. "Now the courts have rejected that, but the EPA has attempted to do that."

By the same token, the EPA could consider a truck stop on an interstate highway, a shopping mall, or an apartment complex a single source of unacceptable carbon dioxide emissions.

"Those definitely emit over 250 tons of CO_2 a year, and they could be regulated as point sources under the Clean Air Act under the EPA's standards," Barton says.

The EPA says carbon dioxide endangers the population because worldwide temperatures are going up, causing droughts, Barton says. While carbon dioxide concentrations in the atmosphere have gone from 250 parts per million to around 385 parts per million since the Industrial Revolution, and average global temperatures have increased, no one knows for sure whether man-made carbon dioxide emissions have anything to do with global warming, he says.

"The United Nation Intergovernmental Panel on Climate Change's most definitive statement is that there's 90 percent consensus that man-made CO_2 is a probable cause of global warming," Barton says. "That's pretty weak."

Based on that conclusion and a projection that the atmosphere will increase in temperature by a tenth of a degree Fahrenheit by 2050, President Obama wants to levy a tax on carbon dioxide emissions, Barton says.

"The Al Gores of the world say that the scientific debate's all over," Barton says, "Well, we never really had a scientific debate, number one. They jumped to a conclusion kind of ex post facto, and so now they're in heat to put the U.S. economy in a straitjacket by putting these rigid caps and cap-and-trade controls on."

Thankfully, Barton says, "The country's waking up and fighting back a little bit, because somebody in Pennsylvania or Ohio says, 'Well let me get this straight. If we put this CO_2 cap-and-trade program into effect, I'm going to lose my job right now. And the temperature worldwide is not going to change enough in the next hundred years that it'll even be measurable. I don't think I like that.'"

To capture carbon dioxide from a coal-burning power plant now requires about 40 percent of the power of the plant, Barton notes. That raises the cost of generated electricity "somewhere between 50 percent and 100 percent." Consumers would pay the higher cost, both in higher electric bills and in higher prices for almost every product that requires electricity to produce.

"If you're a manufacturing facility where energy cost is a big part of your costs —and in the steel industry and the aluminum industry and some of those industries, energy is 25 to 50 percent of their cost — you raise the costs 25 to 50 percent or 50 to 100 percent, you go out of business," Barton says. "They just shut down, move to Mexico, move to India, move to China."

Obama seems oblivious to the potential impact on the economy.

"President Obama has never worked in a for-profit situation," Baryon says. "His support groups have tended not to be the business groups that really create the jobs, and he has focused on listening to the environmental groups who really don't care too much about the cost, and they're interested in it purely from the possible negative effects on the environment. And they think whatever the cost, we need to act, and we need to act now. When he was a senator and when he was a candidate, he accepted that."

The good news is that when Democrats on Barton's committee met with Obama last week, Barton says, the president did not seem as ardent about passage of cap-and-trade legislation.

"He made the statement that he wouldn't oppose them moving a bill on climate change, which is pretty weak, because it's a major part of his domestic agenda," Barton observes.

"If they can have a secret ballot, I bet 90 Democrats — maybe 100 — would vote against it," Barton says. "There are 36 Democrats on the energy committee, and 18 of them are undecided. That tells you something."

Still, environmental groups could bring in the big guns, like House Speaker Nancy Pelosi.

“So,” Barton says, “it’s yet to be seen how much pressure the more junior members of the committee in the caucus can withstand if Pelosi says, I want this done, and you’re going to do it.”

Ronald Kessler is chief Washington correspondent of Newsmax.com. View his previous reports and get his dispatches sent to you free via e-mail. Go here now.

The Washington Post

Digital TV Transition, Set for June, May Get Early Test

By Mike Musgrove
Washington Post Staff Writer
Tuesday, May 12, 2009

Government agencies and broadcasters are working on plans for an early test of the digital TV transition, saying the number of people still unprepared to make the switch has been cut, but that millions of Americans remain at risk of losing television reception next month.

One approach under consideration, as the June 12 digital TV transition day approaches, is a nationwide flick of the switch, slated for May 21. Owners of older television sets that have not been equipped with a converter box will be able to tell for certain whether they're prepared for the age of digital programming. Details of the test, in which broadcasters would switch from analog to digital broadcasts for a few minutes, are still in the works.

Three months ago, according to research firm Nielsen, 6.5 million U.S. households were said to be unprepared for the switch to digital television, still receiving signals over rabbit ear antennas. Congress voted to delay the transition from February to June, and now the number of households said to be unprepared has been cut nearly in half, to about 3.5 million.

Most Americans are aware of the switch, said Anne Elliott, vice president of communications at Nielsen. "At this point, I think it would be hard to imagine that anybody who watches television has not heard of this transition." but "there are always folks who buy presents on Christmas Eve and people who line up at the post office on April 15" to file their taxes.

No matter what happens, everyone agrees, there will still be households unprepared.

The switch to DTV has been in the works for about 12 years. Both the federal government and broadcasters have spent billions of dollars, both to raise awareness about the upcoming transition as well as to notify consumers of a government program under which they are entitled to receive two coupons that can be used in the purchase of converter boxes, which cost $40 to $80.

But it has been a bumpy road to the era of digital programming, which takes up less bandwidth than analog programming. Earlier this year, the government program was stuck with a backlog of four million coupon requests and had reached the end of its funding. In February, $650 million was set aside to facilitate the coupon program and the digital TV transition, as part of the Obama administration's $787 billion economic stimulus bill.

Today, the backlog is gone, and consumers requesting the coupons are receiving them within days, said Rep. Rick Boucher (D-Va.), who is chairman of the House Subcommittee on Communications, Technology and the Internet. "I anticipate a very smooth transition," he said, even though "there will never be a point at which every home is prepared."

Critics of the digital TV postponement agree with that last point and add that the delay was unnecessary, expensive -- and possibly even a threat to public safety, because emergency responders have been waiting to use a part of the wireless spectrum that broadcasters will soon vacate.

The more widespread complaint, however, has been the amount of money allocated to bolster the transition program.

"This is a $650 million mistake," said Rep. Joe L. Barton (R-Tex.), who was an opponent of postponing the digital TV transition. If the transition program uses all of that money, "they've managed to spend $1,000 per household for a device that costs $50."

Acting Federal Communications Commission Chairman Michael J. Copps said yesterday that over the next month, the FCC plans to beef up call centers aimed at answering consumer questions about the upcoming transition. The agency has also helped organize demonstrations and "walk-in" centers, where consumers can go to learn how to install the converter boxes.

Commerce Secretary Gary Locke said yesterday that the efforts to spread awareness of the digital TV conversion are increasingly targeted at areas where more than 5 percent of households are thought to be unprepared for the shift, particularly in the Southwest, an area where many consumers rely on over-the-air transmissions and where English isn't, in many cases, a household's primary language.

"We're really going to step up our targeting of communities with larger than average number of unprepared households," he said. "We're not going to rest."

Washington ranks 14th on Nielsen's latest list of top cities that will be caught unprepared for the transition. About 4 percent of Washington's population may lose their TV signal on June 12, according to the research firm.

BARTON QUERY HIGHLIGHTS ENVIRONMENTALIST SPLIT OVER CARBON TRADING

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An investigation initiated by Rep. **Joe Barton** (R-TX), the ranking member on the House Energy & Commerce Committee, over EPA's ability to prevent fraud in any future climate change cap-and-trade market is accentuating a longstanding split within the environmental community. Environmental justice advocates who oppose emissions trading are supporting the **Barton** review, while more mainstream environmental groups lobbying for federal climate change controls are dismissing the review as a distraction.

The controversy highlights the political difficulties lawmakers face in trying to reach an agreement on potential climate change legislation. House Democrats on the energy committee are struggling to reach a consensus on the design of a proposed cap-and-trade system to reduce greenhouse gas emissions, while Republicans on the committee, including **Barton**, have lambasted the plan as ill-conceived and lacking public support.

At issue is a May 7 letter to EPA Administrator Lisa Jackson sent by **Barton** and Rep. Greg Walden (R-OR), ranking member of the energy committee's oversight panel, raising questions about the agency's ability to oversee future carbon markets. The letter cites a closed criminal fraud case over the sale of counterfeit pollution credits in a Los Angeles pollution credit market known as RECLAIM and says, "We believe this case has great relevance in the context of pending legislation on climate change. . . . We are concerned with the difficulties that EPA and other federal authorities have in preventing, investigating and/or prosecuting fraud in relatively small pollution credit trading markets, and how EPA would help ensure the integrity of a proposed cap-and-trade market that would be enormous in scale."

The RECLAIM program, which began in 1994, is intended to reduce smog and air pollution by cutting nitrogen oxide and sulfur dioxide emissions. The program, approved by EPA, was the nation's first regional emissions trading program and is considered a precursor to other market-based environmental programs, including federal proposals for reducing climate change pollutants.

Barton's letter asks Jackson to answer a number of questions about EPA's role in overseeing the RECLAIM program and its knowledge of the criminal case, Natural Resources Defense Council v. South Coast Air Quality Management District. **Barton** is raising concerns about what he views as the light penalty for the perpetrator in the case, who pleaded guilty to one of six counts of wire fraud involving fraudulent emission credits and received five years probation with one year of home detention. **Barton**'s letter is available at CarbonControlNews.com.

A Jackson spokesperson could not be reached for comment.

Committee Republicans are also pointing to a January 2008 letter from then-EPA Region IX administrator Wayne Nastri raising serious concerns about the impact of fraud on future trading programs. "Environmental regulatory programs which utilize market mechanisms will fail if the integrity of such programs can be seriously compromised," says Nastri's letter, which was sent to the federal judge assigned to the criminal California case. It adds that the crimes committed by the defendant "have the potential to undermine confidence, not only in RECLAIM itself, but in all environmental regulatory programs which use market mechanisms."

One environmental justice advocate says the lawmakers are "rightfully so very concerned about potential corruption for cap-and-trade in Waxman/Markey . . . It's great that members of Congress are finally waking up to the corruption den that would be created by a cap-and-trade program for greenhouse gases."

However, another environmentalist who supports cap-and-trade says if **Barton** "had read the [House draft] bill and bothered to actually see the market protection mechanisms, he would see that [the Federal Energy Regulatory Commission (FERC)] actually oversees trades, not EPA. He's just trying to scare people as usual." The source says the lawmaker is "grasping at straws" by raising arguments not related to the bill.

The source adds that the businesses that would be regulated under a national carbon market have pressed for vigorous regulation because they "have a vested interest in having the market be highly regulated with strong oversight and as transparent as can be because that protects their assets."

A power industry source agrees that any carbon market will be carefully regulated, while an industry consultant points out that EPA has had much success in overseeing the much smaller acid rain trading program for years.

But the environmental justice activist says the issue of fraud in trading markets is one that is ongoing, citing a pending Los Angeles area case over a particulate matter trading program that environmentalists are challenging in court, alleging that the city's air regulators created counterfeit emissions credits and that EPA and California regulators did nothing to stop it.

"EPA's ability to prevent fraud -- they don't," the source says. The credits were created as a way to allow 11 new power plants to be built in the L.A. area "and who was left to enforce? The [environmental justice] community in Los Angeles, which has the fewest resources and is least capable, even though [governments have] thousands of employees to make sure trading programs are valid. . . . This is not something in the past, this is happening now."

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Congress should leave college football, BCS alone
by Dave Begel

The folks who preside over the BCS have no intention of starting a playoff.

There are a few things in this world that you don't ever want to hear.

"Hi, this is Bob from the IRS. Is this a good time to talk?"

You don't want to get a letter that begins, "Dear Sir. The results of your AIDS test have come back and we'd like you to call to make an immediate appointment with our office to discuss them."

Or, how about being the guys who run college football and you get this message: "Hi. We are the Congress of the United States and we are here to help."

The last one isn't all that funny, since that is essentially the message that came out of a hearing before the House Energy and Commerce Committee commerce, trade and consumer protection subcommittee last week.

We live, as Barack Obama never tires of telling us, in challenging times. Like most Americans, I want the best and the brightest working tirelessly, day and night, with a wonderful spirit of cooperation, to solve our problems.

We've got two wars going on and the very real possibility of a third and fourth on the horizon with North Korea and Iran.

Our economy is in shambles. Suddenly, by virtue of being a taxpayer, I own a piece of a few huge banking establishments and one slightly used car company.

The planet is getting warmer, the polar ice cap is melting (although I still don't know why I should care about this one, even though I do) and greenhouse gases may choke my grandchildren.

The health care system seems broken beyond repair, doctors and hospitals (especially here in southeastern Wisconsin) charge way too much, and as I get older my aches and pains have become much more pronounced and in need of that expensive medical care.

That's a lot of specific problems. Plus, the fact that there seems to be a lot of hate and fear between people in this world, there's a flu bug running around that might or might not make lots of people have runny noses and a cough and Taylor Swift is a big-time music star even though she makes me wince.

Bad stuff, but it will get better, as long as people pay attention to the problems and don't get sidetracked by stuff that really doesn't matter.

LIKE THE BCS BOWL DILEMMA IN COLLEGE FOOTBALL!!!!!

Congress is actually spending time, money and brainpower figuring out how it can force college football mucky-mucks to have a playoff system. One congressman from Texas, Joe Barton, has introduced legislation that would make it illegal for the NCAA to call a game a national championship unless it was the result of a playoff.

Like the man said when I drunkenly stumbled into this Tex-Mex music bar in Austin: "Get the hell out of here."

I know Obama said during the campaign that he favored a playoff system for college football. But that was more about proving his bona fides as a real sports fan than it was a call for legislative initiative.

We get it. Obama likes sports, both playing and watching.

Now, let's get on to the real business of life in Washington, D. C.

The guys who run the Bowl Championship Series (BCS) and pick their teams based on national poll rankings along with six computer categories aren't the greatest guys in the world. But it's their game.

I have a very good friend who was a judge when Summerfest tried to kick the midway off the grounds. My friend was the trial judge in the case. He loved the midway. But he ruled in favor of Summerfest. "It's always about who gets to decide," he said. Legally, Summerfest had the right to make the decision, right or wrong.

That's kind of what we've got here. The BCS boys have the rights. They control the money and the game. You don't like it? Tough. It's the only game in town.

Don't get me wrong -- I am strongly in favor of a college football playoff. I probably was in favor of it even before Obama was in favor of it. There's only one thing in the world of sports I want more than a college football playoff.

That's for the United States Congress to do what we pay them to do and stay the hell out of the world of sports.

Web address: http://onmilwaukee.com/articles/begel051209.html

Henry Waxman

www.chicagotribune.com/news/politics/sns-ap-us-climate-lobbying,0,4644346.story

chicagotribune.com

THE INFLUENCE GAME: Industry giants tell Congress they'll take pollution limits _ for a price

JULIE HIRSCHFELD DAVIS

Associated Press Writer

12:14 PM CDT, May 11, 2009

WASHINGTON (AP) — Utilities, steelmakers and oil industry lobbyists have tried to ease the pain of President Barack Obama's push to curb global warming, and they've gotten an early return on the millions of dollars they've spent influencing Congress.

Lawmakers determined to get a deal on climate change are going along with valuable concessions to polluters. It's part of the political trading necessary when powerful industries are involved.

The firms, many of which depend on coal — the biggest source of heat-trapping gases — hold heavy sway on Capitol Hill, where they have spent millions working to change policy and contributing to politicians' campaigns. They have a long history of halting environmental initiatives that threaten their profits, and their stance on the climate change measure — a key element of Obama's agenda — can't be ignored.

They'll accept a costly new "cap and trade" system that would set a ceiling on greenhouse gas emissions and essentially tax them, then allow companies to either reduce their pollution or buy credits from firms that have met the targets. But only if Congress makes it worth their while — by giving them at least some of those permits for free.

The companies, backed by many sympathetic lawmakers whose support will be crucial to a final agreement, say they're not looking to help themselves but instead trying to cushion the blow to their customers, workers and communities of complying with a costly new emissions limit.

"Utilities will end up paying a king's ransom to comply with this statute whether they are allocated credits or not," said Scott Segal, a lobbyist whose clients include power producers Duke Energy and Southern Company as well as oil refiners. "It's a way to give them the wherewithal to achieve the objective of the statute."

But some environmentalists portray the lobbying as legislative blackmail.

"They've basically said, 'You want to pass something? Write us a check,'" said Frank O'Donnell of Clean Air Watch. "They know that investing a few thousand bucks now (on lobbying and campaign donations) could mean literally tens of billions of dollars later."

The "check" would come in the form of free permits to emit greenhouse gases. The allowances would be hugely valuable in the cap and trade system, where firms would essentially buy and sell pollution permits to meet emissions limits.

Obama has proposed auctioning off the allowances to companies that emit heat-trapping gases, an approach his administration projects would raise $646 billion over the next 10 years that would then be used in large part to help families afford higher energy prices.

But the key House architects of the climate change plan, Democratic Reps. Henry A. Waxman of California and Ed Markey of Massachusetts, are working on legislation that's expected to give some of the permits away for free — at least initially.

That already represents a major win for industry, and has touched off a scramble by various players to grab a portion of the allowances. The lobbying has picked up in recent days, with a committee vote on the legislation expected before Memorial Day.

Striking a bargain on doling out the credits "will help us in the transition for consumers, rate-payers and various industries, especially as we work out the regional consequences of the legislation," Waxman said. "We're not using allocations just because people would like some revenue, we're doing it for very legitimate purposes."

Members of Congress — particularly those from oil- and coal-producing states in the South and Midwest that could have the hardest time meeting new emissions limits — have a powerful incentive to heed the lobbyists' calls: The fear that their constituents could otherwise be hit by steep electricity price increases or job losses at companies most profoundly affected by the changes.

"It would be impossible for me to vote for a bill like this if I couldn't get this kind of assistance in the early years," said Rep. Mike Doyle, D-Pa., whose Pittsburgh-area district is heavily dependent on coal. "If we're not going to help them out, we're not going to have a bill."

He backs a plan, being pushed by electric utilities with support from a coalition of big corporations and environmental groups called the United States Climate Action Partnership, that would give most of the free allowances to power distribution companies. They're asking for 40 percent to be given to those firms, the proceeds of which they say would be passed on to consumers who would otherwise see no relief from price hikes.

Obama's plan to sell the credits and return some of the money to households would do nothing for commercial or industrial electricity users.

"The last thing any utility CEO wants is to have compliance costs that are higher than necessary, to have customers have higher prices than necessary, and for them to all get angry at the utilities," said Dan Riedinger, a spokesman for the Edison Electric Institute, a trade group for shareholder-owned electric utilities that has been outspoken in lobbying for free permits.

Power producers such as Duke also want to get their hands on some credits, an approach that many economists argue would bring a windfall to their shareholders with little or no consumer benefit.

Big manufacturers that rely heavily on fossil fuels and face foreign competition, such as steelmakers and aluminum giant Alcoa Inc. among others, are pushing to get about 15 percent of the permits. Those would be designed, proponents say, to soften the blow of higher energy prices for the companies and ease pressure to move production to countries without strict emissions limits.

Oil refiners also want to get in on the action, arguing that they should qualify for a chunk of the permits that go to other energy-dependent manufacturers who face competition.

"Our message is that we expect to be treated fairly," said Kyle Isakower, director of policy analysis at the American Petroleum Institute. "Any industry that's receiving allocations has a valuable commodity. We're certainly very concerned with equity."

ENVIRONMENT & ENERGY DAILY
THE BEST WAY TO TRACK CONGRESS

1. CLIMATE: Waxman to huddle with House Dems today in preparation for markup *(05/12/2009)*

Darren Samuelsohn, E&E senior reporter

Rep. Henry Waxman (D-Calif.) is expected to outline details of a major global warming and energy bill later today during a closed-door meeting with his fellow Democrats on the Energy and Commerce Committee.

Waxman, the panel chairman, wants to get members up to speed ahead of votes next week on a comprehensive bill that includes a cap-and-trade program to curb greenhouse gases and a nationwide renewable electricity standard. But sources on and off Capitol Hill yesterday said they do not expect Waxman to release legislative text until later this week, leaving lawmakers on both sides with only a narrow window to review the proposal before voting on amendments.

Top Democratic aides confirmed that Waxman plans to open a full committee markup Thursday with opening statements. Lawmakers would break Friday before returning next week for a marathon, multi-day markup, ending by the Memorial Day recess.

While some House Democrats are publicly urging Waxman to shelve climate change and move on to health care, House Majority Leader Steny Hoyer (D-Md.) said yesterday that climate change remains atop the Democratic Party's agenda. But at the same time, Hoyer also appeared to leave open some wiggle room in the event Waxman faces trouble with the climate bill.

"No, no, no, we are doing both," Hoyer told E&E. "The target date for the markup of the energy bill is Memorial Day. But it is just a target date. Chairman Waxman is obviously trying to create a consensus to get support."

The road to 30

Democrats must convince 12 of 19 fence sitters to pass the climate and energy bill through the Energy and Commerce Committee. Here's E&E's projected vote breakdown:
Yes (18)
Henry Waxman (D-Calif.) Ed Markey (D-Mass.) Frank Pallone (D-N.J.) Anna Eshoo (D-Calif.) Lois Capps (D-Calif.) Jane Harman (D-Calif.) Janice Schakowsky (D-Ill.) Jay Inslee (D-Wash.) Tammy Baldwin (D-Wis.) Anthony Weiner (D-N.Y.) Doris Matsui (D-Calif.) Donna Christensen (D-V.I.) Kathy Castor (D-Fla.) John Sarbanes (D-Md.) Christopher Murphy (D-Conn.) Jerry McNerney (D-Calif.) Bruce Braley (D-Iowa) Peter Welch (D-Vt.)
Maybe (19)
John Dingell (D-Mich.) Rick Boucher (D-Va.) Bart Gordon (D-Tenn.) Bobby Rush (D-Ill.) Bart Stupak (D-Mich.) Eliot Engel (D-N.Y.) Gene Green (D-Texas)

Hoyer also pledged to move the bill to the floor swiftly -- perhaps as soon as next month -- if Waxman can get it through the full Energy and Commerce panel. "I don't want to set a time table for this," Hoyer said. "Once it passes out of committee, we will decide when to schedule it. I would hope to do that sometime in June. That is on the theory it is done by Memorial Day or very soon after."

The House Ways and Means Committee is also scheduled to take up part of the bill at some point in the near future, and a Science and Technology subpanel tomorrow will mark up legislation that would create a national climate service.

Details emerging

Democratic lawmakers negotiated through the weekend and into yesterday, with the focus primarily on emission targets and timetables, distribution of emission allowances and a nationwide renewable electricity standard.

While final details remain under wraps, sources on and off the Hill suggested several points of consensus are within sight.

For example, Waxman and the committee's Democrats are close on emissions allowances, with about 35 percent of the emission credits being given away for free to the local distribution companies that service the electric utility industry. Trade-intensive industries such as steel, paper and cement also would get between 10 percent and 15 percent of the credits in the opening year. Petroleum refiners also would get between 1 percent and 5 percent of their allowances for free.

And all free allowances would be phased out in 10 to 15 years as the cap-and-trade program transitions to the complete, 100 percent auction Presidential Obama originally outlined on the campaign trail, sources say.

On the emission targets, a Waxman aide said the chairman is holding firm on

Diana DeGette (D-Colo.)
Mike Doyle (D-Pa.)
Charles Gonzalez (D-Texas)
Mike Ross (D-Ark.)
Jim Matheson (D-Utah)
G.K. Butterfield (D-N.C.)
Charlie Melancon (D-La.)
John Barrow (D-Ga.)
Baron Hill (D-Ind.)
Zach Space (D-Ohio)
Mary Bono Mack (R-Calif.)
Betty Sutton (D-Ohio)

No (22)

Joe Barton (R-Texas)
Fred Upton (R-Mich.)
Ralph Hall (R-Texas)
Cliff Stearns (R-Fla.)
Nathan Deal (R-Ga.)
Ed Whitfield (R-Ky.)
John Shimkus (R-Ill.)
John Shadegg (R-Ariz.)
Roy Blunt (R-Mo.)
Steve Buyer (R-Ind.)
George Radanovich (R-Calif.)
Joseph Pitts (R-Pa.)
Greg Walden (R-Ore.)
Lee Terry (R-Neb.)
Michael Rogers (R-Mich.)
Sue Myrick (R-N.C.)
John Sullivan (R-Okla.)
Tim Murphy (R-Pa.)
Mike Burgess (R-Texas)
Marsha Blackburn (R-Tenn.)
Phil Gingrey (R-Ga.)
Steve Scalise (R-La.)

his call to require a 20 percent cut by 2020 compared with 2005 levels. By contrast, several committee Democrats want the limits lowered to between 14 percent and 17 percent.

The renewable electricity standard also is close to completion.

Waxman has lowered his sights from an original plan requiring 25 percent of the country's energy to come from wind, solar and biomass by 2025, with efficiency measures used to meet a fifth of the target. It is still unclear what the final agreement will be, but sources said Waxman has offered two possible targets for 2025: 15 percent, and 5 percent compliance through efficiency measures, or 12 percent and 8 percent energy efficiency.

The RES agreement also is expected to spell out that new nuclear power plants and major hydroelectric projects would not count toward the baseline power production against which increased renewable generation is measured.

Enviros briefed

Waxman and Rep. Ed Markey (D-Mass.), the chairman of the Energy and Environment Subcommittee, met separately yesterday with representatives from some of the country's biggest environmental groups, including the Sierra Club, National Wildlife Foundation, Environmental Defense Fund, Greenpeace, Natural Resources Defense Council, Union of Concerned Scientists and Environment America.

Several of the environmentalists at the meeting said the lawmakers did not go into specifics on the proposal. But the Democratic leaders did predict its passage would help build momentum for its eventual approval in both the full House and Senate.

"This bill will have the support of members who have never supported global warming legislation before," said Dan Weiss, a senior fellow at the liberal Center for American Progress, after the meeting. "It'll be the first bill ever passed out of the House on global warming. That's huge, and that will be a game changer in the politics of this issue."

Carl Pope, the executive director of the Sierra Club, did not sound so thrilled with some of the compromises that the Democratic leaders have been asked to swallow. "You can't really pass the energy policy that the nation needs until Congress begins to look at energy, at least partly, as a national challenge instead of just a regional spoils game," Pope said. "And obviously, from the reactions we're getting, from various players, we're not there yet. But we've got to get there."

Phil Radford, executive director of Greenpeace USA, said Obama should step in and call for more aggressive limits on greenhouse gas emissions. "The concern is whether or not this bill will be enough for the international community to take anything seriously," Radford said. "That's the worry. So leadership would be appreciated."

By contrast, Scott Segal, an industry attorney at Bracewell & Giuliani who represents electric utilities and fuel producers, said Waxman and Markey will need to shift their legislation away from the demands of the environmental community if they want to move the bill.

"The math of the committee is such that material changes in the discussion draft will be needed to achieve success," Segal said. "That means the bill must have a sensible approach to allocation, offsets and cost containment. Otherwise, impacts on schools, hospitals, small businesses and other consumers could fracture any successful coalition."

Segal also predicted tougher prospects down the road if the legislation should only squeak by in Waxman's panel. "If the proposal should survive by only a slim margin on final consideration by the committee, it won't bode well for an easy time on the floor," he said.

Reporter Katherine Ling contributed.

THE WALL STREET JOURNAL.
WSJ.com

MAY 12, 2009

Climate-Bill Breaks Bode Ill for Deficit

By JONATHAN WEISMAN

WASHINGTON -- The Obama administration said Monday that it expected even wider deficits this year and next than previously forecast, and Congress could undermine the administration's push to narrow the gap by slashing the revenue generated by the president's plan to curb greenhouse gases.

On Monday, White House budget director Peter Orszag revised the fiscal 2009 deficit upward by $89 billion to $1.84 trillion, 12.9% of the economy. That is a level not seen since 1945. Next year's deficit forecast was raised $87 billion, to $1.26 trillion.

White House officials still say they are holding to a long-term goal of cutting the inherited budget deficit in half by 2013. But that effort is threatened by the weak economy and by congressional politics. White House economists didn't revise their expectation that the economy would be growing by 3.5% by the end of this year, despite the fact that some private economists have been lowering their forecasts.

Congress is debating proposals to give away to utilities and other businesses the pollution credits that would be created by a cap-and-trade system. Such a system is designed to reduce carbon-dioxide emissions by instituting caps, and requiring that businesses buy permits to pollute that they can trade like commodities.

Beginning in 2012, the White House budget had counted on the sale of greenhouse-gas emissions permits to bring in $77 billion to $79 billion a year through 2019. Of the $624 billion in revenue, the White House allocated $504 billion to a $800-per-family tax cut for households with incomes below $150,000, in part to offset the impact of the cap-and-trade system on electricity rates. An additional $15 billion a year was dedicated to developing and deploying renewable-energy efforts to replace the fossil fuels being hit by the pollution trading system.

If Congress decides to give away permits, that would mean less money for policy ideas such as the president's Making Work Pay tax cut and his push to wean the nation off fossil fuels, and less money for deficit reduction.

"At least half the revenue that the administration is expecting is just not going to materialize," said Daniel J. Weiss, director of Climate Strategy at the Center for American Progress, a liberal think tank closely allied with the Obama White House.

A White House official said Monday that the tax cut won't be extended beyond 2010 if the administration can't find a way to pay for it. The administration is still holding out hope that the sale of emissions permits will generate more than enough revenue to finance its alternative-energy plan.

Just how much money the administration might have to work with will become clearer when House Energy and Commerce Committee Chairman Henry Waxman (D., Calif.) unveils his full climate-change bill this week. He hopes to have a vote on the bill in his committee by Memorial Day.

Congressional aides and lobbyists familiar with the bill say as much as 75% of the emissions credits will be given away free in the first few years of the plan. Many of those free credits will go to coal-fired utilities that would struggle to cover the cost of permits for all the carbon they emit. Energy-intensive industries that face stiff global competition would get most of their emissions permits free in the first years of trading as well.

It may be 10 to 15 years until all the emissions permits will be sold, according to people familiar with the legislation.

Seeking to bolster public support for climate legislation, the Obama administration is consulting pollsters who advocate avoiding phrases such as "cap-and-trade" and "global warming." On Monday, the White House Council on Environmental Quality was scheduled to meet with Robert Perkowitz, president of ecoAmerica, a Washington-based nonprofit that uses "psychographic research" to "shift personal and civic choices of environmentally agnostic Americans," according to its Web site.

"We're trying to give them phrases that work," Mr. Perkowitz said in an interview. He said that in a survey of some 2,000 Americans conducted by his group in March and April, less than half of the respondents said they would support a "cap-and-trade" policy, and that only 24% said they knew what the phrase means. "If you call it 'clean energy dividend'...almost anything other than 'cap and trade,' you'll get people responding a lot more favorably," he said.

—Stephen Power contributed to this article.

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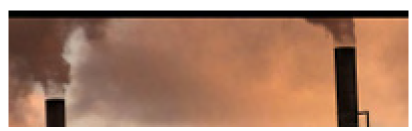
ENERGY

House Dems Might Be Nearing Deal On Climate Change Bill

Monday, May 11, 2009
by Darren Goode

House Energy and Commerce Committee Democrats might be inching toward a deal on climate and energy policy after staff continued talks through the weekend. The discussions "are now down to the member level," Rep. **Gene Green**, D-Texas, said today. Green said he is meeting with Energy and Commerce Chairman **Henry Waxman** perhaps Wednesday to try to cement deals on giving refineries credits in a cap-and-trade program and making sure a low-carbon fuel requirement does not overlap with a renewable fuels requirement in law. One lobbying source said Energy and Commerce Democrats will meet Tuesday night to try to finish things. Another source said the committee will release details of a bill Wednesday. That may mean the start of a markup, likely in the full panel, as early as Thursday. Committee Republicans are not expecting more than opening statements before next week.



Looking for more?
For more information and past stories about climate change/energy legislation, see our **Climiate Change/Energy Debate page**.

Waxman is trying to finish something in his panel before lawmakers leave for the Memorial Day recess. Even if Waxman succeeds, there are issues to be worked out between his panel and Ways and Means and among Democrats there regarding how revenue from auctioning any cap-and-trade emission credits would be allocated. The details of an emerging deal have proven to be as speculative and tentative as the schedule this week and next. Several sources off Capitol Hill said Waxman has agreed to drop a short-term target of reducing greenhouse gas emissions 20 percent by 2020 in a cap-and-trade program down to the 14 percent level President Obama and the environmentalist-business U.S. Climate Action Partnership recommended. Waxman and a slate of Democrats on his panel representing low-income residents, as well as coal, manufacturing, oil and gas, and other companies, have spent much of the time trying to divvy up free emission credits to businesses in a cap-and-trade program. While the details may still be in flux, several sources said they expect local electricity distribution companies would receive between 35 and 40 percent of their credits early on for free. These sources expect trade-sensitive and energy-intensive industries such as steel, aluminum, chemical and glass would get 12 percent for free. While less than the 15 percent of free credits they were seeking, they would no longer have to adhere to an energy-efficiency criterion to receive the free credits. The percentage going to the oil and gas sector is unclear, with industry sources expecting as much as 4 percent and as little as 1 percent. The refinery industry asked for 5 percent. A low-carbon fuel standard has holes left to be filled, including what year should serve as the baseline and whether it would be confined to the refinery industry or be made broader.

Waxman has also worked with committee Democrats on a renewable electricity production mandate. The remaining issues are the stringency of that mandate and which energy sources would be covered under it. The Blue Dog Coalition Friday adopted an official caucus position on a mandate, saying it needs to include such low-carbon sources as nuclear, cleaner coal, biomass, hydropower and heat generated from waste. These Democrats also say an unrealistic mandate "will not help electric utilities deploy more renewables more quickly," according to a position statement agreed to by at least two thirds of the group. While the Blue Dogs do not call for a specific target, they say a mandate should account for regional disparities in renewable energy production as well as energy efficiency efforts.

LEADING THE NEWS

On the menu: Red wine, Blue Dogs, green agenda

By Mike Soraghan
Posted: 05/11/09 07:54 PM [ET]

A tin of Costco lasagna and some red wine may hold the key to solving the climate change debate — at least in the House Democratic Caucus.

Rep. Peter Welch (D-Vt.) has been hosting lasagna dinners in the Methodist House apartment near the Capitol that he shares with Blue Dog Rep. Jim Cooper (D-Tenn.) in an effort to find common ground in the increasingly tense debate over a cap-and-trade bill.

Welch has been inviting conservative Blue Dogs like Reps. Mike Doyle (D-Pa.) and Dennis Cardoza (D-Calif.) to meet with more liberal Democrats like Rep. Jay Inslee (D-Wash.) to talk about the details of the looming cap-and-trade bill. Some of the more environmentally inclined Democrats joked that they could be called the “Green Dogs.”

Coincidentally, the apartment is the former home of Al Gore’s parents, and Gore went there to write much of his environmental treatise, Earth in the Balance.

“It’s a great opportunity for lawmakers to just visit,” Welch, one of those environmentally inclined Democrats, said. “We talk about Doyle’s baseball team in addition to carbon offsets.”

There are usually eight to 12 members, mostly from the Energy and Commerce Committee. Sometimes Welch cooks. Sometimes he heats up a big Costco tin of lasagna. He even bought a flat-screen television so the lawmakers could keep track of basketball games.

“Our carbon footprint expanded dramatically,” quipped Cooper.

At the most recent gathering, two weeks ago, Welch kept his eye on the Celtics game while the Blue Dogs stressed the need to distribute money back to people whose utility bills rise, rather than directing the funds toward new programs.

“I agree with that,” said Welch.

Meanwhile, a cap-and-trade vote looms in the Energy and Commerce Committee, and Chairman Henry Waxman (D-Calif.) is scrambling for votes to get the bill to the floor by his self-imposed deadline of Memorial Day.

It’s not clear how much progress Welch’s gatherings have made or if it will help jar loose the legislation from committee, but participants say they’ve each come to understand the other side a little bit better.

And that understanding comes in handy, considering the dinners have blossomed in an atmosphere made tense not just by the wall of Republican opposition and Democratic infighting, but the bitterness lingering from last year’s coup, in which Waxman ousted longtime Energy and Commerce Chairman John Dingell (D-Mich.).

“There’s so much more that we have in common than we realize,” Welch said.

Welch, a sophomore House member, brought the idea with him from the state Senate in Vermont. He said the dinners allow for a degree of informality that can't be achieved at a reception or a restaurant.

"It helps us to understand the practical challenges we each face in this historic legislation," Welch said. "I come from a state that isn't dependent on coal. They have transition costs that are really legitimate."

Doyle, a leader among the centrists, said the dinners have been "productive."

"Peter's a great guy and he buys an above-average bottle of wine," Doyle said. "Any time I can get an evening like that in Washington, D.C., I'll take it."

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Politics

Waxman to push global warming bill without allowing subcommittee vote

By: Susan Ferrechio
Chief Congressional Correspondent
05/11/09 8:25 PM EDT

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House leaders struggling to pass a major energy bill appear ready to bypass the subcommittee system because powerful carbon state Democrats aren't willing to go along with the proposal for hundreds of billions in new global warming fees.

With little hope of passing the measure out of the global warming subcommittee, Energy and Commerce Committee Chairman Henry Waxman, D-Calif., signaled he will move the bill to the full committee, where the legislation would likely pass.

One top Democratic aide described the move as a way to "get the bill done." Democrats want to move the energy bill quickly in order to get to President Barack Obama's health care plan.

Waxman said he is sticking to a May 22 deadline for passing the bill out of his full committee. That leaves little time for dragging out the process in the subcommittee, which is made up of 21 Democrats and 14 Republicans. With every GOP member likely to vote against the bill, Democrats are having a hard time coming up with the 18 votes needed to pass it by simple majority. The subcommittee includes Democrats from Louisiana, North Carolina, Pennsylvania, Michigan, Texas and Georgia, places that are dependent on coal-fired power plants or are manufacturing or oil refinery hubs that would have to pay more under the bill's cap and trade provision.

The full committee, however, is made up of 36 Democrats and 23 Republicans and the Democratic roster includes many members from California and New England.

"Try as they might by shifting tactics and overhauling their rhetoric, this bill is a jobs killer and a growing number of rank-and-file Democrats understand that," said Kevin Smith, spokesman for House Minority Leader John Boehner, R-Ohio.

Waxman may leapfrog the subcommittee, but he is still working hard to win over its members.

Members and energy industry lobbyists who are negotiating the bill say Waxman has agreed to allocate 40 percent of the free pollution permits to power companies. And he's agreed to give 15 percent of the permits to industries like steel and paper and another 5 percent to the oil refineries. Still under debate is the time frame for phasing out the free permits, with the power companies aiming for midcentury while Waxman is aiming for a decade or less.

Even if the bill clears the full committee, some Democratic opponents are claiming there is enough regional opposition to block the bill on the House floor.

"If there is equity in it, I will open my eyes, but in the meantime I remain very skeptical," said Rep. Marcy Kaptur, D-Ohio, whose district is home to manufacturing plants and is dependent on coal-fired power.

Seven Republicans and Democrats have introduced a different energy bill they say would have a better shot at passage. The bill calls for the expansion of U.S. production of oil and natural gas and using that money to develop alternative energy sources.

While taking questions last week, Rep. Neil Abercrombie raised the specter of that timeless legislative query: Legislation might look dead, but is it dead, dead?

A reporter asked Mr. Abercrombie, Hawaii Democrat, whether he thought a sweeping climate bill being pushed by House Democratic leadership against diverse opposition from within the party, was dead on arrival.

"I've seen too many — too many instances of what I call the Lazarus effect, the dead rise and walk again," Mr. Abercrombie said last week, at a news conference announcing compromise climate legislation.

Of course, the climate bill drafted by Democratic Reps. Henry A. Waxman of California and Edward J. Markey of Massachusetts has hit a rocky patch among the Democratic rank and file, leading some to wonder whether climate change legislation (at least from the House) might have to wait until next year. But more on that in "The Week Ahead" section that follows …

Still just a symbol

It looks like the polar bear, which has become a symbol of global warming's ravages, is set to remain just that: symbolic.

Obama Interior Secretary Ken Salazar chose Friday to stick by Bush-era regulations of the polar bear as an endangered species: a more limited approach than many environmentalists had sought. Green groups, and lawmakers, had been seeking to use expanded regulatory powers to curb greenhouse gas emissions using the Endangered Species Act, but the Obama administration chose a more conservative tack.

"I disagree with the Department of Interior's decision to limit the tools we have available under the Endangered Species Act to save the polar bear from extinction," said Senate Environment and Public Works Chairman Barbara Boxer, California Democrat. "Monitoring the situation will not tell us more than we know now — that the polar bear is threatened and we need to act."

The erstwhile furry, white Coca-Cola mascots have become more symbolic of the environmental movement ever since government scientists found in 2004 an increase in the number of polar bears dying after failing to successfully swim between shrinking ice-sheets,.

The Obama administration has not shied away from using multiple fronts in its efforts to curb global warming — see the Environmental Protection Agency's finding that carbon dioxide is a greenhouse gas — but it appears as though that the using ESA as a tool isn't in the cards.

The Week Ahead

While the House climate bill floats in limbo (publicly) the gears of compromise sound like they are falling into place (privately.) And while House Democratic leaders promise to meet a Memorial Day deadline for passing the bill (a sparse two weeks away) the logistics of moving such a broad-based bill a still unclear.

There's still no word on when a new draft of the House climate bill will be released, although Rep. Henry A. Waxman has said sometime this week is likely.

The Senate Environment and Public Works Committee takes up President Obama's proposed spending on the Environmental Protection Agency Tuesday. And the Senate Energy and Natural Resources Committee is scheduled to hold more hearings this week, but it's unclear whether the members will take up some of the more divisive portions of the energy legislation being crafted.

And, presidential bonus on the energy beat this week: former President Jimmy Carter is set to testify on energy security Tuesday before the Senate Foreign Relations Committee.

The HR File

Joseph T. Kelliher, chairman of the Federal Energy Regulatory Commission during the Bush administration, has taken a job at Florida Power and Light as an executive vice president.

Pat Pourchot will work as the Interior Department's special assistant for Alaska Affairs. He'll work from Alaska where he's served as a state lawmaker and environmental advocate.

Got a staff change? Drop me a line.

• *Tom LoBianco can be reached at tlobianco@washingtontimes.com*

Bloomberg.com

Trash Has Role in Energy Plan, Waste Management Says (Update2)

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By Rob Delaney and Daniel Whitten

May 11 (Bloomberg) -- Waste Management Inc., North America's largest garbage hauler, says trash gets no respect from Barack Obama and the "green-energy" crowd.

Waste Management, Republic Services Inc. and Covanta Holding Corp. say their success producing power from landfills and waste incinerators is being ignored as the U.S. doles out $60 billion in energy grants and tax breaks from President Obama's economic stimulus. The companies say they may also be shortchanged as Congress develops long-term rewards for alternative fuels.

"We've become the unseen renewable energy source that no one pays attention to," Waste Management's Chief Executive Officer David Steiner said in an interview. "Why not help us? We are underrepresented because we are the garbage guys."

Obama has called for an 11-fold increase in the use of renewable power to reduce dependence on coal plants blamed for global warming. While waste-based energy would make Obama's goal more achievable, environmentalist groups such as Environment America have long opposed the garbage companies as polluters and say burning trash releases toxic chemicals.

"From an environmental perspective, the best solution is to generate less trash, and the garbage industry is not very interested in that solution," said Anna Aurilio, Washington office director for Environment America.

Incineration, Methane

The waste industry produces energy by incinerating solid waste to produce steam that drives a turbine, and by capturing the gas methane from garbage decomposing in landfills.

Nothing in the federal stimulus legislation bars spending on trash-to-energy projects, according to Jeffrey Genzer, an attorney for the National Association of State Energy Officials in Alexandria, Virginia. States are opting for energy-efficiency projects instead because waste proposals require time-consuming environmental reviews, Genzer said.

The stimulus bill provides $38 billion for Energy Department spending, of which $11 billion is being doled out by states. Other agencies like the Interior and Defense departments also got stimulus money for energy initiatives. Trash-to-energy projects can qualify for part of an additional $20 billion in tax breaks.

The Wheelabrator division of Waste Management started the first garbage incineration plant in the U.S. in Saugus, Massachusetts, in 1975. The longest-running plant producing gas from landfills has been operating in Contra Costa, California, since 1982, according to the Environmental Protection Agency.

Doubling Revenue

Nationally, 450 landfills and 87 incinerators produced about 24 million megawatt-hours of electricity in 2007, about 2 days of U.S. electricity use, according to Energy Department data. By comparison, wind energy contributes about 3 days of U.S. power a year and solar produces 76 minutes' worth.

Waste-to-energy projects will "drive Waste Management's growth domestically and internationally," Steiner, 49, said in the interview.

The company is in talks to build waste-to-energy plants in China and Europe, where governments are more willing than the U.S. to make garbage-power part of their green energy policies, Steiner said.

Houston-based Waste Management aims to double power generation's contribution to 20 percent of revenue by 2016, according to Steiner. The company reported $13.4 billion in revenue last year.

Republic, the second-largest U.S. waste hauler, wants to "double or triple" revenue in the next three to five years from producing electricity, according to Bill Held, senior director of renewable energy. Power generation, almost all of it from capturing methane, is now about 1 percent of the Phoenix- based company's revenue, which was $3.69 billion last year.

Waxman's Measure

Covanta, based in Fairfield, New Jersey, operates 38 facilities in the U.S. that capture methane from landfills to produce energy that the company sells to utilities.

Waste Management fell 14 cents, or less than 1 percent, to $26.86 at 4:02 p.m. in New York Stock Exchange composite trading, and has fallen 19 percent this year. Republic dropped 35 cents, or 1.5 percent, to $23.42 and was down 5.5 percent for the year. Covanta fell 14 cents to $16.29, declining 26 percent this year.

The garbage-hauling industry hasn't been among the top lobbyists in Washington, according to the Center for Responsive Politics, which tracks spending aimed at shaping policy. Waste management companies spent $4.6 million lobbying last year, compared with $32.5 million by alternative-energy groups.

Climate-change legislation proposed by Representative Henry Waxman, a California Democrat, would count methane from landfills but not power from trash incineration toward requirements for the use of renewable energy. A group of House Democrats led by Representative Rick Boucher of Virginia has urged including both.

Landfill Stigma

Waxman's measure also wouldn't let U.S. agencies count energy from burning garbage toward their requirements for use of renewable energy, and would count incineration as an emitter of greenhouse gases. Waxman has been negotiating with Boucher's group over compromise climate-change legislation.

"There's still a stigma attached to landfills and landfill gas," Held of Republic said.

Part of the stigma comes from dioxin and mercury, toxic chemicals released when garbage is incinerated.

Dioxin is classified as a likely human carcinogen and has caused changes in the hormone systems of animals and humans and alterations in animal fetal development, according to the EPA. The agency links mercury to impaired neurological development in children and fetuses.

Greenpeace, Belinda Carlisle

After a campaign about the dangers of dioxin by advocates such as the group Greenpeace and the pop singer Belinda Carlisle, federal regulation of the chemical changed. Total emissions of dioxin from waste-to-energy plants in the U.S. were reduced to 15 grams a year in 2005 from 4,400 grams in 1990, according to Ted Michaels, president of the Energy Recovery Council, an industry and municipality-sponsored group based in Washington

"That doesn't appease the environmentalists," Michaels said. "Apparently they want a zero-emission standard, but if they did that they'd have to go after backyard barbeques and fireworks at baseball games."

To contact the reporters on this story: Rob Delaney in Toronto at robdelaney@bloomberg.net; Daniel Whitten in Washington at dwhitten2@bloomberg.net

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CME ready for green derivatives push

Mon May 11, 2009 6:34pm EDT

By Christine Stebbins

CHICAGO (Reuters) - CME Group, the world's largest derivatives exchange, is gearing up for a U.S. cap-and-trade carbon policy that could mean a boom in "green" futures and options trade, a top CME official said on Monday.

"We're positioned to take advantage of that should the energy policy and energy legislation go in the way of a tradable emissions and credit market," CME Chief Executive Craig Donohue told the Reuters Exchanges and Trading Summit in New York in a telephone interview.

Expanded trading of green products is likely if the United States adopts a cap-and-trade policy that would limit the amount of greenhouse gases like carbon dioxide that industries can emit. Man-made greenhouse gases are cited by most scientists and the Obama administration as a key reason behind rising global warming trends and effects.

A current cap-and-trade proposal in Congress, introduced by U.S. Representatives Henry Waxman and Edward Markey, would cap carbon emissions and require industry to "offset" every ton of carbon dioxide emissions with tradable carbon credits.

Energy-intensive industries that overshoot their allowed emissions would be forced to buy allowances from those meeting their targets, building in a market incentive to "go green."

The CME inherited a "green" trading initiative from its merger with the New York Mercantile Exchange, which launched greenhouse gases futures and options in March, 2008.

"Since the beginning -- we have already traded more than 30,000 contracts in the green and carbon and emissions area," Donohue said.

CME wants to provide the offerings on a separate futures exchange, "The Green Exchange," hoping for approval from its regulator, the Commodity Futures Trading Commission, in 2009.

That green venture will go head to head with the first-ever green exchange, the Chicago Climate Exchange (CCX) formed in 2003 by Chicago derivatives market expert Richard Sandor.

CCX already trades emission credits on six greenhouse gases under voluntary but legally binding trades. It has dozens of members including corporations, utilities and municipalities with affiliate exchanges in the European Union, Canada and China.

The CFTC said on Monday it will hold its first advisory committee meeting this week to focus on carbon dioxide and other emissions trading markets.

(For summit blog: blogs.reuters.com/summits/)

(Editing by Christian Wiessner)

Fort Worth BusinessPress

Climate vote may change lives of all Americans

BY ALEX MILLS
May 11, 2009

As the House Energy and Commerce Committee deliberated over a cap-and-trade program, the Environmental Protection Agency (EPA) recently declared that six industrial emissions endanger "the health and welfare of current and future generations."

EPA's declaration was the first formal recognition by the U.S. government of the alleged threats posed by climate change and greenhouse gas emissions.

The finding probably will change the lives of every American.

It certainly puts a new and different face on the cap-and-trade debate. Lawmakers no longer have a choice of the bill offered by U. S. Representative Henry Waxman (D-Ca.), chairman of the House Energy and Commerce Committee, and U.S. Representative Edward Markey (D-Mass.), chairman of the Energy Independence and Global Warming Committee, or no action at all. EPA has announced that it will draft and implement regulations if the Congress fails to pass adequate legislation.

The greenhouse gases under the watchful eye of EPA are carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride.

The EPA lumped carbon dioxide with the other gases, because they share similar properties. All are long-lived and well-mixed in the atmosphere, and they all trap heat.

Greenhouse gases trap heat, and without them the Earth would be frozen. The sun's incoming energy simply would be reflected and radiated back into space if it were not for greenhouse gases.

Water vapor is by far the most dominant of the greenhouse gases, accounting for about 95 percent of them. Approximately 4.7 percent of the greenhouse gases comes from ocean biologic activity, volcanoes, decaying plans, animal activities, etc. Only 0.3 percent comes from human activities (manufacturing, power generation, transportation and other forms of burning fossil fuels).

James Schlesinger, the nation's first Energy Czar before there was even a Department of

Energy, and Robert Hirsch, the manager of the federal renewables program at the Energy Research and Development Administration (the predecessor to the Department of Energy), can't understand why the powers-that-be in Washington are pushing so hard to replace fossil fuels so quickly.

"Why are we ignoring things we know?" Schlesinger and Hirsch wrote in the April 24 issue of The Washington Post. "We know that the sun doesn't always shine and that the wind doesn't always blow. That means that solar cells and wind energy systems don't always provide electric power. Nevertheless, solar and wind energy seem to have captured the public's support as potentially being the primary or total answer to our electric power needs."

Schlesinger and Hirsch point out that "renewables" like wind and solar originate thousands of miles from consumers and the nation hasn't figured out the grid problem, yet. They also noted that wind and solar only produce 1 percent of the nation's energy requirements today.

"The United States will need an array of electric power production options to meet its needs in the years ahead," they wrote. "Solar and wind will have their places, as will other renewables. Realistically, however, solar and wind will probably only provide a modest percentage of future U.S. power. Some serious realism in energy planning is needed, preferably from analysts who are not backing one horse or another."

Dr. Scott Tinker, director of the Bureau of Economic Geology at the University of Texas at Austin, called EPA finding that carbon dioxide as a pollutant "absurd."

More and more people wonder about the credibility of the actions of the President and the leadership of the Congress when they propose such drastic changes to Americans lifestyle for something that only causes 0.3 percent of the greenhouse gases and a 1 degree increase in temperature in the last 100 years.

Alex Mills is president of the Texas Alliance of Energy Producers. The opinions expressed do not necessarily represent the opinions and/or policies of the Texas Alliance.

Online at: http://www.fwbusinesspress.com/display.php?id=10174

Evansville Courier & Press
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Cap-and-trade has shaky support in Midwest

By Dan Shaw
Originally published 10:26 a.m., May 11, 2009
Updated 10:26 a.m., May 11, 2009

Duke Energy's power plant in Gibson County released about 20.6 million tons of carbon dioxide in 2008.

Under legislation now being considered by Congress, emitting the same amount of greenhouse gas in the future could cost the utility company as much as $600 million a year. And since state regulators usually let utilities pass on the costs of electricity, Duke Energy won't take the hit itself. The cost will instead fall to customers, both residents and businesses.

Depending on how much Congress decides to charge for every ton of CO2 released, electricity bills could rise anywhere from 20 percent to 50 percent, according to Duke's estimates.

Worried about that possibility, a couple of Hoosier lawmakers are hesitating to endorse a proposal which would curtail emissions of greenhouse gases.

The House Energy and Commerce Committee is now thinking about forcing companies to pay for the right to release carbon dioxide into the air. The legislation is a priority for some Democratic leaders; President Obama has proposed using revenue raised by the bill to pay for a tax cut.

Yet others within the party — including Hoosier legislators Brad Ellsworth and Baron Hill — aren't rushing forward with endorsements. They want to prevent global warming, yet recognize any limit on carbon emissions will make burning coal more expensive.

And the cost won't be borne evenly across the country. Critics have called the bill a hidden tax on states which, like Indiana, contain many coal-fired power plants.

The difference in constituencies has led to a division in the Democratic ranks, between representatives of coal-rich states and those from places more dependent on other types of fuel.

"I will be watching this process closely and working to ensure that Hoosier consumers and businesses have a voice in this debate" said Ellsworth, whose district includes Evansville and surrounding areas. Even more influential is Hill, whose seat on the House Energy and Commerce Committee puts him at the center of the controversy. Hill, who represents much of Southern Indiana, declined to comment for this article but has expressed concerns similar to Ellsworth's in the past.

Republicans meanwhile almost uniformly object to the bill. Congressman Ed Whitfield, whose district contains Henderson, Ky., is worried about the effects of costlier energy on businesses.

"It is essential that we balance the need for cleaner fuel sources versus the need for protecting jobs in the U.S.," said Whitfield, who also sits on the House Energy and Commerce Committee.

Indiana Gov. Mitch Daniels, also a Republican, shared Whitfield's concerns.

"I view it as coastal imperialism, with the taxation landing heavily on Indiana and the Midwest to fund spending plans that have very little do with us," he said.

During the haggling over the bill, Daniels said, special interest will no doubt gain exemptions which will give them advantages under the new rules.

"A lot of people will get filthy rich doing nothing for the environment," he said.

One reason many Midwestern Democrats aren't wholeheartedly embracing the bill is their recognition of just how much the region depends on coal. According to the Energy Information Administration, 94 percent of the electricity generated in the Hoosier state in 2007 came from coal.

That is a stark contrast to California, which produced 1 percent of its electricity from coal and nearly 55 percent from natural gas that year.

Indeed, many of the chief sponsors of the cap-and-trade proposal hail from states which burn relatively little coal for electricity. Rep. Henry Waxman, an author of the legislation, is a California Democrat. The other chief sponsor, Rep. Edward Markey, hails from Massachusetts, where about 25 percent of the electricity came from coal last year.

For their part, utility companies are expressing skepticism. Vectren Energy wants to curtail global warming but is waiting for a final version of the bill before taking a strong stance, said Chase Kelley, a company spokeswoman. Too many variables have yet to be decided, she said.

For instance, she has seen the price companies will pay for releasing a ton of carbon dioxide range from $15 a ton to $60 a ton.

"That's all over the board," she said. "And we are talking about billions of tons of carbon."

Others contend the proposal will force residents of coal-rich states to pay twice, says Angeline Protogere, a Duke Energy spokeswoman. First, the cost of buying the emission allowances will be passed on to customers.

Later, utilities will try to avoid paying more for emissions by installing equipment meant to capture and store CO2. Like generation costs, the cost of such capital improvements are usually transferred to energy bills.

To avoid the double charge, government leaders should at first make the allowances free, says Duke. That is what they did in the 1990s when imposing limits on sulfur dioxide and nitrous oxide, gases which lead to acid rain and ozone.

By making allowances for those pollutants free for a while, utilities and other industries got time to buy scrubbers and other equipment needed to remove the emissions from their smokestacks. When the allowances began to cost, companies had, with the help of technology, greatly reduced their need for them.

With carbon dioxide, though, the solution is not so simple. That is because the technology proposed to reduce emissions of the greenhouse gas has never been proved to work.

Experiments are now planned — at Duke's plant in Edwardsport, Ind., and other places — to see if carbon dioxide can be stored permanently underground. But any broad use of such systems, if they prove practicable, is at least a decade away, said Angila Retherford, a Vectren environmental affairs representative.

In their latest discussions, Waxman and others have been backing away from their original plan to immediately sell the allowances through an auction. Many now favor distributing them for free at first.

And those aren't the last of the concerns. One fear is that all the United States' good intentions will do little to stop global warming. Limits on carbon-dioxide emissions will fail to have the intended effect if other countries decline to follow suit.

And two of the fastest growing economies in the world — China and India — have shown few signs they are willing to take a step which might slow their rise. If the United States goes it alone in fighting global warming, it may stunt its economy to little avail.

Matt Smorch, a refinery manager for Countrymark, thinks the legislation will fall far more heavily on small companies. Unlike the large oil producers, Countrymark makes a fairly small profit margin, meaning it has little spare cash to cushion itself against increased costs.

“It would be very hard to compete against the ExxonMobils of the world and the large oil companies,” he said.

grist beta

A BEACON IN THE SMOG

Better speculate than never

Speculation runs rampant as Dems reportedly reach a deal on climate bill 1

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Posted 4:33 PM on 11 May 2009
by Kate Sheppard

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House leaders have reportedly reached a tentative deal on a climate and energy bill—and in the absence of details, speculation is rampant about how the bill has been weakened or otherwise changed.

Energy and Commerce Committee Chair Henry Waxman (D-Calif.) and Ed Markey (D-Mass.), the bill's coauthors, had wanted to start markup of the legislation two weeks ago, with the aim of passing it out of committee by Memorial Day. But it's taken longer than expected to reach agreement with moderate Democrats, who requested a lot of changes to the bill.

Democrats on the Energy and Commerce Committee are scheduled to meet Tuesday night to hammer out the final details; then text of the revised bill is expected to be unveiled on Wednesday, and debate is to begin on Thursday.

While the bill's authors have been mum about the negotiations, their moderate counterparts have made a number of claims about what will be in the bill.

Rep. Mike Doyle (D-Pa.) told Reuters late last week that the bill would give away the majority of carbon permits for "the first 10 to 15 years," rather than requiring emitters to pay for the right to pollute. Doyle and others have indicated that local electricity distribution companies would be given 35 to 40 percent of the permits, while roughly 15 percent would go to trade-exposed, energy-intensive industries like steel, paper, and cement, and up to 5 percent would go to refineries.

Informed sources on the Hill tell Grist that Doyle may be jumping the gun in claiming those decisions are final. But there is a lot of pressure from utilities, energy-intensive industries, and their sympathetic representatives to hand out a majority of the permits free of charge in the early years of the program. Waxman has acknowledged that to get the bill passed, some free permit allocations may be necessary, and would be reduced over time.

The near-term target for cutting emissions may be lowered in the new version of the bill, to 14 percent below 2005 levels by 2020. The original proposal called for a 20 percent cut, but some were lobbying to go as low as 6 percent. Waxman balked at the 6 percent suggestion: “I think it is very low,” he told reporters several weeks ago.

The 14 percent cut is at the low end of what the U.S. Climate Action Partnership proposed in its blueprint, which served as a model for the Waxman-Markey bill.

The target for cutting emissions by 2050 is likely to remain as it was in the original draft: 83 percent below 2005 levels.

The bill’s renewable electricity standard is another component that may be weakened. The draft called for 25 percent of each state’s electricity to come from renewable sources by 2025. Southeastern Democrats were unhappy with that, so committee leaders are reportedly considering lowering the mandate to 17.5 percent, and could allow a portion of that to be met by efficiency measures.

Drill, maybe, drill?

Another bargaining chip with moderate Democrats might be offshore oil and gas drilling.

The Democratic-controlled Congress let the moratorium on offshore drilling expire last October, responding to public outrage over $4-a-gallon gasoline and the Republicans’ “drill, baby, drill” chant. (Never mind that experts agree that more domestic drilling wouldn’t do anything to lower oil costs in the near term.) Obama changed his tune on the issue while campaigning last year, saying he’d be open to more offshore drilling if it were part of a comprehensive energy plan.

Now the White House is floating the possibility of a “grand bargain” that would lump some expanded domestic oil and gas drilling in with broader climate and energy policy. A senior White House official told *The New Yorker* that the administration was exploring a deal that would include a cap-and-trade system and “serious” and “short-term” increases in domestic oil production in places like the California coastal region. House Democrats who met with Obama in the White House last week said the subject came up.

It’s a plan that many enviros—and many Californians—wouldn’t be too fond of, but it could bring moderate Democrats on board. It would also defuse the Republican talking point that Democrats are opposed to all drilling.

Such a deal could also help put in place new protections for the coasts. Now, in the absence of an offshore-drilling moratorium, the federal government could technically offer drilling leases for areas as near as three miles to shore. Interior Secretary Ken Salazar scrapped the Bush administration's lease plan in January, but said the Obama administration is open to drilling in some areas and would work with Congress to craft "a plan that makes sense."

The offshore-drilling issue would be handled by the House Natural Resources Committee, however, not the Energy and Commerce Committee, which is working on the climate bill, so additional deal-making would be needed to get everything into a single package.

Through all this, Waxman is sticking to his self-imposed deadline for passing the climate and energy bill out of committee before Congress leaves for its Memorial Day recess, but that's looking less and less likely as the holiday approaches.

Kate Sheppard is Grist's political reporter.

- Comments

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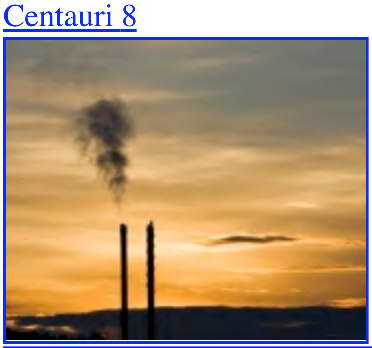
-  Why mandate renewables if we already have a cap on CO2? 7

THE WALL STREET JOURNAL.
WSJ.com

MAY 11, 2009, 8:40 P.M. ET

FDA to Review Approval of Knee Surgery Device

By ALICIA MUNDY

WASHINGTON -- The Food and Drug Administration said it will review its decision to approve a knee surgery device last December over the objections of several scientists and managers at the agency, according to a letter from the FDA that the Senate Finance Committee reviewed Monday.

The letter, signed by acting FDA Commissioner Joshua Sharfstein and reviewed by The Wall Street Journal, said the controversy over the decision raises "legitimate concerns about whether the agency's review process and decision...were compromised."

The device, called Menaflex, is made by ReGen Biologics Inc. of Hackensack, N.J. It is designed to help patients who have severely torn meniscus tissue in their knee joint recover long-term mobility and avoid degenerative arthritis.

The House Energy and Commerce Committee on Monday, in a separate action, asked the FDA to re-examine the ReGen decision. In a 16-page letter to the FDA, committee leaders said that agency documents "raise concerns" about an advisory panel of orthopedic-surgery experts convened by the agency last November.

The House committee's letter cited issues "such as the exclusion of FDA experts who had raised concerns previously about the device, the propriety of ReGen's input into the selection of advisory committee members, and the failure to hold a formal vote on whether the device should be approved."

Gary Bisbee, ReGen's chief executive, said through a spokeswoman that the FDA made the right move in overruling the negative views of some agency officials and approving the device in December. He said the FDA's earlier rejections were based on an "illegal comparison of the device to a surgical procedure" instead of other cleared medical devices. ReGen says Menaflex is safe and effective.

Dr. Sharfstein's letter was sent to the Senate in response to questions from Sen. Charles Grassley of Iowa, the ranking Republican on the Finance Committee. The Wall Street Journal carried a page-one article on the Menaflex approval process in March.

Menaflex was cleared by the FDA using a fast-track method that doesn't require major clinical trials on safety and efficacy. That process is now under scrutiny by Congress because of allegations from FDA doctors and former FDA commissioners that it has been used too often in recent years to approve devices that need more clinical trial information.

Rep. Bart Stupak (D., Mich.), who is chairman of the investigations subcommittee of the House Energy and Commerce panel, has been looking into allegations involving the FDA's device division. He signed the committee's letter to the FDA along with its chairman, Henry Waxman of California, and Frank Pallone of New Jersey, the health subcommittee leader.

Rep. Pallone was among several New Jersey Democrats who repeatedly pressed the FDA to move swiftly on the Menaflex application in late 2007 and 2008. The Democrats cited complaints repeatedly raised by ReGen in which the company said FDA officials were biased against it. Those contacts were detailed in internal FDA memos and confirmed by the lawmakers' aides.

Rep. Pallone has previously said through an aide that his contacts with the agency were proper and that he was only trying to ensure that ReGen was given fair treatment. On Tuesday, Mr. Pallone will hold a hearing in his subcommittee on legislation he has co-sponsored which would allow victims of flawed medical devices broader latitude to sue their makers.

Write to Alicia Mundy at alicia.mundy@wsj.com

Committee

Stand up for kids' health

Seize opportunity to meet Obama's commitment to insure all children

Guest column by U.S. Rep. Diana DeGette, D-Colo.

Tuesday, May 12, 2009

The political and public will to reform our broken health care system presents a unique opportunity for America's children. We cannot simply rest on our accomplishment of reauthorizing the Children's Health Insurance Program (CHIP) — we must build upon it.

As Congress works with President Obama to reform health care, we must carefully examine children's health policy and seize the opportunity to guarantee that age and developmentally appropriate health benefits are provided for every child in the United States.

With the combination of private insurance, Medicaid and CHIP as a solid foundation, the goal of health reform should be to harmonize eligibility and enrollment rules and to provide children comprehensive and continuous coverage.

Enroll in Medicaid, CHIP

No population in our country, other than those over age 65 who are covered by Medicare, is as close to universal coverage as children 18 and under. If all children eligible for Medicaid and CHIP actually enrolled in those programs, the number of uninsured children would drop by approximately 70 percent.

This is staggering. In fact, we could be halfway toward that 70 percent reduction in uninsured children if states voluntarily take advantage of the enrollment incentives provided for under CHIP.

Yet even then millions of children will remain uninsured.

Major objective

Comprehensive and continuous health coverage for all children should be one of the major objectives of health reform, whether through a mandate for coverage, automatic enrollment at birth with parental choice of coverage, default coverage to fill in if breaks in coverage occur, or a combination of these mechanisms.

Ensuring that Medicaid and CHIP can work together with other sources of coverage — for example, through premium assistance or, in Medicaid's case, as a secondary payer — can increase the stability of coverage for children and their families.

However, Medicaid's unique role in paying for services not traditionally covered by private insurance must be preserved.

Eliminate pre-existing conditions exclusions

In order to achieve seamless coverage, we need to eliminate pre-existing condition exclusions and waiting periods, and simplify the enrollment process. Unlike Medicare, enrollment in Medicaid and CHIP isn't easy or automatic, and it isn't the same for all eligible children.

Making matters worse, states often build barriers to enrollment in the face of challenging economic conditions.

Changes in family income, employment or employer-sponsored coverage, or moving to a new job or state, can all create significant breaks in coverage and the same delays in care as having no coverage at all.

We can smooth the course for parents and children by addressing these issues and the many other complications that prevent our current public programs from reaching everyone who is eligible.

Children have different needs

Children are not just small adults. Benefits for children in these programs should reflect their unique health and developmental needs with an emphasis on prevention and wellness.

More and more young children are diagnosed with chronic diseases such as Type 2 diabetes, and many chronic conditions in adulthood have their foundations in childhood.

Renewing an emphasis on primary care and a medical home, coupled with a child-oriented benefits package and/or medical necessity standard, will go a long way toward preventing chronic disease and improving health outcomes.

Providing suitable health care for children, including preventive care, dental care and care coordination for children with chronic illnesses, can make a difference for a lifetime.

Children's health care generally costs less than half that of adults.

Most children are healthy and only require routine immunizations, basic primary and preventive care and treatment for acute

illness or injury.
We should encourage utilization of such care by eliminating barriers to access, such as co-payments and deductibles for preventive services.

Invest in basic care

We also should recognize the importance of investing in such simple, basic care. For example, think about the case of Deamonte Driver, who died of complications arising from an abscessed tooth — access to appropriate dental benefits could have actually made the difference between life and death.
Both Medicaid and CHIP have been major successes in covering children, including children with special health care needs. Addressing key issues relating to enrollment, coverage gaps, access to care (particularly with Medicaid's often low payments) and system reform will lead to better care for children and lower costs in the long run and in the delivery of children's health care.

More needs to be done

Health reform could potentially offer big gains or losses for children's coverage.
While the expansion of the children's health program was an exciting win for President Obama and Congress, much more can be accomplished for children as we move forward with health reform.
Keeping the status quo and failing to build upon the gains we have already made would be a loss itself.
Children will need a special focus during the health care debate, and it is up to us to make sure that health reform will also work for them.

U.S. Rep. Diana DeGette, D-Colo., is vice chairwoman of the House Energy and Commerce Committee.
Her views are hers alone and not necessarily those of the Denver Daily News. Respond to this guest editorial at editor@thedenverdailynews.com.

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5. CONSUMER SAFETY: House panel to scope complaints of product safety bill

(05/12/2009)

Sara Goodman, E&E reporter

Sweeping consumer legislation that President George W. Bush signed into law last year will be in the crosshairs Thursday as the House Small Business Committee's Investigations and Oversight panel meets to look into the act's effect on small businesses.

The Consumer Product Safety Improvement Act passed with overwhelming bipartisan support, but the bill has been mired in controversy over how it is being implemented. Small businesses are concerned that some of the requirements, such as lead testing and tracking labels, could cost thousands of dollars and put them out of business.

Lawmakers want to hear from some of those companies about the challenges they face in complying with the legislation, as well as how the agency can minimize regulatory burdens, according to a committee aide. Of particular concern are testing requirements for lead -- the bill requires that all products to be sold in the United States for children younger than 12 be tested for lead.

The committee is considering ways to lessen the burden on store owners, the aide said. This could entail having component testing, where the manufacturer tests the lead-containing parts of the product.

Another issue is the product labeling requirement of the bill, which requires new tracking labels starting in August in an effort to facilitate recalls. But the Consumer Product Safety Commission has not yet issued rules on this, which does not give manufacturers much time to get ready. The National Association of Manufacturers has petitioned the agency for an emergency stay of enforcement for one year, which commissioners will vote on later this week.

"We needed to act to make sure children's products were safe, but we want to make sure the law doesn't have unintended consequences that unfairly hurt small businesses but don't have a huge impact of improving product safety," the aide said.

The bill is challenging both industry and the regulatory agency itself. CPSC did not receive funding to begin to implement the requirements for six months, and staff are struggling with the deadlines mandated in the bill, a group of agency officials wrote to lawmakers in March. The law's far-reaching provisions also have resulted in unexpected consequences, the officials said.

Lawmakers have also sent a flurry of letters in the wake of the bill's passage, with several Democrats calling for the current acting commissioner, Nancy Nord, to resign because of her handling of the legislation. Republicans, meanwhile, have focused on the bill's specific effects on small businesses, with several calling for delays of certain requirements to give manufacturers time to comply.

Meanwhile, public health advocates are looking to President Obama's nominations last week of a leadership position at the agency to provide new direction to implement the act -- former South Carolina Education Superintendent Inez Moore Tenenbaum to be chairwoman. Obama also proposed two more seats on the panel and asked Congress for $107 million to fund the agency.

Schedule: The hearing is Thursday, May 14, at 10 a.m. in 2360 Rayburn.

Witnesses: Nancy Nord, acting chairman of CPSC; Laurel Schreiber with Lucy's Pocket; Suzi Lang with Starbright Baby; David McCubbin with McCubbin Hosiery LLC.; and Anthony Vittone, vice president of Swimways Corp.

Energy/Environment

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OMB Memo: EPA CO2 Rules Likely To Subject Small Businesses

By Ian Talley

¶ Of DOW JONES NEWSWIRES

¶ WASHINGTON (Dow Jones)--U.S. regulation of greenhouse gases such as carbon dioxide "is likely to have serious economic consequences" for businesses small and large across the economy, an Obama Administration White House memo warned the Environmental Protection Agency earlier this year.

¶ The single legal opinion, sent from the Office of Management and Budget to the EPA, is in stark contrast to the official position presented by President Barack Obama and his cabinet officials. It's likely to give critics of greenhouse gases regulation ammunition in their political salvos against the Administration.

¶ Cabinet officials, including the President's climate change czar Carol Browner, have said the Administration would prefer Congress to create greenhouse gas regulations through legislation, and not through EPA's Clean Air Act authority.

¶ But the White House has given the EPA the greenlight to move ahead with regulation under the Clean Air Act - a move deemed by some analysts as political leverage for Congress to act because of the bluntness of the tool.

¶ According to government records, the document was submitted by OMB as comment on the EPA's April proposed finding that greenhouse gases are a danger to public health and welfare, a key trigger for regulation of the gases emitted from cars, power plants, and potentially any number of other sources, including lawnmowers, snowmobiles and hospitals. The EPA has said that regulations would only be for large emitters.

¶ The memo - marked as "Deliberative-Attorney Client Privilege" - doesn't have a date or a named author. But it's posted on a government web site under OMB materials, and the EPA official responsible for publishing documents related to the proposed EPA greenhouse gas endangerment rule confirmed to Dow Jones Newswires that it originated from the OMB. He said it was filed to the EPA after the agency sent its proposed endangerment finding to the White House for review.

¶ The position outlined in the memo is at odds with other White documents on the proposed rule, which appear to affirm the EPA's decision to move ahead with the endangerment finding.

¶ "Making the decision to regulate CO2 under the (Clean Air Act) for the first time is likely to have serious economic consequences for regulated entities throughout the U.S. economy, including small businesses and small communities," the OMB document reads.

¶ Head of the U.S. Chamber of Commerce's environment and regulatory affairs, William Kovacs said the memo, "Confirms almost everything we've been saying on the spill-over effects of regulating greenhouse gases."

¶ Earlier this year, EPA chief Lisa Jackson dismissing concerns raised by groups such as the Chamber and the National Association of Manufacturers, saying, "It is a myth...EPA will regulate cows, Dunkin Donuts, Pizza Huts, your lawnmower and baby bottles."

¶ An OMB spokesman wasn't immediately able to comment or elaborate on the details of the memo.

¶ The White House legal briefing starts by questioning the link between the EPA's scientific technical endangerment proposal and the political summary that says the "scientific findings in totality point to compelling evidence of human-induced climate change, and that serious risks and potential impacts to public health and welfare have been clearly identified..."

¶ "The finding rests heavily on the precautionary principle, but the amount of acknowledged lack of understanding about the basic facts surrounding (greenhouse gases) seem to stretch the precautionary principle to providing regulation in the face of unprecedented uncertainty," the memo reads.

¶ It also warns that the endanderment finding - if finalized by the Administration - could make agencies vulnerable to litigation alleging inadequate environmental permitting reviews, adding that the proposal could unintentionally trigger further a cascade of regulations.

¶ By Ian Talley, Dow Jones Newswires; (202) 862 9285; ian.talley@dowjones.com;

Energy Tribune
Leading the debate. Beating the street.

India Chooses Coal, Not Kyoto

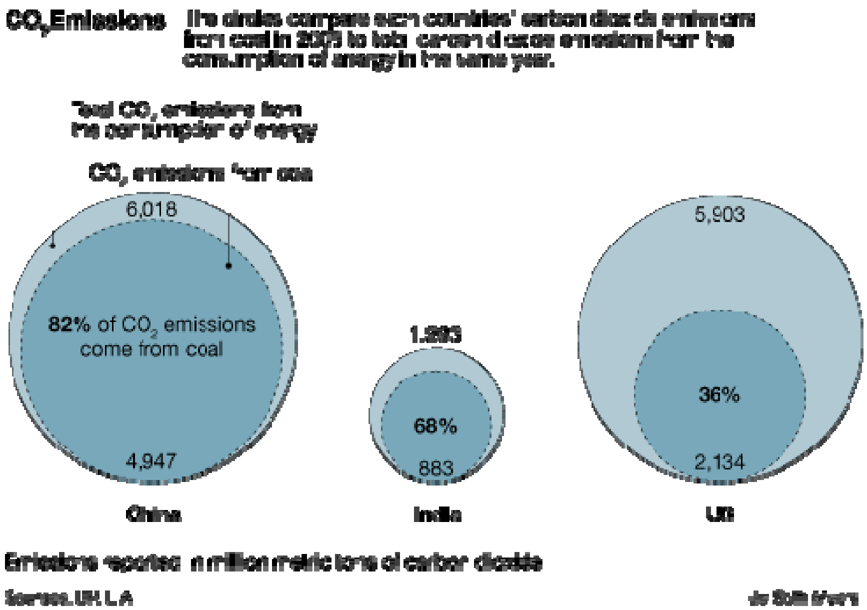
Posted on May. 11, 2009

By Priyanka Bhardwaj and Robert Bryce

With the rest of the world talking about carbon dioxide emissions and another Kyoto-style emission reductions plan, India continues to utilize the energy source that it has in abundance: coal.

India gets 51.4 percent of its primary energy from coal, making it the fourth-most coal dependent country in the world. And the primacy of coal will continue for decades to come as India has enough coal reserves to last for the next 100 years.

The result of all that coal use: India's carbon emissions are rising faster than nearly every other country on the planet. Between 1980 and 2006, the country’s carbon output increased by 341 percent. That’s a greater rate of increase than that of China (312 percent), Brazil (103 percent), Indonesia (238 percent), or Pakistan (272 percent). By 2006, India was the third-largest carbon emitter in the world, with nearly 1,300 million tons of carbon dioxide, behind only the US (5,902 million tons) and China (6,017 million tons).



Given those numbers and India’s enormous population, two additional points are obvious: India’s carbon emissions are going to continue rising; and India will not be agreeing to any type of mandatory emission caps in the post-Kyoto Protocol world.

The key issue for India is electricity. The country desperately needs more electric power and coal is the cheapest and easiest way for the country to produce more electricity. About 69 percent of India's electricity is generated by coal-fired power plants. The country has over 80 coal-fired power plants and more are on the way.

Coal is the most abundant hydrocarbon in India, with reserves of some 56.5 billion tons, about 6.7 percent of the world's known reserves. And while the country wants to increase its use of renewables and nuclear, those sources will remain small players for the foreseeable future. By 2012, India hopes to have 10 percent of its power capacity comprised of renewable sources like hydro, wind, and solar. Those sources now account for about 8 percent of the country's capacity. Nuclear continues to be a niche player, with a 2.5 percent share of the electricity market.

Between 1990 and 2007, electricity generation in India jumped by 172 percent, making it the 14th-fastest growing electricity market in the world over that time frame. Over that same time frame, India's coal consumption grew by 124 percent. In 2007, the latest year for which accurate data is available, India's coal use was the equivalent of about 4.1 million barrels of oil. That was a 6.6 percent increase over 2006 levels.

One factor could restrain India's coal plans: politics. The richest coal mining regions are in the eastern and central states of Jharkhand, Orissa, Chhatisgarh and Bihar. And some of those regions have been affected by communist rebels known as Naxalites.

Nevertheless, the Indian government has said that it wants to make electricity available to all of its citizens by 2012. If it is to achieve that goal, and keep the electricity flowing, India will be burning lots of coal.

World Bank Says India Right In Resisting Mandatory Emission Reductions

The World Bank has found through a study that it would be impossible for India to reduce its greenhouse gas emissions without adversely affecting its fight to eliminate poverty.

The World Bank recently conducted a study according to which it came to the conclusion that since the Indian government is likely to aggressively push for rural electrification it would be difficult to control the resulting increase in carbon emissions. The organization noted that there would be a 3.5 times increase in India's carbon emissions by 2031-32 from current levels, however, this increase can be abated to 2.7 times if low-carbon policies are implemented by the government.

The study is going to add teeth to Indian government's stand at the international level as it continues to oppose calls to agree to some kind of emission reduction targets. While the developed countries argue that an international climate change agreement would be meaningless without developing countries like India and China being a party to it, India has maintained that owing to their historical responsibility the developed national need to set more ambitious reduction targets before asking developing countries to do the same.

The backbone of India's argument in opposition to emission reductions is its low per capita emissions - India's per capita emissions are almost twenty times less than of those of the United States. India and China have often targeted the luxurious lifestyles common in the Western countries and have argued that governments of developed countries must take step to reduce their domestic carbon output.

Obviously it would be wrong to make India reduce its carbon emissions at the expense of economic development, especially at this time of economic recession when the developing countries have become the new centers of growth. Electricity is a major problem in India with thousands of villages still reeling under hours of black outs, the situation is only marginally better in the second-tier cities. India with its large reserves of coal would naturally prefer using it over other costly and less abundant fuels like oil and gas.

However, India is the third largest GHG producer and that is because of the comparatively less clean technologies used by its industries. Thus India must work on improving the technology used by its industrial sector. A way of reducing carbon emissions could be through **voluntary sectoral emission reductions**.

India already enjoys significant amount of investment through United Nations Clean Development Mechanism and the EU recently proposed a plan through which India could reduce its carbon emissions with monetary and technical help form the developed countries without worrying about penalties in case of failure to meet emission targets.

Under the proposed plan, developing countries would set voluntary emission targets for carbon-intensive industries like cement and steel and would try to keep emissions below that limit. If they succeed in doing so they can sell emission rights to other countries and generate revenue. There will not be any penalties, however, if the industries exceed the emission limits. Private as well as public sectors companies, with revenue from selling carbon credits, can very well support a part of this emission reduction plan.

Since India is still considered primarily an agricultural country, supply of electricity to rural areas is essential and any increase in the utility bills would be highly unwelcome. However, the government must study the option of reducing carbon emissions from other industries. Companies already selling credits can set small emission targets for themselves and can also apply for acquiring cleaner equipment. The developed countries are bound by international treaty to reduce emissions but India, too, should recognize its responsibility and contribute whatever little it can while the developed countries are offering to help.

Health

The New York Times

May 12, 2009

45 Centrist Democrats Protest Secrecy of Health Care Talks

By ROBERT PEAR

WASHINGTON — Forty-five House Democrats in the party's moderate-to-conservative wing have protested the secretive process by which party leaders in their chamber are developing legislation to remake the health care system.

The lawmakers, members of the fiscally conservative Blue Dog Coalition, said they were "increasingly troubled" by their exclusion from the bill-writing process.

They expressed their concerns in a letter delivered Monday to three House committee chairmen writing the bill, which House leaders hope to pass this summer.

Representative Mike Ross, an Arkansas Democrat who is chairman of the coalition's health task force, said: "We don't need a select group of members of Congress or staff members writing this legislation. We don't want a briefing on the bill after it's written. We want to help write it."

Mr. Ross and eight other lawmakers who signed the letter are on the committees responsible for writing the legislation.

Centrist Democrats said they fully endorsed President Obama's goal of guaranteeing access to health insurance and health care for all. But, they said, they are concerned about the cost of the legislation, which could easily top $1 trillion over 10 years. And they want to be sure that the role of any new government-sponsored insurance program, expected to be a centerpiece of the bill, is carefully delineated.

Many Blue Dogs come from usually Republican districts or swing districts and see their stance on health care as vital to their political survival. By contrast, the committee chairmen writing the House bill have safe Democratic seats.

The Blue Dogs said the policy-making process in the House compared unfavorably with the approach in the Senate, where two committees have held open forums and the chairman of the Finance Committee, a Democrat, is working with the panel's senior Republican.

In the letter, Blue Dogs representing districts in states as varied as Maine, California, Pennsylvania and Alabama lamented that "our contributions, to date, have been limited." They praised "the collaborative approach being taken by our Senate colleagues."

The committee chairmen writing the House bill are Representatives Henry A. Waxman and George Miller, both of California, and Charles B. Rangel of New York.

Asked about the letter, Karen Lightfoot, a spokeswoman for Mr. Waxman, said he had met with some members of the Blue Dog Coalition and welcomed their suggestions. When she was asked why, then, they were complaining, she said, “That’s more of a question for the Blue Dogs than for us.”

Representative Parker Griffith, a retired physician from Alabama, was among the letter’s signers. Mr. Griffith said he needed to see details of the proposal for a new public insurance plan before knowing if he could support it.

Another coalition member, Representative Jim Cooper of Tennessee, did not sign the letter, but expressed similar concerns.

“Especially in the House,” Mr. Cooper said, “there’s too much of this attitude that if it’s bipartisan, that just means you didn’t negotiate hard enough. I hear that a lot from folks. They are almost looking for ways to eliminate Republican support.”

The New York Times

May 12, 2009

EDITORIAL
A Moderate Plan for Health Care

One of the most contentious issues in the Congressional debate over health care reform is over whether to create a new public plan to compete with private insurers. Senator Charles Schumer of New York is making strenuous efforts to forge a compromise that ought to appeal to political moderates who are not reflexively opposed to a government-run program or beholden to private insurers concerned about profit margins.

Any competition between a new public plan and private plans would be waged on a regulated field of battle within a new health insurance exchange. Most reform proposals envisage the exchange as a place where individuals unable to obtain coverage at work and ineligible for existing public programs like Medicaid could buy policies that would be available to everyone without regard to pre-existing medical problems. Low-income people would get subsidies to help buy a private or public plan.

Opponents of a new public plan have raised the specter that it might have unfair advantages that would enable it to draw customers from private insurers and ultimately drive them out of business, leaving virtually all Americans enrolled in a full-fledged single-payer system, like Medicare. That prospect could be mitigated by appropriate ground rules.

The insurance industry is so desperate to avoid competition that it has already pledged numerous reforms and called for tighter regulation of the private market to expand coverage and control costs. But even with tighter regulation, Congress should include a public plan option to give consumers broader choice, provide a refuge for people who don't trust private insurers to have their best interest at heart and serve as a yardstick for judging the performance of private plans.

Private plans have done a poor job at restraining premium increases; they mostly pass rising medical costs on to the subscriber. A good dose of competition from a public plan with potentially lower administrative costs and no need to generate profits might be the right competitive medicine to improve their performance.

Senator Schumer, a Democratic member of the crucial Senate Finance Committee who was assigned to study the issue, has come up with some reasonable principles to ensure that any competition between a public plan and private plans would be a fair fight. In general, he suggests that a public plan should have to comply with the same rules and standards as private plans.

The public plan could not be supported by tax revenues or government appropriations but by premiums and co-payments. It would have to maintain reserves, like private insurers, and provide the same minimum benefits as all other insurers in the exchange. It could not compel doctors who want to participate in Medicare to also participate in the new public plan. And it would be run by different officials from those who run the insurance exchange to lessen the likelihood that federal officials would give unfair advantages to their program.

One can argue over details, but Mr. Schumer is on the right track. It should be possible to design a system in which public and private plans could compete without destroying the private coverage that most Americans have and for the most part want to keep. The question is whether Republicans in Congress are willing to try.

The Washington Post

$2 Trillion in Hope

The White House and a health-care coalition promise savings, but no one's offering specifics.

Tuesday, May 12, 2009

TWO TRILLION dollars in health-care savings, as hailed by President Obama in the White House yesterday, would be nothing to sneeze at. It was encouraging to hear pledges of cooperation on that front from groups that in the past have fought against health-care reform, and against each other. But we wouldn't take the savings to the bank just yet, and we hope Mr. Obama won't, either.

Associations representing hospitals, health-care providers, insurance companies, device manufacturers and pharmaceutical makers, as well as the Service Employees International Union, offered their commitment to help reduce the annual growth of health-care costs by 1.5 percentage points. If implemented, this would mean the country would spend $2 trillion less during the coming decade than currently projected, with somewhere between $500 billion and $1 trillion accruing to the federal government. This would help alleviate the cost of health care for families and go a long way toward solving the nation's budget woes.

But it is important to note what wasn't included yesterday. None of the interest groups signed up for a specific number; no one is saying who will sacrifice what, or how much. All are promising to "do our part," but the actual share of the $2 trillion that would fall on each pair of shoulders was not laid out. What would make up the substance of the plan? That remains to be seen. How would the private sector be held accountable for this promise to reduce costs? That, too, remains to be seen.

The White House has emphasized repeatedly that health-care reform is entitlement reform -- that is, an answer to the nation's long-term fiscal challenge. Yet, so far, it is backing a plan to expand coverage that would cost taxpayers between $1 trillion and $1.5 trillion over 10 years, while it has proposed health-care savings of only $309 billion. There is a danger that the administration and Congress alike will be tempted to "pay for" actual government expenditures with presumed but unspecified savings, like those promised yesterday. In fact, even as they promise cost control, a number of the groups that met with the president yesterday also have argued that health-care reform should not be held to Congress's pay-as-you-go rules.

There's no doubt that the U.S. health system today pays for a lot of wasteful and unnecessary care. But, as with "fraud, waste and abuse" in the Defense Department, it's easier to rail against such care than to identify and eradicate it. Smarter use of technology, and more preventive care, could reduce health bills in the long run but would be very expensive in initial stages. Pressure will mount on the Congressional Budget Office to change its rules to "score" certain dubious savings to make it easier to offset the costs of expanding coverage.

The White House has stated clearly that any reform bill should be fully paid for. To ease suspicions that the associations he met with yesterday are only talking a good game on cost control to ensure a seat at the bargaining table of health-care reform, the president will have to reaffirm his commitment to pay fully for health care and get to that goal without gimmicks. Nonetheless, for the same reason that one could view this coalition of strange health-care bedfellows suspiciously, their coming together is a positive sign for health-care reform. It is far better having them on the inside and committed to change than having them on the outside throwing rocks. It is particularly heartening that they are committed to controlling costs, the most challenging, yet indispensable, part of health-care reform.

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THE WALL STREET JOURNAL.
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OPINION | MAY 12, 2009

How ObamaCare Will Affect Your Doctor

Expect longer waits for appointments as physicians get pinched on reimbursements.

By SCOTT GOTTLIEB

At the heart of President Barack Obama's health-care plan is an insurance program funded by taxpayers, administered by Washington, and open to everyone. Modeled on Medicare, this "public option" will soon become the single dominant health plan, which is its political purpose. It will restructure the practice of medicine in the process.

Republicans and Democrats agree that the government's Medicare scheme for compensating doctors is deeply flawed. Yet Mr. Obama's plan for a centrally managed government insurance program exacerbates Medicare's problems by redistributing even more income away from lower-paid primary care providers and misaligning doctors' financial incentives.

Like Medicare, the "public option" will control spending by using its purchasing clout and political leverage to dictate low prices to doctors. (Medicare pays doctors 20% to 30% less than private plans, on average.) While the public option is meant for the uninsured, employers will realize it's easier -- and cheaper -- to move employees into the government plan than continue workplace coverage.

The Lewin Group, a health-care policy research and consulting firm, estimates that enrollment in the public option will reach 131 million people if it's open to everyone and pays Medicare rates, as many expect. Fully two-thirds of the privately insured will move out of or lose coverage. As patients shift to a lower-paying government plan, doctors' incomes will decline by as much as 15% to 20% depending on their specialty.

Physician income declines will be accompanied by regulations that will make practicing medicine more costly, creating a double whammy of lower revenue and higher practice costs, especially for primary-care doctors who generally operate busy practices and work on thinner margins. For example, doctors will face expenses to deploy pricey electronic prescribing tools and computerized health records that are mandated under the Obama plan. For most doctors these capital costs won't be fully covered by the subsidies provided by the plan.

Government insurance programs also shift compliance costs directly onto doctors by encumbering them with rules requiring expensive staffing and documentation. It's a way for government health programs like Medicare to control charges. The rules are backed up with threats of arbitrary probes targeting documentation infractions. There will also be disproportionate fines, giving doctors and hospitals reason to overspend on their back offices to avoid reprisals.

The 60% of doctors who are self-employed will be hardest hit. That includes specialists, such as dermatologists and surgeons, who see a lot of private patients. But it also includes tens of thousands of primary-care doctors, the very physicians the Obama administration says need the most help.

Doctors will consolidate into larger practices to spread overhead costs, and they'll cram more patients into tight schedules to make up in volume what's lost in margin. Visits will be shortened and new appointments harder to secure. It already takes on average 18 days to get an initial appointment with an internist, according to the American Medical Association, and as many as 30 days for specialists like obstetricians and neurologists.

Right or wrong, more doctors will close their practices to new patients, especially patients carrying lower paying insurance such as Medicaid. Some doctors will opt out of the system entirely, going "cash only." If too many doctors take this route the government could step in -- as in Canada, for example -- to effectively outlaw private-only medical practice.

These changes are superimposed on a payment system where compensation often bears no connection to clinical outcomes. Medicare provides all the wrong incentives. Its charge-based system pays doctors more for delivering more care, meaning incomes rise as medical problems persist and decline when illness resolves.

So how should we reform our broken health-care system? Rather than redistribute physician income as a way to subsidize an expansion of government control, Mr. Obama should fix the payment system to align incentives with improved care. After years of working on this problem, Medicare has only a few token demonstration programs to show for its efforts. Medicare's failure underscores why an inherently local undertaking like a medical practice is badly managed by a remote and political bureaucracy.

But while Medicare has stumbled with these efforts, private health plans have made notable progress on similar payment reforms. Private plans are more likely to lead payment reform efforts because they have more motivation than Medicare to use pay as a way to achieve better outcomes.

Private plans already pay doctors more than Medicare because they compete to attract higher quality providers into their networks. This gives them every incentive, as well as added leverage, to reward good clinicians while penalizing or excluding bad ones. A recent report by PriceWaterhouse Coopers that examined 10 of the nation's largest commercial health plans found that eight had implemented performance-based pay measures for doctors. All 10 plans are expanding efforts to monitor quality improvement at the provider level.

Among the promising examples of private innovation in health-care delivery: In Pennsylvania, the Geisinger Clinic's "warranty" program, where providers take financial responsibility for the entire episode of care; or the experience of the Blue Cross Blue Shield plans in Pennsylvania, Michigan and Virginia, where doctors are paid more for delivering better outcomes.

There are plenty of alternatives to Mr. Obama's plan that expand coverage to the uninsured, give them the chance to buy private coverage like Congress enjoys, and limit government management over what are inherently personal transactions between doctors and patients.

Rep. Nydia Velazquez (D., N.Y.) has introduced a bipartisan measure, the Small Business Cooperative for Healthcare Options to Improve Coverage for Employees (Choice) Act of 2009, that would make it cheaper and easier for small employers to offer health insurance. Mr. Obama would also get bipartisan compromise on premium support for people priced out of insurance to give them a wider range of choices. This could be modeled after the Medicare drug benefit, which relies on competition between private plans to increase choices and hold down costs. It could be funded, in part, through tax credits targeted to lower-income Americans.

There are also measures available that could fix structural flaws in our delivery system and make coverage more affordable without top-down controls set in Washington. The surest way to intensify flaws in the delivery of health care is to extend a Medicare-like "public option" into more corners of the private market. More government control of doctors and their reimbursement schemes will only create more problems.

Dr. Gottlieb, a former official at the Centers for Medicare and Medicaid Services, is a fellow at the American Enterprise Institute and a practicing internist. He's partner to a firm that invests in health-care companies .

Please add your comments to the Opinion Journal forum.

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THE WALL STREET JOURNAL.
WSJ.com

REVIEW & OUTLOOK | MAY 12, 2009

Signing On to an Obama 'Dream'

Health providers agree to Obama health plan's notion of cost savings.

At a news conference yesterday, President Obama said, "I will not rest until the dream of health-care reform is achieved in the United States of America." Normally dreams cost you nothing, but Mr. Obama's determination not to rest until his becomes reality is likely to cost plenty. Yesterday a coalition of private health-system providers, seeing no exit from the administration's reform plans, signed on to the dream.

They agreed in principle to try to shave 1.5 percentage points off the growth rate of U.S. health-care costs over the next decade, about $2 trillion. This vague, probably illusory promise isn't much as a matter of policy, but it is a major political development in what is the Obama Presidency's No. 1 priority.

The private groups are calculating that they can better influence this year's bill if they're "partners" instead of villains. They've no doubt seen what happened to Wall Street and Chrysler bondholders. All the same, they must surely know they have made a Faustian bargain that in time will result in price controls and restrictions on care.

The Obama Administration, by contrast, is convinced that it is smart enough to engineer more efficient medical practices out of D.C. The dominant White House voice on health policy is Peter Orszag, the budget chief. He cites research out of Dartmouth that shows health-care spending varies wildly between regions, often with little or no correlation to health outcomes.

Mr. Orszag champions "comparative effectiveness research" -- studying the patterns of clinical practice to determine which drugs and treatments work best. The Administration thinks it can use such analysis to weed out wasteful or unnecessary care by paying more "if the treatment has been shown to be effective and a little less if not," as Mr. Orszag recently told the New Yorker.

The irony is that the history of post-1965 U.S. health care policy is littered with similar government attempts to control health spending, not least comparative effectiveness. The "managed care" movement of the 1990s grew directly out of the peer-review panels created by Congress in 1972 to monitor the quality and appropriateness of care for Medicare and Medicaid patients.

Under managed care, doctors and hospitals had to undergo prior "utilization review" by HMOs to reduce unnecessary hospitalizations, surgeries, tests, prescriptions and so on. This cost-effectiveness gatekeeping disciplined health spending. What happened next to this version of the dream is known to all.

Administrative hassles led to a consumer backlash, with patients feeling they were getting inferior care in return for insurer profits. The political class eventually forced the HMOs to dilute or end most of their cost-control strategies.

Democrats have now acknowledged that the managed care dream will work only if *government* is the one doing the managing. That is, we can only control costs with a new government entitlement. More is less.

But you can only allocate a scarce resource in two ways: market prices or brute force. In health care the brute force will come as price controls and waiting lines for rationed services. The implicit assumption in the providers' deal announced yesterday seems to be that the private companies will do the price controlling so the government won't have to do it for them.

But when the savings prove illusory, as in the past, the feds will step in and order them to do so. To win a false reprieve for themselves and give cost cover to the politicians, these private CEOs are offering to make themselves even more unpopular with patients. By that point, most patients will have no choice but to assent, since most of them will be in one government program or another.

Lest anyone remains in doubt about the ultimate goal here, Ralph Neas of the leftist National Coalition on Health Care got out a quick statement throwing ice water on the industry's concession. With perfect clarity Mr. Neas said: "Voluntary efforts -- without legislated requirements and enforcement -- have not worked well in the past."

The only benefit here is that it is now possible to see where this issue is headed: A new legislated entitlement for the middle class will ensure that the next great health-care argument to engulf the political system is going to be over how and when to ration care.

Please add your comments to the Opinion Journal forum.

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May 12, 2009

Hospitals Begin to Move Into Supermarkets

By MILT FREUDENHEIM

As walk-in clinics at stores like CVS and Wal-Mart offer convenient alternatives to doctors' offices and hospital emergency rooms, some hospitals are fighting back — with walk-in clinics at some of those same retailers.

Around the country, hospitals are now affiliated with more than 25 Wal-Mart clinics. The Cleveland Clinic has lent its name and backup services to a string of CVS drugstore clinics in northeastern Ohio. And the Mayo Clinic is in the game, operating one Express Care clinic at a supermarket in Rochester, Minn., and a second one across town at a shopping mall.

Many primary-care doctors still denigrate the retail clinics as cheap, unworthy competitors. But hospitals see the clinics as a way to reach more patients and expand their business. And they argue that as President Obama and Congress warn of a shortage of primary-care physicians, the hospital-linked retail clinics are filling a vital public need.

The walk-in centers help clear hospital emergency rooms of people seeking only basic medical care, like antibiotics for strep throat. But in contrast to E.R.'s, which in many states cannot legally turn away those unable to pay, the retail clinics typically serve only patients with insurance or money.

And even if $77 throat cultures or $30 physicals do not represent a vast new source of profit for hospitals, retail clinics can play a marketing role, helping establish relationships with customers who may eventually need more lucrative in-hospital care.

Consumers who use the clinics are often "exactly the customers that hospitals want — women of child-bearing age," said Margaret Laws, a policy expert at the California Health Care Foundation. "The hospitals want to deliver babies," she said.

The idea of retail clinics took root about four years ago, and more than 1,000 are now operating around the country in drugstores, supermarkets and big-box discounters. But in the early going, few were linked to hospitals or medical centers. Now, though, about 1 in 10 has a hospital connection, according to Merchant Medicine News, an online newsletter for the clinic industry. And many more are planned.

Wal-Mart, for instance, which opened its 26th hospital-connected clinic last week in Republic, Mo., in the Ozarks, says it will add dozens more in the coming months. Its hospital partners include the Christus Medical Group, in Texas; the Aurora Health System, in Wisconsin, and CoxHealth in Missouri.

The Mayo Clinic, the largest private employer in Minnesota, says it opened its clinics after hearing employees and patients say they wanted more convenient treatment for minor medical problems.

“We think of ourselves as a new model of care; we meet our patients at least halfway,” said Dr. David Herman, a Mayo executive who supervises the two retail clinics — along with six Mayo primary-care doctors’ offices that are now open late and on weekends.

He said hospital and health care systems like Mayo should consider demand for walk-in clinics a sign that “maybe our primary-care practices in general are not as convenient and transparent as our patients want them to be.”

Typically staffed by physician assistants or nurse practitioners, often supervised remotely by doctors, the hospital retail clinics can operate at relatively low cost compared with primary-care doctors’ offices or emergency rooms. The lower fees make them especially attractive right now, as an estimated 45 million to 50 million people in this country lack insurance, and the ranks of the unemployed are growing by the month.

According to a recent survey by Harris Interactive, 11 percent of adults said they or someone in their immediate family had used a store clinic in the last 10 months, up from 7 percent a year earlier.

“The economics in the health system are broken,” said Dr. Brian Nester, a senior vice president at the Lehigh Valley Health Network, part of a three-hospital system in Allentown, Pa., and nearby Bethlehem. “We need to find out how clinics with nurse practitioners and physicians assistants will fit in.”

Lehigh Valley Health, in a collaboration with a big regional medical provider, Geisinger Clinic, operates retail clinics in two supermarkets.

One recent afternoon, Melissa Marrero, 33, a social worker, and her husband Magdiel, 32, a security guard, walked in without an appointment to the King’s Market clinic in an Allentown mall. The Marreros, who are uninsured, needed physicals for their application to become foster parents. The clinic charges $30 for a physical.

“It was great — fast service and real convenient,” Ms. Marrero said afterward.

Janelle Sharma, the nurse practitioner in charge, said that more than one-third of the clinic’s patients were uninsured.

For several years the doctors affiliated with Lehigh Valley Health opposed the hospital’s plan to start a supermarket clinic. The physicians relented after the Geisinger version showed up on their turf and Lehigh Valley Health promised that patients treated in stores would be urged to follow up with a local doctor.

Dr. Will Miller, the chairman of family medicine doctors with practicing privileges at Lehigh Valley Health’s hospital in Allentown, said he still opposed the clinics. They work against the ideal of a primary-care doctor’s office that gets to know a patient’s medical needs and condition over time and coordinates his or her care, he said.

Dr. John VanBrakle, the hospital’s chairman of pediatrics, noted that the American Academy of Pediatrics, a professional organization, opposed the clinics for the same reason.

In some ways, the resistance of primary-care doctors might be more about principle than practice. As policy makers in Washington bemoan the shortage of such physicians, it may be difficult for doctors in many parts of the country to persuasively argue that the retail clinics pose serious competition.

Dr. VanBrakle said local pediatricians in the Lehigh Valley had not, in fact, noticed the retail clinic's having any impact on their practices. "The vast majority don't feel very strongly about it one way or the other," he said.

Dr. Herman, of Mayo, says that rather than buck the trend, primary-care doctors should learn from it. He predicts that small groups of primary-care doctors around the country will begin working with hospitals to offer some of the same inducements as store clinics — like convenient locations and more consumer-friendly office hours, including periods of walk-in care requiring no appointment.

The primary-care doctors, he said, should try to beat the store clinics at their own game. As for the ones that lack a hospital connection, "It will make it more difficult for them," Dr. Herman said.

May 12, 2009

Wal-Mart Begins to Rebuild Health Clinic Business

By MILT FREUDENHEIM

Wal-Mart's medical clinics are coming out of rehab.

Early last year, the company spoke of having 400 walk-in clinics by 2010. But later in 2008, that plan went into reverse. Of the 78 clinics Wal-Mart had in operation at the beginning of 2008, all but 17 were closed.

Now it is rebuilding that business, this time largely in partnership with hospitals.

Originally, H. Lee Scott Jr., the Wal-Mart chief executive who retired this year, had assigned a big role for the clinic project to RediClinic, a privately held company backed by Steve Case, the AOL co-founder. But last December RediClinic, citing the poor economy, abruptly shut down its 15 Wal-Mart centers.

Christi Gallagher, a spokeswoman for Wal-Mart, said her company was "disappointed that RediClinic chose to close all of their locations." She noted that Wal-Mart had reopened two former RediClinics in Arkansas, Wal-Mart's home state, in a partnership with the Northwest Health System. Wal-Mart now has 33 clinics around the country — 26 of them with a hospital affiliation.

Brad Burns, a spokesman for Mr. Case's holding company, Revolution Health, said in an e-mail message that RediClinic was not happy with its role at Wal-Mart. "My understanding is RediClinic was looking for commitments from Wal-Mart to justify the capital investments and concluded it would be better to part ways."

RediClinic itself is now focused on partnering with hospitals for its retail clinics, he said. MILT FREUDENHEIM

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HILL BRIEFS

FCC Adopts Rules To Help DTV Signals Reach Viewers

Telecommunications. The FCC unanimously approved new rules Friday that could help prevent television viewers from losing reception due to the digital switchover concluding June 12. Because digital signals do not travel as far as analog ones, some viewers may not receive the digital transmissions after stations complete their switchover. The agency will now let broadcasters add digital translators within their markets to extend their reach to these populations, and without causing interference. Separately, the commission has another proceeding designed to help viewers in rural areas who rely on analog translators for most or all of their TV programming. Since many of those translators will not be switching to digital anytime soon for technical or financial reasons, the agency has said it would accept applications for new licensees serving rural areas.

O&I

The New York Times

May 12, 2009

NATIONAL BRIEFING | MID-ATLANTIC

Delaware: Inquiry Into Deaths of 2 Who Took Heparin

By THE ASSOCIATED PRESS

The Food and Drug Administration said it was investigating the deaths of two Delaware hospital patients who were given the blood thinner heparin. Officials at Beebe Medical Center in Lewes said three patients suffered adverse reactions after being given the drug last week. Two of the patients, a 71-year-old man who was transferred to Christiana Hospital in Newark, Del., and a 64-year-old woman taken to the University of Maryland medical center, died over the weekend. The third patient, a 68-year-old man, remained hospitalized Monday at Christiana. All three suffered cerebral hemorrhages. The heparin was provided by the Baxter Healthcare Corporation, which was involved in a heparin recall last year after several reports of adverse reactions. Wallace Hudson, vice president of corporate affairs for Beebe Medical Center, said the hospital had switched to another supplier pending the outcome of the investigation. A Baxter spokeswoman said the company had not received reports from any other institutions regarding heparin but was working with Beebe and the F.D.A.