

Climate Change Policy Update

American Power Act of 2010 Released

Senators John Kerry and Joe Lieberman released a draft of the [American Power Act](#) last week, effectively re-launching the climate and clean energy dialogue in the US legislature. This much-anticipated bill represents an important step in congressional action on climate change.

The bill includes an emission reductions schedule that is generally consistent with previous legislative proposals, including the House-passed Waxman-Markey American Clean Energy and Security Act. Using a 2005 baseline, the bill demands reductions of 4.75% by 2013, 17% by 2020, 42% by 2030, and 83% by 2050.

It establishes a phased-in cap-and-trade system and describes its governing principles, including free allowance allocations for emissions-intense trade-exposed industries to prevent carbon leakage; quarterly auctioning of allowances with purchase limits to prevent price manipulation; and [price collars](#). The floor price is set at \$12/tonne for the 2013 auction year (in 2009 constant dollars), increasing at 3% per year plus inflation, while the ceiling price is set at \$25/tonne, increasing at 5% per year plus inflation. This price range is critical for companies looking at future carbon liability costs. Stipulations in the trading rules also protect against the development of complex financial instruments that could add volatility to the carbon market or result in windfall profits for traders.

Controversy over offshore drilling provisions, which became the bill's sticky wicket following BP's offshore disaster last month (see [Delphi's blog](#)), have largely been avoided by delegating authority to individual states.

Revenue from the sale of allowances will go towards:

- consumer protection;
- job creation and growth;
- clean energy development and deployment, including support for clean coal, carbon capture and storage, nuclear, and renewables;
- adaptation, and early action to reduce GHG's, including a focus on hydrofluorocarbons, black carbon, and methane;
- transportation, including electric vehicle infrastructure, natural gas vehicle conversions, and tighter fuel efficiency requirements; and,
- deficit reduction.

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American Power Act of 2010, Continued

The Kerry-Lieberman American Power Act is expected to usurp other climate legislation that had swirled around the Senate and House, including the Cantwell-Collins [Carbon Limits for Energy and American Renewal Act](#), the Boxer-Kerry [Clean Energy Jobs and American Power Act](#), and the monolithic, House-passed Waxman-Markey [American Clean Energy and Security Act](#). Republican Senator Lindsey Graham withdrew his support for the American Power Act, which he had co-authored, just before it was to be released in April (see [Delphi's blog](#)), but recently endorsed the bill in a

[statement](#). The bill also has broad support from industry and the power sector, with most utilities and oil companies either endorsing the bill or remaining silent.

While there is no guarantee that this bill will be passed this year, if at all, the robust consultation and multi-partisan authorship may be enough to get a filibuster-breaking 60 senate votes. If approved, the bill will be reconciled with the American Clean Energy and Security Act, get voted on again by both chambers, and then be passed to the President for final approval.

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Outcome from Petersberg Climate Dialogue

A meeting of environment and climate ministers from about 45 countries took place at the beginning of May to discuss the anticipated political outcome from UN climate negotiations, which will take place in Cancun, Mexico starting November 29th. UN Climate Secretary Yvo de Boer laid bare the concerns harboured by many delegates in his [address](#) at the so-called Petersberg Climate Dialogue.

His talk touched on the need to rebuild trust following the "mistakes of Copenhagen." He also broached hard questions like the fate of the Kyoto Protocol, the realization of financial flows to developing countries for climate adaptation, and the gap between emission reduction pledges through the Copenhagen Accord and the reductions required by science to keep warming below 2°C.

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Provinces Release Renewable Energy Plans

British Columbia is moving its clean energy agenda forward with the introduction of [Bill 17, the Clean Energy Act](#). The Act calls for a suite of new or intensified measures, including the accelerated deployment of clean or renewable electricity generation (up from 90% to 93% renewable energy mix by 2020); more aggressive energy conservation measures (up from 50% to 66% demand-side conservation by 2020); the establishment of a standing offer program; and, granting authority to the Lieutenant Governor to establish a feed-in tariff program.

Smart meters with real-time, in-home energy-use displays will also be installed to allow for differential electricity pricing and transparency in energy consumption. Studies have shown that residential energy use can be moderated significantly when consumers have access to variable pricing and consumption information. The smart meters and in-home displays are intended to take advantage of that finding.

Nova Scotia released a [Renewable Electricity Plan](#) that outlines the province's renewable priorities and accelerates the deployment of clean energy sources. The province intends to source 25% of its electricity from renewable sources by 2015, and 40% by 2020. This goal is significantly more ambitious than their previous plan, and will help enable the province to meet its parallel goal of reducing emissions from Nova Scotia Power Inc's (NSPI) coal-fired generating station.

Large-scale renewable projects will be commissioned by NSPI, and medium and small-scale projects will be eligible for a community-based feed-in tariff program. To reach the 40% renewable mix, the province will look to sources like wind and tidal, with increased natural gas generation to complement the intermittent nature of renewables. The province will also import clean energy from neighbouring jurisdictions, and expand its biomass energy utilization. The most significant change identified by the province is the creation of a Renewable Energy Administrator, which will be active in the solicitation, evaluation and selection of renewable energy projects. This shifts responsibility away from NSPI and toward the government to ensure the electricity system is "fair and transparent."

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The Climate Change Accountability Act Passes through the House, Moves to the Senate

The [Climate Change Accountability Act](#) underwent its third reading and was passed in the Canadian House of Commons on May 5th. All Conservative MP's voted against the bill, and all other MPs voted in its favour. Bill C-311 calls for legislated GHG reduction targets equivalent to Canada's Kyoto pledge, being a 25% and 80% cut below 1990 levels by 2020 and 2050, respectively. Canada's emissions are currently about 30% above 1990 levels.

The gap between Canada's current reality and the targets described in Bill C-311 has led critics to dismiss the goals as unrealistic, since meeting them would require Canada to slash its emissions almost in half within 10 years. Supporters believe that the legislated goal would at least move Canada in the right direction in the near-term, while committing the country to an internationally responsible and achievable long-term goal. The bill also requires the government to set regulations to ensure the reductions target is met, and demands that the government produce a report every 5 years explaining the government's progress toward the goals.

The bill still has to make its way through the senate, where it could be voted down or heavily amended. Regardless of Bill C-311's ultimate fate, the support for this bill by all parties except for the Conservatives gives the other parties a legislative history that could hold them to account should the government change following an election. Should another party come to power, it would be difficult for them to backpedal on this commitment without losing some credibility on the environmental file.

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WCI Auctioning Options

The Western Climate Initiative (WCI) released an [Auction Design White Paper](#) in mid-April that outlines different design options for its planned carbon allowance auction market. The rules guiding the auction market can fundamentally alter the bidding process, and the market's design affects the expected outcomes and the likely behaviour of auction participants.

The paper discusses the differences between: multiple rounds of bidding versus selling all allowances in a single round; holding a "sealed bid" where bids are made blindly versus an "open bid" where the bids are disclosed and adjusted before the final price is determined; and deciding on whether allowances should be differentially or uniformly priced.

Auction markets from around the world are also compared in the white paper. The WCI compares the auction markets of the Regional Greenhouse Gas Initiative; the EU Emissions Trading Scheme; Australia's cap-and-trade scheme; and the NOx and SOx auction markets in the US.

Separately, the WCI welcomed the Yukon Territory as an observer to the initiative, bringing the total number of WCI observers to 15 (6 in Mexico, 6 in the US, and 3 in Canada). See the [WCI website](#) for additional updates.

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Plebiscite on California's Climate Change Law

Members of the California Jobs Initiative and other opponents to California's 2006 [Global Warming Solutions Act](#) have gathered over 800,000 signatures in an effort to stall the Act's implementation. Only 433,000 signatures are required to put legislation to a popular vote.

The [ballot question](#) will demand that implementation of the Act be delayed until unemployment in the state stays at or below 5.5% for a year. Unemployment is currently hovering at around 12%, but was at 4.8% when the bill was passed in 2006.

Supporters of the Act say that while it will raise energy costs, especially for energy-intensive industries, it will create jobs in other sectors and lead California into a clean, green recovery as it emerges from the recession. It is also the driving force behind California's full participation in the Western Climate Initiative, and gives the state legislative authority for the implementation of the Low Carbon Fuel Standard (LCFS). About a dozen other states have indicated that they would follow California's LCFS, which will reduce the carbon content of fuels by 10% by 2020, and the LCFS is being used as a model for national fuel standards.

Opponents to the Act cite a 2009 report that claims the bill is a massively expensive job killing measure. Several economists and California's Legislative Analyst Office say the report is seriously flawed, and cite their own report on the economic impacts of the Act which shows more moderate costs and significant cost savings, especially from improved energy efficiency. The plebiscite will be held concurrently with the gubernatorial elections in early November.

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Update on EPA Actions

GHG Regulation of Stationary Sources: The Environmental Protection Agency (EPA) released a [final rule](#) May 13 indicating that it will phase in greenhouse gas emissions control requirements for stationary sources starting Jan. 2, 2011. The rule "tailors" the Clean Air Act (CAA) by setting new GHG emissions thresholds for title V Operating permits issued to existing facilities, and pre-construction permits for new and modified stationary sources issued under the New Source Review Prevention of Significant Deterioration (PSD) program. 70% of national GHG emissions from stationary sources in the US are expected to be covered under the new rule.

January 2, 2011 – June 30, 2011: Sources already subject to PSD permitting requirements due to other pollutants will need to include GHGs in their permit if they increase their emissions by 75,000 tons CO₂e/year or more. The use of best available control technologies (BACT) to minimize GHG emission increases will be required. Existing sources already holding title V permits for non-GHG pollutants will need to apply title V requirements to their GHG emissions. These may include identification of GHG, monitoring, record-keeping and reporting.

July 1, 2011 – June 30, 2013: PSD requirements will apply to new sources emitting in excess of 100,000 tons CO₂e/year, and to modified sources with a net GHG emissions increase of more than 75,000 tons CO₂e/year. Existing sources will be required to obtain title V operating permits if their emissions equal or exceed 100,000 tons CO₂e/year.

The EPA has committed to conclude another rulemaking by July 2012 to address possible permitting requirements for sources with emissions totaling less than 75,000 tons CO₂e/year.

The threat of EPA regulation continues to be used by Democratic Senators to underscore the need for Congressional action to address climate change. Efforts to overturn the EPA's endangerment finding also continue within the Senate, with a vote on the Murkowski resolution expected June 7. Even if this is successfully passed in the Senate, it is not expected to be as well received in the House, and is widely believed that it would be overturned by the President.

GHG Reporting: On April 29, the EPA [withdrew](#) its March 16, 2010 direct final rule making technical changes to GHG emissions reporting requirements, due to adverse public comments received. Comments will be addressed under a new final rule.

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