

Energy & Sustainability Washington Updates — June 2020

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VIEWPOINT TOPICS

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While Congress and the Administration spent much of May working to address the economic, social, and public health impacts of the COVID-19 pandemic, there was still significant activity on energy and sustainability-related matters.

Outlook for Next Pandemic Response Measure

The House of Representatives on May 15 approved the Health and Economic Recovery Omnibus Emergency Solutions (HEROES) Act, House Democrats' \$3 trillion proposal for the next legislative response to the coronavirus pandemic (commonly referred to as Phase 4), following three previous legislative responses. Senate Republicans immediately stated that they would not take up the legislation as approved by the House and the White House signaled that if the legislation were approved by Congress the president would veto it. This was not unexpected as the HEROES Act was largely viewed as Democrats' laying out their priorities for the next response measure. Negotiations are underway between House and Senate leadership and the White House on the parameters of the Phase 4 bill, with most in Washington expecting to see final legislation later in June at the earliest. With that said, Phase 4 is unlikely to address energy and sustainability issues, which would most likely be taken up in a later, Phase 5 bill, which would most likely be built around long-term economic recovery and infrastructure. One possible legislative vehicle for Phase 5 would be the Surface Transportation Reauthorization bill. House and Senate Committees have been at work on the Reauthorization bill for the past year, with a deadline of September 30 when the current authorization, the Fixing America's Surface Transportation (FAST) Act of 2015, expires.

Energy Infrastructure Protection Act

Senate Energy & Natural Resources Committee Chair Murkowski (R-AK) joined Sen. Risch (R-ID) to introduce the Energy Infrastructure Protection Act. The bill would direct DOE and FERC to improve methods to protect critical energy information; grant explicit authority to DOE and FERC to help energy companies improve security; and allow federal, state, and local authorities to request that their own critical energy information be protected under special designation by DOE or FERC.

[Read a press release here...](#)

ReWIND Act

The Resources for Workforce Enforcements, Not Drilling (ReWIND) Act (H.R. 6707/S. 3611) was introduced to stop fossil fuel companies from receiving many loans under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (the Phase 3 pandemic response legislation); stop banks that receive CARES benefits from operating fossil fuel companies; and put a moratorium on lease sales during the COVID-19 pandemic. The ReWIND Act would also prevent the president from lowering or eliminating royalty rates on federal oil, gas, and coal. It also would extend the public comment period for all federal rulemakings until 30 days after the COVID-19 emergency is over, except for those specifically related to the emergency. The House bill was introduced by Rep. Barragan (D-CA) with 37 Democratic cosponsors. The Senate bill was introduced by Sen. Merkley (D-OR) with eight Democratic cosponsors.

[Read more here...](#)

Senators Support State Net Metering Programs

In a May 26 letter to the Federal Energy Regulatory Commission (FERC), Sens. Hassan (D-NH), Heinrich (D-NM), and Whitehouse (D-RI) led 21 of their Senate and House colleagues in calling on the

Commission to reject a petition by the New England Ratepayers Association (NERA) that asks FERC to assert jurisdiction over 45 individual state net metering programs. Noting that net metering laws have led to the development of a renewable energy industry employing more than 800,000 Americans, the letter states that if FERC were to grant the NERA petition, “it would overturn long-held precedent and give the federal government decision-making power that has long belonged to the states, including the authority to set rates, terms, and conditions for programs.”

[Read the letter here...](#)

Senate Democrats Seek EPA Report on PFAS at Superfund Sites

Sen. Carper (D-DE), the Ranking Member of the Senate Committee on Environment and Public Works, led his fellow committee Democrats in writing to the Environmental Protection Agency requesting an update on agency plans to address known per- and polyfluoroalkyl (PFAS) contamination at Superfund sites. The letter requests information regarding Superfund sites identified by EPA to have PFAS contamination, including measurements of the levels of PFAS detected, and plans for the removal of PFAS in the future.

[Find the letter here...](#)

Senators Seek ITC / PTC Regulatory Relief

Senator Murkowski (R-AK), Chair of the Senate Committee on Energy & Natural Resources, Sen. Collins (R-ME), and Sen. Tillis (R-NC) have asked Treasury Secretary Mnuchin to provide additional regulatory relief for companies utilizing the energy investment tax credit (ITC) and production tax credit (PTC). According to a press release, “The senators requested an extension of start of construction safe harbor regulations for the ITC and PTC to account for equipment delivery delays stemming from COVID-19. They also requested the modification of physical work test requirements to allow continuous efforts to qualify for relief, as many projects are unable to maintain continuous construction due to COVID-19 and other delaying factors.”

[Read the letter here...](#)

Treasury Agrees to Extend Safe Harbor Provisions for Energy Tax Credits

In response to a letter from a bipartisan group of senators led by Senate Finance Committee Chairman Grassley (R-IA), the Treasury Department has agreed to extend the safe harbor provisions for both the energy production tax credit and the energy investment tax credit to accommodate the significant development slowdowns resulting from the COVID-19 public health crisis. Joining Chairman Grassley in the request were Senate Finance Committee Ranking Member Wyden (D-OR), Senate Energy and Natural Resources Committee Chairwoman Murkowski (R-AK) and Ranking Member Manchin (D-WV), and Sens. Cantwell (D-WA) and Thune (R-SD).

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79 House Democrats Call for Restoration & Resilience Jobs Program

Led by Reps. Dingell (D-MI), Grijalva (D-AZ), Huffman (D-CA), Cartwright (D-PA), Lowenthal (D-CA), Haaland (D-NM), Rochester (D-DE), and Gallego (D-AZ), 79 House Democrats have called for future economic recovery packages to include a “Restoration and Resilience Jobs” program. Saying that

millions of good paying jobs can be created restoring natural resources and bolstering community resilience, in a letter to Speaker Pelosi (D-CA) and House Minority Leader Hoyer (D-MD), the Democrats point to President Franklin Delano Roosevelt’s Civilian Conservation Corps during the Great Depression and to job creation under the more recent American Recovery and Reinvestment Act (ARRA) following the Great Recession a decade ago. The letter calls for \$27.5 billion to rebuild outdoor recreation infrastructure; \$24 billion to bolster resilience to hurricanes, flooding, and other hazards; \$19.5 billion to restore imperiled fish and wildlife habitat; \$26.5 billion to bolster resilience to fire and restore public lands; \$20 billion to reclaim degraded lands; and \$7.5 billion to increase the resilience of working lands.

[Read more here...](#)

Senators Call for Extension of Carbon Capture Tax Credit

A bipartisan group of seven U.S. senators have asked Treasury Secretary Mnuchin to extend the 45Q Carbon Capture Tax Credit. The request was made in response to reports that the Treasury Department is considering a one-year extension of the deadline to qualify wind and solar projects under the federal Investment Tax Credit and Production Tax Credit. Noting that the 45Q tax credit was approved with bipartisan support in 2018, the senators stated that the "Impact of COVID-19 on the economy, combined with the fact the IRS has still not issued final guidelines for using the 45Q tax credit after two years, has deterred many companies from starting construction." Making the request were Sens. Cramer (R-ND), Whitehouse (D-RI), Capito (R-WV), Barrasso (R-WY), Hoeven (R-ND), Smith (D-MN), and Cassidy (R-LA).

Republicans Seek RFS Waiver

Noting that since March the U.S. has experienced "an unprecedented drop in the demand for gasoline, diesel, and jet fuel," 15 Republican senators are asking Environmental Protection Agency (EPA) Administrator Wheeler to utilize his authority to prevent the Renewable Fuel Standard (RFS) from "contributing to severe economic harm in a state, a region, or the nation." The letter was led by Senator Barrasso (R-WY), chairman of the Senate Environment and Public Works Committee.

[Read the letter here...](#)

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