

Energy & Sustainability Washington Update - May 2022

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Policy Recap & Outlook

With the 2022 mid-term election now just over six months away, aside from dealing with crises such as the pandemic and the war in Ukraine, the federal policy environment is increasingly driven by partisan goals aimed at success at the polls in November.

Having succeeded in enacting the Infrastructure Investment and Jobs Act (IIJA), now referred to as the Bipartisan Infrastructure Law, congressional Democrats and the Biden White House continue to seek ways to advance at least some of their climate and energy goals included in the Build Back Better Act (BBB), which failed to advance when Democrats were unable to secure the required 50 votes to move forward on the bill under Senate reconciliation rules. Key to this effort is Sen. Joe Manchin (D-WV), one of two Democrats who refused to support the BBB, and importantly the chairman of the Senate Energy and Natural Resources (ENR) Committee. The senator has not ruled out supporting a scaled-back reconciliation measure that would include an “all of the above” approach to energy, and along with Sen. Lisa Murkowski (R-AK), the previous chair of ENR, recently gathered a bipartisan group of senators to explore the possibility of a climate and energy bill that could win both Democratic and Republican votes. Under Senate rules a bill requires 60 votes to advance to final passage. Securing 10 Republican votes to pass a bipartisan climate bill is a tall order, and even more difficult as we get closer to the election. However, with Republicans expected to make gains in November, potentially taking the House majority and possibly the Senate majority, there is a strong desire to find a path forward among both moderate and progressive Democrats on Capitol Hill.

Related to the above efforts, House and Senate Democrats are also working to develop a legislative package aimed at addressing energy price spikes, with multiple bills recently introduced that would empower the Federal Trade Commission to investigate potential manipulation of gas prices. Details of what a potential legislative fix might look like are still unclear, but House Speaker Nancy Pelosi (D-CA) has squelched proposals from some of her Democratic colleagues to temporarily suspend the federal gas tax. This is an issue clearly tied to electoral outcomes, with Democrats increasingly nervous about the rise in prices as we approach November.

New Energy Legislation

Aside from the above efforts, a number of exciting energy-related bills have been introduced over the past month, including the following:

Offshore Wind for Northeastern Energy Revenue (OWNER) Act – Introduced by Rep. Nicole Malliotakis (R-NY), the bill would establish an offshore wind revenue-sharing model between the federal government and states adjacent to offshore wind farms. The OWNER Act would:

- Send 50% of offshore wind revenue to adjacent states, based on a formula developed by the Secretary of Interior inversely proportional to the distance from the wind farms.
- Allocate 25% of the state revenue to coastal counties dependent on the distance from the wind farm.
- Retroactively disburse bonus bids from the offshore wind lease sales that have already occurred.
- Allow state funds to be used for coastal protection, including conservation, coastal restoration, hurricane protection, and infrastructure directly affected by coastal wetland losses; workforce training, including for employment in the renewable energy sector and related industries; infrastructure to support renewable energy development and transmission, including the transmission of offshore wind energy; STEM education; or reduction of carbon emissions and improvement of air quality.
- Allow state funds to also be used for the mitigation of damage to fish, wildlife, or natural resources and the impact of outer Continental Shelf activities through the funding of onshore infrastructure projects or planning assistance and administrative costs.
- Protect the state revenues from sequestration.

Electric Vehicle Grid Readiness, Improvement, and Development Act (EV GRID Act) – Introduced by Rep. Sean Casten (D-IL), a member of the House Select Committee on the Climate Crisis and co-chair of the House Sustainable Energy and Environment Coalition Power Sector Task Force, and Rep. Paul Tonko (R-NY), chair of the Energy and Commerce Subcommittee on Environment and Climate Change, the bill is intended to meet the increasing electricity demand of EV charging infrastructure at the pace necessary to

achieve President Biden's climate, cost reduction, and energy independence goals. According to Reps. Casten and Tonko:

The \$7.5 billion for EV charging infrastructure in IIJA was a major step for EV investments and grid preparedness, but significant questions remain unanswered on how to ensure chargers can be interconnected with the grid. For instance, a Level 3 charger needs 350KW of electricity, and in rural areas this would be a huge undertaking. To meet this challenge, the EV Grid Act would direct the Department of Energy to conduct a study and develop a plan related to the ability of the electric system to meet the electricity demand of new electric vehicle charging infrastructure. The study would anticipate the growth in the use of electric vehicles necessary to meet the President's climate goals, and would assess how much additional electrical generation, transmission, and distribution capacity will need to be added to the electric system to meet demand.

Biden Earth Day Executive Order to Protect Forests

Turning to the White House, on Earth Day, April 22, President Biden signed an **Executive Order** aimed at strengthening the nation's forests, boosting wildfire resilience, and combatting global deforestation.

To reduce wildfire risk, the Executive Order focuses on data collection and analysis, climate-smart stewardship, and enhanced coordination between the Department of the Interior and the U.S. Department of Agriculture. In support of the nation's forests and their role in local economies and rural communities, the Executive Order advances economic opportunities in outdoor recreation and sustainable forest products, calls for 2030 targets for reforestation, and addresses a seed shortfall by boosting federal cone and seed collection and seedling nursery capacity. Global deforestation is addressed by combatting commodity-driven deforestation, and support for sustainable forest management around the world.

The Executive Order also includes provisions to use nature itself as a tool to fight climate change. Specifically, the Executive Order calls for a report on nature-based solutions from the White House Council on Environmental Quality, Office of Science and Technology Policy (OSTP), and Office of Domestic Climate Policy on key opportunities for greater deployment of nature-based solutions. This would include marsh restoration, planting shade trees, and promoting drought-resistant crops. The Office of Management and Budget will also issue guidance to help agencies better account for services provided by ecosystems and the environment, and the U.S. Global Change Research Program will develop the first-ever assessment of the condition of nature within the United States.

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