



House Committee Releases Framework for Comprehensive Climate Legislation

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Background

In early 2019, House of Representatives leadership directed each House committee to examine policies within its legislative jurisdiction to address the complex challenges of global climate change. In addition, House leadership created a Select Committee on the Climate Crisis, which would work with standing committees who have jurisdiction, such as the Energy and Commerce Committee, to deliver climate policy recommendations. Standing committees with jurisdiction, as well as the Select Committee, have been holding hearings, moving legislation, and asking the public for ideas and input since the 116th Congress convened in January of 2019.

As a result of these efforts, last week Democratic leadership of the House Energy & Commerce Committee announced their intention to release comprehensive climate change legislation—the Climate Leadership and Environmental Action for our Nation’s (CLEAN) Future Act. The Committee Democrats released a 15-page memorandum outlining the parameters, goals, and timeline for the Committee’s work on the forthcoming bill (the “[Legislative Framework](#)”). Comprehensive draft legislative text is expected to be released by the end of January. The Committee also announced its intentions to proceed with legislative action on some bills already introduced. The Committee’s Energy Subcommittee marked up nine such bills on January 9 and reported them for consideration by the full Committee.

Committee Democrats intend the forthcoming bill to create a process to vet and deliberate policies that would address the climate challenge. It will provide an opportunity to analyze, debate, and refine policies proposed in the Legislative Framework. At the press announcement, Committee Chair Frank Pallone (D-NJ) stated he intends to engage in the process on a bipartisan basis and hopes that Republicans will participate in the Committee’s forthcoming legislative efforts.

This alert examines the potential implications of the proposed legislation and provides a comprehensive breakdown by industry sector of the first major set of climate-related policy recommendations from the House Energy & Commerce Committee that could result in formal legislative action in over a decade.

Policy Recommendations

According to the Legislative Framework, the CLEAN Future Act would establish programs and policies aimed at achieving net-zero, economy-wide greenhouse gas (GHG) emissions by 2050. The legislation will be the product of a months-long fact-finding effort by the Committee, which has held fifteen climate-related hearings since the beginning of the 116th Congress and has solicited stakeholder input from the environmental community, environmental justice advocates, labor advocates, industry representatives, and the public. In addition, the legislation will incorporate numerous bills previously introduced by Democrats during this Congress.

The CLEAN Future Act is also notable for what it is not expected to include – a carbon tax or a cap-and-trade program. Committee Chairman Frank Pallone has stated that the CLEAN Future Act can achieve its goals without a carbon tax and that such a policy is outside the Committee’s jurisdiction in any event (the House Ways and Means Committee maintains jurisdiction over all tax-related matters). Jurisdictional boundaries also mean that the CLEAN Future Act does not include some additional provisions under the jurisdiction of other committees, such as energy technology research and development, agriculture, or potential tax-related policies.

Finally, the CLEAN Future Act would not remove any of the Environmental Protection Agency’s (EPA) existing authorities under the Clean Air Act to regulate GHG emissions, but rather would augment those authorities as discussed in the summary of the Legislative Framework, below.

Next Steps

The House Energy & Commerce Committee Leadership said they expect to release draft legislative text for the CLEAN Future Act by the end of January. In the interim, the Committee will continue to hold hearings and markups on smaller, sector-specific legislation that may be included in the broader CLEAN Future Act.

Other House committees are also working on climate policy. The House Select Committee on the Climate Crisis is set to release a suite of legislative recommendations in March to inform the development of climate change legislation considered by other Committees that have authority to legislate as well as conduct oversight. Last year, the House Science, Space, and Technology Committee, which has jurisdiction over the Department of Energy (DOE) research programs, approved a series of bills aimed at increasing and improving energy technology innovation. The House Natural Resources Committee introduced legislation in December 2019 that aims to achieve net-zero GHG emissions from public lands and waters by 2040. In addition, the House Ways and Means Committee released a discussion draft in November 2019 for the Growing Renewable Energy and Efficiency Now (GREEN) Act. The GREEN Act would extend and expand existing tax incentives that promote renewable energy and increase energy efficiency. If a carbon tax proposal emerges for Congressional consideration, it would come from that Committee as well.

Congressional Republicans and the White House have thus far opposed the kind of legislative and regulatory mandates contemplated for the CLEAN Future Act, instead offering support for policies that promote energy innovation through funding of research and development programs at DOE. In the Senate, the Energy and Natural Resources Committee, led by Chairman Lisa Murkowski (R-AK), is currently developing a comprehensive legislative package focused on energy innovation that could be voted on and readied for full Senate consideration in the first half of 2020.

It is possible that a set of climate-related bills that have been approved by other Committees could receive a House vote as a smaller legislative package this year, particularly as Speaker of the House Nancy Pelosi (D-CA) has committed to bringing climate change legislation for a vote on the House floor in 2020. Some candidates for inclusion in such a package are bills that were reported out of the House Science, Space, and Technology Committee that would reauthorize DOE research programs for wind, solar, geothermal, battery storage, and carbon capture and storage.

Even if the entirety of the CLEAN Future Act does not receive a vote in this Congress, entities in affected industries, states, and localities should consider participating in the public process to shape the bill because it is intended to lay down a marker for policies that Democrats are likely to pursue if they prevail in the Presidential election and gain additional seats in Congress.

Specific Elements of the CLEAN Future Act Described in the Legislative Framework

Title I: National Climate Target for Federal Agencies

The CLEAN Future Act would direct all federal agencies to use existing authorities to achieve economy-wide net-zero GHG emissions by 2050. The bill would take a technology-neutral approach and direct the EPA to evaluate each agency's plans, make recommendations, and report on progress each year.

Title II: Power Sector

The CLEAN Future Act would establish a Clean Electricity Standard (CES) requiring all retail electricity suppliers to supply 100 percent clean energy by 2050. The Legislative Framework states that the CLEAN Future Act would incorporate elements of two separate CES bills, one introduced by Senator Tina Smith (D-MN) ([S. 1359](#)) and Congressman Ben Ray Lujan (D-NM) ([H.R. 2597](#)) and another [currently being developed](#) by Energy & Commerce Committee member Diana DeGette (D-CO). The CES under the CLEAN Future Act would allow suppliers to buy and trade clean energy credits, purchase them via auction, or pay an "alternative compliance payment." As outlined, the CES would provide a limited pathway for continued use of coal and natural gas-fired power by authorizing fossil fuel generators with

carbon intensities lower than 0.82 metric tons of CO₂ (after any carbon capture) to receive partial credit. *An outstanding issue is whether and how existing hydropower would be credited in the CES.*

The bill would also direct the Federal Energy Regulatory Commission (FERC) to: (1) reform energy markets to reduce barriers to integration of clean resources—including energy storage systems and distributed energy resources—and (2) consider climate impacts in reviewing proposed new natural gas pipelines. It also mandates RTO and ISO membership for all electric providers and proposes reforms to the Public Utility Regulatory Policy Act of 1978 (PURPA) to promote energy storage deployment and “non-wires solutions,” as well as protecting qualifying facilities’ right-to-contract. Transmission, demand response, transformer reserves, and many other policies affecting the power sector are also addressed in the summary of the legislation.

Title III: Buildings and Efficiency

According to the Legislative Framework, the CLEAN Future Act would establish targets for model building energy codes for use by states and localities, leading to a requirement of zero-energy-ready buildings by 2030.

Title IV: Transportation

The CLEAN Future Act would direct EPA to set increasingly stringent GHG emission standards for light-, medium-, and heavy-duty vehicles. The bill would also provide support for the development of electric vehicles (EVs) and EV-charging infrastructure, a top priority for House Democrats. The Legislative Framework anticipates provisions for shifting to lower carbon transportation fuels, including for aviation and shipping.

Title V: Industry

The CLEAN Future Act would establish a “Buy Clean Program” that sets carbon intensity performance targets for construction materials and other products used in federally-funded projects. The legislation would also extend eligibility of DOE’s Section 1703 Loan Guarantee Program to industrial decarbonization projects. Finally, the bill would establish a technology commercialization program for carbon capture and utilization and a prize for direct air capture technologies.

Title VI: Environmental Justice

The CLEAN Future Act would codify Executive Order 12898 established by President Clinton, which requires federal agencies to integrate environmental justice into their missions. The bill would also introduce environmental justice considerations into the approval of state plans for air pollution regulation and disposal of hazardous waste.

Title VII: Super Pollutants (Short-Lived Pollutants)

The Legislative Framework also describes provisions that would address short-lived climate pollutants, which account for 20 percent of U.S. GHG emissions on a carbon dioxide-equivalent basis. For example, the legislation would direct the oil and gas sector to reduce methane emissions 65 percent below 2012 levels by 2025, and 90 percent below 2012 levels by 2030. The bill would also prohibit routine flaring for new sources and limit routine flaring for existing sources to 80 percent below 2017 levels by 2025—with a complete phase-out of the practice by 2028. The bill would further direct EPA to regulate emissions from liquefied natural gas facilities and offshore oil and gas operations.

Title VIII: Economy-wide Policies

Other provisions planned for the bill include energy efficiency programs, State Climate Plans, a National Climate Bank, and workforce training programs.

Regarding State Climate Plans, the bill would set a national climate standard of net-zero GHG emissions in each state by 2050 and grant states flexibility in developing policy plans to meet the standard. Each

state plan would be subject to EPA approval. Funding for existing climate-related grant programs and funding for state initiatives are expected to be a significant part of this section of the legislation.

Regarding the National Climate Bank, the bill would incorporate previously introduced legislation, the National Climate Bank Act ([H.R. 5416](#)), aimed at mobilizing public and private capital to provide financing for low- and zero-emissions energy technologies, climate resiliency, building efficiency and electrification, industrial decarbonization, grid modernization, agriculture projects, and clean transportation. The bill would require the Bank to prioritize investments in communities that are disproportionately affected by the impacts of climate change.

FOR MORE INFORMATION

Our professionals are available to advise on the CLEAN Future Act and other climate-related legislation. Please contact [Shannon Angielski](#), [Kyle Danish](#), or any other professionals in Van Ness Feldman's Public Policy or Environmental Practices for additional information on matters related to these legislative developments.

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