The Voice of Aviation Business
Legislative Report

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CLEAN ENERGY DRAFT RELEASED BY CONGRESS

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What's At Issue

U.S. House of Representatives Committee on Energy and Commerce Chairman Henry Waxman (D-CA) released a discussion draft of clean energy legislation claiming it will create jobs, reduce our nation's dependence on foreign oil, and combat global warming. The American Clean Energy and Security Act of 2009 (ACES) is a 600-page, four-part draft energy and climate change strategy to stimulate discussion among members of the Committee on Energy and Commerce as they begin a series of hearings and markups in late April.

Why It's Important

ACES is an ambitious first draft of legislation to address climate change. Last year, Congress introduced legislation such as the Lieberman-Warner Climate Change bill that included cap and trade provisions, but it did not make it through the congressional process. ACES would impose mandates far beyond Lieberman-Warner by requiring new standards for aviation fuels and new emission standards for engines and aircraft.

Major Provisions

The draft bill includes four titles and important provisions concerning aviation:

Title 1: Clean Energy - Promotes renewable sources of energy, carbon capture and sequestration technologies, low-carbon fuels, clean electric vehicles, and the smart grid and electricity transmission.

- Low Carbon Fuel Standard
  - ✓ Instructs the Administrator of the Environmental Protection Agency (EPA) within 3 years upon enactment of the bill to:
    - Determine the lifecycle greenhouse gas (GHG) emissions of all transportation fuels (the amount of GHG emitted into the environment during extraction of base fossil fuel, refining, transportation, storage and combustion per unit of energy).
    - Determine the fuel emission baseline or the average lifecycle GHG emission per unit energy of all transportation fuel in 2005.
    - Ensure that transportation fuels lifecycle GHG emissions do not exceed the fuel emission baseline between 2014 and 2022.
    - Certify that lifecycle GHG emissions are reduced by the "maximum amount practicable" in 2023, 5% below baseline by 2029 and 10% below baseline by 2030.
  - ✓ Requires the Administrator of the EPA to review and revise annual GHG emission requirements – no more than five years after beginning in 2020.

OVER…

(Major Provisions Continued)

- ✓ Suggests that regulations shall contain compliance provisions for transportation fuel providers (although the provisions aren't specified) to ensure that requirements are being met.
  - o Prohibits a per gallon obligation for lifecycle GHG emissions as determined by the Administrator.
  - o Sets the lifecycle GHG emissions of biofuels derived from biomass at a level no higher than the fuel emission baseline.
- ✓ Allows transportation fuel providers that achieve greater than required reductions in lifecycle GHG emissions to earn credits.
- ✓ Requires transportation fuel providers that have lifecycle GHG emissions greater than required to purchase credits to offset the difference.
- ✓ Requires the Administrator to determine the value, duration and trading requirements for these credits.
- ✓ Allows states and individuals to petition the Administrator on modifications to the lifecycle GHG emission requirement if they could potentially harm the environment or economy of a state within the U.S.

Title 2: Energy Efficiency - Increases energy efficiency across all sectors of the economy, including buildings, appliances, transportation, and industry.

- GHG emission standards for aircraft and aircraft engines.
  - ✓ Requires the Administrator to publish standards for GHG emissions of new aircraft and new aircraft engines by December 31, 2012.
    - o Standards should achieve the greatest degree of emissions reduction based on current technology, taking into consideration cost, energy, and safety factors.
  - ✓ Requires the Administrator to publish standards of GHG emissions for other classes and categories of aircraft and aircraft engines in a timeframe determined by the Administrator. The standards can be revised by the Administrator at any time.
  - ✓ Allows the Administrator to establish provisions for averaging, banking and trading GHG emissions credits within or across classes and categories of motor and non-motor (including aircraft and aircraft engines) as determined appropriate.
  - ✓ Allows California to adopt and enforce its own mobile source emission standards.

Title 3: Global Warming Regulation - Places limits on emissions of heat-trapping pollutants of covered entities.

- ✓ Attempts to regulate carbon dioxide by introducing a "market-oriented" cap-and-trade program that would reduce carbon dioxide by 3 percent below 2005 levels in 2020, and by 83 percent below 2005 levels in 2050.
- ✓ Requires oil producers and other covered entities to possess one emission allowance for every ton of carbon dioxide equivalent emitted in a given year. The result would be higher jet fuel prices because oil producers would likely pass along the cost to the consumer.
- ✓ Allows covered entities that do not use all of their allowances to sell them on an open market.
- ✓ Creates a system of "offset" credits that are created by programs that reduce or sequester carbon dioxide. These credits may be purchased and used by entities that do not have enough emissions allowances. Each entity may only use a specific percentage of offset credits per year. In addition, 1.25 offset credits will only equal one emission allowance.

MORE…

(Major Provisions Continued)

- ✓ ACES is unclear on how many of the emission allowances will be given to each covered entity and how many will be auctioned.

Title 4: Transitioning to a Clean Energy Economy – Offers protections to U.S. consumers and industry and promotes green jobs during the transition to a clean energy economy.

- ✓ Attempts to lessen the burden on manufacturing by rebating money to sectors that use large amounts of energy, and produce commodities that are traded globally.

NATA Position

NATA is concerned that ACES represents a fundamental shift in the way government treats the foundation of the United States economy – energy. ACES is a bill designed to raise energy prices to create capital to invest into new technology and, as such, represents a huge new tax burden on American citizens and business. A global warming tax such as this could cost as much as $1.9 trillion over eight years and, because it is an industry that relies on available, efficient energy sources, the burden on aviation would be heavy.

Climate change legislation that imposes fees, charges or taxes, whether directly or indirectly, is unnecessary and counterproductive to industry initiatives. The aviation industry is intrinsically motivated, like few others, to be more efficient users of fuel and thus reducers of GHG emissions. If climate measures raise revenues, however, those revenues must be reinvested into aviation to support the industry's already effective GHG emission lowering programs. Currently, GHG emissions from aviation constitute only a very small part of total U.S. GHG emissions, less than 3 percent. In addition, the aviation industry as a whole has recognized the obligation to further limit aviation's GHG footprint even as aviation grows to meet rising demand for transportation around the world.

Status

The House Committee on Energy and Commerce is planning to hold a series of hearings beginning the week of April 20, 2009. A final draft bill is expected to be completed by the committee and introduced in the House by Memorial Day.

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