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2. LEGISLATION: Intensity target tinkering worries international analysts
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Lisa Friedman, E&E reporter

A last-minute tweak to federal climate change legislation may make it harder for U.S. leaders to negotiate a climate deal with China and other big developing countries, some international energy analysts said this week.

The change, made in the final hours before the sweeping energy bill sponsored by Reps. Henry Waxman (D-Calif.) and Edward Markey (D-Mass.) passed the House, raises the bar for sectors in fast-growing nations to earn international offsets.

Advocates of the change say it was necessary to help ensure that global greenhouse gas emissions don't rise more than 2 degrees Celsius over pre-industrial levels -- the threshold beyond which scientists say the world will face catastrophic climate change. But opponents argue it could tie the hands of U.S. negotiators trying to create a global emissions pact.

"This is going to make negotiators nervous," said Michael Levi, a senior fellow at the Council on Foreign Relations.

At issue is a section of the Waxman-Markey bill that covers rules for international offsets, which are ways for regulated companies to meet their emissions caps through greenhouse gas-cutting measures outside their own facilities. Overall, the legislation, now headed to the Senate, cuts U.S. emissions 83 percent by midcentury by creating a cap-and-trade program.

Early versions of the bill allowed regulated sectors to earn offset credits "relative to a baseline level of performance" that would later be set. That essentially, analysts said, amounts to a greenhouse gas intensity target. They went on to say that the baseline for a given sector would be established at levels lower than would occur under a business-as-usual scenario.

Intensity targets, popular with former President George W. Bush's administration, mean a given sector like steel or glass would strive to reduce its emissions per dollar of economic activity.

A Bush-era concept reborn

Annie Petsonk, international counsel for the Environmental Defense Fund, argued that intensity targets provide no assurance that actual emissions levels will go down.

A company in China or elsewhere, she said, could reduce the amount of energy it expends for every unit of steel, for example. But if the company then simply creates more steel, the end result is a net growth in emissions.

Pulling out a child's miniature school bus to make her point, Petsonk said, "A company could earn offsets for reducing emissions per yellow bus, even as total emissions were rising." That, in turn, could flood the market with credits, but not produce much in the way of reducing emissions of heat-trapping gases.

New language in the Waxman-Markey bill locks in a fixed level of emissions, calling for the baseline to be established on an "absolute basis."

Jake Schmidt, international policy director at the Natural Resources Defense Council, called it "an important tinker."

Schmidt said he understands worries that countries like China might earn offset credits for little or no emission cuts. But he argued that those fears are overblown.

He and others said opposition to intensity targets stems largely from the Bush administration era, when it was seen as a strategy to avoid reducing emissions.

"Bush tainted intensity targets," Schmidt said. Under the original language, he argued, "there's no way the regulations for China and the big developing countries weren't going to be very, very carefully scrutinized."

Spine-stiffening? Or stifling?

Several analysts this week said they worry that the new language will turn off developing countries. Countries like India and China, they said, are simply not ready to reduce absolute emissions -- but may agree in an international treaty to stiff energy intensity targets that set the country on a road to accepting actual cuts by 2020 or soon after.

"Intensity targets take you to the same place" as actual emissions reductions, "but it's easier to swallow," Schmidt said.

For State Department officials and others trying to negotiate a replacement to the 1997 Kyoto Protocol, the change could be troublesome. The talks come to a head in December at a summit in Copenhagen.

"The new language is not quite consistent with the international discussions under way," said Stacey Davis, manager of U.S. programs for the Center on Clean Air Policy. "It makes it more difficult to get an agreement."

Negotiators, said Levi, "will want flexibility to find the most effective solution possible. It's one thing for Congress to provide broad, high-level discretion, but this amounts to Congress micromanaging the negotiations."

Petsonk said she believes tougher language on targets for fast-developing countries is the only way Congress will ultimately agree to domestic climate change legislation. Measures like a hotly disputed tax on Chinese imports -- inserted into the bill by steel and labor union interests worried about competition from countries not forced to reduce emissions -- underscore that, she said.

As for the impact on the talks in Copenhagen, Petsonk said she isn't worried. Nations can still negotiate a sectoral agreement, she noted, but simply must meet a higher bar in order to gain entry into the carbon market.

"Sometimes it helps when Congress stiffens your spine," she said. "Congress defines what it needs negotiators to get."

Opponents of absolute targets, meanwhile, say they are looking to the Senate to soften the language.

"There's a Senate conversation," Schmidt confirmed. "I think there's a better way to handle this concern."