

# Senate climate bill treads choppy waters with language on zones, revenue sharing

**Mike Soraghan, Environment & Energy Publishing, 3-26-10**

The new climate bill in the Senate would allow state governments to decide whether they want drilling within 35 miles of their shores, according to an industry participant in the negotiations.

Beyond 35 miles and up to 75 miles out, drilling would be allowed unless the state took action to block it.

"As I understand it, rhetorically, opt-in is zero to 35 miles out, opt-out is 35 to 75 miles," said Bruce Josten, executive vice president for government affairs at the U.S. Chamber of Commerce, stressing that he had not seen the proposal in writing.

The different zones would also affect the way states would share revenue, Josten said yesterday as he walked into the Capitol for a meeting on the bill being drafted by Sens. John Kerry (D-Mass.), Lindsey Graham (R-S.C.) and Joe Lieberman (I-Conn.).

Many other details about the offshore drilling language are still not known. Asked what the rules would be farther out than 75 miles, Josten shrugged, threw up his hands and walked into the room.

The bill had been expected to give states some say in drilling off their coasts and some share in the revenue, but the 35-mile threshold shows how much discretion may be given.

Offshore drilling will require the "tri-partisan" senators to navigate carefully in some choppy seas. Liberal and coastal senators dislike offshore drilling language, but centrist Democrats and most Republicans, starting with Graham, insist on it.

And some centrist Democrats who support offshore drilling oppose the idea of sharing money with the states, typically referred to as "revenue sharing."

"They're going to run into a buzzsaw of opposition," said Sen. Byron Dorgan (D-N.D.), who pushed to include drilling off the coast of Florida in an energy bill done last year by the Senate Energy and Natural Resources Committee. "That resource belongs to all Americans."

Others note that interior states share in the revenues from drilling federal lands onshore.

"On federal lands, the states get 50 percent of the revenue sharing," Lieberman said Thursday. "So, why not when it happens offshore and the states need it."

Legislators from states that have drilling off their shores, or want it, such as Virginia, support revenue sharing. So do many supporters of industry, because they believe it will encourage states to allow drilling under the opt-in/opt-out scheme.

On Tuesday, 10 coastal Democratic senators sent a letter to the trio warning that their votes are on the line if the proposal included offshore drilling with revenue sharing.

Democrats signing the letter were Sens. Bill Nelson of Florida, Frank Lautenberg and Robert Menendez of New Jersey, Jack Reed and Sheldon Whitehouse of Rhode Island, Barbara Mikulski and Ben Cardin of Maryland, Ron Wyden and Jeff Merkley of Oregon, and Ted Kaufman of Delaware.

Graham has said the bill must have offshore drilling to win his support, and so has Sen. Mark Begich (D-Alaska). Revenue sharing from drilling on the outer continental shelf, for example, was one of four priorities that Begich listed this week in a letter to Senate Majority Leader Harry Reid (D-Nev.). Begich said he would also like the proposal to include expanded incentives for Alaskan natural gas, dedicated adaptation funding and more money for Arctic climate research.

Some liberal senators have said they might be willing to budge on offshore drilling in exchange for limits on greenhouse gases. But they said they oppose passing the Energy and Natural Resources Committee bill alone, which would open up the eastern Gulf of Mexico to drilling but not include a cap on emissions.

"In the end, this will be one of those cases where everybody will be a little bit unhappy," Lieberman said yesterday. "But if they're mostly happy that we've done something constructive, then it will pass."

Also yesterday, several House members from Virginia introduced legislation that would order the Interior Department to move ahead on a lease sale off the Virginia coast, a move lauded by the oil and gas industry.

### **Hydraulic fracturing**

The gas industry, including major players like BP PLC, is pushing for language in the bill recommending against federal regulation of fracturing, and against more public disclosure of the chemicals used.

And Graham said yesterday that he would like language in the bill to protect hydraulic fracturing, a controversial oil and gas drilling process, from federal regulation, though it is not certain if such provisions will be in the bill.

"That's not decided," Graham said. "I just want to make sure we can do it. ... They want to disallow it. That's the fight." He added, "We need to use the fracturing process to get gas. But it needs to be transparent, and we understand the environmental impact of it."

Hydraulic fracturing, which involves blasting water, sand and chemicals into wellbores at high pressure to pry gas from rock, has opened up huge shale gas reserves in the United States. The oil and gas industry says it has a perfect safety record, but some environmentalists say the chemicals used could contaminate groundwater and they want it regulated under the federal Safe Drinking Water Act. Critics of fracturing have indicated their top priority is increased disclosure of the precise chemicals poured into the well.

Graham said that he also wants transparency about what chemicals are used. "I share the environmental concerns that it be transparent, that we know the chemicals, that we know what's going on in fracturing," Graham said. "That may be a common ground."

But Sen. James Inhofe (R-Okla.), the top Republican on the Environment and Public Works Committee and a staunch ally of the oil and gas industry, said the bill's authors are hoping it will bring them more votes.

"They're going to try make any kind of deal they can to bring people in," Inhofe said.

"Business and industry are pretty gullible," Inhofe added. "They make it sound like if you don't put pro-language in there, they're going to stop hydraulic fracturing. It's pretty naive."

### **Prognosis**

In the wake of a bitter fight over health care legislation, it is not clear how willing Congress is to take up a bruising fight about climate change and energy.

"The idea of doing hard things has been tainted," Graham said. "Some of my colleagues are going to lose their seats over this. People are more risk-averse." He added, "If you can get the right mix of environmental and business groups, we just might be able to do something."

But Sen. Barbara Boxer (D-Calif.), chairwoman of the Senate EPW Committee and an ardent advocate of climate legislation, said health care may give the bill momentum.

"I think it shows an appetite for doing big things," Boxer said.