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SPOTLIGHT

1. AIR POLLUTION

Inhofe pushes new Clear Skies offer on eve of markup

Darren Samuelsohn, *E&E Daily* senior reporter

A last-minute flurry of negotiations and lobbying has opened the door to the prospect that President Bush's proposal to reform the Clean Air Act for power plants and other industries may gain a majority as it goes to markup this morning before the Senate Environment and Public Works Committee.

Republican sponsors of the Bush-endorsed bill are seeking to win over at least one EPW panel member to break what has long looked to be a 9-9 tie dooming the Clear Skies initiative's chances of becoming law this session. Critics of Clear Skies contend the bill strips too many existing provisions out of the current law, while not going far enough to cut power plant pollution of nitrogen oxides, sulfur dioxide and mercury. The bill also fails to deal in any meaningful way with climate change, opponents say.

But in a new **274-page manager's amendment** (<http://www.eenews.net/EEDaily/Backissues/images/021605dr2.pdf>) released yesterday, EPW Chairman James Inhofe (R-Okla.) toned down some of the controversial changes he had previously sought for the Clean Air Act while adding language aimed at carbon dioxide,

without mandating a cap on emissions. Inhofe has now offered at least three times over the last week to change Clear Skies, with Republican EPW Committee aides yesterday saying the newest version of the bill goes the furthest to appease critics.

In a briefing with reporters yesterday, the EPW Committee's Republican staff director said the changes were made without any assurances they would win more support. "I don't know how the vote will go," said Andrew Wheeler, the top GOP aide on the panel. "I'm still hopeful a majority will support it."

But a Senate EPW Democratic aide indicated Inhofe's effort to cut out several items from the earlier version would not be enough. The bill would still lead to an increase in CO₂ emissions of 13 percent beyond today's levels, while the pollution limits and changes to the Clean Air Act would leave many local areas out of compliance with federal air quality standards for ozone and fine particulate matter. "They didn't do it quite right," the aide said. "They're not going to get them."

Essentially, Inhofe and his allies are seeking the support of just one additional EPW member. As it stands, nine Republicans are expected to vote for Clear Skies while seven Democrats, Sen. Lincoln Chafee (R-R.I.) and EPW ranking member Jim Jeffords (I-Vt.) oppose the plan.

The latest Inhofe bill, which includes as cosponsors Senate EPW Clean Air Subcommittee Chairman George Voinovich (R-Ohio) and Senate EPW Transportation and Infrastructure Chairman Kit Bond (R-Mo.), will be introduced to start today's markup. On climate change, the bill includes \$650 million in incentives for the construction of state-of-the-art Integrated Gasification Combined Cycle power plants. Proponents of IGCC technology say it can generate electricity with only a fraction of the emissions from a conventional coal plant, and it also may soon be able to capture CO₂ for sequestration. Inhofe's newest Clear Skies bill also calls on NASA to conduct a study on changes in the mass of glaciers.

Addressing emission limits, the new Clear Skies bill would move up the second phase of its cap-and-trade program for NO_x, SO₂ and mercury, from 2018 to 2016. Specific to mercury, the bill seeks to address concerns that a trading scheme will lead to localized hotspots around some utilities by requiring the U.S. EPA to study and mandate emission cuts at individual plants.

The new version of Clear Skies also limits the bill's controversial "opt in" provision from what previously had been four industrial source categories, taking it down to only one: industrial boilers. Some 2,800 boilers around the country would be allowed to join Clear Skies' trading program, in exchange for an exemption from having to install pollution control technologies that limit toxic emissions. Clear Skies would still exempt boilers from having to meet certain EPA guidelines addressing the likelihood of cancer exposure from emissions.

Chafee and Sen. Max Baucus (D-Mont.) have been targeted the most likely swing voters, but neither has given an indication they would shift directions. In brief interviews yesterday, both Baucus and Chafee said they still planned to vote against Clear Skies, though it was unclear if they were basing their statements upon the newest version of the bill.

"Not as is," Baucus said, while also describing staff-level negotiations as "fluid." Since last weekend, Baucus said his staff have had the "first real honest to goodness" conversations with Republicans over the issue of CO₂, but he also stopped short of outlining exactly what GOP concessions it would take for him on the issue to vote for Clear Skies.

Chafee said he was not satisfied with Inhofe's offer from Friday on Clear Skies, which GOP aides said was not as far-reaching as what they released yesterday. Still, Chafee said he was aware of "no progress" to get the bill out of the EPW Committee.

Today's markup will serve as the first time the EPW panel under its current Republican leadership has tried to move a major set of Clean Air Act amendments. It also marks the first time that a congressional committee has dealt specifically with Clear Skies, which Bush first described in any significant detail just over three years ago. As the EPW panel chairman

in the 107th Congress, Jeffords passed what many consider to be the strictest bill ever written to control power plant emissions, including CO₂. Inhofe as chairman held hearings on the issue over the last two years, but he never scheduled a markup.

In all, 57 amendments were filed by yesterday morning's deadline for possible consideration during the Clear Skies markup. Jeffords led the pack with 44 proposed changes, with Sen. Hillary Rodham Clinton (D-N.Y.) next with six amendments. Baucus is the only Democrat who did not file an amendment.

Besides Chafee and a manager's amendment from Inhofe, no other Republican EPW members indicated they would bring up first-degree amendments. GOP and Democratic committee aides both said second-degree amendments could still be drafted and offered during the markup.

On the other side of Capitol Hill, House Energy and Commerce Committee Chairman Joe Barton (R-Texas) wished good luck to his Senate colleagues on the EPW panel markup. Briefing reporters on the energy bill, Barton said a successful Clear Skies markup and passage of the bill in the Senate would provide encouragement for the House to take action. "Anything the Senate can do, we can do better," Barton said.

And House Energy and Commerce Air Quality Subcommittee Chairman Ralph Hall (R-Texas) said he is considering subcommittee hearings on Clear Skies after Easter.

Senior reporter Mary O'Driscoll contributed to this report.

ON THE HILL

2. ENERGY POLICY

Barton, Hall set up ANWR drilling fight in House

Mary O'Driscoll, *E&E Daily* senior reporter

Top House lawmakers cracked open a GOP fissure in the energy policy debate yesterday when they said the comprehensive House energy bill will not include language allowing for oil and gas exploration in the Arctic wilderness.

The assertion by House Energy and Commerce Committee Chairman Joe Barton (R-Texas) and Energy and Air Quality Subcommittee Chairman Ralph Hall (R-Texas) that they want to deal with oil and gas exploration in the Arctic National Wildlife Refuge separately from the comprehensive bill is likely to set up a fight with House Resources Committee Chairman Richard Pombo (R-Calif.), who has pledged that ANWR will be in the legislation that could go to the House floor as early as the first week of March.

And Pombo intends to make good on that pledge, a spokesman said.

"As far as Chairman Pombo is concerned, the energy bill will include ANWR," said Resources Committee spokesman Brian Kennedy. "It will be a component of the Resources package, without question."

The differences between Pombo and Barton point out the difficulty in getting an energy bill through Congress, with several committees exerting jurisdiction over different portions of the legislation. That does not even consider what shape the energy bill will take by the time the Senate completes its version and the two chambers go to an anticipated conference that could produce yet another completely different bill altogether.

To be sure, Barton and Hall said they support opening ANWR to oil and gas exploration, but they want it done separately from the energy bill.

"I want to have a standalone, single-shot ANWR bill," Hall said, adding that he wants to pursue legislation that expands the size of the 2,000-acre portion of ANWR that the Resources Committee is contemplating opening to exploration. "We ought to be able to drill more than that."

Keeping ANWR out of the House energy bill would align the House more closely with the Senate, as including ANWR language in any Senate bill is expected to arouse enough opposition to mount a successful filibuster. For that reason, Senate Energy and Natural Resources Committee Chairman Pete Domenici (R-N.M.) has said the Senate instead will

pursue opening ANWR through the budget reconciliation process, where supporters only need a simple majority of votes for passage.

Yet Pombo long has wanted to include ANWR in the energy bill, and the energy bill the House passed in April 2003 included ANWR language; it was the final House-Senate conference report that omitted the ANWR language.

Pombo spokesman Kennedy yesterday said the Californian still plans to include ANWR language in the Resources Committee mark of the energy package, and he added that Pombo would oppose any effort to remove the language on the House floor. The ANWR language, he said, is part of a "balanced" energy bill.

Kennedy acknowledged it would be an "uphill battle" to get an energy bill with ANWR through the Senate but asserted it is "defeatist" to assume that ANWR cannot survive in that chamber.

How Barton and Hall will approach the energy bill process is still unclear. Barton made public last week a "discussion draft" energy bill on which Hall's subcommittee is basing its energy bill hearings. The second and final hearing on the bill will convene today and focus on oil and natural gas issues.

Barton may decide by the end of the week whether to go with the discussion draft, come up with a new draft or open up the energy bill process to a full Energy and Commerce Committee markup that would involve committee Democrats. Key to the decision, he said, is whether the Democrats, led by committee ranking member John Dingell (D-Mich.), will commit to working on an energy bill. Dingell opposed the energy bill in the last session of Congress.

Barton added that Dingell has made no commitment of support for an energy bill. "But we would love to get that commitment," he said.

Barton would prefer a "bipartisan work product," adding that he is willing to take a little more time with the bill to get there. Otherwise, "we'll take it straight to the floor without a markup, quickly."

Barton and Hall expect more involvement from the White House on the energy bill this year, noting that President Bush made specific, detailed references to the energy bill and energy policy issues during this year's State of the Union address.

Energy program funding, tax credits

Barton told reporters yesterday he has not yet held a meeting with House Budget Committee Chairman Jim Nussle (R-Iowa) and Ways and Means Committee Chairman Bill Thomas (R-Calif.) to discuss budget and program funding issues for the energy bill. Last session's H.R. 6 energy conference report had a \$31.1 billion price tag, split between \$5.8 billion in spending and \$25.3 billion in tax credits. Barton's draft energy bill includes a tax title and funding language similar to what was in last session's bill, but it has not yet been scored.

This year, the Bush administration has proposed \$6.7 billion in fiscal year 2006 tax credits -- a number that both Barton Senate Energy and Natural Resources Committee Chairman Pete Domenici (R-N.M.) say is too small.

Domenici said he expects the eventual energy bill to cost somewhere closer to the roughly \$14 billion cost of the pared-back compromise energy bill he proposed last year, while Barton noted that the eventual cost of the energy bill will reflect that some of last session's tax incentives already were passed as part of the corporate tax bill.

The cost of the new energy bill also will reflect the "extremely healthy profits" energy companies are earning due to today's higher oil prices, Hall said. The higher profits mean that some of the public financing for oil and gas programs might not be necessary.

"We all work in the real world," Hall said.

Yucca Mountain push

Barton also might try using the energy bill to address the Yucca Mountain funding issue, which is a key contributor to expectations that the opening of the repository, located under a desert mountain range 100 miles northwest of Las Vegas will be delayed by at least two years, from 2010 to 2012.

Barton said he is working with Dingell, House Energy and Water Appropriations Subcommittee Chairman David Hobson (R-Ohio) and the White House on legislation that would take the annual Nuclear Waste Trust Fund monies off-budget so they can be spent directly for the project. He noted that Energy Secretary Samuel Bodman and others testified last week on the need to address the matter.

Nuclear utility ratepayers have contributed \$22 billion to the trust fund over the past 20-plus years to build the repository, Barton said. The FY '06 budget calls for spending \$300 million from the trust fund when the annual contributions will be \$750 million. "We have to try to get that fixed," he said.

Reporter Ben Geman contributed to this report.

3. APPROPRIATIONS

House approves reorganization plan as Senate continues internal talks

Alex Kaplun, E&E Daily reporter

The House Appropriations Committee yesterday approved a major reorganization plan, shrinking the number of subcommittees from 13 to 10 and shifting jurisdiction for several environmental and energy agencies.

During the committee's first meeting of the 109th Congress, the full panel voted to approve the changes after weeks of backroom negotiations between the leadership and high-ranking committee members from both chambers. Committee Democrats voted against the proposal, saying they were shutout of the reorganization talks and that the lack of similar reshuffling by the Senate will lead to an omnibus bill.

Republican Senate leaders, meanwhile, said that no decision has been made on whether the Senate will adopt a reorganization plan, and it remains unclear whether Senate appropriators are willing to go along with any plan that resembles the House version.

Senate Majority Leader Bill Frist (R-Tenn.) yesterday said negotiations within the Senate are ongoing, but he would not speculate on the likelihood of some type of reorganization. "There may be some reform, there may not be reform," Frist said.

Senate Appropriations Committee Chairman Thad Cochran (R-Miss.) also said he will continue to talk with senators about reorganization but added the committee will begin the appropriations process this week under the existing structure. The Senate VA-HUD Appropriations Subcommittee -- one of subcommittees eliminated in the House reorganization -- announced yesterday a hearing tomorrow on the fiscal year 2006 budgets for several agencies under its jurisdiction.

Cochran declined to say exactly what kind of reorganization options the Senate was still considering but said that some type of changes are "inevitable."

The House's reorganization plan moves the annual budgets for the U.S. EPA and White House Council on Environmental Quality from what formerly had been the VA-HUD spending bill. The two agencies would be placed into appropriations legislation that already deals with the Interior Department, Bureau of Land Management and U.S. Geologic Survey.

The House reorganization plan would also shift into the jurisdiction of the Energy and Water Subcommittee all Energy Department programs that previously were addressed in the Interior spending bill. Budgets for agencies such as NASA, the National Science Foundation and White House Office of Science and Technology Policy will be considered within a new Science, State, Justice and Commerce bill. And environmental programs formerly handled within the Defense spending bill would be transferred to a new Military Quality of Life and Veterans Affairs Subcommittee

http://www.eenews.net/EEDaily/searcharchive/test_search-

display.cgi?q=&file=%2FEEEDaily%2Fsearcharchive%2FDaily%2F2005%2F2Feb14%2F02140509.htm *E&E Daily*, Feb. 14).

The reorganization plan has reportedly been orchestrated by House Majority Leader Tom DeLay (R-Texas), who claims the changes would streamline the spending billions and reduce the possibility of an omnibus.

House Appropriations Committee Chairman Jerry Lewis (R-Calif.) yesterday attempted to dispell rumors that DeLay was behind the reshuffling, saying that "ideas were exchanged with the leadership" but that he ultimately crafted the new structure.

But Committee Ranking Member David Obey (D-Wis.) said the reorganization was put together by DeLay in order to prevent cuts to NASA, which has a major facility in DeLay's district. "I think there was more than a few suggestions from .. the leadership," Obey said.

4. BUDGET

Bodman defends DOE weapons, cleanup budget before Senate panel

Ben Geman, *E&E Daily* reporter

New Energy Secretary Samuel Bodman yesterday defended the proposed \$23.4 billion Energy Department budget that includes steep cuts in environmental cleanup programs while providing funds for a controversial study of the so-called bunker-buster nuclear weapon.

He also pledged a more "aggressive" effort to implement controversial plans for cleaning radioactive wastes in underground tanks at DOE sites in South Carolina and Idaho under which the department would leave some high-level wastes on site, rather than prepare them for a deep geologic repository.

Bodman appeared before the Senate Armed Services Committee to discuss the DOE's budget for weapons programs, nonproliferation and environmental cleanup as part of his first budget process as secretary.

Bodman said he wanted DOE to act more quickly under authority granted under fiscal year 2005's defense authorization bill, which allows DOE to leave what it says would be a very small volume of high-level waste in tanks at the Savannah River and Idaho National Laboratory sites.

"I have asked my colleagues to develop a new and more aggressive approach to this so that we can get on with it," said Bodman, adding that a proposal is expected soon. He also vowed to report back to lawmakers soon regarding "where and how and how rapidly we are going to be able to do what we need to do."

Bodman, in response to questions about tank wastes from Armed Services Chairman John Warner (R-Va.), said "this is one of those areas where I have been concerned that we have not been as timely as we would have wished to have been in doing the legal implementation work to convert the legislation ... to get all of the specific rules and regulations put in place so we can implement it."

The defense bill language did not apply to the sprawling Hanford nuclear reservation in Washington state, and DOE has suggested that some of the proposed cuts to the Hanford cleanup budget stem from uncertainty about waste classification there.

Bodman told reporters afterward that DOE is preparing a document that will summarize how DOE intends to implement the reclassification language from the defense authorizing bill. The plan will be forwarded to the Nuclear Regulatory Commission, which consults with DOE to monitor the process under the legislation, he said.

The authority allows the waste to be capped with cement to be reclassified as "incidental" to reprocessing and treated under Class C low-level radioactive waste disposal rules, although it crucially permits higher levels of radioactivity than the low-level standards if NRC is consulted and certain other disposal criteria are met.

DOE plans to cap some residual wastes with cement and leave them in place at the South Carolina and Idaho sites, which the department contends will safely stabilize the wastes and allow cleanup to occur more quickly and cheaply. Critics of the high-level waste

plan say it will endanger water supplies near the Savannah River site. The site contains millions of gallons of high-level wastes that are currently stored in dozens of underground tanks, a legacy of nuclear weapons material production.

Overall, DOE's cleanup budget is sharply lower. The environmental management budget, which includes funding for cleanup of sites where nuclear weapons materials were produced, would fall by \$548 million to \$6.5 billion in 2006. Bodman's testimony before the committee notes that DOE expects cleanup to be completed on several sites in 2006, and DOE has said that cleanup progress accounts for some of the cuts.

However, the budget also cuts cleanup funds for key longer term projects, including the Hanford site, where the budget request calls for a cut of \$267 million. DOE has said the reduction is explained by several factors, including completion of some cleanup phases at Hanford. The department last year announced completion of removal of spent nuclear fuel from basins near the Columbia River.

DOE's budget notes that funds for building the Waste Treatment and Immobilization Plant, which will vitrify wastes at Hanford, are being cut for reasons including "recent seismic information" that may require project modifications.

Bodman, speaking with reporters about the cuts, also suggested the state of Washington's decision not to sign-off on the reclassification language -- which only applies to South Carolina and Idaho -- affected DOE's budgeting. Environmental groups and Native American tribes have alleged in litigation that DOE lacks reclassification authority, although an appeals court nixed the challenge as unripe last year after the groups won in federal district court in 2003.

Bodman noted the combination of "legal differences" and the tight budget prompted the Hanford reductions. The Hanford reductions include a cut of nearly \$90 million for cleanup work on the "tank farms" that contain over 50 million gallons of high-level waste in underground tanks -- tanks not subject to the reclassification language that applies to South Carolina and Idaho.

Elsewhere, Bodman defended controversial efforts to study of the so-called Robust Nuclear Earth Penetrator, which Congress did not agree to fund in the FY '05 budget. DOE is seeking \$4 million in 2006 and more the following year for the RNEP effort. Bodman said the request would essentially fund a "physics study" of how deeply the weapon can penetrate and what the effect on it would be. The budget also contains Defense Department funding for the RNEP effort.

The hearing was extremely cordial -- reflecting Bodman's smooth reception to date on Capitol Hill -- but Sen. Jack Reed (D-R.I.) nonetheless criticized what he called the Bush administration's "obsession" with new nuclear weapons.

5. NOMINATIONS

Reid says Democrats will filibuster judicial nominees again

Alex Kaplun, *E&E Daily* reporter

Senate Minority Leader Harry Reid (D-Nev.) yesterday shot down the possibility of a compromise on President Bush's federal appeals courts nominees, saying that any candidate who Democrats filibustered during the previous Congress will be blocked again this year.

"Unless there is something new that I'm not aware of ... we will vote the same way we have in the past," Reid said.

Reid's comments all but eliminate the possibility that Republicans will be able to confirm some of President Bush's more controversial nominees without implementing the "nuclear option."

Senate Majority Leader Bill Frist (R-Tenn.) declined to say whether he has the votes needed to pass the controversial rule change that would end the use of a filibuster as a tool to block judicial nominations. Frist has repeatedly threatened to use such a tactic, but it remains unclear whether he has enough support within his own caucus to modify the chamber's rules.

Several moderate Republicans have come out in opposition to the "nuclear option" and several veteran senators have declined to take a stance on the issue.

Reid said he does not know if there were 51 votes for Frist's plan, but said he is "hopeful some of the Republicans will see this is not a good option."

The spat over judicial nominations comes one day after President Bush formally renominated 12 candidates for federal appeals courts that were not confirmed by the Senate during the last session. Democrats filibustered the majority of those nominees, although a handful never reached the Senate floor.

Democrats attacked Bush's action, arguing that it demonstrated the White House and Senate Republicans had little interest in reaching a compromise on the issue. First and other Senate Republicans argued that the chamber has a constitutional responsibility to hold a vote on the nominees.

"These are individuals that have majority support," Frist said.

Frist has not yet talked to Senate Judiciary Committee Arlen Specter (R-Pa.) about a schedule or strategy for handling the nominees. Specter has indicated that former Interior Department Solicitor William Myers, a nominee to the 9th U.S. Circuit Court of Appeals, would be the first candidate considered by the committee, in an effort to test the water on whether some sort of compromise is possible with the Democrats. Myers is often viewed as one of the less controversial of the blocked nominees, although his nomination is vigorously opposed by many environmental groups.

Some of those groups yesterday seized on a **letter** (<http://www.communityrights.org/Devaney2-10-05.pdf>) from the Interior Department inspector general that they say further demonstrates Myers is unfit to sit on the federal bench. The letter -- sent last week by Inspector General Mark Devaney to the group Public Employees for Environmental Responsibility (PEER) -- summarizes a complete but not yet released investigation concerning a settlement between Wyoming rancher Harvey Frank Robbins Jr. and the Bureau of Land Management.

The investigation stems from an agreement reached between BLM and Robbins absolving Robbins from penalties associated with past violations of grazing laws and stopping future enforcement actions for similar violations. Lawyers from Interior's Office of Solicitor -- then headed by Myers -- brokered the deal.

The IG's letter, which PEER made public yesterday, states that in crafting the agreement "normal processes were circumvented ... the concerns articulated by the Justice Department and a BLM field office were ignored [and] the interests of the BLM ... were not adequately protected by the terms of the settlement agreement."

The letter further states that the investigation found "an inappropriate level of programmatic involvement by the SOL, and a profound lack of transparency in the overall negotiation and agreement process."

BLM officials eventually voided the agreement because Robbins failed to comply with it.

PEER, along with Earthjustice and the Community Rights Counsel, sent a letter yesterday to Specter asking that the full Judiciary Committee conduct a "full evaluation of this new information" when considering Myers' nomination.

Click here (<http://www.communityrights.org/Devaney2-10-05.pdf>) to download a copy of the IG's letter.

6. HAZARDOUS SUBSTANCES

Asbestos bill back to Senate negotiating table

Allison A. Freeman, *E&E Daily* reporter

Key senators in the asbestos litigation trust fund effort yesterday said the beleaguered legislation is still the subject of negotiations, with the possibility of changes being made to Sen. Arlen Specter's (R-Pa.) draft bill or Democrats putting forward a different compromise measure.

Sen. Diane Feinstein (D-Calif.), one of the more vocal members of the Judiciary Committee on the matter, is planning to sit down with Republicans and Democrats to compare legislation she has crafted with the draft bill from Judiciary Chairman Specter to see if they can find "common ground."

And Sen. John Cornyn (R-Texas), the GOP point person on the legislation, said he has talked to Feinstein about the issue and that many people are working on "parallel tracks."

"We're all just trying to figure out how to get there from here," Cornyn said.

The different approaches to the bill mark a divergence from the path Specter had plotted for his legislation, which he had hoped to introduce weeks ago and pass out of the committee by now.

Instead, Specter introduced his bill as draft legislation last week, at the request of Senate Majority Leader Bill Frist (R-Tenn.), who said members needed time to weigh in on the matter.

Specter has characterized his bill as "the last best chance" for asbestos reform, noting it is the product of 37 meetings between Senate staff and various stakeholders. He has said if members do not want to go forward with his bill, he would not expect the committee to spend any more time on the issue.

But the draft legislation -- which would create a \$140 billion asbestos trust fund -- met with opposition from Democrats and Republicans alike. Democrats spoke out against a provision on silica claims, saying it could pre-empt state law and keep legitimate claims from having their day in court. And some Republicans expressed concern that other provisions of the legislation would encompass too broad an array of illnesses.

"It's a little bit like a kaleidoscope, the more you look at it, the more it becomes difficult," Feinstein said. "It is in my view virtually impossible to bring the two sides together, labor and business, on a bill that both sides will agree to.

"Republicans want the business community to be in agreement, and Democrats want labor to be in agreement, and in fact, there is no known bill that is going to do that," she added.

Frist said Specter is "absolutely committed to getting a bill done" and is talking to members of the Judiciary Committee this week to see where they stand on various items. He did not give any timeline for when the bill would be brought up.

And while Feinstein noted the difficulty in reaching consensus on the matter, she thinks a trust fund is the right way to go, even if it meant compromising on some issues.

"If there is going to be an asbestos bill, some of us just have to bite the bullet and do what we think is fair and right to set up what is supposed to be a no-fault trust," she said. *Reporters Ben Geman and Alex Kaplun contributed to this report.*

7. COMMERCE

NOAA's oceans, research programs face most cuts in budget request

Andrew Freedman, *E&E Daily* reporter

As was the case last year, the National Ocean Service and National Marine Fisheries Service would bear the brunt of cuts under the Bush administration's fiscal year 2006 National Oceanic and Atmospheric Administration budget request.

Out of the \$3.6 billion request, NOS would receive \$415 million, which is about \$255 million less than enacted last year. This includes \$128 million for ocean resources conservation and assessment, down from \$245 million last year. Ocean management would be funded at \$36 million, which includes money for the nation's 13 marine sanctuaries.

The budget request would eliminate the \$18 million Ocean Health Initiative as well as the \$5 million marine debris program but would boost funding for fishery observers and vessel monitoring systems. Senate Commerce Committee Chairman Ted Stevens (R-Alaska) introduced a bill last week that would authorize \$10 million annually from 2006-2010 to carry out a marine debris reduction program.

The National Marine Fisheries Service would receive \$728 million, about \$96 million less than enacted last year. Protected species research and management would receive \$159 million, about a \$15 million decrease from last year. Habitat conservation and restoration funding would be reduced from \$53 million to \$31 million.

The budget request would reduce NOAA's marine mammal programs by \$44 million compared to the FY '05 enacted level. Ted Morton, a policy specialist with Oceana, criticized the funding cuts as inconsistent with the recommendations of the U.S. Commission on Ocean Policy, which called for significant spending increases in ocean programs.

"We're deeply dismayed with the overall budget request," Morton said. "We think we should be taking strong steps forward and this just doesn't indicate the level of commitment that we think needs to be there."

"We'll hope that members of Congress will step up and help restore these funds," he said, noting that Senate appropriators boosted marine mammal funding to \$82 million last year.

There are some funding increases on the oceans and fisheries side, however. For example, the fisheries observers and enforcement program would see a \$10 million funding increase to \$80 million. According to NOAA, this will allow the agency to put observer coverage in two additional fisheries to obtain catch and bycatch rate estimates. By the end of 2006, NOAA plans to have observers deployed in 43 fisheries, with "adequate or near-adequate" levels of coverage in about 29 of these fisheries. Funding for fishery stock assessments also would increase to \$25 million.

The budget request also includes \$33 million for building a fourth new fisheries research vessel and an increase of \$7 million for Endangered Species Act status reviews and listings to complete and implement species recovery plans.

The research arm of NOAA also would see funding reductions under the administration's budget request. The Office of Oceanic and Atmospheric Research would receive \$372 million, a decrease of about \$42 million from last year. The request includes \$9.5 million to strengthen the U.S. tsunami warning program, a proposal that came in response to the devastating disaster in Asia late last year. OAR's climate research programs would receive a \$6 million boost to about \$178 million, while weather and air quality research along with ocean, coastal and Great Lakes research would be reduced compared to last year.

NOAA-wide climate research would total \$240 million, which includes \$11 million for the administration's Climate Change Research Initiative. NOAA plays a central role in the administration's Climate Change Science Program that aims to reduce uncertainties in climate change science.

The request would cut OAR's \$487,000 abrupt climate change research program, a move that cut may contradict the wishes of Congress. A bill, [S. 245](http://www.eenews.net/features/bills/109/Senate/150205183727.pdf) (<http://www.eenews.net/features/bills/109/Senate/150205183727.pdf>), pending before the Senate Commerce Committee would authorize up to \$60 million over the next six years for research into abrupt climate change. A similar measure passed the committee last year but was never acted upon by the full Senate.

The budget request includes \$3.6 million for ocean climate observations to document changes in ocean heat, carbon and sea level, and \$2 million to develop new climate reanalysis data sets to provide for better climate prediction capabilities.

In the area of marine research, the Sea Grant College program would receive flat funding compared to last year, at \$61 million.

In contrast to NOS, NMFS and OAR, the National Weather Service and the National Environmental Satellite, Data and Information Service would both see increases under the president's request.

8. AGRICULTURE

Senators propose bill to limit farm subsidies

Allison A. Freeman, *E&E Daily* reporter

Sens. Chuck Grassley (R-Iowa) and Byron Dorgan (D-N.D.) introduced a bill yesterday that would lower the amount of money a farming operation can collect in federal subsidies.

The controversial overhaul -- which a motley group of environmental, social justice and tax reform groups support -- was put forward by President Bush in his agriculture budget proposal last week.

The bill would set a limit of \$250,000 for farm payments, down roughly 30 percent from the current cap of \$360,000. It would also seek to close various loopholes that have allowed some large farming operations to collect millions of dollars.

"Farm payments that were originally designed to benefit small and medium-sized family farmers have contributed to their own demise," Grassley said. "Unlimited farm payments have placed upward pressure on land prices and have contributed to overproduction and lower commodity prices, driving many family farmers off the farm."

The Grassley/Dorgan bill mirrors a proposal they put forward last year that won a two-thirds majority vote in the Senate but failed to make it through conference negotiations with the House. The senators said this year they expect the legislation to make better progress, given the president's backing.

"Senator Grassley and I are at it again, but sometimes it takes a while," Dorgan said. "Now that we have the president's support, that makes a difference."

A staffer for Grassley said the proposal would likely move as part of the budget reconciliation process. In the past, the measure has been stopped by high-ranking Southern legislators who have sought to protect the cotton and rice growers in their districts.

A number of farming groups have opposed any change to the subsidies, saying they are necessary support for struggling farmers.

But a wide-ranging coalition of nonprofits -- including Oxfam America, the National Catholic Rural Life Center, the Sustainable Agriculture Coalition, Earthjustice, National Taxpayers Union, the Council for Citizens Against Government Waste and Bread for the World -- came out in support of the legislation yesterday.

"Unfortunately, our farm subsidies don't help most farmers or the environment. Our subsidies help big farmers get bigger, invite retaliatory tariffs, encourage farmers to plow up sensitive lands, and provide little incentive for stewardship or economic innovation," said Scott Faber of Environmental Defense. "Now is our chance to reform farm programs to reward economic innovation, rather than dependence, and to link payments to environmental performance, rather than production."

Environmental groups have supported a subsidy overhaul, saying the current system grants payments for land that could be used for other purposes to instead be converted into row crops.

Some groups have pointed to farm conservation payments as an alternative agriculture support. Those payments are usually smaller and at least theoretically available to a wider range of farmers, since most any type of farmer can apply.

"The current policy must be reformed to best meet needs of farmers, communities, and conservation," said Brad Redlin of the Isaak Walton League of America, a conservation and sporting group. "We should replace it with those payments that strengthen existing conservation, encourage crop diversification and environmentally sound practices."

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9. ONPOINT

NPRA president discusses energy bill prospects this year

National Petrochemical & Refiners Association President Bob Slaughter discusses MTBE language and other issues dealing with passage of this year's energy legislation with *E&E*

Daily senior reporters Mary O'Driscoll and Brian Stempeck. This morning's edition of OnPoint will be broadcast around 11:30 a.m. EST.

Click here (<http://www.eande.tv/main/?date=021505>) to see Tuesday's OnPoint discussion with Geoff Hurwitz of the Consumers Alliance for Affordable Natural Gas and Dave Alberswerth of The Wilderness Society about the future of natural gas policy.