



Greenhouse Gas Regulation in the United States

Gerry DaRosa

Bryan Cave LLP

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TODAY'S TOPICS

- President's big picture and Congress' work this year
- Brief mention of regional programs
- EPA's role





PRESIDENTIAL AND CONGRESSIONAL PROPOSALS

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Key Points of Obama Strategy

- U.S. to be a leader on climate change
- Combines energy and environmental strategies
- Implement cap-and-trade to reduce GHG emissions 80% by 2050 (W-L-B: reduce 71% below 2005 levels by 2050; WCI: reduce 15% of 2005 levels by 2020)
- Potential Clean Air Act regulation
- Renewable energy: 10% by 2012; 25% by 2025 (AZ: 3.5% by 2012; 15% by 2025)
- Cars
 - Increase federal fuel economy standards
 - Grant of CA waiver
- Weatherize 1 million homes annually
- Develop and deploy clean coal technology

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House – 111th Congress

Energy and Commerce Committee

- Waxman (CA) – Significant move to the left on climate expected.
- Energy & Environment Subcommittee – Markey (MA).

Select Energy Independence and Global Warming Committee – Markey (MA)

- Jurisdiction – Makes recommendations and findings.

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American Clean Energy and Security Act of 2009 (Waxman-Markey or ACES Act)

- Passed House on June 26, 2009
- Narrow margin: 219:212
- AZ delegation: 3 yes; 4 no; 1 abstain

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ACES Act – Clean Energy

- RES / efficiency increases: 6% by 2012 and 20% by 2020 (AZ: 3.5% by 2012; 15% by 2025)
- CCS incentives
- Financial incentives and other mandates for electric vehicles and related infrastructure

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ACES Cap-and-Trade: GHGs Covered

- carbon dioxide (CO₂) – emitted during fossil fuel combustion (e.g., power plants, cars, and boilers) and various processes
- methane (CH₄) – emitted by landfills, livestock, fossil fuel production, and manure management
- nitrous oxide (N₂O) – emitted by agricultural soil management, animal manure management, sewage treatment, mobile and stationary combustion of fossil fuel, and nitric acid production
- hydrofluorocarbons (HFCs) – used as refrigerant
- perfluorocarbons (PFCs) – emitted in Al production and semiconductor manufacturing
- sulfur hexafluoride (SF₆) – used in electric power industry
- nitrogen trifluoride (NF₃) - used during the manufacture of liquid crystal flat-panel displays, thin-film solar cells and microcircuits

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ACES Cap-and-Trade: Covered Sources

- electricity generators
- large stationary sources emitting 25,000 tons per year
- producers and importers of fossil fuels (e.g., refineries)
- natural gas distributors
- other sources (e.g., ammonia producers, Al producers, lime manufacturers, cement producers)

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ACES Cap-and-Trade: When does it start and what are the overall goals?

- Cap begins for 2012 for most sources – must have allowances by April 2013 (other sectors staggered in 2014 and 2016)
- GHG reduction schedule
 - 3% below 2005 levels by 2012
 - 17% below 2005 levels by 2020
 - 42% below 2005 levels by 2030
 - 83% below 2005 levels by 2050

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ACES Cap-and-Trade: Allowances

- Regulated sources are required to obtain allowances sufficient to meet emissions
- Free vs. auction – designed so that early years the majority of allowances will be free and after phase-in period, the majority will be auctioned
 - Distribution during early years (2012-2025) – approx. 80% free
 - Distribution by 2031 – approximately 70% of allowances auctioned
 - Distribution over entire term (2012-2050) – approximately 60% free

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ACES Cap-and-Trade: Distribution of Allowances and Proceeds

Use of proceeds / distribution of allowances for early years (2012-2025)

- 55% to protect consumers from increase in energy prices
- 19% to ease energy intensive industry into transition and protect trade vulnerable industries
- 13% to support clean energy and energy efficiency investment
- 10% for adaptation, worker assistance and training, prevention of deforestation
- 3% to ensure ACES is budget neutral

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ACES Act Cap-and-Trade: Offsets

- Offsets: provides for up to 2 billion tons of emissions credit annually
 - ½ from domestic and ½ from international
 - exception: if not enough domestic offsets available, up to 1.5 billion tons can come from international
- Starting 2017, international offsets worth less – 5:4 ratio
- Secretary of Agriculture to promulgate regulations regarding domestic agriculture and forestry offsets

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ACES Act Cap-and-Trade: Miscellaneous

- Early action credit: 1% of 2012 allowances allocated to early emission reduction projects between 1/1/01 to 1/1/09
- Borrowing:
 - no interest up to 1 year
 - 8% interest for borrowing 2 to 5 years
- Banking – unlimited
- Compliance – penalty for emitting without allowances
 - equal to 2 times value of allowances which entity failed to hold
 - still need to come up with missing allowances
- Regional initiatives:
 - prohibits states from implementing GHG emission caps from 2012-2017
 - exchange program for RGGI, WCI and CA allowances

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Senate – 111th Congress

Climate what? The focus is on healthcare

Environment & Public Works Committee – Boxer (CA)

- yesterday said bill to be introduced by end of September
- wants deficit neutral
- adding nuclear title

Five other committees with jurisdiction

Majority Leader – H. Reid – possible bill on Senate floor by end of October



REGIONAL INITIATIVES



Regional Program Overview

- **RGGI** – New York, Vermont, New Hampshire, Rhode Island, Connecticut, Massachusetts, Maine, New Jersey, Maryland and Delaware
 - **Status: Up and running.**
- **The Western Climate Initiative** – Arizona, British Columbia, California, Manitoba, Montana, New Mexico, Ontario, Oregon, Quebec, Utah and Washington
 - **Status: In development.**
- **The Midwestern Greenhouse Gas Reduction Accord** – Iowa, Illinois, Kansas, Manitoba, Michigan, Minnesota and Wisconsin
 - **Status: In development.**

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The Three Major Regional Initiatives



- Collectively, 23 states have signed on to one of these regional initiatives.

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Cap-and-Trade Program Under RGGI

- Covers only electricity generating units of >25 mW
- Covers only CO₂
- Only applies to facilities located within the 10 RGGI States
- However, offset opportunities extend beyond RGGI's borders and beyond CO₂
- Auction results
 - September 2008: 12.5 million tons at \$3.07/ ton
 - December 2008: 31.5 million tons at \$3.38/ ton
 - March 2009: 31.5 million tons at \$3.51/ton
 - June 2009: 30.8 million tons at \$3.23/ton
- Currently there is an excess of allowances due to economy, moderate winter, and low natural gas prices

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EPA ACTION

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EPA's Mandatory GHG Reporting Rule

- Required per FY 2008 Consolidated Appropriations Act
- Proposed rule published April 10, 2009
- Latest draft submitted to White House OMB on August 18, 2009
- Includes the 6 "usual" GHGs and certain fluorinated gases
- Who reports? Generally, suppliers of fossil fuel and GHGs and facilities that emit more than 25,000 tons of GHG/yr. (e.g., refineries, cement producers, aluminum producers)
- Approximately 13,000 facilities will have to report
- First report due on **March 31, 2011** for 2010 emissions
- Best guess: final rule as early as October 2009

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EPA and CAA Regulation

- Endangerment finding
 - Required by Supremes in Mass v. EPA
 - Issue: whether GHG emissions from new motor vehicles cause or contribute to air pollution which may reasonably be anticipated to endanger public health or welfare
 - On 4/17/09, EPA tentatively says: Yes
 - Paves way for CAA regulation
- DOT/EPA proposed rules sent to OMB on 8/25/09
 - Would be first federal GHG tailpipe standards for autos
 - Endangerment finding to be finalized first
 - Would potentially trigger other CAA regulation

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EPA and CAA Regulation

- Draft Prevention of Significant Deterioration/Title V Greenhouse Gas Tailoring Rule
 - Proposal sent to OMB on August 31, 2009
 - Intent to avoid onerous CAA regulation triggered when GHG tailpipe standards are finalized
 - PSD program would require new or modified sources with 250 tons/yr. emission threshold to comply with best available control technology and obtain pre-construction permit
 - Proposal may raise threshold to 25,000 tons/yr. for GHG
 - Potentially put in place a general permit for sources with less than 25,000 tons/yr.

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Final Thoughts

- Lots and lots of hurdles for federal cap-and-trade legislation. Healthcare is center stage. Look for federal energy legislation only, if no cap-and-trade.
- RGGI moving along. Other regional initiatives uncertain.
- EPA preparing to move forward with CAA regulation, but walking thin line to avoid collateral damage.

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