



Issue Analysis
Federal Action on Climate Change—Outlook on the “Tipping Points”
Summer 2006

Summary

Momentum continues to build in Washington for mandatory initiatives to control GHGs. It is clear, however, that federal policymakers have not yet reached a “tipping point” that would lead to enactment of legislation near term. Based upon current information and trends, our best guess is that Congress will not pass mandatory GHG controls until at least 2009. There are several variables that could affect that estimate, obviously, most notably the elections of '06 and '08.

Recent Momentum behind Mandatory Controls

- Senate

Evidence abounds of political momentum behind a mandatory approach to controlling GHGs. Within the Congress, the Senate last year overwhelmingly passed a Senate of the Senate resolution in conjunction with debate over the Energy Policy Act of '05, which called for a mandatory approach, provided it 1) did not do untoward damage to the US economy, and 2) developing nations such as India and China participated. Although the resolution did not have the force and effect of law, *it was a significant posture change for the Senate*, which had years before voted nearly unanimously to reject the Kyoto Protocol. (The SOS resolution died in conference over objections from the House.)

Equally notable, perhaps, has been increased support from Senate Republican moderates, such as Energy Committee Chairman Pete Domenici (R-NM) and Foreign Relations Committee Chairman Richard Lugar (R-IN). Indeed, Domenici cosponsored the SOS resolution with Energy Committee Ranking Member Jeff Bingaman (D-NM), and Domenici led hearings this year on how to design a mandatory program. Domenici has been intrigued in this regard by the work of the National Commission on Energy Policy.

Domenici's support for a mandatory regime is significant because it will help provide political cover going forward for other moderates—Republicans and Democrats. Domenici's stance will also tend to isolate opposing viewpoints, like those of James Inhofe (R-OK), Chairman of the Committee on Environment and Public Works. (EPW has primary jurisdiction over climate change.) Inhofe has declared that global warming “is the biggest hoax ever perpetuated on the American people.” He rarely misses an opportunity to attack the credibility of the science supporting warming.

Of course, there are also the long-time supporters of mandatory controls, such as Senators John McCain (R-AZ) and Joe Lieberman (D-CT). The pair remains very determined to keep the issue before their colleagues by pressing for additional votes on their cap-and-trade legislation proposal, despite previous setbacks. Other respected Senate moderates, such as Sen. Tom Carper (D-DE), continue to seek consensus, and Carper has his own “4-P” proposal that includes GHGs. It will be worth keeping an eye on Carper’s efforts, as he is attempting to position himself as the “sensible center” on climate change. Support for his approach will be something of a bellwether in the Senate.

Other key members to watch include Senate veteran Ted Stevens (R-AK) and Energy Committee member Lisa Murkowski (R-AK), who are expressing increasing concerns about changes in the Arctic environment. To date, however, they have been wary of drawing a causal link with increased GHG emissions. If they do, the Senate will likely have reached the “tipping point.”

- **House**

Momentum in the House lags the Senate, where key leaders such as Energy & Commerce Committee Chairman Joe Barton (R-TX) remain opposed to mandatory controls. This spring there was a brief flurry of activity when the Appropriations Committee included a bi-partisan Sense of the House resolution (similar to the Senate resolution) in the FY '07 Interior Appropriations bill. Members such as Chairman Barton, however, prevailed upon the Rules Committee to drop the resolution from floor debate on germaneness grounds. Barton has no plans to hold climate change hearings any time soon, nor is he likely to schedule them absent concrete action in the Senate.

Finally, before moving to a discussion of developments off Capitol Hill, *it is worth noting that the Energy Policy Act of 2005 was, in part, a climate change bill.* It can legitimately be cited as one of the signposts of growing congressional concern over climate change. It includes titles on efficiency, renewable energy, nuclear power, hybrid vehicles, and incentives for innovative technologies.

- **White House**

There are really no credible indications that the Bush Administration is prepared to shift away from its stance centered on reductions in the “intensity” of US GHG emissions, and the technology-focused Asia-Pacific Partnership, which it considers to be a global political counter-weight to the Kyoto process.

It has not gone unnoticed that Goldman-Sachs executive Hank Paulson will be the new Treasury Secretary. Paulson will have the ear of President Bush, and could chose to lobby the President on climate change. It is far too early to tell, however, whether Paulson’s arrival will spell any changes at the White House on climate change.

Bush is no doubt giving increased thought to his legacy, and there is always the chance that he will champion an unanticipated issue (like he has done on funding for global AIDS or like his father did on

amendments to the Clean Air Act). The clock is ticking, however, and other pressing issues like Iraq and Iran could leave little room for major new initiatives.

The Impact of Stakeholders and Other Levels of Government

As you know, some of the most formidable drivers in the debate are developing beyond the Beltway. Many states and regions are moving forward without Congress, most notably the RGGI in the Northeast. Disparate state and regional approaches alone will likely move Congress to a “tipping point” sooner as calls increase for greater national uniformity and predictability.

In addition, influential alliances are developing that transcend traditional political and cultural ties. A large segment of the evangelical community, for example, is beginning to align with the environmental community on the issue. Business and financial interests are staking out aggressive positions (e.g., Goldman-Sachs), and the Business Roundtable is developing a more comprehensive and strategic approach on climate change.

Congress is taking note of developments like these, and they are all contributing to a gradual shift in the attitudes of policymakers.

Approaches—Cap-and-Trade v. Carbon Tax

The Congress is nowhere near the point of debating the specifics of a mandatory approach to carbon. The closest it has come was this spring’s Senate Energy Committee conference on the possible design elements of a mandatory program. The upshot of that conference was the observation from Chairman Domenici (R-NM) that the task will be exceedingly difficult.

The two approaches most often mentioned, of course, are a carbon tax and a cap-and-trade system. Our sense is that most policymakers are not prepared to reject, out of hand, the option of a carbon tax, as they might have done 10-15 years ago. Notable stakeholders also support it. Duke Energy and the World Resources Institute this month released a white paper on the topic. That said, it is almost certainly true that a cap-and-trade system is perceived to be the more viable option. The widely acknowledged success of the SO₂ cap-and-trade program is the primary reason.

The '06 and '08 Elections

The congressional elections of 2006 and the presidential election of 2008 will have a very significant impact on the federal debate over climate change. Generic polling presently indicates that Democrats stand a reasonable chance of recapturing one or both houses of Congress. If Democrats retake control of one or both bodies, climate change will undoubtedly become a higher profile issue (more hearings and floor debate). Under those circumstances, it is quite possible that one or both bodies could produce

legislation. With President Bush still in the White House, however, it is unlikely that any legislation would become law.

It seems clear, as well, that getting a bill to the White House would require a change in the leadership of two key committees that have primary jurisdiction over climate change: Rep. Joe Barton (R-TX), Chairman of the House Energy & Commerce Committee, and Sen. James Inhofe (R-OK), Chairman of the Senate Committee on Environment & Public Works. Both remain strongly opposed to a mandatory climate change approach, and each would bottle up any legislation that might emerge from the other body.

The stakes will be the highest in the presidential election of 2008. Notably, the arguable frontrunners for each party—Senators John McCain (R-AZ) and Hillary Clinton (D-NY)—support constraints on GHGs. It is obviously too early to speculate much about what the '08 elections might bring. It appears to be the earliest date, however, at which the political alignment could facilitate a federal “tipping point” on climate change.