



CLIMATE
LEGISLATION

Time to Pay Attention to Federal Greenhouse Gas Legislation

A number of proposed bills to regulate greenhouse gas emissions have been introduced in Congress over the past year, ranging from a pure tax on carbon sources to various cap and trade proposals covering either limited or many sources. Most have not garnered enough support that would allow them to move forward. However, it now appears that a bill (S. 2191), introduced last fall by Senators Joseph Lieberman (D-CT) and John Warner (R-VA), will finally be debated by Congress this session. On December 5, 2007, the Senate Environment and Public Works Committee favorably reported the bill to the Senate. It is expected that the full Senate will take up the legislation this spring.

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This bill has garnered bipartisan support and the support of industry and some sectors of the environmental movement. It would gradually require reductions in CO₂ emission to 4% below 2005 levels by 2012, 19% below 2005 levels by 2020, and 71% below 2005 levels by 2050. This reduction would be accomplished by establishing a “cap” on the power generation, transportation, manufacturing and natural gas sectors, which account for approximately 87% of America’s greenhouse gas emissions. (Buildings account for much of the rest and would be controlled by tightening building code standards.)

A percentage of allowances would be issued for free to emitters, with the remainder auctioned and the allowances gradually phasing out. Some allowances would be set aside for the states, while some would be used to reduce impacts to low and moderate income households. Others would be reserved for renewable and carbon sequestering emitters. The carbon cap will be imposed on the transportation sector at the refinery level, thus individual drivers will not have to acquire allowances.

There are a number of reasons to pay attention to this bill, and a number of factors that are coming together that may result in the passage of some form of this proposal. The industry is coming together around the notion that because some drastic form of carbon regulation appears inevitable, it is better to pass something now because a bill passed under a future administration may be even more stringent. Senators on both sides of the aisle have co-sponsored this bill and environmental groups will work to enact even more drastic reductions as the bill moves forward.

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Our 200 attorneys provide assistance across key areas of the law, including climate and energy, bankruptcy and finance, corporate and securities, complex litigation and arbitration, intellectual property, real estate, and government law and strategies.



Why is this important for your business? It is likely that significant “horse trading” will be required if a bill is to be enacted. The restrictions ultimately imposed will be severe, the impacts will be significant, and the money raised by the auction of these allowances will be in the billions of dollars. All of this will result in incredible opportunities, but also grave pitfalls for your company.

In the coming months, companies will need to monitor these issues and advocate for their position in order to influence the final outcome.

BROWN RUDNICK'S CLIMATE AND ENERGY GROUP is comprised of an interdisciplinary team of attorneys and professionals who specialize in matters involving renewable energy project development and finance, emissions reduction schemes and alternative energy sources. The Climate & Energy Group is unique in its approach to the carbon and renewable markets. By combining seasoned professionals across a spectrum of related disciplines - energy and environmental law, project and structured finance, regulatory compliance, US, Kyoto Protocol and EU emissions trading regimes, renewable energy, intellectual property, venture capital, and government law & strategies - the team is able to provide fully integrated solutions to participants in the growing carbon and renewable marketplace.

The firm's Washington, DC government relations professionals play an active role in impacting public policy decisions on environmental and energy-related legislation and regulations in the nation's capital.

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