

Status of Green House Gas Regulation

Autumn 2007

The Public Utilities Commission of Nevada keeps track of pending legislation in order to evaluate the possible impact that it may have on Nevada's consumers, utilities, and businesses.

What follows is a brief outline of proposals being considered by the US Congress and legislation that has recently passed in neighboring western states relating to the regulation of green house gas ("GHG") emissions. The regulation of carbon emissions will almost certainly have an impact on utility rates.

- US Senate Bill 2192: Sponsor: Senator Warner and Senator Lieberman (Introduced on 10-18-07)

America's Climate Security Act of 2007¹

This bill:

- Reduces total U.S. greenhouse-gas emissions by 19% below the 2005 level (4% below the 1990 level) in 2020 and by 63% below the 2005 level in 2050.²
- Controls compliance costs by allowing companies to trade, save, and borrow emission allowances, and also allows them to generate credits when they induce non-covered businesses, farms, and others to reduce their greenhouse gas emissions or capture and store greenhouse gases.³
- Creates a Carbon Markets Efficiency Board, which can implement cost saving measures if the cost of reducing carbon emissions is higher than expected.
- Allows firms to meet up to 15% of their allowances through offsets, which are verifiable reductions by means not expressly considered by the bill.
- According to an October 18, 2007 press release from Senator Lieberman:
 "The Act invests set-aside emissions credits and money raised by the auction of such allowances in advancing several important public policies, including, but not limited to: Deploying advanced technologies and practices for reducing emissions; Protecting low-and middle-income Americans from higher energy costs; Keeping good jobs in the United States; and Mitigating the negative impacts of any unavoidable global warming on low- and middle-income Americans and wildlife."⁴

¹ Text of Bill available from the Library of Congress, at <http://thomas.loc.gov/cgi-bin/query/z?c110:S.2191>:

² From Senator Lieberman's Press Release on October 18, 2007, *Lieberman and Warner Introduce Bipartisan Climate Legislation*, at <http://lieberman.senate.gov/newsroom/release.cfm?id=285619>

³ *Id.*

⁴ *Id.*

- US Senate Bill 280: Sponsor: Senator Lieberman (Introduced on 7-24-2007)

Climate Stewardship and Innovation Act of 2007⁵

This bill:

- Establishes a program for market driven reduction of GHG by using tradeable allowances.
- Requires covered entities to submit, beginning in 2012, one tradeable allowance for every metric ton of GHGs emitted.
- Requires the EPA to establish a cap on tradeable allowances to reduce GHG emissions over time.
- Provides that allowances may be sold, exchanged, purchased, retired, borrowed, offset, or otherwise used.⁶
- Requires that beginning in 2012, GHG emissions will gradually decrease to 1/3 of 2000 levels in 2050:
 - By 2012 - 2004 levels
 - By 2020 - 1990 levels
 - By 2030 - 22% below 1990 levels
 - By 2050 - 60% below 1990 levels⁷
- According to Senator Lieberman's press release on January 12, 2007:

"The new bill (S. 280) will gradually lower the emissions cap, such that it reaches approximately one third of 2000 levels by 2050. Those long-term reductions will forestall catastrophic, manmade climate change, provided the world's other major economies follow suit within the next decade. Like the 2005 version, the reintroduced bill controls compliance costs by allowing companies to trade, save, and borrow emissions credits, and by allowing them to generate "offset" credits by inducing non-covered businesses, farms, and others to reduce their emissions or capture and store greenhouse gases. The reintroduced bill, however, increases the availability of borrowing and offsets in order to control costs further."⁸

US Senate Bill 1766: Sponsor: Senator Bingaman (Referred to Senate Committee on 7/11/2007)

Low Carbon Economy Act of 2007⁹

⁵ Text of Bill available from the Library of Congress, at <http://thomas.loc.gov/cgi-bin/query/z?c110:S.280>:

⁶ <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN00280:@@D&summ2=m&>

⁷ http://energy.senate.gov/public/_files/ClimateLegislationSidebySide110thCongress.pdf

⁸ Press release on January 12, 2007, *Lieberman, McCain Reintroduce Climate Stewardship and Innovation Act*, at <http://lieberman.senate.gov/newsroom/release.cfm?id=267559>.

⁹ Text of Bill available from the Library of Congress, at <http://thomas.loc.gov/cgi-bin/query/z?c110:S.1766>:

This bill:

- Provides that beginning in 2012, GHG emissions will gradually decline:
 - By 2020 - 2006 levels
 - By 2030 - 1990 levels
 - Allows the President to set long-term emission targets of at least 60% below 2006 levels by 2050 contingent upon international effort.¹⁰
-

US Senate Bill 485: Sponsor: Kerry (2/1/2007 on Referred to Senate Committee)

Global Warming Pollution Reduction Act of 2007¹¹

This bill:

- Amends the Clean Air Act to direct the EPA to: (1) promulgate regulations necessary to reduce global warming pollution emissions; and (2) establish a emissions cap and global warming pollutants trading program.¹²
 - Requires that beginning in 2010, GHG emissions decrease gradually to 65% of 2000 levels:
 - By 2020 - 1990 levels
 - From 2021-2030, 2.5% annual reduction
 - From 2031-2050, 3.5% annual reductions¹³
-

US Senate Bill 317: Sponsor: Senator Feinstein (Introduced on 1-17-2007)

Electric Utility Cap and Trade Act of 2007¹⁴

This bill:

- Amends the Clean Air Act by requiring the Administrator of the EPA to establish a trading program to address GHG emissions from electric generating facilities that: (1) have a capacity greater than 25 megawatts; (2) combust GHG emitting fuels; and (3) generate electricity for sale.¹⁵

¹⁰ http://energy.senate.gov/public/_files/ClimateLegislationSidebySide110thCongress.pdf

¹¹ Text of Bill available from the Library of Congress, at <http://thomas.loc.gov/cgi-bin/query/z?c110:S.485>:

¹² <http://thomas.loc.gov/cgi-bin/bdquery/D?d110:22:/temp/~bd1zuO:@@D&summ2=m&/bss/d110query.html>

¹³ http://energy.senate.gov/public/_files/ClimateLegislationSidebySide110thCongress.pdf

¹⁴ Text of Bill available from the Library of Congress, at <http://thomas.loc.gov/cgi-bin/query/z?c110:S.317>:

¹⁵ <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN00317:@@D&summ2=m&>

- Provides for annual limitations for GHG emissions from facilities for 2011-2020.¹⁶
- Requires lower electricity sector emissions by 25% below projected levels in 2020:
 - From 2011-2014 - 2006 levels
 - In 2015 - 2001 levels
 - From 2016-2019, 1% annual reductions
 - From 2020 onwards, 1.5% annual reductions.¹⁷
- According to a statement on Senator Feinstein's website:

"The Electric Utility Cap-and-Trade Act is the most aggressive emissions reduction bill supported by industry to date. The bill would establish a national cap-and-trade system that would first cap, and then ratchet down electricity sector emissions by 25 percent below projected levels by 2020."¹⁸

House Bill 1590: Sponsor: Congressman Waxman (Introduced on 3-21-2007)

Safe Climate Act of 2007¹⁹

This bill:

- Amends the Clean Air Act by directing the EPA to promulgate: (1) targets for a 2% reduction in GHG emissions each year from 2010-2050; and (2) regulations setting caps on emissions of sources with the largest emissions or the best opportunities to reduce them, by issuing and authorizing trading of emission allowances, and by imposing penalties for excess emissions.²⁰
- According to Congressman Waxman's website:

"The Safe Climate Act freezes U.S. greenhouse gas emissions in 2010, at the 2009 levels. Beginning in 2011, it cuts emissions by roughly 2% per year, reaching 1990 emissions levels by 2020. After 2020, it cuts emissions by roughly 5% per year. By 2050, emissions will be 80% lower than in 1990. These goals are comparable to emissions reduction goals adopted by many states and called for by leading American companies, small businesses, religious organizations, environmental advocates, and others."²¹

¹⁶ <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:SN00317:@@D&summ2=m&>

¹⁷ http://energy.senate.gov/public/_files/ClimateLegislationSidebySide110thCongress.pdf

¹⁸ *Six Major Energy Companies Endorse Senator Feinstein's Cap-and-Trade Legislation*, dated January 17, 2007, at <http://feinstein.senate.gov/07releases/r-elec-sector-intro.htm>

¹⁹ Text of Bill available from the Library of Congress, at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.R.1590>

²⁰ <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:HR01590:@@D&summ2=m&>

²¹ *The Safe Climate Act of 2007 (H.R. 1590) sets targets and requires the actions that will be necessary to avoid dangerous, irreversible warming of our planet.* Accessed October 18, 2007. Available on Congressman Waxman's website at, <http://www.house.gov/waxman/safeclimate/index.htm>

US House Bill 620: Sponsor: Congressman Olver (Introduced on 1-22-2007)

Climate Stewardship Act of 2007²²

This bill:

- Requires the EPA to establish a National Greenhouse Gas Database consisting of: (1) an inventory of GHG emissions by covered entities²³; and (2) a registry of GHG emission reductions and increased sequestration, applicable to both covered and noncovered entities.²⁴
- Establishes a program for the reduction of GHGs by using tradeable emissions allowances.
- Requires the EPA to establish a declining cap on allowances to reduce GHG emissions over time.
- Requires that beginning in 2012 covered entities to submit the EPA one allowance for every metric ton of GHGs emitted.
- Allows allowances to be sold, exchanged, purchased, retired, borrowed, offset, or otherwise used.

California Assembly Bill 32: The Global Warming Solutions Act (Signed by the Governor of California on September 27, 2006)

AB 32 codifies the state's goal by requiring that California's GHG emissions be reduced to 1990 levels by 2020. This will be accomplished through an statewide cap on global warming emissions. The cap will be phased in beginning in 2012. In AB 32 directs the California Air Resources Board (CARB) to develop regulations and establish a reporting system to monitor global warming emissions levels.²⁵

California Senate Bill 1368: Global Warming Emissions Standard for Electricity Generation (Signed by the Governor of California on September 29, 2006)

²² Text of Bill available from the Library of Congress, at <http://thomas.loc.gov/cgi-bin/query/z?c110:H.R.620>

²³ "Covered entities" include, "specified entities that own or control a source of GHG emissions in the electric power, industrial, and commercial sectors of the U.S. economy that emit more than 10,000 metric tons of GHGs per year", at <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:HR00620:@@D&summ2=m&>

²⁴ <http://thomas.loc.gov/cgi-bin/bdquery/z?d110:HR00620:@@D&summ2=m&>

²⁵ For a Q&A about AB 32, see the California Climate Registry's webpage at, http://www.climateregistry.org/docs/ABOUTUS/AB_32_FAQs_101006.pdf

SB 1368 prohibits California utilities from signing long-term contracts for power, including those from out of state, unless they emit less than 1,000 pounds of CO₂ per MWh of electricity produced. This bill is essentially directed at producers of power who wish to import power into California from out of state, which would otherwise be prohibited due to in state emissions standards. The bill directs the California Public Utilities Commission (“PUC”) to adopt a GHG emissions performance standard. On January 25, 2007, the PUC adopted an interim emissions performance standard. According to the PUC’s press release:

The Emissions Performance Standard is a facility-based emissions standard requiring that all new long-term commitments for baseload generation to serve California consumers be with power plants that have emissions no greater than a combined cycle gas turbine plant. That level is established at 1,100 pounds of CO₂ per megawatt-hour. "New long-term commitment" refers to new plant investments (new construction), new or renewal contracts with a term of five years or more, or major investments by the utility in its existing baseload power plants.²⁶

²⁶ http://www.cpuc.ca.gov/PUBLISHED/NEWS_RELEASE/63997.htm