



# NACWA Clean Water Law 2008

Climate Change Legal Developments ~  
Impacts and Opportunities

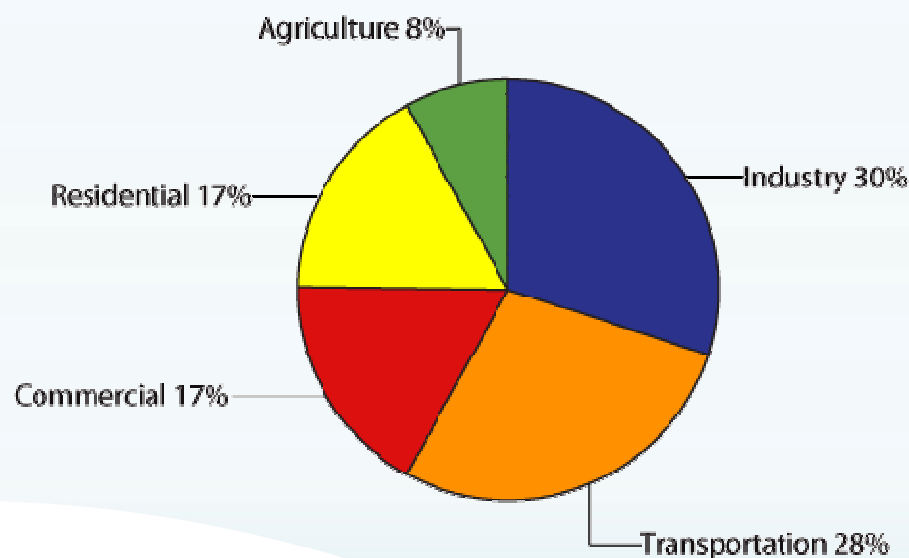
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# Greenhouse Gas Emissions by Sector

## United States 2004

### Greenhouse Gas Emissions by Sector

United States, 2004



Total Emissions\* = 7,074 MMT CO<sub>2</sub>E

\* Net Emissions (Sources + Sinks) = 6,204 MMT CO<sub>2</sub>E

\*\* High GWP Gases include: HFCs, PFCs, and SF<sub>6</sub>

Data expressed in Million Metric Tons of Carbon Dioxide Equivalents (MMT CO<sub>2</sub>E)

Source: US EPA Inventory of Greenhouse Gas Emissions and Sinks, 2006.

Source: Pew Center on Global Climate Change

# Key Legal Developments

- Federal Cap and Trade Legislation
  - State and Regional Counterparts
  - International Treaty Efforts for Post-Kyoto
- EPA's Forthcoming Mandatory GHG Emissions Reporting Rule
- EPA's CAA ANPR Following Mass v. EPA
- Water Office Climate Change Strategy

# Federal Cap-and-Trade Bills

- H.R. [TBD] Dingell-Boucher “Discussion Draft” Climate Bill
- S. 2191/S. 3036 “Lieberman-Warner Climate Security Act of 2008”
- S.1766 Bingaman-Specter “Low Carbon Economy Act of 2007”
- S.1177 Carper “Clean Air Planning Act of 2007”
- S.1168 Alexander-Lieberman “Clean Air/Climate Change Act of 2007”
- S.1201 Sanders “Clean Power Act of 2007”
- H.R.1590 Waxman “Safe Climate Act of 2007”
- S.485 Kerry-Snowe “Global Warming Reduction Act of 2007”
- H.R.620 Olver “Climate Stewardship Act of 2007”
- S.317 Feinstein “Electric Utility Cap and Trade Act”
- S.309 Sanders “Global Warming Pollution Reduction Act”
- S.280 McCain-Lieberman “Climate Stewardship and Innovation Act”



# State/Regional Climate Initiatives

- California A.B. 32 (Global Warming Solutions Act)
  - Mandatory 80% cuts
  - Trading allowed but discretionary
  - CARB / Cal-EPA rulemaking ongoing
- Regional Greenhouse Gas Initiative (RGGI)
  - Electric utilities in 10 Northeast states
  - Mandatory reductions with trading
  - 2009 start date
- Western Climate Initiative
  - 9 western states and provinces
  - Developing rules for mandatory reduction
- Midwestern Greenhouse Gas Reduction Accord
  - 6 states, 1 province
  - Model rule by end of 2008



# What are Key Cap and Trade Concepts?

- Reduce U.S. GHG emissions to specific levels with economy-wide cap and trade program at lowest costs
  - Cap and price carbon emissions and create market place to reduce emissions through regulations and incentives and spur low-carbon technology/economy
  - Which emitters, how achieve reduction
  - E.g., Dingell-Boucher: covers 88% U.S. GHG emissions, phase in covered sources by industry category, regulate smaller emitters (25,000 TPY) at discretion of EPA
  - How manage transition and costs
    - Flexibility for low-cost compliance strategies
    - Encourage technology innovation
    - Banking, borrowing, allowances and offsets
    - Implementation issues including preemption

# Will Cap and Trade Affect POTWs?

- Regulation as direct emitters?
  - CH<sub>4</sub> (methane) and N<sub>2</sub>O (nitrous oxide)
    - Proposed thresholds of ~ 10K (reporting) and 25K (compliance) tons weighted to CO<sub>2</sub> equivalent units
  - CO<sub>2</sub> from fossil fuel use, e.g., boilers
- Carbon footprint review, GHG mitigation under NEPA for facility expansions/projects?
- Opportunities?
  - How play in the emerging carbon market if not covered
  - Generate saleable carbon offset credits
  - Generate saleable renewable energy certificates
  - Energy efficiency and conservation programs to reduce carbon footprint, tie-in to beneficial water strategies
- Effect of state and regional programs while federal approach evolves

# EPA's Initiatives ~ Current Law

- Pending Rule on Mandatory GHG Emissions Reporting
  - At OMB, Interagency review
- ANPR under CAA
  - Mass v. EPA: authority under CAA to regulate CO<sub>2</sub>
  - Many issues raised, comments will form blueprint for next Administration
  - Direct regulation? E.g., NSPS for sectors outside any federal cap
- Water Office Strategy on Climate Change



# Strategies for Uncertain Times

- Continue involvement in Hill debate to protect interests
  - States and regions ahead of feds and preemption is a live issue
- Review EPA's Mandatory GHG Emissions Reporting Rule
- Engage on EPA's CAA Rulemaking
- Engage in New Administration's Approach



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