

Cap and Trade Legislation

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What Does it Mean for Cattle Producers?

By

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Climate Change Legislation

- Key issue for Obama, Congress
- June 26, House passed Waxman 219-212
- Reduces carbon emissions 17% below 2005 by 2020, 80% by 2050
- 2 billion tons of offset credits available annually
 - Half domestic, half international
- Capped sources must get allowance for each ton of carbon emitted



Climate Change Legislation

- 80% of allowances free in early years
 - Free phase out after 2025
 - By 2031, 70% auctioned
- Early years allowances used to:
 - protect consumers from energy price increases
 - assist trade vulnerable industries
 - support investments in clean energy and energy efficiency



Climate Change Legislation

- Agriculture is critical as solution, not problem
- NCBA priorities
 - Ag exemption
 - USDA jurisdiction over ag offsets
 - List of per se eligible offsets-permanent, additional, verifiable
- Even with improvements, NCBA opposed
 - Increases costs of fuel, electricity, feed, fertilizer, equipment, etc
 - Economic analyses
 - EPA and USDA say minor impact
 - Heritage Foundation - \$8 billion in 2012 to \$50 billion in 2035
 - Glauber – 85% offsets trees, 58 million acres crop/rangeland
 - Performance standards



Climate Change Legislation

- What about the Senate? Anybody's guess
- Initial plan, finish before August recess, didn't have votes
- Then Majority Leader Reid asked all Committees to finish work by 9/28/09
 - 6 Committees have jurisdiction – EPW, Energy, Ag, Commerce, Foreign Relations, Finance
 - Didn't happen
- Next plan, after health care
- Then, after jobs bill



Climate Change Legislation

- Senators Kerry and Boxer introduced cap and trade legislation in late October
 - Similar to House bill
 - More aggressive carbon cuts – 20% instead of 17%
 - Not as friendly toward agriculture
- Boxer attempted to markup in the EPW Committee
 - Republicans boycotted
 - Inadequate economic analysis
- Nov. 5, Boxer marked up without Republicans
 - Passed 11-1, Baucus only “no” vote
 - None of 80 amendments was considered
- Bill has gone nowhere



Climate Change Legislation

- NCBA worked with Senator Stabenow on offsets package
 - Built on House bill
 - Agriculture exemption from the cap
 - Agriculture exemption from performance standards
 - USDA (instead of EPA) jurisdiction over agriculture offsets
 - List of per se eligible offset project types
 - Manure projects that combust methane to create energy
 - Altered tillage practices
 - Winter cover cropping/continuous cropping to increase biomass in soil
 - Improve nitrogen fertilizer use practices
 - Animal management practices including dietary modifications and pasture-based systems
 - Practices that will increase soil carbon sequestration on cropland, hayfields, native and planted grazing land, grassland, rangeland
 - Improved management or restoration of cropland, grassland, rangeland
 - Avoided conversion
 - Improved management or application of manure to agriculture land

Climate Change Legislation

- Stabenow Cont.
 - Rewards “early actors” – those who have adopted emission reducing practices prior to regulation – and protects them from being disadvantaged
 - Must be screened by EPA/USDA by set of standards
 - Registered under an approved program
 - Crediting period can start as early as 1/1/01
 - Prevents producers from losing carbon offset credits because of other benefits they receive for ecosystem services (e.g. CRP)

Climate Change Legislation

- What about Glauber's assessment?
 - 85% offsets to trees
 - 58 million acres crop/rangeland
- Senate Agriculture Committee Chairman Lincoln
 - not a fan of cap & trade
- Votes are not there – need 60
 - 41 Senators in “yes” or “leaning yes” column
 - 14 Democrats from coal states have concerns
 - 10 Midwestern Senators want carbon tariffs on imported goods from uncapped countries
 - Baucus had 19 amendments to Boxer bill
 - Lower 2020 target to 14% below 2005 level
 - Curtail EPA authority to regulate agriculture

Climate Change Legislation

- Problems
 - India and China – may make cuts, but not large cuts
 - Puts US at competitive disadvantage
 - Seen as job loser
 - EIA, NAM, etc predict up to 2.3-3.6 million fewer jobs
 - Energy price increases – new tax
 - Electricity – NAM, EIA predict 50-70% by 2030. EPA predicts 35% by 2050
 - Gasoline - NAM, EIA predict \$1.01-1.28 by 2030 EPA predicts \$.69 by 2050
 - Natural gas – NAM, EIA predict 74-75% by 2030 EPA predicts 31% increase by 2050
 - Would hurt economy – CBO can't predict impact
 - Will it do any good?
 - Appeared nothing was going to happen this year

Climate Change Legislation

- Senators Kerry (D-MA), Graham (R-SC), Lieberman (I-CT) bipartisan proposal soon on energy and climate
 - Details still uncertain
 - No cap and trade
 - Promotes energy independence and clean air
 - Reduces GHG by 17% below 2005 levels
 - Place first ever price on GHG emissions
 - Different limits and timing for different sectors
 - Initial cap on transportation sector emissions
 - Then utilities – allowances – revenues given to consumers
 - Then some manufacturers – series of GHG limits
 - Promote nuclear power, domestic oil and gas, CCS
 - Stabenow-type title for agriculture
 - Preempts state programs and EPA regulation under CAA

Climate Change Legislation

- Senators wrote letters with preferences
 - 22 moderate Dems to Reid ask that Senate consider comprehensive energy/climate legislation this year
 - jobs, energy independence
 - 10 coastal state Dems to K/G/L 0 concerned about impacts of offshore drilling and oil spills on coastal env, economies, and military training zones
 - Oppose sharing offshore drilling tax revenues with states
 - Feinstein urged preservation of CA's ability to set own tailpipe emission standards, also
 - Requiring states to pass legis to allow offshore drilling
 - Fee on transport fuels

Climate Change Legislation

- Letters cont.
 - Begich (D-AK) to Reid
 - Greater incentives to develop natural gas
 - AK to share in gov revenues from oil drilling in fed waters off of AK
 - Adaptation fund for affected communities
 - Conrad (D-ND) asked Reid to move on energy-only bill
 - 14 Senators wrote to KLG opposing federal preemption of state-based climate programs unless bill provides states w/revenue for climate mitigation
 - 45 House Ds wrote to Pelosi urging her to reject energy-only effort

Climate Change Legislation

- Plan to release proposal April 26
- Reid, Pelosi announce immigration first
- Graham pulled out - “cynical ploy”
 - Defection permanent?
- Release postponed
- BP oil spill days before scheduled release
 - Offshore drilling incentives in question
 - May upset whole balance of bill
- Sent to EPA on 4/28 for econ assess—5-6 weeks
- 4/28 Reid said will address energy first
 - Uncertain if Graham will be satisfied

Endangerment Finding

- Supreme Court decision *Massachusetts v EPA*
 - Finding – CO₂ is a pollutant
 - EPA must decide if endangers public health or environment
- Potential huge negative consequences throughout the economy
 - ANPR – many small sources – hospitals, schools, large buildings
 - Bush Administration said operations with 50 head of cattle or more required to get permits
 - Bush Administration did not finalize the rule
- April 2009, EPA proposed finding that GHGs cause “sickness and death” and adverse environmental effects
- Leverage to pass cap and trade bef Cop. – didn’t happen
- Copenhagen approaches, Obama wanted signal
- December 5, 2009, EPA issued endangerment finding



Endangerment Finding

- “Johnson Memo”
 - Early April, EPA finalized its reconsideration of a 12/08 memo which addresses circumstances that would cause GHGs to be regulated under the CAA PSD and Title V programs
 - Barring action by Congress, this action removes doubt that GHGs will be regulated under CAA
 - PSD applies to new/modified stationary sources w/potential to emit 100 or 250 tpy of pollutant
 - Must get permit and install BACT
 - Title V requires permits for stationary sources that emit 100 tpy of pollutant
 - Defers PSD and title V regulation until 1/2/2011

Endangerment Finding

- Motor Vehicle Rule
 - EPA and NHTSA finalized a joint GHG and CAFE standards rule in early April
 - First ever CAA GHGs standards issued
 - Auto manufacturers agreed w/rule, won't challenge, CA will not enforce its own GHG vehicle standards
 - Average fuel economy of new vehicles to increase to 35.5 mpg by 2016, and reduce GHG emissions by 5%/yr 2012-2016
 - Currently planning for new standards for model years 2017 and beyond
 - Now, GHGs officially regulated pollutant

Endangerment Finding

- Proposed “Tailoring Rule” for PSD – 25,000 tpy
 - Statute 100 tpy – 40,000 PSD, 6 million Title V permit
 - Does not apply to existing sources, only changes/new
 - PSD applies if non-fugitive emissions at or above threshold
 - Feedmills – non-fugitive source for cattle
 - Boilers do not meet threshold
 - EPA lacks legal authority
 - Statutory 100 tpy
 - Increase may fail on appeal
 - Lisa Jackson said EPA may increase threshold
 - 75,000 tpy initially
 - In 6 years, revisit smaller sources
 - NCBA submitted comments in opposition to this rule



Endangerment Finding

- Now, cascade of regulatory consequences
 - NAAQS for GHGs
 - State SIPs, can't get into attainment
 - Minor source permits at state level
 - Nuisance suits would explode
 - NSR, PSD, NSPS
- NCBA opposes GHG regulation under CAA -
appealed EF on 12/23/09 – scientific uncertainty
 - 16 states appeal/intervene on our side – 16 against
- Resolutions of disapproval–Murk, Skelton, Barton
- NCBA appealed Johnson memo on 4/2/10
- Will appeal motor vehicle and tailoring rules
when published

Climate Court Actions - Torts

- Comer v Murphy Oil – 5th Cir ruled Ps can sue major GHG emitters for damages based on financial harms allegedly resulting from climate change
 - MS coastal residents sued energy, oil, chemical manuf claiming activities contributed to cc and increased damage by Katrina
- Connecticut v AEP – 2nd cir held that states and private land trusts could proceed w/suit under fed nuisance law to get injunction limiting GHG emissions of utilities
- Kivalina v Exxon Mobil – 9th Cir will consider case in 2010 – Alaskan coastal village of Kivalina sued oil and power companies under fed nuisance law for loss of sea ice due to cc threatening their village

“Climategate”

- Efforts largely due to data collected and analyzed by University of East Anglia’s Climate Research Unit, Norwich, UK.
- CRU provides temperature records used by the Intergovernmental Panel on Climate Change (IPCC).
- According to the UK’s Daily Telegraph, the CRU has been more influential in driving the world alarm about global warming than any other research center

“Climategate”

- Last December, hackers accessed 3000 emails of scientists from the CRU, put them on the web
- Learned of an apparent coordinated effort to distort and falsify data to support the global warming theory.
- Data to the contrary were deleted
- Campaign to vilify and discredit scientists who disagreed with global warming alarmism.
- Kept skeptic studies out of peer reviewed journals

“Climategate”

- Dr. Phillip Jones, head of the CRU and at the heart of the investigation, stepped down
- Dr. Michael Mann of PSU, who figures prominently in emails, is under “inquiry”
- House held hearings
- Inhofe released report detailing emails
- IPCC conducted independent review
- Only time will tell where this will lead
- NCBA filed Motion for Reconsideration

Mandatory Greenhouse Gas Registry

- On October 30, 2009, EPA issued final economy-wide rule to require facilities that emit 25,000 metric tpy of GHGs to report annually
 - Manure management systems included
 - Methane and N₂O emissions, not from enteric
 - Cattle operations with fewer than 29,300 head do not need to report
 - If feedlot is larger than 29,300 head, owners and operators responsible for determining if must report – monthly sampling and analysis

Mandatory Greenhouse Gas Registry

- If meet threshold, use equations to determine emission levels for report
- Must report annually, once in always in
- Data collection begins January 2010
- First reports due March 31, 2011

In honor of Earth Day, she vowed to release no methane for 24 hours.



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