



To Green or Not to Green?

Market-driven approaches cut through regulatory uncertainty.

For companies wanting to know whether, when and how to incorporate regulation of greenhouse gas (GHG) emissions into their business planning, there seems to be as much uncertainty in the air as anything else. Businesses do not have a clear idea of the form that climate policy may take or what will be required, and it is not even certain whether such laws are inevitable. Proposed federal legislation, some versions of which included a market-based system for trading emissions allowances, has been on and off the table several times already, and its ultimate fate may hinge on the outcome of the November elections.

As the federal legislation has seesawed into limbo, industries in the state of Washington also have faced the potential of a regional cap-and-trade program that is proposed to start in 2012 under the Western Climate Initiative (WCI). Due, however, to the weak economy,

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the Washington Legislature has not authorized implementation of the WCI program, leaving uncertainty regarding if or when a facility in this state might have to comply.

On still another track, the federal Environmental Protection Agency (EPA) has been proposing greenhouse gas regulations in response to a 2007 U.S. Supreme Court ruling directing the agency to decide whether such emissions are a “pollutant” under the Clean Air Act. The EPA did so, and also proposed rules that would require GHG emissions reporting, set a high-emissions compliance threshold for industries and limit emissions from light-duty vehicles. Those rules are subject to numerous ongoing court challenges and legislative efforts to block their implementation.

To the extent that a federal cap-and-trade law passes, or EPA’s regulations survive the courts and Congress and/or that WCI’s cap-and-trade program gets started, those measures are likely to pose new and complicated requirements for some businesses, primarily large industries with high levels of GHG emissions. If some or all of those measures take effect, the complexity of the rules is likely to create its

own set of uncertainties about matters such as scope, reporting and compliance.

Even if a business never has to consider whether to buy or sell a GHG emissions allowance or file a report with the EPA, there is a growing market-based approach by some of the world’s largest purchasers of goods and services that may end up affecting many more companies than would the proposed legislation. Programs such as Wal-Mart’s Supplier Sustainability Assessment, Procter & Gamble’s Supplier Environmental Sustainability Scorecard, IBM’s Supplier Conduct Principles and Kaiser Permanente’s Sustainability Scorecard for medical products already require vendors and suppliers to compile data and report on energy usage, GHG emissions, water use, waste disposal, purchasing guidelines and raw material sources.

These initiatives measure more than GHG emissions and apply to businesses that are substantially smaller than the high-emissions industries that a federal or state-mandated cap-and-trade program would regulate. Some corporate supply chain sustainability programs encourage vendors to use the scorecard with their customers and suppliers, having the potential to affect thousands of businesses and billions of dollars in revenue. Combined with the scope of the data required, these programs actually may have a wider and deeper impact on changes in business practices than any contemplated federal or state legislation.

Whether it is because of, or despite, inaction at the federal and state levels, many businesses are no longer waiting for direction from the government. These initial corporate supply chain sustainability programs are becoming models and many more large companies are likely to implement similar measures. Thus, even as some businesses remain unclear about what the law may require of them, many others can be certain that their top customers will want them to account for their GHG emissions and other business practices that fall under the sustainability label.

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