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## **[New Climate Bill Bodes Ill for EPA Rules & Regional Cap & Trade](#)**

The [21-page summary \(PDF\)](#) of the Kerry-Lieberman draft climate bill, known as the American Power Act, leaked a day ahead of the official release on Wednesday, May 12, and contains a lot for everyone. As indicated by various reports that surfaced throughout the on-again, off-again process, the bill also contains provisions that would preclude EPA and the states from regulating greenhouse gas emissions ("GHGs").

### **Draft Provisions**

As outlined in the summary, the bill would set goals to reduce GHG emissions from a 2005 baseline by:

- 4.75% by 2013;
- 17% by 2020;
- 42% by 2030; and
- 83% by 2050.

Recognizing the difficulties inherent in getting votes in the Senate, the measure attempts to bridge (and in some cases adds fuel to) a number of contentious issues, with incentives for nuclear power, coal carbon capture and sequestration, offshore oil and gas production and electric vehicle infrastructure, together with an emissions allowance program.

### **Blocking EPA**

Its long been expected that to get enough votes to pass a climate bill it probably would have to nip in the bud GHG regulation by the EPA and the states. Provisions in the summary of the proposed bill do just that and, if passed, would put the brakes on EPA's Endangerment Finding and its Tailoring Rule, as well as barring state-level programs, such as the Regional Greenhouse Gas Initiative ("RGGI") and the Western Climate Initiative ("WCI").

The EPA's climate efforts have had a target on them since they were released last December, as members of [Congress](#) and [industry groups](#) almost immediately sought to restrict the agency from moving forward. The Kerry-Lieberman bill would do that, but it also gives the agency a role in the emissions allowance program, thus changing the agency's focus more than a complete preclusion.

### **State Impact**

But the state-level programs are another story. The bill provisions barring states from implementing or regulating cap-and-trade programs could encounter some resistance, particularly from Northeastern states reluctant to give up RGGI, which so far has raised [\\$582 million](#) in seven auctions. The bulk of the RGGI proceeds have provided a much-needed shot in the arm to [fund state-level energy efficiency and renewable energy programs](#), even as some

states, such as New York and [New Jersey](#), also have sought to use a portion of their RGGI proceeds to close general fund budget deficits. Thus, losing RGGI money is not likely to be very popular with the ten member states.

At the same time, while the WCI has yet to get off the ground, and may not if California's [initiative](#) to stop implementation of AB 32 is successful, many Western states believe they have a lot to lose from climate change impacts that a compromise bill like Kerry-Lieberman cannot address.

### **It Isn't Over Until Its Over**

Its too soon to say whether Kerry-Lieberman represents the beginning of the end for RGGI and WCI or if its simply another bump in the road. As the fractious history of climate change legislation has demonstrated many times in recent years, proposing a bill is one thing, getting it passed is quite another.