

## **BUSH ADMINISTRATION CLIMATE PROPOSAL: A SIGNIFICANT CONTRIBUTION**

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The Bush Administration's climate change policy proposal is a significant contribution to the political debate over U.S. climate change policy. The proposal also raises several legal questions concerning the path forward at the domestic and international level.

The Administration has committed its support for the stated goal of the 1992 U.N. Framework Convention on Climate Change (UNFCCC); i.e., to reduce greenhouse gas emissions in order to ultimately achieve stabilization at a concentration that prevents dangerous human-induced modifications of the climate.

The Bush Administration proposes a new metric, intensity of emissions per unit of Gross Domestic Product (GDP), as its yardstick for determining progress. It proposes to achieve its short-term objective, an 18% reduction in intensity by 2012, through a series of voluntary reporting and reduction initiatives from the public and private sector combined with federal budget investments in new technology, such as fuel cells in automobiles and other renewable and energy efficient technology programs.

The emissions intensity metric is a reasonable means of analyzing the environmental goal consistent with the desire for continued economic progress. It is also a useful starting point that allows the private sector to get on a path toward reductions in the short-term while developing the technologies necessary to achieve significant reductions in the longer-term.

It is not surprising that the initial criticism of the proposal focuses on the rate and goal of the proposed reduction, both in comparison to the Kyoto Protocol targets and in relation to the ultimate UNFCCC objective. However, neither this proposal nor the Kyoto Protocol adequately addresses the issue of the long-term objective. This is an important question on which the private sector has been seeking guidance.

While some critics have dismissed the President's proposal as inadequate, it is significant for a couple of reasons. The first reason is political. Many Republican Congressional leaders have been waiting for the Bush Administration to take the policy lead. This proposal now allows for a full policy debate to take place without concern whether there should even be a debate over greenhouse gas emissions reduction efforts.

The second is substantive. It focuses on verifiable reductions and to further induce the private sector into action, it proposes to give voluntary actors "tradable credits" for verified reductions reported to the government. This has been an important roadblock to more aggressive action by the private sector. Many feel that this effort, similar to the previous Bush Administration's 33/50

program (a voluntary program established in the 1990s for reducing hazardous pollutants), can produce significant reductions.

Unfortunately, the proposal does not appear to provide credits for actions taken over the last decade in response to government-sponsored or encouraged programs. It will be difficult to convince industry to make reductions under new programs if they never receive credit for actions they took under existing programs. Many corporate emissions reduction programs began in the 1990 - 1995 period. These early actions ought not be penalized today.

Importantly, President Bush articulated an intent to use this new intensity metric in discussions and work with developing countries in order to assure that these countries have a means of achieving economic growth while participating in the global greenhouse gas emissions reduction effort. This allows developing country discussions to take place without getting dragged into the "UNFCCC commitment/Kyoto/no new commitment" debate.

A key question will be how much of the President's proposal can be implemented without new legislation. One Administration official conceded that initial analysis suggests that the biggest steps in achieving the intended reductions are the proposed tax incentives for energy efficient and renewable technologies. For years, such proposals have been made in previous budgets without success. It remains to be seen whether the White House will use its political relations with Republicans in Congress to achieve these tax incentives.

While the President intends to implement more stringent reporting and verification procedures under existing authority, it is an open question whether legal authority exists to provide its proposed "tradable credits." Some have proposed that this could be accomplished under existing government contracting authority. A careful analysis will have to be done on whether such authority may exist in the Clean Air Act, the Energy Policy Act or other existing laws.

The good news is that the Bush Administration's proposal will allow the debate to go beyond "back door implementation" of the Kyoto Protocol. The political debate will now move to considering whether reporting should be voluntary or mandatory and whether the intensity reduction goal is sufficient. It is up to those who seek to move the U.S. forward in the climate policy arena to work with the Administration on the ultimate path ahead.

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