

EPA and Climate Change

September 1, 2009

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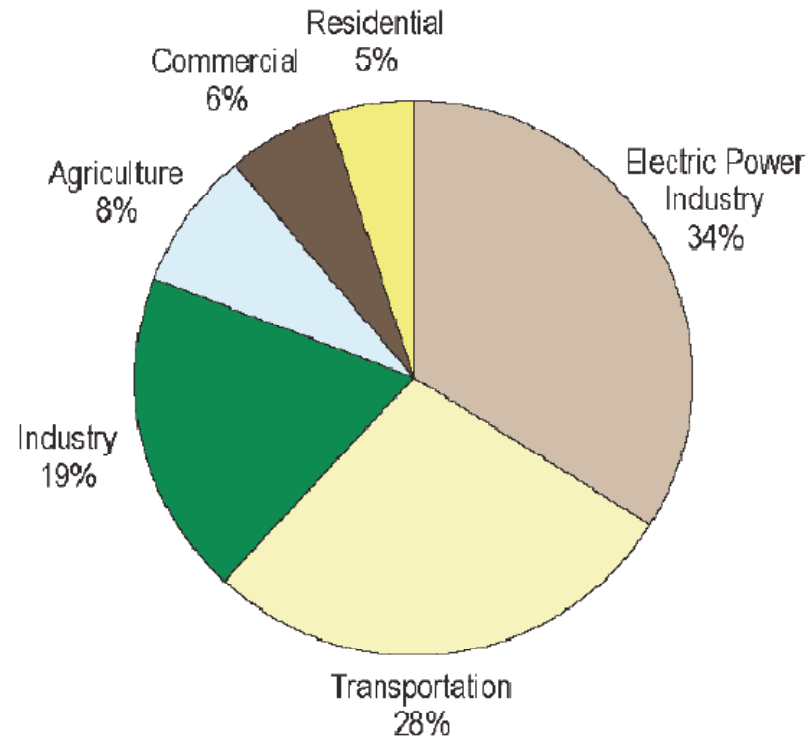
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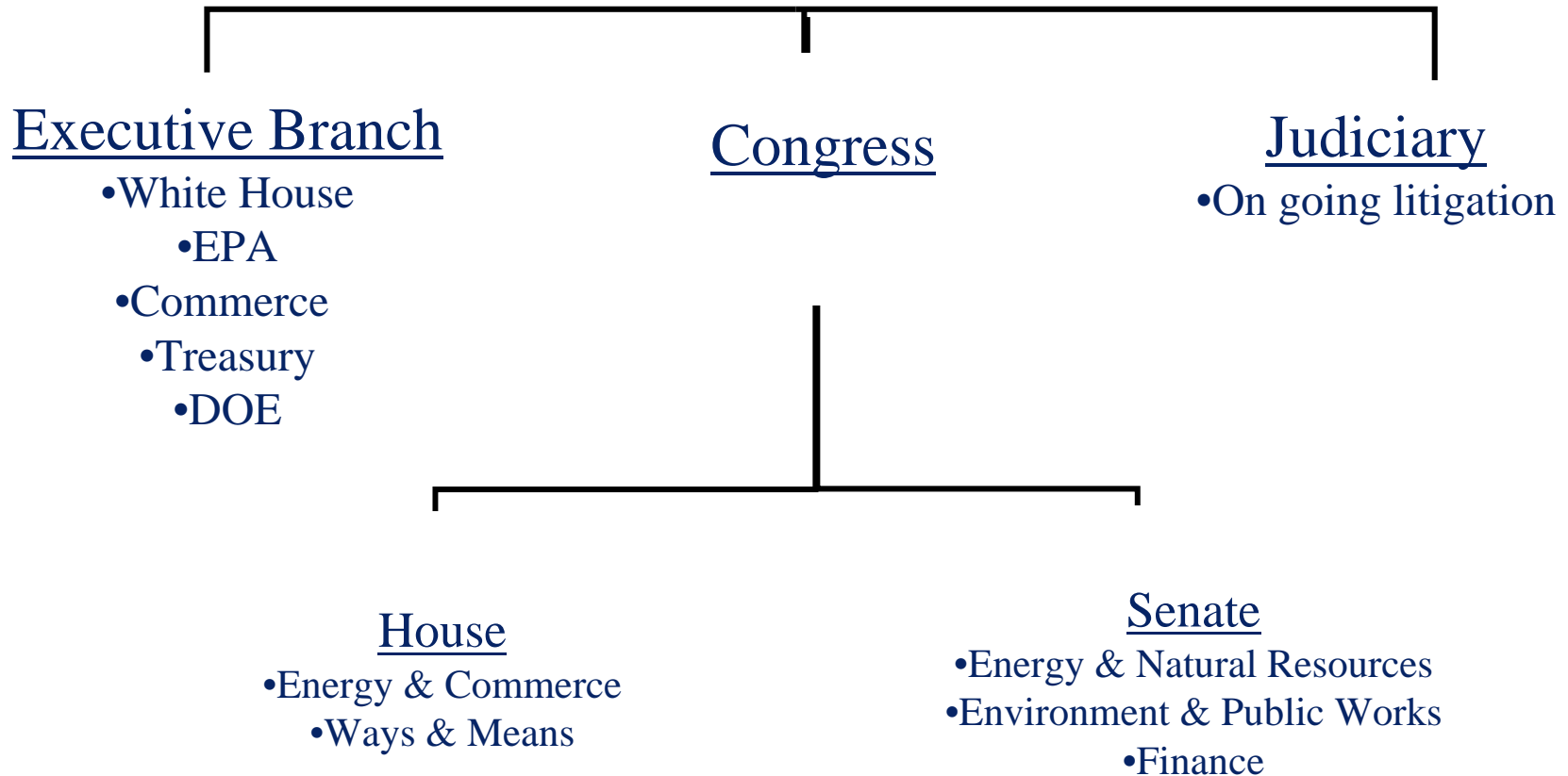
U.S. GHG Emissions By Sector

Sector-Based View of U.S. GHG Emissions (2006)



This figure reflects data from the *U.S. Inventory of GHG Emissions and Sinks: 1990-2006* (U.S. EPA, 2008), Table 2-12.

Federal Climate Change



Climate Change Legislative Proposals

- 105th Congress (1997 - 1998) – 7
- 106th Congress (1999 – 2000) – 25
- 107th Congress (2001 – 2002) – 80
- 108th Congress (2003 – 2004) – 96
- 109th Congress (2005 – 2006) – 106
- 110th Congress (2007 - 2008) – 235

Boxer-Lieberman-Warner Bill

Reported by Senate Environment & Public Works Committee

Senate Floor Debate (June 2008)

Mandatory GHG Reporting Rule

- Required as part of the FY2008 Appropriations Act; propose rule within 9 months and issue final rule within 18 months of Act (June 26, 2009)
- Proposed April 10, 2009
- Compressed Timeline
 - Comments due June 9, 2009
 - Final rule expected November 2009
 - Implementation January 2010
 - First reports due March 2011

Mandatory GHG Reporting

- Not just CO₂, but includes 6 greenhouse gases: CO₂, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride
- Uses CO₂ equivalent for determining quantities in terms of metric tons of CO₂ equivalents per year

Mandatory GHG Reporting

- 20 listed source categories regardless of amount of GHG emissions
 - aluminum production
 - cement production
 - petroleum refineries
 - soda ash production
 - electricity generating facilities subject to Acid Rain program or emit 25,000 tpy CO₂e
 - electric power production with threshold amounts of SF₆ or PFCs
 - manure management systems that emit methane and nitrous oxide in amounts more than 25,000 tpy

Mandatory GHG Reporting

- 16 listed source categories if emit 25,000 tpy GHGs from fuel combustion units, uses of carbonate, and all listed source categories in this section
 - electricity generation
 - oil and natural gas systems
 - zinc production
 - industrial landfills
 - wastewater treatment

Mandatory GHG Reporting

- Report Requires:
 - annual facility emissions in metric tons of GHGs for all source categories and supply categories, with calculation methodologies in the rule
 - annual mass emissions by individual GHG for each source category and supply category
 - Unit and process-specific emissions
 - total electricity generated onsite in Kw/hr
 - total pounds of synthetic fertilizer produced and total nitrogen contained in the fertilizer

Proposed Endangerment Finding

- EPA is under court order in *Massachusetts v. EPA* to make an endangerment determination under Section 202 of the Clean Air Act
 - whether endangerment or not
 - does uncertainty preclude finding?
- Section 202 of the Clean Air Act is within Title II, which regulates motor vehicle emissions

Proposed Endangerment Finding

Clean Air Act Section 202(a):

The Administrator shall by regulation prescribe . . . standards applicable to the emission of any *air pollutant* from any class or classes of new motor vehicles or new motor vehicle engines, which in his judgment *cause, or contribute to*, air pollution which may *reasonably be anticipated* to endanger public health or welfare.

Proposed Endangerment Finding

- On April 24, 2009, EPA published its proposed endangerment finding
 - Public health and welfare endangerment finding
 - Air pollution and air pollutant is defined to include combined mix of 6 pollutants: CO₂, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride. Only the first 4 of these are emitted by vehicles.
 - 6 pollutants are at unprecedented levels in the atmosphere due to anthropogenic emissions.
 - Elevated levels of these 6 pollutants are the root cause of observed climate change.

Proposed Endangerment Finding

“If EPA goes forward with a finding of endangerment for all 6 GHGs, it could be establishing a relaxed and expansive new standard for endangerment. Subsequently, EPA would be petitioned to find endangerment and regulate many other ‘pollutants’ for the sake of the precautionary principle (e.g. electromagnetic fields, perchlorates, endocrine disruptors, and noise).”

**Office of Management & Budget Review of Proposed
Endangerment Finding**

Impact of Endangerment Finding

- PSD and NSR Permits
 - Section 165(a)(4) only requires consideration of “each pollutant **subject to regulation**” under the Clean Air Act for purposes of analyzing technology controls.
 - If GHG are “subject to regulation,” then every “major emitting source” would have to obtain a PSD permit and consider GHG controls.
 - Major emitting source is defined in part as a source that emits 250 tons per year or more of any “air pollutant.”
 - Administrator Jackson said she does not want to regulate “cows, Dunkin’ Donuts, Pizza Huts, and baby bottles,” but the statutory language is clear and if challenged, a court may find that EPA does not have the discretion to regulate only sources emitting more than 10,000 or 25,000 tpy of GHG.

Impact of Endangerment Finding

- **New Source Performance Standards**
 - Section 111 performance standards to “include a category of sources in such list if in his judgment it causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.”
 - Permits for substantial sources of GHG (e.g. electric generating facilities, petroleum refineries) could face stringent GHG controls.

Impact of Endangerment Finding

- National Ambient Air Quality Standard(s) (NAAQS) for GHG
- State Implementation Plans
 - If NAAQS > ambient GHG levels, SIP will show how NAAQS will be protected
 - If NAAQS < ambient GHG levels, SIP will show how state will come into compliance with NAAQS within specified time
 - No state can affect GHGs by itself

Climate Change Proposals in the 111th Congress

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