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# California Climate Change Initiatives Leading the West and the Nation

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Mary Ellen Hogan

California takes its responsibility for global warming seriously. Very seriously. The second leading emitter of greenhouse gases (GHGs) in the United States after Texas, California is also ranked between the twelfth and sixteenth largest emitter of GHGs in the world, depending on the study. To give one an idea of the scale of these emissions, according to the California Energy Commission (CEC), California released about 492 million gross metric tons of carbon dioxide (CO<sub>2</sub>)-equivalent GHG emissions in 2004. CEC, INVENTORY OF CALIFORNIA GREENHOUSE GAS EMISSIONS AND SINKS: 1990–2004, STAFF FINAL REPORT (Dec. 2006). This translates to approximately 13.3 tons per person based on the state's 2004 estimated population of approximately 35.9 million people.

The startling amount of GHG emissions, the state's historical environmental conscience, and the charismatic Governor Arnold Schwarzenegger's eye for a popular political issue have coalesced to put California in the forefront of global warming issues on a national and international scale. In less than five years, California has progressed from the lofty, general goal of rolling back the GHG emissions clock to emission levels it had more than a decade ago to addressing the reality of developing a stringent, viable regulatory scheme to achieve that goal and progress beyond it.

According to the laws of physics, "nature abhors a vacuum." This maxim is particularly apropos in describing California's climate change policies: California is quickly and decisively filling the federal vacuum in the area of substantive carbon reduction initiatives. This article will discuss the recent history of California's journey, describe the roadmap for California's journey, and show how California's leadership has influenced other states to follow California's lead and how its political leaders in Washington are influencing Congress to move ahead on the national level.

In contrast to California's aggressive approach toward regulation, the federal government under the Bush administration has strongly resisted substantive global warming regulation, despite scientific findings of the Intergovernmental Panel on Climate Change (even though the United States agreed to the exact language in its reports for policymakers) and the National Resources Council and despite the increasing public demand for government action based on the perception that global warming is a grave environmental problem that must

be addressed regardless of the state of the science. For instance, rejecting the view of the Clinton administration, the Bush administration has taken the position that it lacked legislative authority under the Clean Air Act (CAA) to regulate GHGs as air pollutants in any comprehensive way. It has asserted these arguments all the way to the U.S. Supreme Court, which rejected the Bush administration's claim that it did not have legal authority to regulate CO<sub>2</sub> emissions from new motor vehicles. *Massachusetts v. EPA*, 127 S. Ct. 1438 (2007).

*Massachusetts* began in the waning months of the Clinton administration in 1999 with a petition filed by private organizations requesting that the U.S. Environmental Protection Agency (EPA) regulate GHG emissions from new motor vehicles. California and other states subsequently intervened, urging federal action to regulate CO<sub>2</sub> under the CAA. In 2003 the EPA denied the petition on the grounds that (1) EPA is not authorized by the CAA to issue mandatory regulations to address climate change and (2) even if it were authorized to set emission standards for GHGs, it would be unwise to do so at this time because a causal link between GHG and rising global temperatures could not be unequivocally established. Appeals followed, but at the end of the federal appellate road in April 2007, the U.S. Supreme Court, by a 5–4 vote, ruled that CO<sub>2</sub> can be considered a pollutant under the CAA and as such, the Act did give the EPA the authority to reduce certain CO<sub>2</sub> emissions. In fact, the majority opinion stated that EPA should affirmatively begin rulemaking to reduce those emissions unless it could produce a substantial justification for not doing so.

After the *Massachusetts* opinion, with no other avenue for further legal arguments, President Bush issued an executive order on May 14, 2007, stating his intent to "protect the environment with respect to GHG emissions from motor vehicles, nonroad vehicles and nonroad engines in a manner consistent with sound science, analysis of benefits and costs, public safety and economic growth." Exec. Order No. 13,432, 72 Fed. Reg. 27,717 (May 14, 2007). Consistent with this philosophy, when President Bush addressed the Major Economies Meeting on Energy Security and Climate Change in September 2007, he stressed the general need for heads of state to finalize a nonbinding, long-term goal for reducing GHG emissions, with each nation designing its own strategies to meet whatever goal might be agreed upon in the future. The president refused to commit to any binding action or obligation either to set or meet the goal.

In stark contrast to the federal inaction, California began

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taking action to decrease GHGs in 2002 with a plan to regulate new motor vehicle GHG emissions in California that so far has been joined by eleven states. California's march to the forefront of state action to reduce global warming began in earnest in July 2002 when then Governor Grey Davis signed Assembly Bill 1493. This landmark legislation required the California Air Resources Board (CARB or Board) to issue regulations to reduce GHG emissions from new motor vehicles beginning in model year 2009. At the time of its passage, Gov. Davis described the legislation as the first law in the United States to address what he referred to as the "greatest environmental challenge of the 21st Century"—global warming.

Because transportation had been identified as California's largest single source of CO<sub>2</sub> emissions, AB 1493 was aimed at a significant section of the transportation sector: passenger vehicles and light duty trucks. In this bill, the California legislature directed CARB to adopt regulations that would achieve the "maximum feasible" and "cost effective" reduction of GHG emissions for new motor vehicles by the 2009 model year. CARB approved these new vehicle emission standards in September 2004, and the final rulemaking package became operative on October 15, 2005. According to the Board's staff, these standards would reduce GHG emissions from light duty passenger vehicles by about 32 million metric tons per year (87,700 tons per day) by 2020 and more than 56 million metric tons per year (155,200 per day) by 2030. CARB, FACT SHEET, CLIMATE CHANGE EMISSION CONTROL REGULATIONS (Dec. 10, 2004), [www.arb.ca.gov/cc/factsheets/cc\\_newfs.pdf](http://www.arb.ca.gov/cc/factsheets/cc_newfs.pdf).

California's novel approach to reduce carbon emissions from motor vehicles is the latest chapter in its history of leadership in reducing pollution from cars and trucks. The early key events in automobile pollution control all occurred in California. For example, California established the first requirement for auto emission controls in 1961. The state was the first to use catalytic converters in 1975 and the first to limit lead in gasoline in 1975. Harkening back to the passage of the CAA in 1967, Congress expressly recognized California's "historic role as a laboratory for experimentation on auto emissions control." WILLIAM H. RODGERS, ENVIRONMENTAL LAW § 3:26 (2007).

Accordingly, while the CAA's overriding policy on motor vehicle emission controls was uniformity across the nation via federal standards, the CAA authorized California to enforce standards more stringent than the federal standards (what is often referred to as the California car) if California could demonstrate that these standards were required to meet "compelling and extraordinary conditions." 42 U.S.C. § 7543(b)(1)(B). This unique statutory waiver became the vehicle for California's quest to regulate GHGs through limitations on CO<sub>2</sub> emissions from motor vehicles. CARB requested a waiver from EPA for California's stringent GHG vehicle emission reductions in December 2005, shortly after CARB's rules required by AB 1493 became effective. EPA did not act on the petition; so, a year and a half later, in April 2006, Gov. Schwarzenegger repeated California's request that EPA approve waiver. He renewed this request again in

October 2006. Not content with a letter-writing campaign to Washington, the governor met with the EPA Administrator in person in April 2007 to request that the waiver be granted. On November 11, 2007, California filed suit against EPA for its failure to act on California's tailpipe emissions waiver request. Press Release, Governor Schwarzenegger Announces Lawsuit against U.S. EPA for Failing to Act on California's Tailpipe Emissions Request (Nov. 8, 2007) <http://gov.ca.gov/press-release/8047/>.

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A closer look at the statutory requirement necessary for EPA's approval of the waiver has led to the conclusion that EPA's approval may not be forthcoming quickly. Considering that global warming and its impact on California is the justification for California's more stringent motor vehicle emissions standards, it comes as no surprise that EPA did not act on CARB's request for a waiver while the Supreme Court's decision in *Massachusetts* was pending. This is so because the standard in the CAA for *not* granting the waiver is a finding that California does not need its own standards to meet a "compelling and extraordinary condition." 42 U.S.C. § 7543(b)(1). In other words, to grant the waiver, EPA would have to agree with California that the impacts of global warming on California constituted a compelling and extraordinary condition that justifies more stringent state standards. Such a finding by EPA would have been clearly inconsistent with the administration's legal positions in *Massachusetts*. In the months post-*Massachusetts*, EPA has held two public hearings on CARB's petition for the exemption and finally closed the comment period on June 15, 2007. There has been no action by EPA as of November 2007.

In the meantime, CARB's goal of having the automakers reduce vehicle CO<sub>2</sub> emissions by model year 2009 seems unlikely given both the necessary, multiyear lead times that the automakers claim are required to institute design changes and the auto industry's vigorous opposition to the CARB proposal. But regardless of the setbacks in new vehicle carbon emission standards, California has pressed ahead, switching to other fronts.

While the battle for new vehicle carbon emission standards was underway, Gov. Schwarzenegger set the stage for a much broader and more comprehensive plan to reduce carbon

emissions. The governor's plan began with an important June 2005 executive order. Citing high-temperature impacts on air quality and human health, as well as the threat of rising sea levels to the California coastline and its valuable real estate, Executive Order S-3-05 established GHG reduction "targets" for California. These ambitious targets were to reduce GHG emissions to 2000 levels by 2010, to 1990 levels by 2020, and then to 80 percent below 1990 levels by 2050.

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These ambitious goals were not simply pulled out of the air. The governor relied upon a nongovernmental technical evaluation of reduction strategies by the Tellus Institute, which has been touted by the governor as a "premier" not-for-profit energy policy institute. Similar to many past regulatory initiatives to improve air quality in California, these goals were designed to be technology-forcing and by definition would demand commitment and innovation from the regulated community.

Executive Order S-3-05 named the Secretary of California Environmental Protection Agency (Cal EPA) as the overall leader of the state's efforts and required a biennial report to the legislature on the potential impact of global warming based on known science. Many other heads of state agencies were included in the state effort: the secretaries of Business, Transportation and Housing, Food & Agriculture, and the Resources Agency; the chairperson of the Air Resources Board; the chairperson of the Energy Commission; and the president of the Public Utilities Commission. This group, known as the Climate Action Team, began to work on ways to achieve the governor's GHG emission reduction goals.

Cal EPA delegated its biennial report obligation under Executive Order S-3-05 to the CEC's Climate Action Change Center, which produced a report to the governor and legislature in July 2006 titled *Our Changing Climate—Assessing the Risk to California: A Summary Report from the California Climate Change Center*. This report discussed the science and climate models showing impacts of global warming in California. However, by the time the team's report was issued, and in view of the consequences the report predicted, it became clear that the "targets" set by Executive Order S-3-05, even when combined with the vigorous oversight by the

Climate Action Team, were unlikely to be enforceable enough by themselves to achieve the emission reductions that the governor had committed to accomplish. Therefore, the California legislature moved forward under the leadership of Assembly Speaker Fabian Nunez (D-Los Angeles) to pass legislation that transformed the governor's goals into enforceable statutory mandates.

Intensive legislative effort in Sacramento produced the California Global Warming Solutions Act of 2006, which is generally referred to by its shorthand notation "AB 32." CAL. HEALTH & SAFETY CODE §§ 38500–38599 (2006). Its provisions codify some of the emission goals of the 2005 Executive Order S-3-05, specifically requiring by statute that California reduce carbon emissions to 1990 levels by the year 2020 and setting a statewide emissions cap that includes emissions from imported power. §§ 38550, 38505(m).

AB 32 was signed by Gov. Schwarzenegger on September 27, 2006, amid significant media coverage. The signing ceremony included support and accolades from international leaders, including British Prime Minister Tony Blair, who appeared by satellite widescreen television. The governor's press release stated the following reasons for the signing of the bill: "When I campaigned for governor three years ago, I said that I wanted to make California No. 1 in the fight against global warming. This is something we owe our children and grandchildren." <http://gov.ca.gov/index.php?/press-release/4111/>. To ensure achievement of these goals, AB 32 establishes a strict timetable for rulemaking to set enforceable standards. CARB is required to have established a Scoping Plan by 2009 and to have enforceable regulations, including command and control and/or market-based or financial incentives, in place no later than 2012. Recognizing that 2012 was more than five years away, however, the statute requires CARB to identify "immediate" steps, so-called "discrete early action" items that can and should be taken now.

Since the passage of AB 32, CARB has accelerated its tried-and-true California model for air pollution reductions developed under the California Clean Air Act by taking the following approach: first, establish an emissions inventory, then develop reduction strategies with quantifiable emission reductions, and finally measure progress during the course of implementation. Using this formula, AB 32 requires CARB to adopt regulations for GHG Mandatory Emissions Reporting (MER) by January 1, 2008. The preliminary draft of the MER regulations was issued on August 10, 2007, after CARB conducted a series of public workshops and technical working group meetings that began in December 2006. CARB received over eighty-five sets of comments on the August 2007 preliminary draft MER regulations as of the date the formal proposed rules were issued on October 19, 2007. The October 2007 proposed rules are available at [www.arb.gov/cc/ccei/ccei/htm](http://www.arb.gov/cc/ccei/ccei/htm).

On November 16, 2007, the CARB staff issued its "Staff Report—California 1990 Greenhouse Gas Emissions Level and 2020 Emissions Limit." [www.arb.ca.gov/lispub/rss/displaypost.php?pno=448](http://www.arb.ca.gov/lispub/rss/displaypost.php?pno=448). On December 6, 2007, CARB adopted California's GHG emissions cap at 427 million met-

ric tons of carbon dioxide equivalent, which represents the Board's best estimate of GHG emissions in 1990. This adoption means that the aggregate of California's CO<sub>2</sub> equivalent emissions in 2020 must be no greater than 427 million metric tons of CO<sub>2</sub> equivalent. Current estimates for unchecked CO<sub>2</sub> emissions in California for 2020 are 600 million metric tons, so California must reduce its emissions by 173 million metric tons of CO<sub>2</sub> equivalent between now and 2020. On December 6, 2007, the Board also adopted the draft Mandatory Emissions Reporting Requirements as final regulations. CARB News Release, Air Board passes two major building blocks in state's effort to fight global warming: Establishes Greenhouse Gas Reduction Goal, and Adopts Rules for Large Facilities to Report Their Greenhouse Gas Emissions (Dec. 6, 2007) [www.arb.ca.gov/newsrel/nr120607.htm](http://www.arb.ca.gov/newsrel/nr120607.htm). CARB's Scoping Process to define the nature and scope of substantive rulemaking to reduce emissions is ongoing and will continue throughout 2008.

The MER regulations offer some perspective on the size and scope of industries and processes that will be impacted by AB 32. There are eight categories of entities that will be required to report. The first two are (1) electric retail providers "operating" in California and (2) electric power marketers and six specific groups of facilities operating in California. By focusing on electrical retail providers and marketers transmitting electricity to California, CARB will be requiring emissions inventory information on entities whose facilities are physically located out of state (e.g., generating plants in adjoining states such as Arizona and Nevada). This approach is clearly consistent with prior inventories conducted by the CEC and the governor's intent to eventually regulate extraterritorial GHG emissions associated with California's electric power physically generated in other states.

The other six categories of entities that will be required to report under the proposed MER rules include large-quantity, fuel-burning facilities, such as: (1) cement plants, (2) petroleum refineries, (3) greater than 1-megawatt electrical generating facilities, (4) large hydrogen production facilities, (5) cogeneration facilities, and (6) the "catch-all" category of stationary combustion sources whose emissions are greater than or equal to 25,000 metric tons per year of CO<sub>2</sub>. These include universities, breweries, and glass manufacturers, among others. Hospitals and schools would be exempt from reporting, as would backup electrical generators and electrical facilities powered solely by nuclear, hydroelectric, wind, or solar power.

Operations subject to MER generally would be required to report all direct CO<sub>2</sub>, nitrogen dioxide (NO<sub>2</sub>), and methane (CH<sub>4</sub>) emissions from stationary combustion sources at the facility. All process and fugitive emissions would also be inventoried. Similarly, each GHG defined for MER purposes as CO<sub>2</sub>, CH<sub>4</sub>, NO<sub>2</sub>, sulfur hexafluoride (SF<sub>6</sub>), hydrofluorocarbons (HFCs), and perfluorocarbons (PFCs) (also known as the Kyoto Six compounds) must be reported separately for each fuel used and for each process unit where process unit fuel is separately metered. Compiling an inventory of mobile combustion emissions is optional.

This data would be generated at MER facilities for calendar year 2008 emissions. The rules mandate the specific methodologies to be used to generate emissions data, and these methodologies rely heavily on CARB's well-documented expertise in the area of emission inventories.

The proposed deadline for data submittal would vary by facility type. Electric power generation and cogeneration facilities would report in April 2009. General stationary combustion sources, cement plants, and electric retail providers, among others, would report by June 1, 2009.

One of the more unique provisions of the proposed MER rule would be the requirement that emissions be verified starting in 2010 by official, state-approved "verifiers" (consultants) using approved methodologies. MER verifiers would be subject to conflict of interest rules that would be designed to provide a measure of integrity to the process of inventorying emissions and the possible tendency of emitters to overreport the baseline emissions initially to mitigate the impact of reductions mandated by CARB in the future. More importantly, however, this process will provide a measure of confidence to CARB and the public that emissions are being quantified through a verifiable, scientific protocol monitored by third parties.

The MER program is designed to generate carbon emissions data in 2008 and analyze that data no earlier than 2009. AB 32, however, requires CARB to define a 1990 emissions baseline no later than January 1, 2008. This baseline will be the critical 2020 carbon emissions cap in California unless subsequently modified as a result of the MER results available in 2009.

So what will be the source of the 1990 baseline emissions inventory? In December 2006, the CEC issued a key report titled *Inventory of California Gas Emissions and Sinks: 1990–2004 (2006 Energy Commission Inventory)*, available at [www.energy.ca.gov/publications/searchReports.php](http://www.energy.ca.gov/publications/searchReports.php). According to this report, its estimates were derived from data obtained from the U.S. Energy Information Administration and additional data gathered by the CEC. The methodology for deriving the estimates was protocols developed by the Intergovernmental Panel on Climate Change and the U.S. EPA. Since AB 32 requires CARB, rather than the CEC, to define the 1990 emissions baseline by January 1, 2008, separate legislation transferred responsibility for the 1990 emissions inventory from the CEC to CARB about a month after the 2006 Energy Commission Inventory was issued. CARB has subsequently spent considerable effort refining and reanalyzing the CEC data and has published its own 1990 emission inventory by IPCC categories. See CARB, Draft California Greenhouse Gas (GHG) Emissions Inventory Web page, [www.arb.ca.gov/cc/ccei/emsinv/emsinv.htm](http://www.arb.ca.gov/cc/ccei/emsinv/emsinv.htm).

The result has been the emergence of marked differences between some elements of the 2006 CEC inventory and CARB's revised inventory. For example, CARB's use of updated emission factors, revised methodologies for some industrial sectors, as well as corrections of computation errors resulted in its calculation of GHG emissions attributable to the cement industry to be as much as 60 percent higher than

the CEC's. In contrast, CARB's calculation of emissions associated with the agricultural sector was 19 percent lower than the CEC's.

To summarize some of the key findings from the 1990 inventory, CARB's public workshop presentation stated that as of 1990, 31 percent of the CO<sub>2</sub> equivalent gross emissions by fuel source came from gasoline, followed by natural gas (28 percent), coal (15 percent), and other petroleum sources (10 percent). These percentages correlate well with the breakdown of CO<sub>2</sub> equivalent gross emissions by industrial sector: transportation (39 percent), electric production (23 percent), other industrial (9 percent), and refineries (7 percent). The prominence of the transportation sector in both gross emissions by fuel source (gasoline) and by sector (transportation) underscores the importance of California's initiatives to mandate new car engine GHG emission controls discussed above and how those initiatives can impact whether California can actually meet AB 32's mandate to reduce emissions to 1990 levels by 2020. Without significant emissions reductions in the transportation sector, other sectors will have to bear the brunt of necessary reduction strategies to make up for transportation's lack of reductions.

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The bottom-line message from CARB's December 6, 2007, decision on California's 1990 Emissions Inventory is that California's 1990 carbon emissions cap is set at 427 million metric tonnes of CO<sub>2</sub> equivalent emissions. This will be the 2020 statewide aggregate emissions limit for CO<sub>2</sub> equivalents unless amended or repealed. It will be the target number against which all reduction methodologies will be collectively compared in the aggregate going forward from now until 2020.

CARB's next step, now that it has set a cap, is to adopt a Scoping Plan by 2009 that delineates how to achieve emission reductions using all available mechanisms, including regulations, market mechanisms, and financial incentives. CARB will then use the Scoping Plan as a roadmap to undertake rulemaking during 2010 to adopt appropriate mechanisms formally. AB 32 mandates that this step be completed by January 1, 2012, with legally enforceable regulations. That leaves only nine years for these mechanisms to actually reduce GHG emissions to 1990 levels by the statutory dead-

line of December 31, 2020.

What does this schedule mean for carbon emission reduction initiatives that occur between 2008 and 2012? AB 32 asserts that there are "immediate" steps that can and in fact should be taken now, well in advance of 2012. CARB has published a final staff report containing an extensive list of "discrete early action" (DEA) measures; CARB must complete its rulemaking on these listed topics by 2009. The first three DEA measures were listed by CARB's Board ahead of schedule on June 21, 2007. They are (1) a low carbon fuel standard that was initially established by Executive Order S-01-07 issued in January 2007, (2) restrictions on "do-it-yourself" automotive refrigerants to reduce refrigerant losses from motor vehicle air conditioning systems, and (3) use of state-of-the-art landfill gas methane capture technologies. See [www.arb.ca.gov/lispub/rss/displaypost.php?pno=448](http://www.arb.ca.gov/lispub/rss/displaypost.php?pno=448). CARB wants these listed measures to be brought to the Board in regulatory form within the next twelve to eighteen months, in order for them to become effective by AB 32's statutory deadline of January 1, 2010. As with the MER regulations, this is considered a highly accelerated rulemaking schedule for CARB. According to the October 2007 CARB staff final report, *Expanded List of Early Actions Measures to Reduce Greenhouse Gas Emissions in California Recommended for Board Consideration*, collectively the forty-two recommended early actions are estimated to reduce GHG emissions by at least 42 million metric tonnes of CO<sub>2</sub> equivalent annually by 2020, which would be about 25 percent of the reductions needed to meet the target. [www.arb.ca.gov/cc/ccea/meetings/ea\\_final\\_report.pdf](http://www.arb.ca.gov/cc/ccea/meetings/ea_final_report.pdf).

Turning from California's blueprint for carbon emission reductions within its borders, carbon emissions are a regional, as well as a state issue, as demonstrated by California's emphasis on inventorying the extraterritorial emissions from electric-producing plants in Nevada, Arizona, and Utah. So what is occurring regionally regarding carbon emissions? Gov. Schwarzenegger has once again forged ahead and organized the original Western Regional Climate Action Initiative, which initially involved the governors of Washington, Arizona, Oregon, and New Mexico.

These governors signed the Initiative on February 26, 2007, and agreed at that time to (1) set an "overall regional goal" by August 2007 to collectively reduce the carbon emissions from the participating states; (2) develop a design for a market-based, multisector mechanism (i.e., a cap and trade program) to achieve the regional goal; and (3) participate in a regional GHG registry to track, manage, and credit entities that reduce GHG emissions. Since the initial signing of the Initiative, Utah's governor also decided to participate, despite fierce opposition from the state's electric-power-producing industry that operates a significant number of coal-burning plants, some of which send power to California. Two Canadian provinces, Manitoba and British Columbia, have also joined. States and foreign entities that are "official observers" as of October 2007 but who have not yet committed to the Initiative are Colorado, Idaho, Kansas, Nevada, Wyoming, Ontario, Quebec, and Saskatchewan, Canada, and Sonora, Mexico.

Making good on their word, on August 23, 2007, the six

state governors and two provincial governors who are actively participating in the Initiative committed to a regional emissions cap designed to reduce GHG emissions to 15 percent below 2005 levels by 2020. According to the Union of Concerned Scientists, this regional cap would require regional capping of carbon emissions “at about 2% above the 1990 levels by 2020,” in contrast to California’s more stringent cap of 1990 levels by 2020. The Union believes that because emissions in other states and provinces are growing faster than in California, the “regional cap will result in greater reductions [in California] than California’s law would on its own.” When Gov. Schwarzenegger announced the regional cap, he stated that “our collective commitment will build a successful regional system to be linked with other efforts across the nation and eventually the world,” a commitment showcased by the Initiative’s October 29, 2007, announcement of a process to develop a proposed cap and trade regional emissions exchange that will be coordinating with the newly created WGI regional Climate Registry. WESTERN CLIMATE INITIATIVE WORK PLAN: OCTOBER 2007–AUGUST 2008, (Oct. 29, 2007), [www.westernclimateinitiative.org/ewebeditpro/items/O104F13792.pdf](http://www.westernclimateinitiative.org/ewebeditpro/items/O104F13792.pdf).

This regional focus on action to combat climate change extends to a number of California’s congressional delegation in Washington. House Speaker Nancy Pelosi (D-San Francisco), Representative Henry Waxman (D-Los Angeles), and Senator Barbara Boxer (D-California) in particular are working to focus attention on GHG emission reduction and making use of California’s experience and leadership.

As an example, Congressman Waxman, who has long been an advocate for environmental issues, introduced the proposed Global Climate and Ozone Protection Act in August 2007. Focusing on ozone depleting chemicals (CFCs and HCFCs), Mr. Waxman proposes to reinvolve the United States with the Montreal Protocol on climate change, as well as undertake a program of phase out and planned destruction of these compounds before they are released into the atmosphere. He has also formally taken issue with EPA’s refusal to regulate carbon emissions post-*Massachusetts* according to the terms of a permit EPA issued in August 2007 to the new Deseret coal-fired plant in Utah.

Most importantly, Congressman Waxman has also taken comprehensive legislative action on climate change in the U.S. House of Representatives. H.R. 1590, the Safe Climate Act of 2007, was introduced by Mr. Waxman in March 2007. This bill proposes to establish a cap and trade program and to freeze GHG emissions in the United States at 2009 levels in 2010, with the goal of reducing emissions by 2 percent per year through 2020. Thereafter, the reduction rate would rise to 5 percent per year until 2050, when the GHG emissions would be estimated to be 80 percent lower than 1990 levels. Despite wide sponsorship in the House, H.R. 1590 has not moved beyond introduction.

In a similar vein, Speaker Nancy Pelosi is touting her leadership in the House’s passage of H.R. 3221, the New Direction for Energy Independence, National Security and Consumer Protection Act. This bill, while falling short of

national, mandatory GHG emission reductions for industry, directs the federal government to become “carbon neutral” by 2050 using an annual governmental emissions target based on emissions inventories, similar to the pattern followed in California. The GHG emissions would be frozen by 2010 and then reduced 2 percent per year to achieve 1990 levels. The focus of the federal government reduction efforts would be federal fleet vehicles, green building standards, and expanded authority to purchase renewable energy. Speaker Pelosi’s analogous “Green the Capital” initiative has three goals applicable to the House: achieve a “carbon neutral” House by 2008, reduce the House’s carbon footprint 50 percent in ten years, and make the House into a model of sustainability.

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When Gov. Schwarzenegger announced the regional cap, he stated that “our collective commitment will build a successful regional system to be linked with other efforts across the nation and eventually the world.”

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Consistent with the climate action spirit of the California congressional delegation, Sen. Barbara Boxer, the chair of the Senate Committee on Environment and Public Works, is poised to hold hearings on the significant Lieberman Warner Climate Change Bill recently introduced in the Senate. On November 1, 2007, Sen. Boxer commented, as that bill passed out of the Senate Subcommittee on Private Sector & Consumer Solutions to Global Warming and Wildlife Protection: “[W]e are finally on our way toward preventing the ravages of unfettered global warming”—a way that has been pioneered to date by California.

Only time will tell whether federal legislation, if enacted, will converge with the state and regional initiatives underway in California. The growing number of states and provinces committed to GHG emission reductions and the number of states signed on to support California’s new vehicle carbon emission reductions clearly show that the political momentum has shifted in favor of mandatory emission reductions, both locally and regionally. Regardless of what occurs in Washington as the Bush administration comes to its close, AB 1493, AB 32, and the Western Climate Initiative show that California is serious about GHG emissions and its mission to reduce them. It really is. 🌱