

GUEST COMMENTARY

Anything is still possible in Congress' 2010 climate bill push

By Lisa Jacobson, President, Business Council for Sustainable Energy

With 2010 underway, the question on many minds is whether comprehensive federal climate change legislation will be enacted this year. Speculation abounds, but perhaps it is best to start with what is known, before considering the unknowns.

First, despite the conventional wisdom that there is not yet a legislative package that can muster 60 votes in the US Senate, there is still room for movement on a comprehensive bill.

A comprehensive approach would include meaningful caps on economy-wide greenhouse gas emissions and flexibility in the form of emissions trading and offsets to reduce the cost of compliance and to drive innovation and over performance. It would also incorporate a suite of complementary energy policies that move the nation on an immediate path to cost-effectively reduce emissions with a broad portfolio of existing clean energy technologies and resources – such as supply-side and demand-side energy efficiency, renewable energy and natural gas.

There have been a range of energy and climate change bills that have been considered by Congress over past year, including the House-passed Waxman-Markey bill, and committee-reported bills in the Senate including Senator Bingaman's American Clean Energy and Leadership Act and the Boxer-Kerry bill. These bills, among others, provide a base for final action.

Second, we also know that the troika of Senators Lindsey Graham (R-SC), Joe Lieberman (I-CT) and John Kerry (D-MA) are working diligently on a proposal that holds the prospect of winning support of a number of Republicans and undecided Democrats. We might

have more information on the specific elements of this proposal shortly. Key to the power of the Graham, Lieberman and Kerry effort is the evolving political climate in Washington, DC, given national economic conditions and a high stakes election year.

Third, the Obama administration remains committed to passing domestic legislation that reduces emissions, minimizes dependence on foreign energy sources and creates jobs, while strengthening domestic clean energy manufacturing. The Administration also wants to maintain its leadership role coming out of the Copenhagen climate change negotiations last month. While more work is needed to make the Copenhagen Accord operational, President Obama was personally engaged and was instrumental in attaining the deal.

White House leadership is needed more than ever to enact domestic legislation and should be focused on identification of workable proposals, building coalitions and securing votes. Turning back to the international negotiations, adoption of legislation is central to reaching agreement on a post-2012 multilateral climate change treaty, which some countries would like to see by December in Mexico.

Related to Administration engagement and also a result of Supreme Court related decisions, the US Environmental Protection Agency (EPA) is moving forward with regulation of greenhouse gas emissions under the Clean Air Act (CAA). Adoption of the endangerment finding and the release of draft rules for fuel economy standards for vehicles last year send a strong signal. Support for congressional action on a comprehensive bill should now be considered against the

implications of EPA regulation, which some viewed as less flexible and potentially more costly than what could come out of Congress. There will also be more targeted congressional efforts aimed at blocking or strengthening the EPA process, likely starting during the debt limit votes and recurring in the appropriations process.

Significant relative to the limited time in this Congressional session, we do not know the depth of political will to compromise in a troubled economy and a challenging election year. The next few weeks will set the stage for what is possible.

Strong statements by President Obama in the State of Union address, followed by aggressive action by the White House on a comprehensive climate change bill, will build momentum in Congress. In addition, a vote as early as next week in the Senate on a possible amendment to be offered by Senator Lisa Murkowski (R-AK) to restrict EPA's ability to regulate of greenhouse gas emissions under the CAA will be important. This vote is seen as an indicator of Senate support for a climate change bill this year. Opponents of legislation may argue that a strong vote on the Murkowski amendment signals that the Senate is not ready to enact climate legislation. Climate bill supporters may highlight the principle underpinning the amendment that CAA regulation is not the optimal approach – and urge quick action by Congress.

Irrespective of the current dynamics, significant numbers of domestic and international businesses are taking initiatives to reduce their carbon footprints as a sound business decision. Further, developments in 2009 prove that conditions can change quickly and more is possible than you might initially expect.