

As [I suggested last week](#), the prospects for the Waxman-Markey bill passing Congress this term don't seem particularly high. President Obama is expending significant political capital on health care reform. The Senate is occupied with the Sotomayor Supreme Court hearings. And the politics of climate legislation may be even tougher in the Senate than in the House.

All is not lost, however. Groundwork laid by states and environmental groups during the long years of climate inaction by the Bush Administration means that stalemate in Congress doesn't mean a complete lack of progress on reducing greenhouse gas emissions. Take the Obama Administration [announcement](#) that the federal government will adopt a combined CAFE standard and greenhouse gas emissions reductions for automobiles for model year cars 2012-2016. The agreement is the direct result of California's greenhouse gas emissions [standards](#), which form the basis for the new national standards. Moreover California and the 13 states that are following its lead can issue greenhouse gas emissions standards sooner than the federal standards now that the state has been [granted a waiver](#) allowing it to go forward.

The national standards and approval of the California waiver are the most concrete federal actions to date but more action could come. Because states and environmental groups sued the federal EPA in [Massachusetts v. EPA](#), the federal government has now issued a [finding](#) under the Clean Air Act that greenhouse gases endanger public health and welfare. Though it is unclear what regulatory action will follow, the EPA may begin regulating the emissions of [ocean-going vessels](#); issue New Source Performance Standards for large greenhouse gas emitters like new coal-fired power plants; and even issue a National Ambient Air Quality Standard for carbon dioxide and other greenhouse gases (see Holly's article on Clean Air Act regulation of greenhouse gas emissions [here](#)). Such regulatory efforts would surely be controversial and put added pressure on Congress to enact climate change legislation that would remove greenhouse gases from the Clean Air Act while replacing CAA regulation with something like what is proposed in Waxman Markey. The Obama Administration also has to contend with continuing litigation over [how the Endangered Species Act should deal with climate change](#) and a Clean Water Act [petition](#) about ocean acidification resulting from increased absorption of carbon dioxide.

Meanwhile, states continue with their efforts to regulate greenhouse gas emissions. The [Regional Greenhouse Gas Initiative](#) — which imposes a cap and trade scheme on utilities for their carbon dioxide emissions — is up and running. California's Air Resources Board is hard at work [implementing AB 32](#), which rolls back the state's total emissions to 1990 rates by 2020. A consortium of western states and Canadian provinces is at work developing the [Western Climate Initiative](#) to implement a region-wide cap and trade system. And

midwestern states are busy designing their own [climate](#) strategy. All of this activity at the state level may have industry begging Congress to pass uniform federal legislation.

It is easy to view all these efforts as beside the point as we await the passage of a federal bill. But the litigation and successful state efforts serve two important purposes: they provide a real alternative to a federal bill if Congress fails to act; and they put pressure on Congress to come up with an alternative to regulatory efforts that industry doesn't like. It's interesting to note that a strategy aimed largely at the Bush Administration's inaction may begin to bear serious fruit under his Democratic successor.