The drafters of the health care reform law might have learned something from environmental policy makers when it comes to mandates and public opinion. When the five conservative U.S. Supreme Court justices expressed a visceral reaction against the government compelling citizens to buy health insurance last week, their distaste was not unlike the visceral reaction many citizens have to mandates in environmental contexts. But in the environmental world, policy makers have found novel and sometimes simple ways to overcome fears related to government mandates — no matter how irrational those fears may be.

Two examples stand out. First, in Oregon, the state's Department of Transportation began work on a pilot project to tax vehicle miles traveled (VMT), rather than gasoline purchases, to fund road and highway maintenance. Given dwindling gas tax revenue as cars become more fuel efficient, governments like Oregon's need to find ways to maintain public infrastructure. In order to tax VMT, the department required drivers in the pilot to place global positioning systems (GPS) on their cars to track the total miles driven.

But Oregonians in the pilot balked at having the government track their miles. It felt like an invasion of privacy and an effort by the government to find out where the drivers had been, even though the GPS transponders did not register the locations and otherwise protected privacy. In response, the Department of Transportation revamped their proposal and found that drivers actually don't mind having the government track their VMT if drivers can choose how it's done. So offering drivers a menu of options, from the aforementioned GPS transponder to tracking miles by Smart Phone applications to having private companies do the tracking, seems to have made the fears largely evaporate (the Department is still in the process of developing statewide VMT tax policy).

Second, in California, Pacific Gas & Electric (along with other utilities around the country) recently began installing "Smart Meters" on customers' homes to replace the old analog meters. The new meters send out wireless signals to the utility about electricity usage in order to calculate the bill payment. For utilities, it saves them having to check old-school meters manually, while it also paves the way for more real-time data and communications infrastructure that can one day help customers better manage electricity usage (think "smart grid").

But some customers freaked out, worrying about everything from computer hackers on their meters to cancer from the wireless signals. In response, the California Public Utilities Commission allowed utilities like PG&E instead to offer customers the

option of paying for the costs of keeping their old analog meters. The result? Opposition has been defused to a significant extent, albeit with ongoing complaints about the new fees.

In both cases, policy makers took steps to solve the problem and assuage opponents simply by offering them choices. The lesson here is that many people fear government compulsion to do something, but offering people the feeling of choice (even if the choices aren’t great or all that different from the original mandate) can make this fear largely disappear. In the health care context, perhaps the law’s drafters could have taken a cue from the environmental community and fashioned an insurance mandate that allows people to opt out if they agree to pay an amount commensurate to the costs of their uninsured care on society, or if they agree to forego particular government services if they don’t obtain health insurance.

And as environmentalists push for programs with similar mandate concerns, such as stronger energy efficiency policies or efforts to reduce traffic and air pollution through decreased driving, they will have to continue to refine and implement this “option-based approach” to minimize public opposition. Depending on how the Supreme Court rules, and given the politics of the country, they may not really have the choice *not* to.