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Climate Change Policy Update Week of October 29 - November 2, 2007

Commentary

A Senate Environment and Public Works Subcommittee approved the Lieberman-Warner climate change legislation in a 4-3 vote, with Sen. Max Baucus (D-MT) providing the key tie-breaking vote. This milestone marks the first time that a Congressional committee has reported economy-wide climate change regulatory legislation and, in many respects, marks the official beginning of a long and arduous effort to enact such legislation. Sen. Barbara Boxer (D-CA), Chair of the full Environment and Public Works Committee, has announced her desire for the Committee to report climate legislation to the full Senate before the United Nations discussions on a post-Kyoto program begin in December and has scheduled a full Committee hearing on S.2191 for November 8. Given that some Members of the Committee believe the bill does not do enough to protect the U.S. economy, while other believe the bill does not go far enough in reducing GHG emissions, Chairman Boxer faces a daunting task to report the bill in the next four weeks

Congress

- **Senate Subcommittee Passes Lieberman-Warner Climate Bill.** On Thursday, the Subcommittee on the Private Sector and Consumer Solutions to Global Warming and Wildlife Protection of the Senate Committee on Environment and Public Works approved Senators Joe Lieberman (I-CT) and John Warner's (R-VA) "America's Climate Security Act" (S. 2191). The bill was reported favorably to the full committee by a 4-3 roll call vote. Senators Lieberman, Warner, Lautenberg (D-NJ) and Max Baucus voted to report the bill; Senators John Barrasso (R-WY), Johnny Isakson (R-GA) and Bernie Sanders (I-VT) voted against it
- **Investment Groups Say SEC Guidance Necessary for Climate Discourse.** At a hearing before the Subcommittee on Securities, Insurance and Investments of the Senate Committee on Banking, Housing and Urban Affairs on Wednesday, witnesses representing environmental investment groups said that the Security and Exchange Commission ("SEC") should offer its guidance for companies to disclose material risk related to the environment and climate change. The witnesses argued that voluntary disclosure of environmental climate risk information is not as sufficient as mandatory reporting. The voluntary reporting system, they said, does not provide an agreed-upon format or objectives for reporting. They also noted that the SEC disclosure guidelines would allow the body to reestablish its gatekeeper role for climate disclosure.
- **Energy Bill Talks Continue.** House and Senate staff continued to meet this week to work out differences between their two Energy bills (H.R. 3221 and H.R. 6, respectively). The Democratic leadership maintains that they would like to pass a compromise energy bill before the House and Senate are scheduled to adjourn for Thanksgiving recess on November 16.

If you have questions about topics covered in this Update, please contact Kyle Danish, head of the Climate Change and Emissions Trading Practice, at kwd@vnf.com

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- **Selected Committee Hearings From the Past Week:**
 - The Subcommittee on Securities, Insurance and Investments of the Senate Committee on Banking, Housing and Urban Affairs held an oversight hearing on corporate reporting of greenhouse gas emission data (October 31, 2007) (discussed above).
 - The Subcommittee on the Private Sector and Consumer Solutions to Global Warming and Wildlife Protection of the Senate Committee on Environment and Public Works marked up S.2191, the Lieberman-Warner climate bill (November 1, 2007) (discussed above).
 - The House Select Committee on Energy Independence and Global Warming held a hearing to address wildfires and the climate crisis (November 1, 2007).
 - The House Budget Committee held an oversight hearing on the cost of controlling carbon emissions (November 1, 2007).

Industry

- **Travelers Insurance Joins Pew Business Environmental Leadership Council.** Travelers, the major insurance company, became the latest company to join the Pew Center's Business Environmental Leadership Council, whose members represent more than 3.8 million employees and have a combined market share of nearly \$3 trillion. Other members include Alcoa Inc., Toyota Motor Corp., BP PLC, and Weyerhaeuser Co. The group does not advocate for a specific legislative approach on climate change. A spokesperson for Travelers said that the company is examining ways to address climate change as part of its business strategy and also to reduce the company's carbon footprint.

States and Cities

- **CARB Previews Draft GHG Reporting Rule at Stakeholder Workshop.** At an October 31 workshop, the California Air Resources Board (CARB) released a draft rule on GHG emissions reporting under AB 32, the state's climate change program. The rule, which is modeled after protocols developed by the California Climate Action Registry, would require about 800 industrial and commercial facilities to report their GHG emissions each year. CARB estimates that these facilities represent nearly 94 percent of annual GHG emissions from stationary sources in the state. Electricity generating facilities and retail providers, power plants, hydrogen plants, cement plants, and petroleum refineries would be subject to the reporting requirements. Other industries, such as food processors, oil production, natural gas transmission, and steel foundries, that emit more than 25,000 metric tons of CO₂ per year from combustion also would be required to report their emissions. Some industrial sectors, including cement plants and refineries, would be required to report GHG emissions associated with chemical and non-combustion activities. CARB will hold a public hearing on December 6-7 to consider whether to adopt the proposed regulations.
- **Climate Registry Releases Draft GHG Reporting System.** The Climate Registry, which includes 39 U.S. states, the District of Columbia, three Canadian provinces, three Indian tribes,

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and one Mexican state, released a draft GHG emission reporting system that the group believes could support a number of different types of climate change programs. The guidelines will provide a common standard for members to measure, track, verify, and report their emissions. Comments on the draft are requested by November 30 and the group is seeking input on the technical aspects of the proposal as well as on its completeness, usability, clarity, and consistency with existing GHG reduction programs. The Climate Registry also named Diane Wittenberg as the new executive director of the organization. Ms. Wittenberg previously served as the president of the California Climate Action Registry.

- **Report on RGGI Recommends Minimum Prices, Sealed Bid Format.** A report prepared for the Northeast Regional Greenhouse Gas Initiative (RGGI) by researchers from the University of Virginia, Resources for the Future, and the California Institute of Technology recommended setting a minimum price for emissions allowances and holding a quarterly auction to minimize price fluctuations. The report also recommended several measures, including a sealed bid format, that should be taken to ensure transparency and prevent collusion among companies to keep allowance prices low.
- **Iowa Consumer Advocate Recommends Rejection of Coal-Fired Power Plant Proposal Over CO₂ Emissions.** John Perkins, the Iowa Consumer Advocate, recommended to the Iowa Utilities Board that it reject a proposed 649-megawatt coal-fired power plant. Mr. Perkins said that the CO₂ emissions from the proposed Interstate Power and Light facility would be equivalent to an additional 740,000 cars on the road each year and that the utility should consider increased investment in wind energy and energy efficiency projects. A spokesperson for the utility said that it would file a rebuttal with the Iowa Utilities Board, noting that the planned facility would be the cleanest and most energy efficient plant in the state. The official also said that it would be designed to adapt to carbon capture and sequestration technology and would use biomass for up to 10 percent of fuel input. The state utilities board will hold a public hearing on January 14, 2008 and a decision could be issued by the spring.
- **Group Recommends Energy Efficiency Actions to Utah Governor, Legislature.** A group of researchers recommended 23 actions for improving statewide energy efficiency to Utah Gov. Jon Huntsman Jr. (R) and the state legislature. The strategy, which is intended to provide a blueprint for achieving energy savings and reducing emissions, includes recommendations on expanding utility energy efficiency programs, upgrading building codes, adopting more stringent vehicle standards, and reducing consumer energy demand through pricing structures. Gov. Huntsman set a goal in April 2006 of improving energy efficiency in the state by 20 percent by 2015.
- **Denver Adopts GHG Reduction Plan.** The city of Denver adopted a GHG emission reduction plan that provides an outline of how the city can reach its goal of reducing per capita GHG emissions to 10 percent below 1990 levels by 2012. Per capita emissions in the city have remained nearly constant between 1990 and 2005, making the emission reduction goal reasonably achievable. Denver Mayor John Hickenlooper signed the plan, which recommends new building standards for commercial and residential buildings, energy conservation incentives, enhanced recycling, and alternative transportation strategies.

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Studies and Reports

- **Former Clinton Administration Officials Call for Increased Technology Funding.** John Podesta, President of the Center for American Progress and former White House Chief of Staff to President Clinton, said at a forum sponsored by the Brookings Institution that Congress should double the annual funding for research and development and set up an Energy Technology Corporation to deploy advanced GHG reduction technology. He also called on Congress to establish an Energy Innovation Council to coordinate existing research and development efforts. John Deutch, a professor at the Massachusetts Institute of Technology and former Director of Central Intelligence under President Clinton, also spoke at the forum and called for an “innovation initiative” to transition the U.S. away from fossil fuels and toward expanded renewable energy use.
- **U.S. Climate Change Science Program Finds Vulnerabilities in Gulf Coast Transportation.** The U.S. Climate Change Science Program, which coordinates federal climate change research efforts, released a draft report finding that the transportation system and infrastructure in U.S. Gulf Coast region faces significant impacts associated with climate change. The report called for decision-makers to immediately begin considering strategies to address the issue. This report is the first part of a three-phase study on the vulnerability of transportation and infrastructure in the region.

International

- **U.S. States, European Nations, Canadian Provinces Agree to Carbon Market Partnership.** At a meeting in Lisbon, Portugal, 14 U.S. states, a Canadian province, nine European nations, the European Commission, New Zealand, and Norway signed an agreement to become the International Carbon Action Partnership (ICAP) and establish a global cap-and-trade carbon market. The group intends to advise on best practices on the design of an emissions trading program to ensure that various programs are compatible and can be linked to a global carbon market. ICAP will hold its first public workshop in 2008 and will announce further details on the goals of the partnership by the end of this year.
- **EU Ministers Endorse Negotiating Position for Bali Talks.** European Union (EU) environment ministers endorsed a document detailing the EU negotiating position on a post-Kyoto Protocol framework for addressing climate change, including a restatement of the target of reducing emissions by 50 percent below 1990 levels by 2050. The document also states that the EU believes that the United Nations Framework Convention on Climate Change (UNFCCC) “is the appropriate multilateral forum for reaching a global and comprehensive climate agreement.” The position paper also took note of “the commitment to a successful outcome in Bali” made at President Bush’s September Major Economies’ Meeting. At a press conference following the release of the document, however, EU Environment Commissioner Stavros Dimas said that the “continued resistance” of the U.S. was a “major obstacle” to reaching an international climate agreement.

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- **UK Government Announces Strengthening of Climate Bill.** The government of the United Kingdom (UK) announced that it has strengthened the emission reductions under its proposed climate change bill. When first announced in March 2007, the bill would have required the UK to reduce emissions by 26 to 32 percent by 2020 and by 60 percent by 2050. Proposed amendments to the bill include more stringent targets and would give the climate change committee greater oversight over UK climate change policy.
- **German, Vermont Firms Sign MOU on International Sale of Offset Credits.** The German firm 3C Holding AG and Vermont-based NativeEnergy LLC signed a memorandum of understanding (MOU) that will allow NativeEnergy's U.S. customers to purchase verified emission reduction credits from European projects and 3C's clients to purchase credits from U.S. offset projects. The MOU is the first partnership between European and U.S. offset providers.
- **Japanese Industry Agrees to Emission Reductions.** Officials from the Japanese Ministry of Economy, Trade, and Industry and the Ministry of Environment announced that 21 industrial sectors have voluntarily agreed to reduce GHG emissions by 20 million tons to help the nation meet its Kyoto Protocol obligations. The two ministries are developing plans, including detailed numerical emission reduction targets for each industrial sector, that will go into effect next March.
- **German Chancellor Urges India to Act on Climate Change.** During a meeting with business leaders in New Delhi, German Chancellor Angela Merkel called on India to do more to address climate change, adding that Germany is willing to provide assistance to the nation. In a joint statement issued after discussions with Indian Prime Minister Manmohan Singh, the leaders agreed that there is an urgent need to address climate change and called on all parties to participate in talks to develop a post-Kyoto agreement.

The Climate Policy Update is intended as a general summary of major climate change-related policy developments that we judge to be of interest to a broad range of our clients and friends. We welcome your comments and suggestions. Coverage in, and selection of topics for, the Update is not intended to reflect the position or opinion of Van Ness Feldman or any of its clients on any issue. This document has been prepared by Van Ness Feldman for informational purposes only and is not a legal opinion, does not provide legal advice for any purpose, and neither creates nor constitutes evidence of an attorney-client relationship.

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