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## Climate Change Policy Update Week of November 17-21, 2008

**Commentary:** *To those thinking that President-elect Obama might back pedal on cap-and-trade legislation in light of a difficult economy, the President-elect responded with a forceful statement of commitment. To those wondering whether the Boxer-Lieberman-Warner would be the starting template for activity in the Senate, EPW Chairman Barbara Boxer (D-CA) responded by saying that she would work to achieve the President-elect's goals for reductions, and would come forward with a "streamlined" program. To those who thought Senator Joseph Lieberman (I-CT) would ride off into the sunset on climate change, he responded by saying that he and Senator John McCain (R-AZ) would begin work on a new Lieberman-McCain bill. And to those who wondered who would lead the House Energy & Commerce Committee, a decisive majority of voting caucus members handed the gavel to Henry Waxman (D-CA), thereby giving that Committee a decisive left-ward tilt . . . To be sure, many questions remain: When Chairman Boxer said her legislation would be "streamlined," did she mean something like California's AB32, in which the legislation simply would set overall emission targets and then provide broad authority to EPA to design a program to meet those targets? With an Obama-controlled EPA, such an approach might look good to some Senate Democrats. Rep. Waxman's earlier climate change legislation had this kind of form. And what happens to the Dingell-Boucher discussion draft? The program scored high marks with many observers. Will the Waxman-run Energy & Commerce Committee start with a blank slate?*

### Presidential Transition

- **President-Elect Obama Commits to National GHG Limits, Cap-and-Trade Program, International Climate Discussions.** Speaking to the Governors' Global Climate Change Summit in California, President-elect Barack Obama vowed to establish a national cap-and-trade program to reduce GHG emissions to 1990 levels by 2020 and by an additional 80 percent by 2050. In addition, the President-elect reiterated a campaign promise to invest \$15 billion annually in the development of clean energy technologies, including clean coal, as well as next generation biofuels. He also pledged increased U.S. participation in international climate change negotiations during his term in office.
- **Former Waxman Aide Named as Director of Legislative Affairs in Obama Administration.** The Obama transition team named Phil Schiliro, former chief of staff to Rep. Henry Waxman (D-CA), as the director of legislative affairs under the incoming administration. Mr. Schiliro served as an advisor to Rep. Waxman for more than 20 years; more recently, he served as an advisor to the Senate Democratic Leader and currently serves as director of congressional relations on the transition team after joining the Obama campaign as a senior advisor.

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](mailto:kwd@vnf.com)

### Congress

- **Rep. Waxman Succeeds in Bid to Unseat Rep. Dingell as Energy and Commerce Committee Chair.** After the House Democratic Steering and Policy Committee narrowly recommended that Rep. Henry Waxman (D-CA) become the new chair of

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the Energy and Commerce Committee, Rep. John Dingell brought the matter for a vote before the full Democratic caucus on November 20. The caucus voted 137-122 in favor of Rep. Waxman. The change in committee leadership could have significant implications for the movement of climate legislation in the next Congress as Rep. Waxman has been a proponent of aggressive GHG reduction targets.

- **Sen. Boxer Announces Plans for “Streamlined” Cap-and-Trade Legislation in January.** Senate Environment and Public Works Committee Chair Barbara Boxer (D-CA) announced this week that she plans to introduce a “greatly streamlined” climate change bill shortly after the 111th Congress convenes in January 2009. Sen. Boxer offered few specifics but said that the bill will follow the GHG emission reduction goals laid out by President-elect Obama during his campaign. Sen. Boxer also plans to offer a second bill that would create the \$15 billion per year clean energy grant program supported by the President-elect. The measure could serve both as an economic stimulus measure by creating green jobs and also as an additional way of achieving GHG emission reductions.
- **Sen. Lieberman to Resign as Chair of EPW Climate Change Subcommittee.** Although the Senate Democratic caucus voted 42-13 to retain Sen. Joseph Lieberman (I-CT) as chair of the Homeland Security Committee, Sen. Lieberman agreed to step down from the Environment and Public Works Committee, including his chairmanship of the Subcommittee on Private Sector and Consumer Solutions to Global Warming and Wildlife Protection. (Chairman Boxer has indicated that the Subcommittee will not be continued in the new Congress.) Sen. Lieberman also said that he and Sen. John McCain (R-AZ) plan to introduce another version of the Lieberman-McCain climate legislation after the 111th Congress convenes in January.

## States and Cities

- **WCI Forms New Subcommittees to Address Cap-and-Trade Design Issues.** Officials from the WCI formed six new subcommittees that will focus on specific elements of the cap-and-trade design process. The new subcommittees will explore design issues related to emission reduction offset projects, the emissions cap and allowances levels, industry competitiveness, and carbon market operation and oversight rules, among other issues. The WCI is developing final recommendations for a cap-and-trade program involving the seven states and four Canadian provinces that are members of the regional GHG reduction program.
- **California Governor Issues Pair of Executive Orders Aimed at Climate.** California Governor Arnold Schwarzenegger signed two executive orders aimed at reducing the state’s GHG emissions. The orders are part of the state’s response to A.B. 32, a 2006 state law that requires California to reduce its emissions to 1990 levels by 2020, and then 80 percent below 1990 levels by 2050.
  - *Executive Order Requires Agencies to Address Climate Impacts.* The first executive order directs state agencies to create plans for adapting to the impacts of climate change. The statewide climate change adaptation strategy required by the order will assess the impacts of climate change, identify the state’s most vulnerable areas, and draft recommendations for adapting to those impacts. The agencies’ plans will review such

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issues as protecting states water supplies, the affects of sea level rise on coastal areas, extreme weather events, and increased temperatures.

- *Executive Order Proposes Stronger Renewable Energy Target.* The second executive order proposes legislation that would require electric generators in the state to produce 33 percent of their electricity from renewable sources by 2020. The proposed renewable electricity standard (RES) is an increase from the state's current mandate of twenty percent renewable electricity by 2010. The proposed legislation would have to be passed by the California legislature for the RES to take legal effect. In addition to proposing legislation, the executive order also includes provisions aimed at facilitating the development of renewable energy projects that ease restrictions on transmission and other siting rules for such projects. As part of this effort, the California Energy Commission and the California Department of Fish & Game signed a Memorandum of Understanding under which the two agencies will create a Renewable Energy Action Team (REAT) to expedite the permitting process for renewable energy projects.
- **Virginia Climate Commission Recommends Increased Reduction Targets.** The Virginia Commission on Climate Change (Commission), an advisory group appointed by Governor Tim Kaine (D), voted to recommend that the state reduce its GHG emissions to 25 percent below business as usual (BAU) levels by 2020, and 80 percent below BAU by 2050. The Commission also voted to recommend that the state's two largest power producers, Dominion Virginia Power and Appalachian Power, increase their renewable energy commitments to 15 percent by 2022; that the state reduce electricity consumption to 19 percent below 2006 levels by 2025, and that the state legislature extend tax incentives for utilities to invest in energy efficiency and conservation measures. The Commission has until December 15 to submit its final report to Governor Kaine.

## International

- **UN Climate Chief Supports Additional High-Level Meeting in 2009.** Yvo De Boer, Executive Secretary of the United Nations Framework Convention on Climate Change, said that an additional ministerial-level meeting of climate change negotiators next year could be beneficial for achieving progress on a successor treaty to the Kyoto Protocol. There is only one ministerial-level "Conference of the Parties" – in Poznan, Poland, in December – before the ministers are expected to reach final agreement on a successor treaty in Copenhagen, Denmark in December of next year. Mr. De Boer said that an additional Conference of the Parties could allow the Administration of U.S. President-Elect Barack Obama to become more fully involved the negotiations. Reengagement of the U.S. in the international climate negotiations is seen as a key to the development of an effective international climate treaty. Officials from the European Union have expressed support for the addition another high-level meeting to the climate negotiation schedule.
- **Governors Sign Climate Pacts With International Counterparts.** At the Governors' Global Climate Change Summit in California, governors of a number of U.S. states signed climate agreements with their counterparts from countries around the world.

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- *State Leaders from US, Five Other Nations Agree to Cooperate on GHG Reductions.* Twenty-six leaders from states in Brazil, Canada, China, India, Mexico, and the U.S. signed an agreement under which the signatories will cooperate in reducing GHG emissions. The signatories will share technologies and best practices for reducing emissions, while focusing in particular on reduce emissions from agriculture, aluminum, cement, energy, forestry, iron, and transportation. The 13 U.S. governors signing the declaration represent California, Colorado, Florida, Illinois, Kansas, Maryland, Massachusetts, Michigan, New York, Oregon, Utah, Washington, and Wisconsin.
- *Governors Sign Forestry Agreement With Brazilian, Indonesian States.* The Governors of California, Illinois, and Wisconsin signed what is being billed as “the first state-to-state” forestry agreement with their counterparts from states in Brazil and Indonesia. The agreement commits the states to work together on avoiding deforestation by improving measurement capabilities for preserving forests from logging, and preventing slash-and-burn deforestation by ranchers. One goal of the agreement is to ensure that projects that reduce GHG emissions from deforestation and degradation (REDD) will comply with crediting requirements under the Western Climate Initiative (WCI) and the Midwestern Regional Greenhouse Gas Reduction Accord (Accord), two regional GHG reduction programs under development in the U.S. California is a member of the WCI, and Illinois and Wisconsin are members of the Accord.
- **Germany, Italy Form Joint Climate Commission.** The governments of Germany and Italy agreed to address climate change together through a joint climate change commission. The commission will work to integrate the two countries’ climate positions in an effort to reduce the impact of European and international climate regimes on their domestic industries.

*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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