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## Climate Change Policy Update Weeks of December 22 - January 9, 2009

**Commentary:** *In a season of changes, this week's big change was the ascension of Rep. Ed Markey (D-MA) to Chairman of a new Subcommittee on Energy and Environment, which will be the first stop for climate change legislation in the House of Representatives. Markey is taking over for Rick Boucher (D-VA) who will move to Telecommunications. The shift from Dingell-Boucher to Waxman-Markey could have significant implications. Markey's views on climate policy could be inferred from the bill he introduced in 2008, the Investing in Climate Action and Protection Act (H.R. 6186). The bill would have established limits significantly more stringent than those proposed by President-elect Obama, capping 2012 emissions at 2005 levels, and 2020 emissions at 20 percent below 2005 levels. In addition to a cap-and-trade system, the Markey bill would have established emission standards for landfills, coal mines, and large animal feeding operations. Existing coal-fired power plants would have been required to capture and sequester 85 percent of their emissions by 2016. The Markey bill would have auctioned 94 percent of allowances in year one and transitioned to 100 percent auction by 2020.*

### Executive Branch

- **President-elect Obama Calls for Dramatic Increase in Domestic Renewable Energy Production.** During a major speech on the economic crisis, President-elect Obama proposed doubling domestic renewable energy production in the next three years and investing in smart grid infrastructure as a part of his \$775 billion American Recovery and Reinvestment Plan. Obama also reiterated his focus on energy efficiency and green jobs as part of the stimulus package, stating: "We will modernize more than 75 percent of federal buildings and improve the energy efficiency of 2 million American homes, saving consumers and taxpayers billions on our energy bills. In the process, we will put Americans to work in new jobs that pay well and can't be outsourced – jobs building solar panels and wind turbines, constructing fuel-efficient cars and buildings; and developing the new energy technologies that will lead to even more jobs, more savings, and a cleaner, safer planet in the bargain." The full prepared remarks are available at [http://energywashington.com/ewblogdocs/jan2009/ew01082009\\_obamaremarks.pdf](http://energywashington.com/ewblogdocs/jan2009/ew01082009_obamaremarks.pdf).
- **New York Times Describes "Two Camps" on Climate Policy Within the White House.** The *Times* asserts that a division could emerge between the White House coordinator of climate and energy policy, Carole Browner, and Larry Summers, the leader of the President-elect's economic team. In the past, Summers has favored a phased approach to limiting U.S. GHG emissions, including use of a "safety valve" price on emissions allowances. The economist designated to be the director of the White House budget office, Peter Orzag, also has been a supporter of price-based approaches to climate change policy. President-elect Obama has called for a domestic program that limits emissions to 1990 levels by 2020, and 80 percent below 1990 levels by 2050.

### Congress

- **Rep. Waxman Wants Stimulus to Include Clean Energy Programs.** Rep. Henry Waxman (D-CA), new chairman of the House Energy and Commerce Committee, said that he is discussing the details of a clean-energy component in the stimulus bill with members of the Obama transition team and will recommend that the package include a smart transmission grid and energy efficiency measures. "I think there are a lot of investments we can make that can provide jobs and help us develop the infrastructure for the time when we have to reduce carbon emissions," Waxman said. Waxman also told reporters that he is "determined" to move legislation through his committee this year that would

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mandate U.S. emission reductions. He further stated that he continues to support a cap-and-trade approach, but noted that “everything is on the table.”

- **Rep. Markey to Chair New Energy and Environment Subcommittee.** Chairman Waxman announced this week that two subcommittees of the Energy and Commerce Committee – the Environment and Hazardous Materials Subcommittee and the Energy and Air Quality Subcommittee – will be merged to form an Energy and Environment Subcommittee. The new subcommittee will have primary jurisdiction over climate change legislation in the House. Rep. Edward Markey (D-MA) will chair the new committee and stated that he will propose legislation with “the maximum level of greenhouse gas reduction.” Rep. Markey also will retain chairmanship of the House Energy Independence and Global Warming Select Committee, which does not have legislative authority. Former Energy and Commerce chair John Dingell (D-MI) has accepted the position of chairman emeritus and will sit on all subcommittees without chairing any. Rep. Rick Boucher (D-VA), formerly the chairman of the Energy and Air Quality Subcommittee, will take over the chairmanship of the Telecommunications Committee. However, he made clear that he will keep a hand in the development of climate change legislation.
- **Sens. Udall, Merkley to Join Environment and Public Works Committee.** Newly elected senators Jeff Merkley (D-OR) and Mark Udall (D-CO) are in discussions with Senate leadership to take positions on the Senate Environment and Public Works (EPW) Committee, although formal membership must wait until the two undecided Senate seats have been filled. Both Senators urged dramatic reductions in U.S. GHG emissions as a part of their campaign platforms and both support a cap-and-trade regulatory framework. Committee Chairman Barbara Boxer (D-CA) said that the Committee may have additional members, depending upon the final constitution of the Senate and committee majority ratios agreed upon with Republicans.

Sen. Udall will also be joining the Senate Energy Committee, along with Sens. Jeanne Shaheen (D-NH), Debbie Stabenow (D-MI), and Evan Bayh (D-IN). Sen. Ken Salazar presumably will be leaving the committee as the nominee for Interior Secretary, and Sen. Daniel Akaka (D-HI) and Jon Tester (D-MT) are leaving for other committee assignments. Energy Committee Chair Sen. Jeff Bingaman (D-NM) announced that he is working with ranking member Sen. Lisa Murkowski (R-AK) on a bipartisan energy bill that will coordinate with action on “the environmental challenge of our lifetime – global warming.”
- **Sen. Durbin Angling to Revive FutureGen.** Sen. Dick Durbin (D-IL) is working to include funding for FutureGen, a prototype coal plant with carbon capture and sequestration technology, in the economic stimulus package. Sen. Durbin also has been lobbying Steven Chu, President-elect Obama’s nominee for Energy Secretary, about resuscitating FutureGen, which was slated to be built in Illinois. The Department of Energy under the Bush Administration abandoned the government-industry FutureGen partnership in early 2008, citing cost overruns.

## States and Cities

- **WCI Releases Draft Reporting Rule.** Officials for the Western Climate Initiative, a regional cap-and-trade program composed of governors and premiers from seven western states and four Canadian provinces, released a draft rule that provides reporting requirements for entities that would be regulated

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under the program. In addition to reporting requirements, the draft rule addresses compliance and enforcement issues, third-party verification of emissions, and confidentiality.

- **RGGI States Sign Letter of Intent to Implement Low Carbon Fuel Standard.** All 10 member states of the Regional Greenhouse Gas Initiative (RGGI), a regional GHG cap-and-trade program in the northeastern U.S., and Pennsylvania, an observer of RGGI, signed a letter of intent to begin work on a low carbon fuel standard (LCFS) for the region. Currently, the RGGI program only regulates CO<sub>2</sub> emissions from the power sector. The states intend to collaborate with the Northeast States for Coordinated Air Use Management (NESCAUM), which is conducting a study of an LCFS for the region. The states also commit to cooperate in influencing the design of any federal LCFS. The action by the RGGI states follows a similar initiative by California.
- **Washington State Releases Climate Action Plan.** The Washington State Department of Ecology released a comprehensive climate change plan aimed at significantly reducing state GHG emissions in coming years. The centerpiece of the plan is the state's participation in the regional cap-and-trade program under development by the Western Climate Initiative. The plan also calls for the state to reduce GHG emissions by decreasing electricity demand through energy efficiency and green building programs, and reducing transportation emissions through increased public transportation and more efficient land development. A 2008 law requires the state to reduce its GHG emissions to 1990 levels by 2020, to 25 percent below 1990 levels by 2035, and to 50 percent below 1990 levels by 2050.
- **Iowa Advisory Panel Issues Climate Report.** An advisory group created by Iowa Governor Chet Culver (D) issued a report with 56 recommendations for reducing the state's GHG emissions. The report provides recommendations for two scenarios under which the state would reduce its emissions by either 50 percent or 90 percent from 2005 levels by 2050. The report is expected to be a starting point for the state legislature to pass bills aimed at reducing the state's GHG emissions. The recommendations include CO<sub>2</sub> emission limits for electricity generation; programs to increase the use of renewable energy sources; large-scale use of manure-methane capture systems; expanded use of agriculture and forestry biomass as feedstocks for electricity, heat and steam generation; more stringent building codes; incentives to improve design and construction of private buildings, and expanded passenger rail service.
- **Massachusetts Passes Emergency Regulations to Implement RPS.** The Massachusetts Department of Energy enacted emergency regulations to ensure compliance with a July 2008 state law requiring an increase in the state's renewable portfolio standards (RPS). The 2008 law requires utilities in the state to generate minimum percentages of their electricity from renewable sources, beginning with a 5 percent requirement in 2009 and increasing to 15 percent by 2020 and 25 percent by 2030. The new rules allow utilities to satisfy the RPS requirement by paying a fee of \$25 per megawatt hour. The state agency will hold public hearings in the coming months to finalize the rules governing the RPS. Massachusetts is a member of RGGI.

## Studies and Reports

- **Ice Sheets Appear Critical to Climate Impacts; Possibly Solutions.** According to *Abrupt Climate Change*, a report by the federal Climate Change Science Program, none of the current ice sheet models capture the acceleration of glacier movement observed in Antarctica and Greenland over the past decade. Once models incorporate acceleration and interactions with warm ocean water, the report

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predicts that projections of sea level rise this century will be significantly greater than those presented in the Intergovernmental Panel on Climate Change fourth assessment report. *Abrupt Climate Change* is available at <http://www.climatescience.gov/Library/sap/sap3-4/final-report/default.htm>.

British researchers, however, have discovered that tiny particles of iron are released into the sea as glacial ice melts, feeding algae that, like terrestrial plants, consume carbon dioxide via photosynthesis. When the algae sink to the bottom of the ocean, the carbon is stored for hundreds of years. Based upon the new evidence of natural iron releases, the United Nations has given scientists permission to release several tons of iron sulfate off the coast of Antarctica to investigate whether oceanic iron fertilization to create algae blooms could be used to sequester carbon without negative environmental consequences. The Great Southern Ocean is relatively low in iron and is, therefore, a potential new carbon sink.

- **Natural Disaster Costs Up 50% in 2008.** Worldwide losses due to natural catastrophes reached \$200 billion in 2008, more than double 2007 levels, according to a report by reinsurer Munich Re. “Climate change has already started and is very probably contributing to increasingly frequent weather extremes and ensuing natural catastrophes,” said Munich Re board member Torsten Jeworrek. “2008 has again shown how important it is for us to analyze risks like climate change in all their facets and to manage the business accordingly.”
- **Great Barrier Reef Growth Stalled.** According to research published in *Science*, climate change and ocean acidification have reduced the growth of Australia’s Great Barrier Reef to its slowest rate in 400 years. Calcification has declined by 13.3 percent since 1990, an unprecedented decline, and the entire reef ecosystem is under threat according to the report’s authors, researchers at the Australian Institute of Marine Science.
- **Electricity Grid Update Could Cut Emissions.** A recent report by the Electric Power Research Institute projected that the development of a smart grid, which would improve the efficiency and distribution capacity of the electricity distribution system, could reduce annual U.S. energy consumption by 56-203 kWh in 2030, cutting annual CO<sub>2</sub> emissions by 60-211 million tonnes by that year.

## International

- **World Bank Issues \$350 Million in Green Bonds.** The World Bank issued \$350 million in green bonds that will fund low carbon emission projects in developing countries. The bond proceeds will finance projects that will reduce GHG emissions by renovating existing power plants, installing solar and wind power generation equipment, capturing methane, capturing and sequestering carbon dioxide, and promoting reforestation and avoided deforestation.

*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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