

October 12, 2007

## Climate Change Policy Update Week of October 8 - 12, 2007

### Commentary

*Former Vice President Al Gore was awarded the Nobel Peace Prize this week, along with the United Nations (UN) Intergovernmental Panel on Climate Change. This announcement, along with the upcoming UN Climate Change Conference in Bali in December, is likely to put pressure on Democratic leaders in Congress to demonstrate some progress on climate change legislation. Democratic leaders in Congress already have pointed to the award as demonstrating the need to pass climate legislation. However, this Congress has had difficulties in drafting and agreeing on energy legislation, demonstrated again this week by Speaker Pelosi's decision to move forward on finalizing an energy bill via informal discussions instead of a formal House-Senate conference. The experience with the energy bill underscores the obstacles that this Congress will face in gaining an agreement on climate legislation.*

### Congress

- **Speaker Pelosi Agrees on Need for Informal Talks on Energy Legislation.** House Speaker Nancy Pelosi (D-CA) said that she plans to reconcile the House and Senate versions of energy legislation through informal discussions rather than convene a House-Senate conference. Senate Majority Leader Harry Reid (D-NV) said last week that he also was considering informal negotiations and it appears that House and Senate leaders have agreed to this approach. The apparent motivation for informal talks is that Democratic leaders believe that Republicans in the Senate would attempt to block efforts to move to a more formal conference.
- **Select Committee on Climate Change Hears from Business Executives on GHG Cap.** Rep. Ed Markey's (D-MA) House Select Committee on Energy Independence and Global Warming held a hearing at which a group of company executives testified in favor of a national cap on GHG emissions. Alain Grisay, CEO of F&C Investments and member of the U.K. and E.U. Corporate Leaders' Groups on Climate Change; Neil Carson, CEO of Johnson Matthey PLC and member of the U.K. Corporate Leaders' Group on Climate Change; Ralph Izzo, CEO of Public Service Enterprise Group (PSEG, a New Jersey-based energy company) and member of the Clean Energy Group; and Jonathan Lash, President of World Resources Institute and member of the U.S. Climate Action Partnership (USCAP) testified before the committee. The U.K. and E.U. Corporate Leaders Groups on Climate Change are two coalitions of European business executives calling for new, longer-term policies on climate change. The Clean Energy Group is a coalition of eight electric power companies that have mostly natural gas-fired and nuclear generation resources. Mr. Carson testified that a U.S. cap-and-trade program would encourage investment in renewable energy and energy efficiency, as well as provide investors with a greater measure of certainty. Mr. Grisay noted that there may be compliance costs associated with any mandatory cap-and-trade program, but added that such costs might be minimal compared to the costs of addressing the effects of climate change.

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).

October 12, 2007

## Administration

- **DOE Announces Funding for Three Carbon Sequestration Projects.** The Department of Energy (DOE) announced plans to spend \$197 million over 10 years on three projects that will store at least 1 million tons of CO<sub>2</sub> in deep saline reservoirs. The remainder of the expected \$318 million cost of the projects will come from partner companies. The three projects – the Plains CO<sub>2</sub> Reduction Partnership, the Southeast Regional Carbon Sequestration Partnership, and the Southwest Regional Partnership for Carbon Sequestration – are joint efforts between 27 states, three Canadian provinces, the U.S. Federal government, and industry intended to test the feasibility of carbon storage as a means of reducing CO<sub>2</sub> emissions. Over the first one to two years of the program, injection sites will be analyzed and modeling and monitoring will be conducted to establish a baseline for future monitoring. After CO<sub>2</sub> is injected, researchers will use monitoring and modeling to determine the permanence and effectiveness of the storage sites.
- **EPA Announces Plans to Develop Carbon Sequestration Rules.** EPA announced on October 11 that the agency plans to develop regulations on carbon sequestration under the Safe Drinking Water Act (SDWA). The regulations will include a permitting system for commercial geologic sequestration under the SDWA's Underground Injection Control program. The agency will coordinate its rulemaking effort with DOE and plans to propose regulations during the summer of 2008.
- **Study Finds 1605(b) Reported Emission Reductions Not Always Accurate.** A study issued by the University of Michigan's Ross School of Business found that more than half of the electric utilities that reported emission reductions in the past under the DOE's 1605(b) Voluntary Greenhouse Gas Reporting Program actually increased their emissions. The authors found that because the program's reporting rules did not require company-wide emissions reporting and offered an option to use a hypothetical emissions baseline, the reported emissions did not always reflect actual emissions reductions or increases. In March, DOE issued revised reporting guidelines under which facilities must now report entity-wide emissions and which also provide greater detail on how companies should estimate emissions and reductions. Reporting entities also are encouraged to have their emissions data verified by a third party.

## States

- **Power Generators Question Massachusetts Auction of All RGGI Allowances.** The New England Power Generators Association (NEPGA) questioned Massachusetts's decision to auction all of its allowances under the Northeast Regional Greenhouse Gas Initiative (RGGI). The group expressed concerns that environmental groups or emission traders could purchase significant portions of the allowances, leaving generators without enough allowances to cover their emissions. NEPGA said that some power generators could face such high financial burdens that they may be forced to shut down facilities.
- **Montana Climate Change Group to Submit Recommendations to Governor.** Montana's Climate Change Advisory Committee voted to finalize its Climate Change Action Plan and present it to the Gov. Brian Schweitzer (D) next week. The plan would require the state to reduce its GHG emissions to 1990 levels by 2020 and by an additional 80 percent by 2050. The group

October 12, 2007

proposed 55 measures that could be taken to achieve these goals, including: a 20 percent renewable portfolio standard for in-state utilities by 2020, increasing to 25 percent by 20205; requiring natural gas and coal-fired power plants to sequester their CO<sub>2</sub> emissions and requiring utilities to purchase power only from sources that sequester at least 1,100 pounds of CO<sub>2</sub> per megawatt-hour or 50 percent of total emissions; increasing energy efficiency standards for consumer products; revising building codes to reduce energy consumption; adopting California's vehicle GHG emission standards; and increasing biodiesel and ethanol production.

## White Papers and Reports

- **CARB Issues Climate Recommendations to Senate Environment Committee.** The California Air Resources Board (CARB) delivered to the Senate Environment and Public Works Committee a set of recommendations on climate change legislation. CARB recommended that a Federal program provide only limited free allowances at the beginning of the cap-and-trade program and said that free allowances should be phased out over time. CARB recommended against price ceilings to mitigate costs to industry and emphasized that any Federal program must not preempt existing state efforts.
- **RFF To Issue White Papers on Aspects of Climate Programs.** Resources for the Future (RFF) has prepared a dozen background papers intended to assist members of Congress in designing a Federal GHG cap-and-trade program. The papers will be released next month and examine most aspects of a climate change program, including allowance allocations; costs of various proposals for reducing emissions; comparisons of emissions trading, carbon taxes, and emission standard programs; links between U.S. climate measures and global GHG reductions; climate technology sharing; scope and point of regulation for carbon pricing; options for addressing international competitiveness; and reducing CO<sub>2</sub> emissions from light-duty vehicles.

## Industry

- **Auto Industry Files Appeal of U.S. District Court Ruling Upholding Vermont Vehicle Regulations.** The Alliance of Automobile Manufacturers filed an appeal of the Federal court decision issued last month upholding Vermont's regulations on GHG emissions from new vehicles, which are based on California's standards. The auto makers have argued that the regulation of GHG emissions is the same as regulation of fuel economy, which is a subject exclusively regulated by the Federal government.
- **Companies Announce Plans to Collect Emissions Data from Suppliers.** Four of the world's largest companies – Procter & Gamble Co., Unilever, Tesco PLC and Nestle SA – announced that they will seek emissions data from their suppliers to assess their carbon footprints. More GHG emissions come from the manufacture of products than their distribution, according to analysts at the Carbon Disclosure Project, which is partnering with the companies on this initiative. The announcement follows a similar announcement from Wal-Mart stores last month.
- **Steel Industry Seeks Voluntary Plan for Emissions Reductions.** The international trade association for the steel industry, the International Iron and Steel Institute (IISI), expressed support for an emissions plan that would specifically address the industry. IISI supports targets

October 12, 2007

for major steel-producing countries that are based on emissions per unit produced (also known as “relative” or “emissions intensity” targets), rather than absolute caps. The group criticized cap-and-trade plans as ineffective because they lead to greater production in countries with weaker regulations. The group also agreed to voluntarily collect pollution data from steel plants in major steel producing countries, in order to form a baseline for emissions reductions.

## International

- **Al Gore, IPCC Receive Nobel Peace Prize for Climate Work.** Former Vice President Al Gore and the United Nations (UN) Intergovernmental Panel on Climate Change (IPCC) received the Nobel Peace Prize today for their work on climate change. The IPCC was established in 1988 and consists of three working groups and a task force. The purpose of the IPCC is to provide an impartial and non-political assessment of scientific, technical, and socio-economic research related to climate change. The Nobel Committee described Vice President Gore as “the single individual who has done most to create greater worldwide understanding of the measures that need to be adopted” to address climate change. The Committee also praised the IPCC for two decades of reports that have contributed to “an ever-broader informed consensus about the connection between human activities and global warming.”
- **Australia Announces that it Might Ratify a Successor Agreement to the Kyoto Protocol.** The Australian Environment Minister said that Australia would expect to sign a global climate change agreement for the period after 2012 when the Kyoto Protocol expires, if the agreement is “global and effective and involves all the major emitters.” Australia is not a party to the Kyoto Protocol. There was no comment about whether that plan should include binding emissions targets. Opposition party members accused the government of changing its position for political gain before elections.
- **United Kingdom Emissions Report States that Car CO<sub>2</sub> Emissions Could be Cut 30% by 2030.** A report commissioned by the United Kingdom government asserted that vehicle emissions could be cut 50% from 2000 levels, and that when additional miles traveled are taken into consideration, an overall emissions decrease of 30% is possible by 2030. The decreases could occur with cleaner fuel and greater vehicle efficiency. In a separate report, European car manufacturers argued that the automobile industry has made great strides in fuel efficiency and safety, but that greater regulation and government interference could drastically increase costs of new automobiles and negatively affect the range of models available to consumers.

*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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