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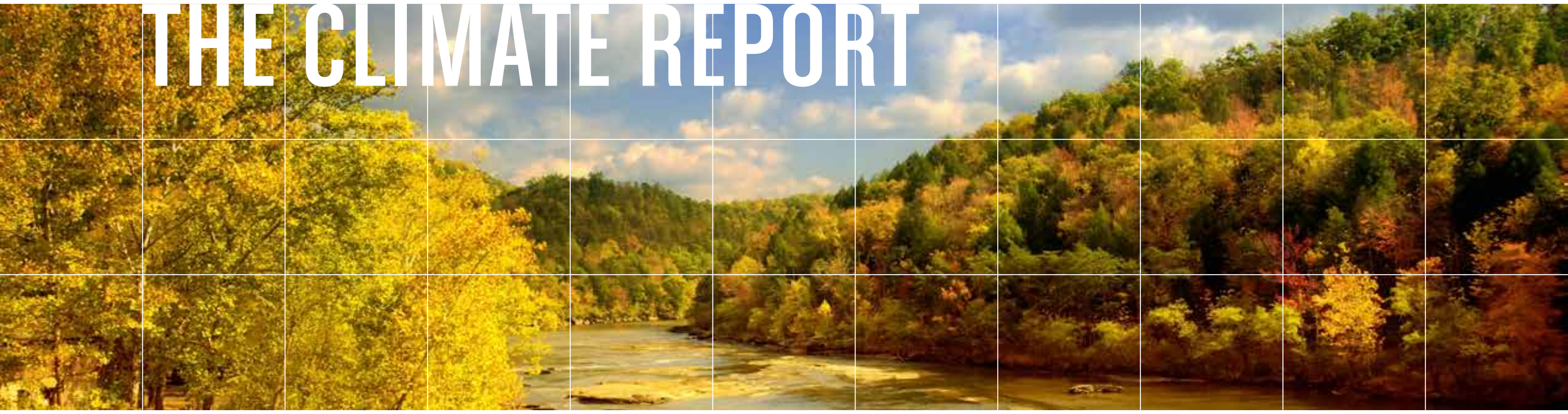
THE CLIMATE REPORT



U.S. REGULATORY DEVELOPMENTS

Jane K. Murphy, Editor

CALIFORNIA REQUIRES SIGNIFICANT NEW GREENHOUSE GAS EMISSION REDUCTIONS AND INCREASES OVERSIGHT OF THE CALIFORNIA AIR RESOURCES BOARD

On September 8, 2016, California Governor Jerry Brown signed a pair of bills expanding California's climate change programs and increasing legislative oversight of the lead agency tasked with implementing those programs. Senate Bill 32 ("SB 32") requires the California Air Resources Board ("CARB") to enact regulations ensuring the maximum technologically feasible and cost-effective greenhouse gas ("GHG") emission reductions, and sets a new statewide GHG emission reduction target of 40 percent less GHG emissions than the existing 2020 goals by 2030.

The companion law, Assembly Bill 197 ("AB 197"), increases legislative oversight of CARB by, among other things, adding two new nonvoting CARB board members to be filled from the legislature. It also creates new public reporting requirements for CARB, which must report emissions data annually on its website and to the newly created Joint Legislative Committee on Climate Change Policies.

AB 197 also requires that CARB consider "social costs," or net economic damages including health impacts, caused by climate change, and prioritize *direct emission*

DEPARTMENTS

reductions from stationary, mobile, and other sources. A system of direct emission reductions would disfavor emission credit trading systems that California has been relying upon to meet its 2020 emission reduction goal. On the other hand, AB 197 also reaffirms the preexisting requirements that CARB consider other factors, such as the cost-effectiveness of regulations and minimizing leakage, or the flight of industry (and thus emission sources) across state borders. CARB will need to weigh these competing priorities when deciding how to strengthen existing programs, or design new ones, to meet the new 2030 target.

For more on this new legislation, read our *Commentary*, "California Requires Significant New Greenhouse Gas Emission Reductions."

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PRESIDENT OBAMA DIRECTS AGENCIES TO CONSIDER NATIONAL SECURITY IMPACTS OF CLIMATE CHANGE

On September 21, 2016, President Obama issued a Memorandum titled *Climate Change and National Security*. The purpose of the Memorandum is to "ensure that climate change-related impacts are fully considered in the development of national security doctrine, policies, and plans." The Memorandum establishes the Climate and National Security Working Group, to be made up of representatives from various federal agencies, including the Environmental Protection Agency, the Council on Environmental Quality, and the Department of Energy. The Working Group will ultimately develop recommendations for agencies such as the Departments of State, Defense, and Homeland Security.

Presidential Memoranda are akin to Executive Orders, and they have similar legal significance. This Memorandum will remain in effect unless revoked by the next administration. In fact, one of the deadlines established by the Memorandum, by which certain agencies must develop an implementation plan, is not until February 2017. This Memorandum is just one of many examples of the President's focus on climate change issues, and it follows Executive Order 13653 (directing federal agencies to incorporate climate-resilience considerations into operations), Executive Order 13677 (setting requirements for integrating climate-resilience considerations into international development work), and Executive Order 13693 (requiring federal agencies to improve environmental performance and sustainability).

The Memorandum has faced some resistance. For example, on September 26, 2016, the House Committee on Science, Space, and Technology sent a letter to the White House, requesting a briefing on the Memorandum and stating that "it is necessary for us to better understand the science that underpins the studies, climate models, reports, and conclusions that the Administration will use as the basis of its analysis and national security policy development."

Additional information about how this Memorandum may affect the regulated community will likely be available before the end of the year, when the Working Group will issue its Action Plan, outlining specific objectives, milestones, and timelines for carrying out the policies identified in the Memorandum.

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EPA PROPOSES REVISIONS TO THE PSD AND TITLE V GHG PERMITTING REGULATIONS

On October 3, 2016, the United States Environmental Protection Agency ("EPA") published a Proposed Rule titled *Revisions to the Prevention of Significant Deterioration (PSD) and Title V Greenhouse Gas (GHG) Permitting Regulations and Establishment of a Significant Emissions Rate (SER) for GHG Emissions Under the PSD Program* ("Proposed Rule"). EPA explains that the Proposed Rule is intended to further conform its regulations to the U.S. Supreme Court's 2014 decision in *UARG v. EPA* (134 S. Ct. 2427) and the 2015 judgment by the D.C. Circuit in *Coalition for Responsible Regulation v. EPA* (Nos. 09-1322, 10-073, 10-1092, and 10-1167).

The most noteworthy change is that the Proposed Rule would establish a Significant Emissions Rate ("SER") for GHGs. Specifically, EPA is proposing to establish a 75,000 tpy CO2e

SER. The agency concluded that this level represents a *de minimis* level of GHG emissions for purposes of determining whether a GHG Best Available Control Technology ("BACT") review should be required as part of an "anyway source" PSD permit. An "anyway source" is a source that is otherwise required to obtain a PSD permit based on its emissions of one or more regulated New Source Review pollutants other than GHGs. *UARG* limited the scope of the PSD permitting program to "anyway sources" and held that the EPA may exempt an "anyway source" from the GHG BACT requirement if the source emits a *de minimis* amount of GHGs.

The Proposed Rule would also revise several definitions. For example, the Proposed Rule would exclude GHG emissions from "major source" and "major modification" determinations. The Proposed Rule would also add a definition of "GHGs": "the air pollutant defined in § 86.1818–12(a) of this chapter as the aggregate group of six greenhouse gases: Carbon dioxide, nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons and sulfur hexafluoride. To represent an amount of GHGs emitted, the term tpy CO2 equivalent emissions (CO2e) shall be used and computed as follows: (a) Multiply the mass amount of emissions (tpy), for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential published at Table A–1 to subpart A of part 98 of this chapter—Global Warming Potentials. (b) Sum the resultant value for each gas to compute a tpy CO2e."

If finalized, the Proposed Rule would amend several other regulations that EPA reasons are no longer necessary after *UARG*. Comments on the Proposed Rule are due by December 2, 2016. Additional information about GHG permitting under the Clean Air Act is available here.

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CLIMATE CHANGE ISSUES FOR MANAGEMENT

Christine Morgan, Editor

OHIO CORPORATIONS PUSHING FOR REINSTATEMENT OF RENEWABLE ENERGY REQUIREMENTS

In May 2008, Ohio enacted broad electric industry restructuring legislation containing advanced energy and renewable energy generation and procurement requirements for all of the state's retail electricity providers, except for municipal utilities and electric cooperatives. Utilities were presented with a multiyear schedule of interim targets, requiring the slow ramp-up of procurement from renewable energy sources. Each year, utilities were mandated to provide a growing percentage of their annual retail electricity supply from renewable and solar generation sources, with the ultimate goal of deriving 25 percent of their annual retail electricity supply from "alternative energy" by 2025. The 25 percent share was to consist of 12.5 percent from "any new, retrofitted, refueled, or repowered generating facility located in Ohio," including new fossil fuel-powered plants, and 12.5 percent from renewable sources (including at least 0.5 percent from solar sources).

In May 2014, legislation passed by the Ohio General Assembly and signed by Governor John Kasich imposed a two-year freeze of the renewable generation standards. The interim requirements for 2015 and 2016 were frozen at the 2014 level of 2.5 percent for total renewable generation, and the solar-specific requirement was frozen at 0.12 percent. The 2014 legislation also removed a requirement that at least half of the renewable power required to meet the standards be produced within Ohio, thus allowing Ohio utilities to fully meet the requirements with renewable energy credits, or "RECs," generated by out-of-state resources. Absent legislative action, both requirements will begin rising again in 2017, reaching the ultimate targets of 12.5 percent total renewable generation and 0.5 percent solar generation by 2027, rather than 2025.

With the end of the two-year freeze approaching, bills have been introduced in the Ohio General Assembly that would reduce or completely eliminate the renewable energy standards. Interestingly to some, a range of Ohio business interests are resisting such efforts and urging Governor Kasich, a Republican, to veto such legislation if passed. On October 25, 2016, nine companies, ranging from Whirlpool Corporation to Nestlé to Gap Inc., joined with the investor group Ceres to urge Ohio lawmakers to lift the freeze and restore the 2008 renewable standards. The companies argued that such standards, particularly energy efficiency mandates, would help them meet their corporate sustainability goals, while saving money and attracting clean energy producers to the state. The Ohio Manufacturers Association is also on record supporting such requirements, as long as they are economically feasible.

For his part, Governor Kasich has vowed to veto any effort to extend the freeze or kill the renewable requirements entirely, although he has signaled a willingness to replace the 2008 standards with less stringent requirements. Since the 2008 standards will automatically be reinstated absent new legislation before the end of the year, Kasich seems to have a strong hand to play.

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QUICK HITS

2016 CO_2 Emissions on Track to be the Lowest Since 1992. According to the U.S. Energy Information Administration ("EIA"), energy-related CO_2 emissions for the first six months of 2016 were the lowest since 1991. The EIA attributes the reduction in emissions to mild weather, reductions in coal and natural gas consumption, and increasing renewable energy consumption.

***EPA v. FERC*—Climate Change and Pipelines**. On October 11, 2016, the U.S. Environmental Protection Agency ("EPA") accused the Federal Energy Regulatory Commission ("FERC") of failing to undertake a proper analysis of climate change in its final environmental impact statement for the 160-mile TransCanada Corp. Leach Xpress pipeline. EPA's filing exposes friction between the two federal agencies over the degree to which climate change impacts must be considered in the approval process for pipelines. EPA's filing follows the Obama administration's call for federal agencies to include global warming impacts in their review of projects. The rift also comes at a time when the U.S. gas transmission network is undergoing significant expansion.

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RENEWABLE ENERGY AND CARBON MARKETS

Dickson Chin, Editor

TERRAFORM POWER SETTLES DERIVATIVE LAWSUIT BY INCREASING INDEPENDENCE

On September 27, 2016, Appaloosa Investment Limited Partnership I ("Appaloosa"), TerraForm Power, Inc. ("TF Power"), and certain current and former TF Power executives and board members filed a settlement resolving the derivative lawsuit filed this past January in the Delaware Chancery Court by Appaloosa on behalf of TF Power against SunEdison, Inc. ("SunEdison"), currently a debtor in a Chapter 11 bankruptcy case. Appaloosa's claims arose from alleged self-dealing by SunEdison in connection with an agreement ("Vivint Dropdown Agreement") that SunEdison caused TF Power, its affiliated yieldco, to enter into in December 2015 as part of SunEdison's attempt to acquire Vivint Solar, Inc. ("Vivint").

Under the terms of that agreement, TF Power would have been required to purchase a portfolio of Vivint residential solar assets from SunEdison at the time of the merger and to continue acquiring residential solar assets from SunEdison for five years.

In its initial claim, Appaloosa—one of TF Power's largest stockholders—requested a temporary restraining order and permanent injunction prohibiting TF Power from entering into the arrangement, which Appaloosa claimed had been pushed through improperly by SunEdison, resulting in a substantively unfair agreement for TF Power and its shareholders. While Chancellor Bouchard described the process SunEdison used to secure TF Power's approval of the Vivint Dropdown Agreement as "inherently suspect," he denied Appaloosa's request to enjoin the deal from going through. Ultimately, however, Vivint terminated the merger agreement with SunEdison in March 2016 after four banks reneged on their commitments to finance SunEdison's acquisition, effectively mooting Appaloosa's injunction request.

Nevertheless, Appaloosa twice amended its complaint prior to SunEdison's April 2016 bankruptcy filing. In the First Amended Complaint, Appaloosa added four additional executives and board members as defendants, three of whom were also SunEdison executives and the fourth of whom was a SunEdison investor. Appaloosa alleged that SunEdison and these individual defendants had violated their fiduciary duties as TF Power's controlling stockholder and board members, respectively, by altering the composition of TF Power's board of directors and conflicts committee in order to secure approval of the Vivint Dropdown Agreement. Appaloosa requested a court order requiring that: certain of the individual defendants be removed from the conflicts committee; another be removed as TF Power's CEO; shareholders other than SunEdison choose conflict committee members and a new board member; and a monitor be appointed to scrutinize the board of directors.

Partially in response to this First Amended Complaint, TF Power's CEO resigned. To manage the company's operations, the TF Power board formed an "Office of the Chairman" comprising board members, several of whom were members of the conflicts committee. Appaloosa then filed a Second Amended Complaint, alleging that the individual defendants had breached their fiduciary duties by failing to ensure an independent conflicts committee when they did not relieve the "Office of the Chairman" directors from their service on the conflicts committee. SunEdison filed for bankruptcy the day after Appaloosa filed its Second Amended Complaint.

Under the terms of the Appaloosa settlement agreement, TF Power has agreed to segregate its information technology systems from those of SunEdison (including those used for accounting and human resources) and to adopt corporate governance reforms, including ceding management responsibility for ordinary course commercial operations to the company's chief operating officer for two years (or until SunEdison is no longer a controlling shareholder) and appointing an additional independent director to its board of directors. TF Power has also agreed to pay Appaloosa's legal fees (subject to a maximum amount of $3 million).

The case and its settlement are the latest cautionary tale on the importance of empowering a yieldco to exercise independent judgment when acquiring assets from the yieldco's parent company—and, indeed, on the importance of a yieldco maintaining its independence generally in matters of corporate governance. Ultimately, unless yieldcos build in such protections and ensure procedural fairness on the front end, defeating lawsuits from activist investors will require proving entire fairness on the back end.

As is evident from the settlement of the Appaloosa matter, such lawsuits have the power to force corporate reforms at yieldcos and diminish the sponsor's influence. And, of course, in the case of SunEdison and its yieldcos, that influence looks to be nearing an end, as SunEdison is in the process of selling assets in the hopes of emerging from Chapter 11 and faces a November 17, 2016 deadline to submit its plan of reorganization. TF Power and its sister yieldco, TerraForm Global, Inc. ("TF Global"), two of SunEdison's most valuable assets based on its controlling stock position in each, have begun exploring strategic options, including the possibility that they could operate independently or seek a new sponsor.

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CLIMATE CHANGE LITIGATION

Shimshon Balanson, Editor

EN BANC PANEL AT D.C. CIRCUIT HEARS SEVEN-HOUR ORAL ARGUMENT IN CHALLENGE TO CLEAN POWER PLAN

On September 27, 2016, the United States Court of Appeals for the District of Columbia Circuit heard oral argument before an *en banc* panel in *West Virginia v. EPA*, a case involving challenges to the U.S. Environmental Protection Agency's ("EPA") 2015 rule known as the Clean Power Plan ("CPP"). The CPP regulates carbon dioxide emissions from existing power plants. Oral argument lasted approximately seven hours, with the court hearing from various advocates for the states, industry, and EPA.

Argument was divided according to five of the major topics addressed in the briefing: statutory issues other than Section 112 of the Clean Air Act; Section 112; constitutional issues; notice issues; and record-based issues not submitted on the briefs.

The D.C. Circuit seemed most receptive to the petitioners' statutory arguments. In particular, the petitioners argue that the Clean Air Act provision EPA relied upon in promulgating the CPP, Section 111(d), applies to individual sources, and that the CPP is unlawful because the rule's performance rates cannot be achieved by any single source. Instead, the CPP necessitates "generation-shifting," requiring owners or operators of existing sources to comply by subsidizing other, lower-emitting generation rather than by improving emission performance at their own sources. If the court rules in favor of the petitioners on these grounds, it may not reach many of the other arguments. The court's opinion is not expected until late 2016 or early 2017. Additional information regarding the oral argument in *West Virginia v. EPA* is available here.

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ENVIRONMENTAL GROUP SUES EPA OVER OCEAN ACIDIFICATION

On September 8, 2016, the Center for Biological Diversity ("Center") filed a complaint against EPA in the United States District Court for the District of Columbia (No. 16-1791), alleging that EPA failed to comply with its obligations under the Administrative Procedure Act ("APA") to respond to the plaintiff's petition requesting amendments to water quality criteria and the publication of additional guidance under Section 304 of the Clean Water Act ("CWA"), 33 U.S.C. § 1314, to address ocean acidification that the plaintiff contends is caused by greenhouse gas emissions.

In the complaint, the plaintiff alleges that it filed its petition on April 17, 2013, and that EPA's failure to respond for more than three years violated the agency's obligation under the APA to respond to petitions within a reasonable timeframe. The Center's petition was premised on the claim that carbon-dioxide-induced ocean acidification "is drastically transforming the chemistry of our oceans and the health of its ecosystems." The Center attributes ocean acidification to the burning of fossil fuels, on the theory that as the oceans absorb carbon dioxide, the waters become more and more acidic. The Center contends that the oceans absorb approximately one-third of carbon dioxide emissions and that seawater is 30 percent more acidic today compared to pre-industrial levels.

According to the Center, acidic seawater has a serious detrimental impact on marine ecosystems. For example, the Center alleges that acidic seawater erodes and hinders the development of shells and exoskeletons in marine invertebrates. Damage to these populations, in turn, negatively affects the entire marine food chain.

In attempting to compel EPA to take action, the Center cites Sections 304(a)(1) and 304(a)(2) of the CWA, which direct that EPA "shall" develop and publish, and "from time to time thereafter revise" water quality criteria "accurately reflecting the latest scientific knowledge" on the effects of the presence of pollutants in the water on the health and welfare of the biological ecosystem. The Center alleges that scientific evidence supports that current water quality criteria are inadequate to protect water quality and ecosystems from the effects of ocean acidification. According to the Center, EPA acknowledged as much in 2010 when it stated that it would publish guidance regarding ocean acidification. To date, no such guidance has been published by EPA.

The Center therefore requested that the district court declare that EPA has violated its duties under the APA and order the agency to respond to the Center's petition. Because the matter would still be in its early administrative stages at EPA, even if the district court awards the Center the relief it seeks, the precise nature of the water quality criteria (if any) will not emerge until after EPA responds to the Center's petition. EPA has not yet filed its response to the complaint.

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ENVIRONMENTAL GROUPS CHALLENGE PIPELINE APPROVAL BASED ON FERC'S ALLEGED FAILURE TO ADEQUATELY CONSIDER CLIMATE CHANGE IMPACTS

On September 21, 2016, three environmental groups filed a petition for review with the United States Court of Appeals for the District of Columbia Circuit, challenging the Federal Energy Regulatory Commission's ("FERC") approval of the Southeast Market Pipelines Project ("Project"). *Sierra Club v. Fed. Energy Regulatory Comm'n*, No. 16-1329. The Project consists of three separate but interconnected natural gas transmission pipeline projects to be constructed in Alabama, Georgia, and Florida to serve the growing incremental demand for natural gas in the southeast United States.

The petitioners filed their preliminary statement of issues on October 24, 2016. Among other things, the petitioners intend to argue that FERC violated the National Environmental Policy Act by failing to analyze the climate impacts of the Project, including the effects of greenhouse gas emissions. Sierra Club previously issued a press release contending that the greenhouse gas methane will be released during gas extraction and transmission activities, and that the power plants served by the Project will emit greenhouse gases and foreclose alternative cleaner energy options such as wind and solar. Contemporaneous with filing the statement of issues, the petitioners moved to stay FERC's approval of the project and to expedite review by the D.C. Circuit on an emergency basis. The petitioners asserted that, absent such relief, the Project would be constructed and placed into service before the D.C. Circuit could decide the petitioners' claims.

The D.C. Circuit recently granted unopposed motions to intervene filed by companies that received FERC approval for each of the three separate portions of the Project and two electric utilities operating in Florida that will be served by the Project. A nonprofit coalition of utilities also recently filed a motion to participate as amicus curiae in support of FERC. FERC and the intervenors have filed responses opposing the request for stay and expedited review, emphasizing the need for natural gas from the Project to service consumers. The petitioners' reply is due on November 10, 2016. We will continue to monitor the case for significant developments.

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EPA MOVES FOR SUMMARY JUDGMENT IN MURRAY ENERGY'S "COAL JOBS" LAWSUIT

As first reported in the Spring 2015 issue of *The Climate Report*, in March 2014, Murray Energy Corp. ("Murray Energy") and 11 of its subsidiaries sued EPA in the Northern District of West Virginia federal court, alleging that EPA ignored its obligation to consider the consequences of Clean Air Act ("CAA") regulations on job losses and displacements in the coal industry. *Murray Energy Corporation et al. v. Administrator of EPA*, No. 5:14-cv-00039. In its complaint, Murray Energy proclaimed EPA's administration and enforcement of the CAA as a "War on Coal" that was "causing coal mines to close, costing hard-working Americans their jobs, and shifting employment away from areas rich in coal resources to areas with energy resources preferred by [EPA]." Murray Energy argued that EPA failed to comply with Section 321(a) of the CAA, which requires the EPA Administrator to "conduct continuing evaluations of potential loss or shifts of employment which may result from the administration or enforcement of the provision of [the CAA] and applicable implementation plans, including where appropriate, investigating threatened plant closures or reductions in employment allegedly resulting from such administration or enforcement."

On May 2, 2016, EPA filed a motion for summary judgment, urging the court to immediately conclude the case and avoid trial, which was scheduled to begin on July 19, 2016, but was postponed by the court until a date to be later determined by the court. EPA moved for summary judgment on three alternative bases: (i) Section 321(a) does not set forth a nondiscretionary duty enforceable through the CAA citizen-suit provision; (ii) Murray Energy did not meet its burden at the summary-judgment stage to establish facts demonstrating standing; and (iii) EPA conducted the evaluations required in Section 321(a). EPA argued that the record in the case was sufficiently robust for summary adjudication, noting the "millions of dollars of public funds to review and produce hundreds of thousands of documents over the course of tens of thousands of hours," that there had been "a dozen depositions," and that discovery had "consumed nearly eleven months." In its supporting memorandum, EPA further contended that Murray Energy's theory of economic injury was "based on the vague notion of a 'reduced market for coal' that is undefined and lacks any parameters."

On August 19, 2016, Murray Energy filed its opposition to EPA's motion, arguing that: (i) EPA's main argument—that Section 321(a) is discretionary—had been rejected twice previously in the suit, and EPA offered nothing new on summary judgment; (ii) the court had already found three separate grounds for Murray Energy's standing, and EPA raised no legitimate dispute with the court's reasoning; and (iii) EPA offered no "cogent explanation" on how it was complying with Section 321(a).

The U.S. Chamber of Commerce and the State of West Virginia (in conjunction with 12 other states) filed amicus curiae briefs in support of Murray Energy on August 24 and September 7, 2016, respectively. EPA filed its reply brief on September 9, 2016. The court has not yet set a date for oral argument.

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CLIMATE CHANGE REGULATION BEYOND THE U.S.

Chris Papanicolaou, Editor

PARIS CLIMATE AGREEMENT TO ENTER INTO FORCE

The Paris Climate Agreement is on track to enter into force on November 5, 2016, following the European Union submitting ratification documents to the United Nations on October 5, 2016. The EU decision follows the ratification by both the United States and China and means that a total of 72 countries have now ratified the Agreement. These nations account for 56.75 percent of the world's greenhouse gas emissions. The Agreement's threshold requirement for entering into force required ratification by 55 countries accounting for at least 55 percent of global greenhouse gas emissions.

Accordingly, the Paris Agreement will enter into force less than 10 months after it was agreed and in time for the next COP meeting in Marrakesh in November 2016 and prior to the U.S. presidential election. Prime Minister Theresa May has also pledged to take steps to commit to the UK's implementation by the end of 2016. The Agreement itself aims to keep global temperatures rising to no more than 2 degrees Celsius compared to the pre-industrial era.

In addition, and separate to the Paris Climate Agreement, at least 200 nations met in Rwanda on October 15, 2016, and agreed to an amendment to the Montreal Protocol. Steps will be taken to cut back 80 percent of hydrofluorocarbons, or HFCs, which are used heavily in refrigeration and air conditioning. The richest industrialized countries have agreed to a 10 percent reduction by the beginning of 2019 with a ratcheting down by 2036 when they are to achieve an 80 percent cut from 2011–2013 production and consumption levels. The Agreement provides a sliding scale for developing nations with certain nations (e.g., China, Latin America, Africa) agreeing to a freeze by 2024, and other developing nations headed by India having until 2030 to comply.

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FRANCE ANNOUNCES NATIONAL GREEN BONDS FOR 2017

On September 2, 2016, France announced that it would be the first country to issue national "green bonds" starting in 2017.

Green bonds generally finance environmental projects (e.g., solar and hydropower plants, wind farms, clean transportation, biodiversity conservation, climate change adaptation). The labeled green bonds market is expanding and should reach a volume of US$100 billion by the end of 2016.

Green bonds initially were issued by international public actors such as the European Investment Bank (2007) and the World Bank (2008). Lately, new actors in France—private banks, companies (e.g., EDF), and local public authorities (e.g., Région Ile de France)—have emerged, following the adoption of the Paris Green Bonds Statement during COP 21 in December 2015, in which major international investors encouraged governments to issue such bonds.

The French draft Budget Bill for 2017 includes a plan to finance green investments through the third "Program of Investments for the Future." The Program intends to dedicate an investment of €6 billion to sustainable development and green growth, once the Budget Bill is adopted at the end of the year.

An inter-ministerial task force will be set up to determine the criteria for a first issuance of national green bonds in 2017, subject to market conditions. Such criteria are expected to include issues such as the "green" nature, traceability, and reporting obligations of the financed projects. The task force should draw on existing standards such as the Green Bonds Principles and the French national EETC label ("Energy and ecological transition for the climate") designed to award investment funds that finance the green economy.

The French EETC label Criteria Guidelines, adopted in March 2016, clearly exclude nuclear and fossil fuels sectors from the EETC certification. They set criteria regarding the investment funds' contribution to the financing of energy transition and the transparency of their environmental characteristics. Similar conditions are expected for future national green bonds.

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