

**Current Status Chart – 111th Congress,
February 13, 2009**
Information added since the last Update is in blue

Follow the Money

Bill	Status	Additional Information and Upcoming Action
<p>Economic Stimulus Spending/Tax package H.R. 1</p>	<ul style="list-style-type: none"> ➤ House passed its version on 1/28/09 by straight party-line vote. 10 year cost: \$820 billion. ➤ Senate passed its version on 2/10/09 - 10 year cost: \$838 billion. ➤ Conferees agreed on 2/11/09 on a \$790 B package. House passed conf. agreement 2/13/09 on a 246 - 183 straight party line vote with 1 voting present. Senate passed it later the same day 60-38 with 3 Republican votes. ➤ <u>NEPA Alert</u>: Senate defeated on voice vote Barrasso (R-WY) amendment that would have permitted projects under the stimulus bill to go ahead if NEPA review were not completed in 270 days. Boxer amendment was passed instead which provided that "adequate resources" would be provided to allow for expeditious NEPA reviews of stimulus projects and required administration reports every 90 days on the status and progress of stimulus projects that triggered NEPA requirements. 	<ul style="list-style-type: none"> ➤ Final stimulus package contained: <ul style="list-style-type: none"> ● Energy efficiency and electric rate decoupling (see Energy Bill, page 6 below). ● National Parks (see National Parks, page 3 below). ● Renewable energy tax credits, including \$13B over 10 yrs. for wind power production tax credits and \$4B in bonds for state /local government renewable energy and energy conservation projects.. ● Wastewater treatment and clean drinking water initiatives, including \$4B for the Clean Revolving Fund, \$1.4B for loans and grants for rural communities' water infrastructure, \$4 B for Corps of Engineers water projects. ➤ Details are in the conference report , H.Rept. 111-16. (Go to Thomas.gov, then search for H.R. 1, then click on "Major Actions" and click on conference report link.
<p>FY 09 Appropriations PL – 110-329 (for the year starting October 1, 2008)</p>	<ul style="list-style-type: none"> ➤ House postponed a planned Feb. 4 vote on a replacement bill in order to focus on the economic stimulus bill. This delay meant Congress could not replace the CR before the President's Day recess. ➤ Both House & Senate committees plan mark-up right after the recess. ➤ <u>Midnight regulations</u>: Senate Appropriations chair Inouye (D-HI) ruled out any policy riders on the CR, including any that would deal with rolling back midnight regulations. 	<ul style="list-style-type: none"> ➤ The Continuing Resolution (CR) for FY 09 expires March 6. It covers the 9 appropriations bills not passed last year, including EPA, Depts of Interior, Energy, Agriculture and others. ➤ As was customary for the past several years of divided government, the FY 09 CR provided that funds could not be used to initiate or resume projects or activities that had not received appropriations in FY 08. This made the third year in which new projects could not be started. ➤ <u>Another short CR might be required if the final bill is not done by March 9.</u> ➤ <u>Details of House bill have not been divulged. Republicans complain that they have no information about the bill's contents.</u>
<p>FY 10 Budget (for the year starting Oct 1, 2009.) (For background on budget process, see 2006 Legislative Update #68.)</p>	<ul style="list-style-type: none"> ➤ Work on the Congressional Budget Resolution will begin after the President's budget is submitted to Congress in February or early March. ➤ Look at recent House and Senate appropriations priorities to get an idea of which programs might fare especially well (within the context of tight fiscal circumstances): National Parks, Fish & Wildlife Service; National Wildlife Refuge system, EPA budget, Forest Service. Environmental programs that create jobs should do well—water treatment infrastructure and National Park repairs and maintenance are examples. 	<ul style="list-style-type: none"> ➤ Function 300 of the federal budget includes most environmental programs (regardless of which federal agency administers them or which congressional committee has jurisdiction over them). ➤ Budget Resolution is an internal Congressional document and does not require President's signature. ➤ House, Senate and White House are under the control of the same party. Thus, the annual "budget train wreck" over priorities will probably be avoided for the first time in several years.

Programs and Issues

Bill	Status	Additional Information and Upcoming Action
ANWR - Wilderness Status - HR 39, S 231	<ul style="list-style-type: none"> ➤ Rep. Markey (D-MA) and Sen. Lieberman (I-CT) reintroduced bills to give 1.6 million acres of ANWR official wilderness status. ➤ Both House and Senate moving slowing - wait and see approach, especially since drilling proponents are now far short of having enough votes to open ANWR. 	<ul style="list-style-type: none"> ➤ Freshman Sen. Begich (D-AK) campaigned against the legislation in his run against Sen. Stevens. Now, Senate Democratic leaders don't want to embarrass him by bringing up the bill quickly. ➤ Former GOP VP candidate Alaska's Gov. Palin speaking out against the legislation. ➤
Beach Protection Act	<ul style="list-style-type: none"> ➤ Legislation to require EPA to help states use the latest technology to test for beach contaminants and increase federal funding for water quality monitoring easily passed the House in 2008. The bill had broad support in the Senate also but failed on three separate attempts, falling victim to unrelated parliamentary tactics. ➤ Passed Senate 1/11/09 as part of the Omnibus Public Lands bill. (see p. 4 below). 	<ul style="list-style-type: none"> ➤ Bill would require grant recipients to use the latest technology to test for contaminated beach waters. Inslee (D-WA) amendment would require EPA to conduct a study on the long-term effects of climate change on the pollution of coastal recreation waters. Senate bill authorizes \$60 billion/year for 2008-2013 period for state water quality grants. House bill authorizes \$40 B/yr through 2012.
Clean Air Interstate Rule (CAIR)	<ul style="list-style-type: none"> ➤ The court taketh away and the court giveth back—at least temporarily. The U.S. Circuit Court of Appeals for the District of Columbia on 12/12/08 <i>reversed</i> its August decision that struck down the CAIR regulations governing power-plant emissions. ➤ Court responded to petitions from the Bush administration, states, industry groups and energy companies. While all were unhappy with some aspect of the CAIR regulations, no one wanted the entire rule to be dumped. ➤ Court now says CAIR is better than nothing and can stay in effect until EPA develops new regulations or Congress legislates a revised approach. Either course has problems and will likely take several years. ➤ Pennsylvania began implementing CAIR regulations on January 1, 2009. 	<ul style="list-style-type: none"> ➤ Bush Administration's 2005 CAIR rule covered the 28 eastern states and used a cap-and-trade system to make steep reductions in power-plant SO₂ and NO_x emissions. It was supported by environmental groups & some regulated companies. North Carolina sued to make the program stronger, several power companies questioned rule's technicalities, and MN, FL and western TX appealed to exclude their power plants from CAIR. ➤ DC Circuit Court of Appeals 7/11/08 struck down CAIR, saying EPA exceeded its authority and CAIR had fatal flaws. Earlier in 2008, the court struck down EPA rule controlling mercury emissions from power plants. Thus, no federal power plant air pollution controls were left. (Few states other than N.C. have tough rules.) ➤ Industry wanted certainty about what the rules would be and was dismayed that entire rule was thrown out last July. That decision threw the SO₂ trading market, in place since mid-1990s, into limbo and threatened to idle new pollution abatement projects and derail expensive planned projects.
Clean Water Authority Restoration Act (CWARA) – For background, see 110th Congress Updates #13 #14.	<ul style="list-style-type: none"> ➤ Supreme Court 4-1-4 split decision 9/16/06 on <i>Rapanos v. U.S. et al</i> and the <i>SWANCC</i> case left wetlands enforcement issues unresolved. ➤ Legislation to clarify the protections for wetlands ran into substantial opposition from farmers, developers, states' rights advocates and others and failed to gain sufficient support in the House and Senate committees even to move to the floor in the 110th Congress. 	<ul style="list-style-type: none"> ➤ 110th Congress was unable to define a viable consensus on how best to untangle the policy regarding definition of "tributary" and "navigable waters." ➤ Neither House nor Senate committee chairs were willing to move legislation out of committee until there was sufficient support for floor passage. Efforts to attract substantial numbers of additional co-sponsors did not succeed—House sponsors stalled at 176 and Senate sponsors froze at 20.

<p>Midnight regulations</p> <p>For more information, see 110th Congress Update #19.</p>	<ul style="list-style-type: none"> ➤ Obama administration froze all pending federal rules until they could be reviewed. ➤ Two options exist for rules already in effect: 1) a lengthy new administration rule making process, and 2) Congressional disapproval under the Congressional Review Act (CRA). ➤ House Select Comm. on Energy Independence & Global Warming, and a House Judiciary subcommittee have held hearings on the regulations. ➤ Reps. Rahall and Markey cosponsored a CRA resolution, H.J. Res 18, to roll back the Endangered Species rule. 	<ul style="list-style-type: none"> ➤ Outgoing Bush Administration sought to lock in many of its policies by promulgating regulations in time take effect before the end of the presidential term, thereby making it difficult to overturn them. New regulations involved, among others, endangered species, oil shale development on federal lands, mountaintop mining wastes, and emissions by power plants ➤ Any regulation that took effect after 5/5/08 can be repealed under the CRA's expedited procedures.
<p>Mercury emissions</p> <p>For more information, see 109th Congress Update #53.</p>	<ul style="list-style-type: none"> ➤ Rep. Eddie Bernice Johnson (D-TX) introduced H.R. 821 to require EPA to issue a new rule requiring power plants to install MACT (Maximum Achievable Control Technology). It would put mercury reduction requirements under Sec. 112 of the Clean Air Act. ➤ EPA Director Jackson is likely to issue a new MACT rule. This would make legislation unnecessary. 	<ul style="list-style-type: none"> ➤ U.S. Circuit Court of Appeals struck down the Bush administration's Clean Air Mercury Rule (CAMR) last February (2008). CAMR used the Clean Air Act's Sec. 111 to create a cap-and-trade mercury emission trading program which would gradually reduce mercury emission but could result in mercury hot spot concentrations. ➤ EPA last year petitioned the Supreme Court to reinstate the CAMR. States and environmental groups asked the court to deny the administration petition. ➤ Industry prefers a comprehensive multi-pollutant approach that would put mercury under cap-and-trade along with CO₂, SO₂, and NO_x. SO₂ is already under the anti-acid rain SO₂ cap-and-trade program.
<p>National Landscape Conservation System</p> <p>H.R. 2016, S. 1139</p>	<ul style="list-style-type: none"> ➤ Legislation to make permanent the 26-million-acre National Landscape Conservation System within the BLM failed in the Senate in 2008, falling victim to unrelated parliamentary tactics. ➤ It was included in the Omnibus Public Lands bill in the Senate (see p.4 below) 	<ul style="list-style-type: none"> ➤ Preserving the National Landscape Conservation System would help preserve grazing, energy development, hunting and recreational shooting on these lands.
<p>National Park Centennial Fund</p> <p>For more information, see 110th Congress Update #11, item 10 and June, 2008 report by Carole Hunter.</p>	<ul style="list-style-type: none"> ➤ Economic Stimulus bill, H.R. 1, provided \$750 million for the Park Service, including \$146 M for deferred maintenance and critical repairs; \$15 M for a historic preservation fund; and \$589 M for construction and infrastructure projects. Rep. Dicks had proposed \$2 B. ➤ Despite Bush administration backing, Congressional support was not strong enough to bring Centennial Fund legislation out of committee in the 110th Congress. Even scaled down measures failed to gain traction. ➤ Budget issues were part of the problem. Bill created a new entitlement of \$1 billion (\$100 M over each year from 2006 to 2016.) Congress was willing to specify offsetting savings, but a consensus on what these offsets should be never materialized. 	<ul style="list-style-type: none"> ➤ Centennial Fund required matching funds. Rep. Rahall and some other opposed this saying it would lead to commercialization at the parks. ➤ In the absence of the Centennial Fund, Congress nevertheless appropriated \$25 million in matching funds in 2007, enough to cover the first 110 projects. ➤ On Jan 13, 2009, Interior Sec'y Kempthorne announced that the CR allowed \$10 million for the next round of 9 projects which will be matched with \$16.5 in private funds.
<p>Oceans – UN Law of the Sea (UNCLOS)</p> <p>For more information, see 110th Congress Update #13.</p>	<ul style="list-style-type: none"> ➤ Push to get the Senate to ratify the Law of the Sea treaty stalled out in the 110th Congress because there was not enough floor time for lengthy process of overcoming a filibuster staged by a handful of opponents, and the treaty was not ratified. ➤ Prospects look good for ratification in the 111th Congress, if the 66-12 vote on the omnibus public lands bill (see below) is any indication. Carving out several days of Senate floor time will be the problem. 	<ul style="list-style-type: none"> ➤ United States signed the UN Law of the Sea implementing agreement in October 1994 and submitted it to the US Senate. Fifteen years later, it still has not been ratified. ➤ Conservative Republicans led by Sen. Inhofe (R-OK) oppose ratification, saying it would impinge on U.S. sovereignty. Supporters include Sec'y of State Clinton, CIA Director Panetta and VP Biden.

<p>Omnibus public lands bill - S.22</p>	<ul style="list-style-type: none"> ➤ In a rare Sunday roll call, the Senate voted 66-12 to proceed (and to bypass the Energy & Natural Resources Committee) to take up a massive bi-partisan bill that combined 160 public lands, water and resources measures approved by the House in 2008. The Senate then passed the bill 73-21 on January 15 and sent it to the House. ➤ House had planned to take up the 1,294-page bill but now has delayed until it returns after the recess (2/23/09). Rep. Bishop (R-UT) and others say they may offer procedural motions to block passage because there are about 70 Senate-originated provisions the House has not studied or debated. ➤ If the House makes any changes, the bill would have to go back to the Senate. If the House accepts the Senate bill, it would go to the White House where a signature is expected. 	<ul style="list-style-type: none"> ➤ Bill has 15 proposals to designate nearly 2 million acres of public lands as wilderness in CA, CO, ID, MI, NM, OR, VA and WV. ➤ Bill also has dozens of proposals authorizing new studies for 3 national park units, 3 conservation area, a new national monument, 10 national heritage areas, 4 national trails and more than 1,000 miles of wild and scenic rivers. ➤ Bill incorporates the National Landscape Conservation System and the BEACH proposal (see above). ➤ Bill would allow construction of a road through ANWR. It would swap additional wilderness for ANWR in exchange for permitting a road connecting two villages. ➤ Senate bill included half a dozen important measure relating to oceans. ➤ Three attempts to vote on the bill were made in the Senate in 2008. However, Sen. Coburn (R-OK) blocked the bill to gain leverage for oil and gas offshore drilling, because the new park and conservation lands would be permanently off-limits for oil and gas production, and because of cost concerns.
<p>Roadless rule</p>	<ul style="list-style-type: none"> ➤ Rep. Grijalva (D-AZ), and a coalition including League of Conservation Voters, National Resources Defense Council, outdoor recreation businesses and others urged new Obama admin. to implement the Clinton-era roadless rule banning most road construction and timber cutting in 58.5 million acres of inventoried national forests. 	<ul style="list-style-type: none"> ➤ Pres. Obama could issue a directive giving Forest Service chief decision making power over activity in roadless areas rather than local officials. ➤ Roadless rule promulgated at end of Clinton administration was postponed by Bush administration and then rewritten in 2005 to allow piecemeal protection on state-by-state basis. 2005 regulations were challenged in court. ➤ Appeals Court decisions in CA 9th and Wyoming 10th circuits yielded different results. Clinton-era rule now applies only to 10 states in the 9th U.S. Circuit (CA)
<p>Transportation Reauthorization</p>	<ul style="list-style-type: none"> ➤ Look for transportation to take a lead role in the economic stimulus and jobs creation efforts. "Shovel-ready" road and bridge construction projects are backlogged in states and are a traditional jobs creation strategy. ➤ SAFETEA-LU, (the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users) expires Sept. 30, 2009 and needs to be reauthorized. In addition to traditional highways and bridges, the legislation includes mass transit, bill boards and highway beautification and pedestrian/ bicycle lanes. ➤ Lead committees: <ul style="list-style-type: none"> ▪ House Transportation & Infrastructure Committee, chaired by Rep. Oberstar (D-MN), and its Subcommittee on Highways & Transit, chaired by Rep. DeFazio (D-OR). ▪ Senate Commerce, Science and Transportation Committee, chaired by Sen. Inouye (D-HI), and its Subcommittee on Surface Transportation, chaired by Sen. Lautenberg (D-N J) 	<ul style="list-style-type: none"> ➤ Hearings in the 110th Congress indicated strong interest in mass transit, intra- and inter-city rail links and highway toll roads. ➤ After legislators refused to "borrow" funds from mass transit to shore up the bankrupt highway trust fund, legislation was enacted last September to move \$8 billion from general fund to the highway trust fund. This is just a "patch," and the trust fund will run dry again in 2010. ➤ Gas tax increase is advocated by some study groups and commissions as a way to replenish the highway trust fund which finances road and bridge construction. Tax has been at 18.4 cents-per-gallon since 1993. National Surface Transportation Policy and Revenue Study Commission in 2008 urged an increase of 40 cents-per-gallon over a five-year period, which lawmakers promptly opposed.

Energy and Global Warming Issues

<p>SENATE</p> <p>For more information on 2008 bill, see Update #1 and 110th Congress Updates # 13, 14, 16.</p>	<ul style="list-style-type: none"> ➤ Sen. Boxer, Chair of the Environment/Public Works Committee, says she will consult with administration's environment team before introducing legislation. ➤ Energy & Resources Comm. shares jurisdiction on this issue. However committee chair Sen. Bingaman (D-NM) plans to focus on energy bill and renewable standard for now. (See comprehensive energy bill p.6 below) ➤ Sen. Debbie Stabenow (D-MI) gave Obama transition team a list of concerns about last year's Lieberman-Warner-Boxer bill shared by the Gang of 15 moderate Democrats. ➤ VOTE COUNT: Supporters count 47 yes or probably yes votes. There are 21 fence sitters including the Gang of 15. 33 Republicans are unlikely to vote for the type of comprehensive bill currently envisioned. 60 votes are needed for cloture. ➤ EPA Director designate Jackson says the Obama administration favors cap-and-trade over carbon tax approach but is open. 	<ul style="list-style-type: none"> ➤ Premature close to 2008 Senate debate cut short the amendment process that had been expected to explore policy proposals aimed at making the bill palatable to a wide variety of interests, including nuclear power, drilling for offshore oil/gas, tightening the caps, reducing the giveaways, increasing help for consumers, protecting forestry, farming and endangered species, imposing tariffs on goods imported from nations that do not curb emissions, and Administration authority to suspend cap-and-trade if gasoline prices rose too high. Bill had not been expected to pass, however. ➤ Cloture failed 48-54 (counting absentees who would have backed cloture had they been present). Ten moderate Democrats expressed concern about economic costs of the bill. Four Democrats voted against cloture; all are still Senators (Brown (OH), Dorgan and Johnson (ND) and Landrieu (LA)).
<p>HOUSE – GHG emission limits</p>	<ul style="list-style-type: none"> ➤ A NEW ERA: Rep. Waxman (D-CA) successfully challenged long-time House Energy & Commerce Committee Chair Dingell. Waxman created a new Energy & Environment Subcommittee, replacing two previous subcommittees. Rep. Markey (D-MA) was appointed chair of the new subcommittee, shunting aside the more moderate Rep. Boucher (D-VA). ➤ TIMING: Rep. Waxman vows the full committee will report a bill by Memorial Day. Hearings have begun. ➤ Rep. Markey's subcommittee will start the process. There, 11 of the subcommittee's 21 Democrats are skeptical of cap and trade à la Waxman-Markey. ➤ VOTE COUNT: Supporters are counting on 160 D and 3 R "sure yes" votes, and 29 R and 97 D fence sitters, including the 30 Blue Dog Ds concerned with fiscal policy. 218 votes are needed for passage if all are present and vote. ➤ Speaker Pelosi said she has enough votes in the House to pass cap-and-trade legislation but she's not certain Democrats will be able to do that in 2009. 	<ul style="list-style-type: none"> ➤ Rep. Dingell (D-MI) and his lieutenant Rep. Boucher (D-VA) worked in 2007-2008 very methodically, thoroughly (and slowly) to produce a bill that could attract support from the dozen or so moderate-to-conservative Democrats on this full E&C Committee. Finally, they unveiled their 461-page bill in October. It would reduce emissions 6% below 2005 levels in 2020, 44% below by 2030 -- levels that were challenged as being too lax. It would also preempt state emission controls, including RGGI and California programs. ➤ Energy & Commerce Committee has 57 members. Any bill that can get out of committee is likely to get favorable consideration on the Floor of the House. ➤ OTHER COMMITTEES will share jurisdiction. Markey's bill was referred to 10 committees. Rep. Doggett (D-TX)'s cap-and-trade bill was referred to Ways & Means because it put Treasury in charge of administering allowances. Some Republicans argue that cap-and-trade is really a tax bill and therefore the bill must originate in the House.
<p>GHG emissions - EPA regulations (instead of a legislated program)</p>	<ul style="list-style-type: none"> ➤ In July, 2008, EPA released a 500-page "advance notice of proposed rulemaking" for regulation GHG emissions which detailed all the way EPA might regulate emissions. It did not actually initiate any decision process. ➤ EPA Director designate Jackson said at her 1/14 confirmation hearing that if confirmed she would collaborate with congress on global warming regulations under the Clean Air Act as she goes to work on GHG regulations under the Mass. vs EPA decision. She stated, "The Supreme Court has ordered EPA to make a finding, and EPA has yet to do it. When the finding happens, when EPA makes a decision on endangerment, let me put it that way, it will indeed trigger the regulation of CO₂ for this country." 	<ul style="list-style-type: none"> ➤ Supreme Court in 2007 held in Massachusetts vs EPA that EPA in effect had sufficient authority under the Clean Air Act to regulate carbon emissions, something the Bush administration declined to do. The Court ordered EPA to re-examine its decision about the science linking greenhouse gases to increased threats to public health or welfare.

<p>CAFE (Corporate Average Fuel Efficiency) standards for motor vehicles—California rule</p>	<ul style="list-style-type: none"> ➤ Legislation in the 110th Congress to overturn EPA'S decision against the California CAFE standard stalled and did not pass. ➤ President Obama issued order to Dept of Transportation Sec'y LaHood to finalize new CAFE standards by April. Rep. Markey, who chairs the Energy & Environment Subcommittee, wrote to LaHood urging him to recalculate CAFE standards by using mid- to high-range fuel prices (which would increase the cost-benefit analysis of higher CAFE levels.) ➤ President Obama called for EPA administrator Jackson to review California's request to regulate auto emissions. 	<ul style="list-style-type: none"> ➤ Bush admin. left office without finalizing the 25% increase in auto CAFE standards it proposed in April 2008. Instead, arguing that GHGs are global and not local or regional, Bush Justice Department on January 9, 2009 filed a brief in the Calif. CAFE court case urging the Circuit Appeals Court to reject California's CAFE standards. Auto industry groups also filed a brief supporting denial of the waiver. ➤ Federal Clean Air Act permits California to establish motor vehicle emissions standards that are stricter than the federal government's if granted a waiver by EPA. California adopted tighter standards in 2004 and petitioned EPA for an emissions waiver in 2005. After much delay, EPA finally refused to grant a waiver in December, 2007, stating that federal CAFE changes in the energy bill took care of the issue. California sued EPA in the summer of 2008 seeking to reverse the EPA decision. That case is still before the Circuit Appeals Court for the District of Columbia. ➤ Under the Clean Air Act, other states may adopt the California standard rather than follow the federal rule. 19 states have done so. They cannot implement the CA standard until it gets federal approval from EPA.
<p>Comprehensive energy bill</p>	<ul style="list-style-type: none"> ➤ Sen. Bingaman (D-NM), Chair of the Energy and Resource Comm., plans to move a big energy bill this year. It would include many of the items left over from previous energy bills, mostly policies opposed by Bush administration and Senate Republicans. ➤ Some of the items from previous energy bills were included in the economic stimulus bill passed last week, including tax credits for wind power and decoupling (a requirement that governors wanting \$2 billion in energy efficiency and conservation grants must ensure that state regulators implement rate design mechanisms to allow utilities to recover a fixed set of costs regardless of how much electricity or natural gas is sold.) 	<ul style="list-style-type: none"> ➤ The enacted economic stimulus package included a 21st C. energy grid (\$45B), a Clean Energy Finance Authority (\$11B) weatherization(\$5B), state energy efficiency grants (\$6B), greening federal buildings (\$4.5B), plug-in electric vehicle initiatives, smart appliances and other energy conservation efforts. ➤ CA, DE, ID, MD, MA and NY already have adopted decoupling. Industry opposes it.
<p>Renewable electricity requirement: Renewable portfolio standard (RPS) Renewable energy standard (RES) S. 433</p>	<ul style="list-style-type: none"> ➤ <u>SENATE</u>: Within 6 to 8 weeks, Sen. Bingaman (D-NM), Chair of Energy & Resources Committee plans to begin moving a bill requiring a national renewable fuels standard for electric utilities. This would be on a separate track from the GHG cap-and-trade bill. Hearings have already begun. Bingaman seeks a national standard requiring electric power utilities in each state to get 16% of their power from renewable sources by 2019, rising to 20% from 2021-2039. Bingaman would allow <u>efficiency measures</u> to satisfy up to one-fourth of the requirement each year. Sen. Udall (D-NM) introduced S.433 to require 6% renewable by 2012, gradually rising to 25% by 2025. ➤ <u>HOUSE</u>: Rep. Markey prefers including RPS in the GHG cap-and-trade bill, starting with a 6% requirement in 2012, rising to 17.5% in 2020 and 25% for 2025-2039. Markey is promoting a separate electricity efficiency bill and wants to keep it separate from the renewable standard legislation. 	<ul style="list-style-type: none"> ➤ Energy bill in the 110th Congress failed to include renewable portfolio standard to require utilities to supply escalating amounts of electricity from renewable sources. Subsequent efforts to pass it separately also failed in face of Bush administration opposition. ➤ One issue is whether <u>nuclear power</u> will be counted as "renewable." ➤ <u>Hydropower</u> does NOT count as renewable, to avoid harm to rivers. ➤ Most <u>southeastern states</u> allege that they do not have wind or other renewable sources readily available and thus cannot meet the standard. ➤ The Southern Company and Entergy, two major power companies, oppose the renewable standard. Biomass power generation is abundant in the South however. ➤ Renewable power generation in 2007 was 2.5% of total power—some suggest that the Bingaman and Markey goals may be more "aspirational" than achievable. CT, MA, AZ, NV, CA and NY are having trouble complying with current 10-15% goals," but Texas (think Boone Pickens) is using huge wind power resources to exceed its goals.

Renewable motor fuels requirement: Renewable fuels standard (RFS)	<ul style="list-style-type: none"> ➤ EPA on 1/26/09 withdrew its proposed rule to implement the renewable fuel standard enacted in 2007. One issue was how to address indirect GHG emissions from increased farming of biofuel crops—using current lands for growing fuel leads to new land clearing elsewhere for food production. Land clearing releases CO2 from burning trees and brush and from opening up the soil 	<ul style="list-style-type: none"> ➤ Energy bill passed at the end of 2007 increased ethanol production requirement to 9 billion gallons annually in 2008, 11 B gal in 2009, climbing to 36 B gal annually by 2022, of which more than half must be from non-comstarch products such as cellulose or sugar. ➤ Lower oil/gasoline prices mean renewables will be more expensive than conventional fuels. This makes the economics of renewable fuels difficult—developers cannot attract investment dollars in this difficult credit market .
International treaty post-Kyoto	<ul style="list-style-type: none"> ➤ Kyoto agreement expires in 2012. It called for reducing GHGs to 5% below 1990 levels by 2012. Developing nations were not included. ➤ Parties now working to get a post-Kyoto plan ready by December, 2009 meeting in Copenhagen, in time to allow nations to ratify it by 2012. ➤ Many believe the US to cannot successfully negotiate with other countries unless it has a cap-and-trade program in place. ➤ House and Senate might have passed their respective bills by December but it is unlikely that a final bill will have been passed and signed. 	<ul style="list-style-type: none"> ➤ In June, 2007, Pres. Bush proposed a voluntary plan for major emitters, a position that many felt undermined efforts to curb world GHG increases. Others hailed his plan as opening an important dialog with developing countries. ➤ Group of Eight summit in Hokkaido, Japan in early July, 2008 set goal of cutting GHG emission in half by 2050. But goal was not binding, did not include multi-decade interim targets, and did not include developing economies such as Brazil, China and India, Mexico and South Africa. Only Indonesia supported the 50% reduction pledge. Still, the meeting put the U.S. on record for the first time as embracing a specific long-term goal.
Offshore drilling - Outer Continental Shelf (OCS)	<ul style="list-style-type: none"> ➤ House Natural Resources Committee Chair Rahall (D-WV) scheduled hearings for Feb. 11th (environmental and commercial views); Feb.24th (state perspectives); and Feb. 25th (industry). Look for a slow legislative track on this complex issue. ➤ Congressional bans (carried on appropriations bills) on offshore drilling expired at end of September and administration ban was lifted last summer. A 2006 bill put a large portion of the eastern Gulf of Mexico off limits until 2022. Sen. Appropriations Chairman Inouye vows to keep riders off the FY 2009 omnibus bill to replace the CR, including language on offshore drilling. ➤ Bush Administration proposed on its last day a 5-yr plan for offshore oil/gas leasing; it required completion of scoping meetings and public hearings by 3/23/09. New Interior Sec'y Salazar (who as a Colorado senator last year supported Gang of 10 proposal) announced on 2/10/09 that he will: <ul style="list-style-type: none"> ● slow the schedule by adding 180 days for pubic comment by extending the public comment period to 9/23/09; ● direct the MMS and USGS to assemble a report on all information about offshore resources to determine where gaps in information exist; ● hold 4 regional meetings on offshore drilling in Alaska, Pacific Coast, Atlantic Coast and Gulf Coast; ● issue a final rulemaking for offshore renewables (i.e. wind, waves and tides) as required under the 2005 Energy Policy Act. These rules are nearly 3 yrs overdue. 	<ul style="list-style-type: none"> ➤ Rahall might start with "compromise" provisions from last year that passed in the House and then died in the Senate: allow drilling in federal waters more than 100 offshore, allow drilling between 50-100 miles only if states agreed and prohibit drilling closer than 50 miles offshore ➤ Bipartisan "Gang of 10"Senators Chambliss (R-GA), Conrad (D-ND), Thune (R-SD), Nelson (D-NE), Graham (R-SC), Lincoln (D-AR), Landrieu (D-LA), Isakson (R-GA, Corker (R-TN and Pryor(D-AR) supported a compromise offshore drilling bill combined with tax credits for renewable power in 110th Congress.

<p>Oil Shale development on public lands</p>	<ul style="list-style-type: none"> ➤ New Interior Sec'y Salazar says R&D efforts are appropriate and should be continued because of the vast resources in CO, UT, and WY. However, moving forward with a regulation to allow full-scale commercial development and leasing of millions of acres "was not the wise thing to do at this time" because of unanswered questions. ➤ Sec. Salazar canceled oil/gas leases on 77 parcels of federal land in Utah on 2/4/09 while the Interior Dep't re-examines the studies that permitted the parcels to be leased. Many leases were near national parks and wilderness lands—Salazar plans to determine why National Park Service was not consulted. Several lawsuits brought by environmental groups are still pending. ➤ Salazar also opted to defer sale of several leases in Wyoming and removed 30 of 120 parcels from a Colorado sale. ➤ Legislation: New York Democratic Representatives Hinchey and Maloney plan to introduce bills. Hinchey serves on the House Energy/Natural Resources Subcommittee. 	<ul style="list-style-type: none"> ➤ Huge oil shale potential: U.S. holds more than half the world's 2.6 trillion barrels, with more than 72 percent found on federal lands in the west. It is very costly to extract oil from shale and the technology is still in development. ➤ Environmental impacts: Getting oil from shale creates emissions 5 times those from oil/gas; uses vast quantities of water, a scarce resource in the west.; risks acid drainage and introduction of metals in to surface and groundwater; sulfur gas emissions; particulate air pollution; and generates enormous left over fill. ➤ Leasing of public lands with oil shale potential was one of the Bush "midnight regulations." In January, the Interior Dept. revoked a 1930 executive order prohibiting oil shale development in Utah and Wyoming. A similar Executive Order was revoked for Colorado in 2002. In November, final oil shale commercial leasing rules for UT, WY and CO were announced. ➤ <u>NEPA</u>: the Utah leases occurred pursuant to a final environmental impact statement in a "resource plan" which environmentalists claim ignored the effects of ozone pollution and climate change.
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