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**ENERGY AND ENVIRONMENT UPDATE**  
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**Energy and Climate Legislation**

With months of negotiations behind them and legislative text expected either right before or very soon after the Senate returns from the March 29th spring recess, Senators John Kerry (D-MA), Lindsey Graham (R-SC), and Joe Lieberman (I-CT) are getting closer to finding their 60-vote strategy via a sectoral approach to their climate and energy legislation. The Senators may offer their Senate colleagues and key interest groups an outline for their climate and energy strategy this week. Following a meeting last week, the trio is scheduled to meet again Wednesday with a large group of business and industry groups, at which time they may provide a narrative outline of their upcoming compromise climate proposal.

There are still a number of issues to be worked out. Though the basic plan is a sectoral approach that includes a cap and trade or cap and dividend program for electric utilities beginning in 2012 with a phase-in of manufacturing facilities and a carbon tax on transportation fuels, as well as incentives for nuclear, carbon capture and storage, and offshore oil and gas drilling, specific details are still underway.

On March 9, President Obama met for the first time with a group of fourteen Senators to discuss the climate plan and their concerns in the hope of laying groundwork for a broad consensus that would be needed to pass climate legislation in the Senate this year. While making it very clear that he believed a price on carbon critical, President Obama outlined how doing so could set the stage for America to transition to a clean energy economy and lead the global market. Several of the Senators articulated the need to price carbon in a business friendly way, including addressing high energy-intensive and trade sensitive industries in a manner that would allow them to transition to the new programs more gracefully, and Senator Graham concurred. Senator Graham also believes that moving forward with an energy-only bill will not allow the US to effectively reduce domestic dependence on foreign oil and begin taking the leadership reins in the clean energy marketplace.

In all, Senators Kerry, Graham, Lieberman, Max Baucus (D-MT), Jeff Bingaman (D-NM), Barbara Boxer (D-CA), Sherrod Brown (D-OH), Maria Cantwell (D-WA), Jay Rockefeller (D-WV), Susan Collins (R-ME), Judd Gregg (R-NH), George LeMieux (R-FL), Dick Lugar (R-IN), and Lisa Murkowski (R-AK) were joined at the White House with Energy Secretary Steven Chu, Interior Secretary Ken Salazar, Agriculture Secretary Tom Vilsack, EPA Administrator Lisa Jackson, Carol Browner, Larry Summers, and the President to discuss the progress of the legislation and the need to move forward as quickly as possible on consensus climate and energy legislation.

Senator Lugar has expressed his hesitation over the trio's approach, and announced last week that he is drafting a climate and energy plan that would include a clean energy mandate for renewable sources, nuclear and cleaner uses of coal; retire high-polluting power plants; promote higher mobile fuel efficiency standards; fully implement a renewable fuels production mandate; expand domestic offshore oil and gas drilling; and implement national energy efficiency standards.

Though Senator Carl Levin (D-MI) did not go to the White House meeting, he released last week a letter that he sent to Senator Kerry March 5 asking, among other things, that he and Senators Graham and Lieberman delay imposing a cap on the manufacturing sector for 10 years from 2012 in their climate legislation. This is a concern shared by many Senators from trade-sensitive industries, including Debbie Stabenow (D-MI) and Sherrod Brown (D-OH).

Meanwhile, efforts to block or delay the EPA from moving forward with greenhouse gas regulations are ongoing. Senator Byron Dorgan (D-ND) said last week that he may support Senator Rockefeller's bill to delay the EPA's action for two years. Senator Murkowski also decided last week to hold off on her resolution of disapproval to see whether or not Senator Rockefeller's more modest approach gets sufficient traction.

Led by Governor Haley Barbour (R-MS) and Joe Manchin (D-WV), governors from 18 states sent a letter last week to Congressional leaders asking that they block the EPA GHG regulations. A coalition of five Western House Democrats, including Ciro Rodriguez (TX), Gene Green (TX), Jim Costa (CA), Joe Baca (CA), and Harry Teague (NM) asked President Obama to block the EPA from regulating GHGs from industrial facilities in a letter last week. A group of 98 industry groups representing coal, petroleum, mining, agriculture, and other businesses sent a letter last week urging senators to support Senator Murkowski's resolution of disapproval.

EPA Administrator Jackson insisted last week that the EPA has no plans to establish a broad cap-and-trade program for GHGs under the Clean Air Act anytime in the near future. The Administration is still holding out hope that Congress will be able to move forward with legislation this year.

Also on the Senate's mind these days is another jobs bill. After voting (66-34) March 9 to cut off debate on a one year extension of \$31 billion in temporary tax breaks as well as longer-term extensions of unemployment insurance benefits and tax credits to help unemployed citizens retain health insurance, the Senate passed (62-36) the \$140 billion American Workers, State, and Business Relief Act of 2010 (H.R. 4213) March 10. Just prior to the cloture vote, senators agreed by unanimous consent to add a last-minute package of seven amendments to the bill, including two related to energy. One, sponsored by Senator Rockefeller, extends the tax code Section 45 renewable energy tax credit to refined coal products used for steel industry fuel. The other, sponsored by Senator Blanche Lincoln (D-AR), would provide grants in lieu of tax credits for manufacturers of energy efficient appliances. Another jobs bill will be an energy-related green jobs bill that may move forward at the end of April, and it is likely to include \$4 billion towards industrial energy efficiency.

Last week House Republicans opted to place a moratorium on project earmarks in the annual appropriations bills and other legislation, but Senate Minority Leader Mitch McConnell (R-KY) has yet to endorse the moratorium. Senate Republicans will weigh the ban this week. House Appropriations Committee members announced last week that would not include any earmarks in the upcoming spending bills for private companies.

On the international front, both China and India agreed to join the Copenhagen accord last week. Japan's Prime Minister submitted to parliament legislation that would require businesses to improve their energy efficiency and establish a domestic carbon trading system. Even though there is little belief that a binding agreement will be finalized then, the European Commission proposed a blueprint for post-Copenhagen climate negotiations last week so that specific results can come out of the next UNFCCC meeting in Mexico, and the IEA said that a dramatic ramp-up of climate reductions is necessary in order to meet 2020 goals.

## **Senate**

### Sanders' Solar Press Conference

Senator Bernie Sanders (I-VT) held a press conference with several environmental advocates to discuss solar energy legislation last week and to release Environment America's Building a Solar Future: Repowering America's Homes, Businesses, and Industry with Solar Energy report, which highlights the

potential of solar energy and the many ways that solar power can transform life by enhancing energy security and reducing pollution. The report also identifies the obstacles to wider use in the United States and a combination of policies that could boost solar enough to meet 10% of America's energy needs. With a wall of solar panels behind them, the group pledged to work together on Senator Sanders' 10 million solar roofs bill (S. 2993) as well as other legislative efforts to increase the use of solar power in the United States and increase America's energy independence in order to boost security and mitigate the negative effects of climate change.

#### Energy Efficiency Proposals under Discussion

Last week, the Senate Energy and Natural Resources Committee held a hearing on the Home Star and Building Star building energy efficiency programs. During the hearing, Cathy Zoi, DOE Assistant Secretary for Energy Efficiency and Renewable Energy, testified that the Home Star homeowner energy efficiency rebate program could be up and running within 60 days. There is quite a bit of bipartisan support for both programs, but some areas still need to be ironed out, especially with regard to do-it-yourself provisions and taking steps to ensure that the programs avoid the pitfalls of the Recovery Act's weatherization program. The legislation could be a part of either a jobs or an energy bill in the future. Committee Chairman Jeff Bingaman (D-NM) is eager to move these and other efficiency measures (including his S. 3059 bill) forward as soon as possible.

#### Energy Efficiency Loan Program Legislation Underway

Senators Lindsey Graham (R-SC) and Jeff Merkley (D-OR) floated a bipartisan bill March 10 to create a \$4.9 billion consumer loan program administered by the nation's rural electric cooperatives that would provide micro loans to their consumers to make energy efficiency upgrades to their homes at interest rates no higher than 3 percent. House Majority Whip James Clyburn (D-SC) introduced companion legislation (H.R. 4785) with Congressman Tom Perriello (D-VA) and Ed Whitfield (R-KY) in the House.

#### Upcoming Hearing

The Interior, Environment, and Related Agencies Subcommittee of the Senate Appropriations Committee will hold hearings on March 17 on proposed fiscal year 2011 appropriations.

### **House**

#### Legislation Expands Grid Security

House Energy and Commerce Committee staff released a bipartisan draft bill early last week that would establish federal emergency authority over the power grid in the event of cyber, electromagnetic pulse, and physical attacks. The draft builds upon H.R. 2165, which would give FERC the authority to issue emergency orders to protect the bulk power grid, and is expected to move as early as the end of this month.

#### Upcoming Hearings

The Energy and Environment Subcommittee of the House Energy and Commerce Committee will hold a hearing called HomeStar: Job Creation Through Home Energy Retrofits on March 18.

The Energy and Water Development Subcommittee of the House Appropriations Committee will hold hearings on proposed fiscal year 2011 appropriations March 16-18.

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### **Administration**

#### OMB Completes GHG Reporting Proposals Review

On March 8, the White House Office of Management and Budget completed a review of draft proposed rules that would apply greenhouse gas reporting requirements to three industrial sectors. The proposals would establish reporting requirements for oil and natural gas systems, carbon injection and geologic sequestration, and for producers of high-GWP fluorinated GHGs. These sectors were omitted when EPA

issued a final rule on economy-wide GHG reporting requirements for sources that emit more than 25,000 MT per year so that the EPA could consider them further. The proposals are expected to be signed by EPA Administrator Jackson within the next week.

#### Mobile Sources Greenhouse Gas Sent for OMB Review

The Environmental Protection Agency and the National Highway Traffic Safety Administration sent a draft final rule that would limit greenhouse gas emissions from cars and light trucks and increase fuel economy 40% by 2016 to the White House Office of Management and Budget for review on March 9. The proposed rule would require vehicles sold in the US to meet an average fuel efficiency of 35.5 miles per gallon in model year 2016, an increase of over 10MPG, and would be required to meet a GHG emissions standard of 250 grams per mile. The final rule will be completed March 31 so that it can be applied to vehicles for the 2012 model year. The proposal to limit emissions from large new and modified stationary sources would take effect once the mobile source rules are finalized.

#### Department of Agriculture

##### USDA to Promote Climate Goals

Agriculture Secretary Tom Vilsack said last week that the Department's Office of Environmental Markets, formerly known as the Office of Ecosystem Services and Markets, will foster the creation of environmental markets for CO<sub>2</sub>, water quality, wetlands, and biodiversity to further its climate and rural development goals. The office was authorized by the 2008 Farm Bill to assist in the development of environmental markets and ensure that farmers, ranchers, and forest landowners participated.

##### USDA Guarantees \$80 Million Loan

The Department of Agriculture announced March 3 that it will guarantee an \$80 million loan to Range Fuels, Inc., which is building a cellulosic ethanol biorefinery in Georgia. USDA's Biorefinery Assistance Program is guaranteeing the AgSouth Farm Credit loan, and it will be administered by USDA Rural Development. The plant will employ heat, pressure, and steam to convert wood chips into syngas, which will then be cleaned and passed over a catalyst to yield 20 million gallons of cellulosic ethanol per year. Construction of the plant is expected to be completed later this month.

#### Department of Energy

##### Chu Calls for Cleaner Domestic Fuels

At the 29th HIS Cambridge Energy Research Associates annual conference, Secretary Steven Chu said March 9 that the United States has the opportunity to lead in a new industrial revolution to give the world the energy required for prosperity. As the risks of climate change become increasingly apparent and with Asia's oil demand rapidly on the rise, nations all across the globe will begin facing carbon constraints in the next few years, and the U.S.'s best chance for leadership is by increasing energy efficiency and adopting better carbon and capture technologies for more traditional fuels while it works to develop renewable sources as well as nuclear energy. During his remarks, the Secretary also announced \$154 million to boost a carbon capture storage facility in Texas run by NRG Energy Inc.

##### \$40 Million for Nuclear Projects

The Department of Energy announced \$40 million in grants March 8 to support two conceptual designs for high-temperature, gas-cooled reactors that could produce electricity and process heat for energy-intensive industries. Two coalitions, one led by San Diego's General Atomics and the other by Pittsburgh's Westinghouse Electric Company, will receive funding under the Department's Next Generation Nuclear Plant Initiative, the \$40 million details of which are still under negotiation.

##### Final Rule Sets First Federal Energy Efficiency Standards of Small Motors

A final rule published in the Federal Register March 9 details DOE's first energy efficiency standards for small electric motors. The rule, which will take effect in 2015, applies to small electric motors typically used for pumps, fans, compressors, and other general industrial equipment, and reduces average energy use by 34-43% resulting in energy savings of about 2.2% of total annual energy consumption in the US as well as almost \$900 million in reduced equipment operating costs and emissions.

### **Department of Transportation**

Vice President Joe Biden announced more than \$600 million in stimulus funding for 191 new transit projects in 42 states and Puerto Rico on March 5. With these awards, the Federal Transit Administration has awarded 881 grants totaling \$7.5 billion, or all of its Recovery Act funding.

### **Department of Treasury**

The Internal Revenue Service issued a document called Revenue Procedure 2010-20 on March 10 that provides safe harbor treatment under tax code Section 118(a) for corporate taxpayer firms receiving grants for smart grid investment. The Recovery Act's \$3.4 billion Smart Grid Investment program is the largest energy grid modernization investment in US history.

### **Environmental Protection Agency**

#### **Domestic Emissions Fell in 2008**

The EPA released a draft report of its Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2008 early last week for public comment. Domestic emissions fell 2.9% in 2008 as a result of reduced energy consumption because of record-high oil prices and the economic recession. EPA's calculations show that total emissions for the year were about 6.9 billion MT CO<sub>2</sub>e, an increase of 13.6% from 1990.

#### **Loan Fund Grants Program to Receive Supplemental Funding**

The EPA announced March 9 that current recipients of brownfields revolving loan fund grants have until April 8 to apply for \$8 million in supplemental funds. Applicants who have made at least one loan or subgrant from their original grant may apply.

#### **Leaded Aviation Fuel Endangerment Finding Sent to OMB**

On March 2, EPA officials sent a draft endangerment finding on leaded aviation gasoline to the White House Office of Management and Budget. The Agency is expected to soon issue a petition to remove lead from aircraft fuels, but must first issue an endangerment finding underlying that and how leaded fuel endangers public health and welfare.

#### **Battery Partnership Launched**

The EPA announced March 4 the formation of a Design for the Environment partnership to help lithium-ion battery manufacturers make environmentally sound manufacturing and material choices. Bringing together companies that make lithium ion batteries with carbon nanotubes, EPA will also work with university scientists, representatives from nongovernmental organizations, and parties focused on end-of-life disposal issues.

### **Personnel**

The Senate voted unanimously Thursday, March 11, to confirm Larry Persily to serve as federal coordinator of Alaska's natural gas pipeline project. Mr. Persily previously served as an aide to a Republican state lawmaker in Alaska and has worked on pipeline development for the Alaska Department of Revenue and advised several Alaska governors on oil, gas, and Arctic issues.

The Senate Energy and Natural Resources Committee will hold a confirmation hearing on the nomination of Jeffrey Lane to be Assistant Secretary of Energy for Congressional and Intergovernmental Affairs on Wednesday, March 17.

On March 8, President Obama nominated Cheryl LaFleur, a former executive with National Grid USA, to a vacancy on the Federal Energy Regulatory Commission at the urging of several members of the Northeast congressional delegation to appoint someone from New England to provide regional balance on the commission. The president also nominated Philip D. Moeller to a second term on the commission.

## Miscellaneous

### China Plans Environmental Spending Increase

The Chinese Ministry of Finance and National Development and Reform Commission released a draft plan March 5 for economic and social development and a proposed 2010 national budget that called for direct environmental spending of over \$20 billion in 2010, accounting for about 3% of the national budget. Funding would be used for energy conservation and pollution reduction efforts as well as increasing renewable energy technologies and energy efficiency programs and subsidies.

### Chinese City May Begin Cap-and-Trade System This Summer

The Chinese northeastern port city of Tianjin will impose a mandatory limit on energy used to heat buildings in the first half of this year and begin China's first citywide carbon cap-and-trade program by June 2010 to help rein in its emissions. The city's effort will help the country move toward meeting its goal of reducing carbon intensity by 40-45% by 2020 compared with 2005 levels.

### IMF Proposes Climate Funding

The International Monetary Fund proposed a plan last Monday that would allow world governments to pool funding for an international response to climate change. The funding mechanism could bolster efforts to negotiate a binding international climate treaty later this year and would adopt a quota system similar to the IMF's own financing mechanism and require wealthy countries to contribute more to mitigation efforts than developing countries.

### ACEEE Paper Demonstrates Job Creation Potential of Energy Efficiency

According to an analysis released by the American Council for an Energy-Efficient Economy released last Tuesday, March 9, proposed federal energy efficiency jobs provisions would create about 333,000 jobs in 2010 and 184,000 jobs in 2011. The analysis considered proposed Home Star and Building Star residential and commercial retrofit programs and an energy-efficient manufacturing grant program. Most of the products used in building retrofits are manufactured in the United States, and construction jobs involved in these kinds of projects cannot be outsourced; therefore the provisions would create jobs and leverage government, consumer, and business funds while helping the US to transition to a clean energy economy.

### Wyoming Enacts Excise Tax on Wind Energy

Wyoming Governor Dave Freudenthal (D) signed a H.B. 101 March 5 to impose an excise tax of \$1/MWh on wind energy production in the state. The measure is expected to generate \$2.9 million for counties and nearly \$2 million for the state's general fund starting in 2012.

### Higher Fuel Prices Needed to Reduce Transportation Emissions

Harvard University's Energy Technology Innovation Policy Research Group and the John F. Kennedy School of Government's Belfer Center for Science and International Affairs released a report March 8 showing that the US would need to raise transportation fuel prices to more than \$7 per gallon in order to meet the 2020 greenhouse gas emissions targets Congress is for the transportation sector. Additionally, a tougher CAFE standard, incentives for more fuel efficient vehicles, and coverage of the transportation sector under a cap-and-trade program would all be necessary to reduce transportation sector emissions 14% from 2005 levels by 2020.

### Colorado on Its Way to Increasing RPS

The Colorado General Assembly passed H.B. 1001 on March 8 that would require the state's investor-owned utilities to generate 30% of their own power from renewable sources by 2020. Under current law, investor-owned utilities are required to meet a renewable portfolio standard of 10% from renewable energy in 2011, 15% by 2015, and 20% by 2020. The new legislation requires utilities to meet new standards of 12, 20, and 30 percent, for those years. Governor Bill Ritter (D) is expected to sign the measure.

### Pairing Oil Recovery with CCS Would Reduce Petroleum Imports

Advanced Resources International released a report last week that says combining carbon capture and storage with enhanced oil recovery could boost U.S. production by up to 3.6 million barrels a day and reduce U.S. petroleum imports under a carbon-controlled system. By pumping captured CO<sub>2</sub> underground and sequestering it, the US could reduce its emissions by 530 million tons by 2030, and would spur the technology's use.

#### Efficiency Best to Curb GHGs and Boost Energy Supply

The HIS Cambridge Energy Research Associates drafted a report in conjunction with the World Economic Forum last week that details why energy efficiency is misunderstood by the public and why it can do the most to boost energy supplies while reducing costs and greenhouse gas emissions. Energy Vision 2010: Towards a More Energy Efficient World says that energy efficiency needs to be rebranded in order to help people understand that it does not necessitate sacrifice.

#### Privacy a Concern in California Smart Meters

The Electronic Frontier Foundation and the Center for Democracy and Technology submitted comments March 9 calling on the California Public Utilities Commission to enact strong controls on smart meter deployment to ensure valuable personal information is not hacked into or mishandled.

#### Building Code Could Accelerate Green Construction

The International Code Council, the U.S. Green Building Council, the American Society of Heating, Refrigerating, and Air Conditioning Engineers, and the Illuminating Engineering Society of North America will release their International Green Construction Code March 15. The model green building code, which is adaptable to local needs and distinguishable from other green building rating systems such as LEED, could accelerate construction of high-performance green buildings.