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ENERGY AND ENVIRONMENT UPDATE **August 8, 2010**

Energy and Climate Legislation

After Senate Majority Leader Harry Reid (D-NV) decided last Tuesday, August 3, to cancel a vote on oil spill legislation (S. 3663) after he became concerned that there would be several Democratic defections, renewable energy supporters are preparing to bring the legislation to a vote when the Senate returns in September. Neither the Democrats' bill nor the Republican alternative (S. 3643) was expected to garner the 60 votes needed to break a filibuster and allow debate to begin last week.

The four-titled bill included pieces to reform the offshore drilling regulations and provide \$15 billion for the Home Star energy efficiency program, natural gas and electric vehicles and infrastructure, and the Land and Water Conservation Fund. After opposing the elimination of the damages liability cap, Senators Mary Landrieu (D-LA) and Mark Begich (D-AK) spent much of last week working with Senator Robert Menendez (D-NJ) on compromise language to send to Majority Leader Reid, and will continue negotiations in September that may be included in a fall package.

It is also possible that a broader measure might move forward in the fall. Various Congressional offices, renewable energy industry groups, and environmental organizations are pushing for the inclusion and expansion of items ranging from a renewable electricity standard to the Advanced Energy Manufacturing Tax Credit, grants in lieu of tax credits program, HomeStar language, and the Green Bank. And Majority Leader Reid said last week that he is still open to the inclusion of items that have enough support for passage. When the energy debate does occur, Senate leadership agreed last week to allow Senator Jay Rockefeller to try to include a measure to the package that would delay the EPA from regulating greenhouse gases under the Clean Air Act for two years.

With the November elections looming and a packed legislative calendar, the Senate will have to move quickly on a package once they return from the August recess, and some predict that Majority Leader Reid will move to an even smaller bill than the most recent oil spill draft.

Congress

Senate Advances State Aid Legislation

Last Thursday, in addition to confirming Elena Kagan to the Supreme Court, the Senate passed a \$26 billion state aid bill. To help offset the package, which expands matching funds for Medicaid and authorizes federal aid to prevent teacher layoffs, the bill included a provision to rescind \$1.5 billion in Department of Energy 1705 loan guarantee funding. The House will briefly return from their August recess the week of the 9th in order to vote on the bill, and the 1705 language is expected to remain intact. The \$6 billion loan guarantee program has previously been reduced by \$2 billion to fund an extension of the Cash for Clunkers rebate program last year, but House and Senate leadership have both promised to eventually restore the loan guarantee funding.

Banking Panel Approves Livability Legislation

On Tuesday, August 3, the Senate Banking, Housing, and Urban Affairs Committee approved Chairman Chris Dodd's (D-CT) livable communities proposal (S. 1619). The legislation would create an Interagency Council on Sustainable Development to assist the Obama administration's livability philosophy and offer up to \$2.2 billion in grants to communities engaging in smart growth planning. Congressman Ed Perlmutter (D-CO) has introduced a companion bill in the House (H.R. 4690), but no hearings have yet been held on the measure.

Energy Committee Approves Six Measures

The Senate Energy and Natural Resources Committee approved six measures August 5 during a brief markup. Approved legislation included Senator Jon Tester's (D-MT) Energy Efficient Manufactured Housing Act (S. 1320), Senator Susan Collins' (R-ME) Heavy Duty Hybrid Vehicle Research, Development, and Demonstration Act (S. 679), Senator Kirsten Gillibrand's (D-NY) Gas Turbine Efficiency Act (S. 2900), and Congressman Ed Markey's (D-MA) GRID Act (H.R. 5026). Because of a parliamentary hitch, the Committee also readopted two bills it had approved in July: Senator Jeff Bingaman's (D-NM) Supply Star Act (S. 3396), and Senator Bernie Sanders' (I-VT) 10 Million Solar Roofs Act (S. 3396).

Legislation Introduced

On August 4, Senator David Vitter (R-LA) introduced legislation (S. 3699) to prohibit the regulation of carbon dioxide emissions in the US until China, India, and Russia have implemented similar reductions.

The next day, Senator John Kerry (D-MA) introduced the Clean Energy Technology Leadership Act (S. 3738). The bill amends the Internal Revenue Code of 1986 to provide incentives for clean energy manufacturing to reduce emissions, produce renewable energy, and promote conservation. The legislation, which Senator Kerry describes as a first step in light of the failure to move on comprehensive climate legislation, includes tax incentives for a broad group of clean energy initiatives, including solar energy, energy efficient homes, biodiesel, cellulosic biofuels, and natural gas as a fuel.

The same day, Senators Kent Conrad (D-ND) and Orrin Hatch (R-UT) introduced legislation (S. 3714) to provide tax incentives for clean coal technology.

Also on August 5, Senators Debbie Stabenow (D-MI), Maria Cantwell (D-WA), Claire McCaskill (D-MO) and Sherrod Brown (D-OH) introduced legislation (S. 3715) to modify certain tax incentives for alternative vehicles and establish a battery insurance program within the Department of Energy.

Senators Kirsten Gillibrand (D-NY) and Mike Johanns (R-NE) introduced legislation (S. 3716) to provide a tax incentive for the installation and maintenance of mechanical insulation property.

Senator Jim Inhofe (R-OK) introduced legislation (S. 3736) to amend the Clean Air Act to allow states to opt out of the corn ethanol portions of the renewable fuel standard.

Senators Jeff Bingaman (D-NM), Jeanne Shaheen (D-NH), Barbara Boxer (D-CA), and Dianne Feinstein (D-CA) introduced legislation (S. 3746) to amend the Energy Policy Act of 2005 to improve the loan guarantee program of the Department of Energy under title XVII of the Act.

Senators Byron Dorgan (D-ND), Tim Johnson (D-SD), John Thune (R-SD), Jon Tester (D-MT), Tom Udall (D-NM), and Al Franken (D-MN) introduced legislation (S. 3752) to streamline Indian energy development, enhance programs to support Indian energy development and efficiency, and make technical corrections.

Senators Bingaman, Boxer, and Feinstein introduced legislation (S. 3759) to authorize the Secretary of Energy to issue conditional commitments for loan guarantees under certain circumstances.

Senator Mary Landrieu (D-LA) introduced legislation (S. 3763) to improve safety and preparedness surrounding offshore energy production and to respond to April's Gulf of Mexico oil rig blowout and explosion.

Upcoming Hearings

The Senate will be in recess until September 13. After a brief return from their recess this week, the House will be in recess until September 14.

Administration

GAO Finds Ineffective Inventories

The Government Accountability Office released a report, *The Quality, Comparability, and Review of Emissions Inventories Vary Between Developed and Developing Nations*, last Thursday, August 5. In a study of the seven highest emitting developed and developing nations, the GAO found that GHG inventories in developed nations tend to be up to date and effective, while systems for developing countries are of poorer quality and could become a hurdle during international climate change negotiations.

Department of Energy

\$1 Billion to FutureGen Project

The Department of Energy announced last Thursday, August 5, that it will redesign the FutureGen project, a public-private partnership to design, construct, and operate a low-emissions coal-fired power plant with carbon capture and storage in southern Illinois. The Department will award \$1 billion for its construction to the FutureGen Alliance, Ameren Energy Resources Co., Babcock & Wilcox Co., and Air Liquide Process & Construction Inc. to build FutureGen 2.0.

Loan Guarantee Solicitation Extended

The Department of Energy announced August 5 that it would extend the renewable energy loan guarantee solicitation in order to invited more projects to break ground in the U.S. Companies will have an additional six weeks, until October 5, to submit Part I of the application and Part II will be due December 31.

\$188 Million to Small Businesses

On Monday, August 2, the Department of Energy announced that it will award \$188 million to small businesses in 34 states to develop clean energy technologies with potential for commercialization. Last week's announcement of Phase II of DOE's Small Business Innovation Research program and Small Business Technology Transfer program provides funding for 201 projects in 76 targeted renewable energy, energy efficiency, and smart grid topics.

\$17 Million for Battery Energy Storage

Last Monday the Department of Energy offered a \$17.1 million conditional loan guarantee to AES Energy Storage in New York to support the construction of a 20 MW energy storage system using advanced lithium-ion batteries.

Ocean Energy Research Center Designated

The Department of Energy last Tuesday designated Florida Atlantic University a national center for ocean energy research and development. With a \$250,000 award, the new Southeast National Marine Renewable Energy Center joins centers in the Pacific Northwest and Hawaii that also work to advance the operational readiness of ocean energy technologies.

Solar Incubator Proposals Requested

The Department of Energy last Monday announced that it is seeking project proposals from companies to invest up to \$11 million in solar energy technology development and commercialization. In its fourth installment of the Photovoltaic Technology Incubator program, it will aim to shorten the timeline for companies to transition prototype and pre-commercial PV technologies into pilot and full-scale manufacture.

Environmental Protection Agency

24 Lawsuits against Tailoring Rule

Prior to the August 2 deadline for filing lawsuits against the EPA's greenhouse gas tailoring rule, 24 environmental and industry organizations and states filed with the U.S. Court of Appeals for the District of Columbia Circuit. In addition to suits from the Chamber of Commerce and the State of Alabama, the Center for Biological Diversity and the Sierra Club, among other states and organizations, opposed the EPA's rule for a broad range of reasons.

Miscellaneous

OR Amends Business Energy Tax Credit

The Oregon Department of Energy recently amended existing rules and adopted new rules for administration of the business energy tax credit to implement amendments made by H.B. 3680. The credit covers a range of activities aimed at energy conservation.

UNFCCC Calls for Leadership

Christiana Figueres, the new Executive Secretary of the United Nations Framework Convention on Climate Change called August 2 for delegates to exceed expectations as they develop a climate change treaty to follow the Kyoto Protocol. She also urged industrialized countries to follow through on their pledges to provide adaptation financing for developing nations. Following her comments, the talks concluded August 6 with a new negotiation document from a working group on extending the Kyoto protocol by little significant progress in other areas. During the talks, Bolivia's delegation proposed that national targets to reduce GHG emissions should be set according to a worldwide budget that would limit global warming to 1.5 to 2 degrees compared to pre-industrial levels by 2050. Allocations would be based on a country's population and its historical responsibility for GHGs already in the atmosphere. The next talks, the final set of large-scale U.N meetings before the Mexico summit, will take place in Tianjin, China, October 4-9.

RGGI Unveils Falling Allowance Prices

The Regional Greenhouse Gas Initiative released a report August 4 that showed emissions allowance prices dropping an average of 41 percent over the first year of the program with trading largely restricted to capped utilities. The regional program, which covers 10 New England and Mid-Atlantic States, began auctioning allowances at the beginning of 2009.

\$2 Million to Reduce Diesel Emissions

The Greater Boston area commuter rail system agreed last Wednesday to spend \$2 million to reduce diesel locomotive emissions and pay a \$225,000 fine to settle allegations that the system violated the Clean Air Act.

Report Urges Federal and Local Climate Cooperation

The Presidential Climate Action Project released a report last Thursday that called on the Obama Administration to work with state and local governments to promote clean energy and transportation infrastructure, including by eliminating federal subsidies for fossil fuels. The Plan B: Near-Term Presidential Actions for Energy and Environmental Leadership report details five steps, including working with local governments, reducing energy waste, developing an energy efficient national transportation policy, eliminating fossil energy subsidies, and prioritizing ecosystem restoration, that the Obama administration can take administratively to address climate change without Congressional legislation.

NC Promotes Renewable Energy for Former Industry Sites

North Carolina Governor Bev Perdue (D) signed legislation (S.B. 886) last Thursday that authorizes the establishment of cleanfields renewable energy demonstration parks at former manufacturing sites that are or may be subject to cleanup under the federal superfund law. Power companies that purchase cleanfield generated energy will qualify for three times the renewable energy credits than they would otherwise receive under existing state law.