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ENERGY AND ENVIRONMENT UPDATE
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Energy and Climate Debate

Though many believed that little would move this Congressional session, and participants in the energy debate had seemingly grown tired after numerous attempts to move climate or clean energy legislation this year, Senators Jeff Bingaman (D-NM), Sam Brownback (R-KS), Susan Collins (R-ME), and Byron Dorgan (D-ND) introduced the Renewable Electricity Promotion Act of 2010 (S. 3813) Tuesday, September 21st. The bill has the same targets and timeframes for renewable energy deployment as the RES in the American Clean Energy Leadership Act (S. 1462), which was reported out of the Senate Energy Committee last summer, but with 2012 as the first target year rather than 2011 due to the fact that a year has elapsed since the previous legislation was the focus of Senate energy debates.

Though it is uncertain what will come of Tuesday's announcement, the renewable electricity standard (RES) has been gaining momentum for the past couple of months. Just before the August recess, a group of 32 senators sent a letter to Senate Majority Leader Harry Reid (D-NV) calling on him to include a strong renewable electricity standard in any energy legislation that moves forward this Congress. Since then, a diverse group of renewable energy, labor, agricultural and environment organizations have worked with additional Senate offices to garner additional support for passing an RES this Congress. Last Monday, the Governors' Wind Energy Coalition called on the Senate to pass a national renewable electricity standard, and two days later the RES Alliance for Jobs announced it would back a proposal to require utilities to obtain 15% of their power from renewable energy sources by 2021. Following a report last week that demonstrated that the U.S. had lost more than \$11 billion in clean energy investments to China and other leading nations since the Senate dropped efforts to approve comprehensive clean energy legislation, and specifically an RES, numerous other organizations and companies have endorsed passage of a national RES this year. The Senators were joined by a bipartisan group of 18 additional original cosponsors, and more are expected in the days to come.

In addition to an RES, four other pieces remain options for inclusion in a small energy package or other legislative vehicle this year, including an expansion of the 48C Advanced Energy Manufacturing Tax Credit, a one-year extension and possible expansion of the 1603 grants in lieu of tax credits program, the creation of a HomeStar energy efficiency program as well as a green bank such as the Clean Energy Deployment Administration. Efforts are also underfoot to delay the EPA from regulating greenhouse gas emissions under the Clean Air Act.

In fact, Senator Jay Rockefeller (D-WV) said last week that he is confident that he has 53 votes for his amendment to delay EPA from regulating greenhouse gas emissions under the Clean Air Act for two years, and that he believes that he can secure at least seven more votes to support his measure. The Interior and Environment Appropriations Subcommittee was scheduled to markup the Interior and EPA spending bill last week, but decided to postpone the effort because several Appropriations Committee members, including Subcommittee Chair Dianne Feinstein (D-CA), did not want the delay measure offered as an amendment.

In other news, the Senate failed to get cloture on the fiscal year 2011 defense authorization bill yesterday, effectively deferring until after the elections debate on issues such as immigration and the repeal of "Don't Ask Don't Tell." Senator Kit Bond (R-MO) was said to have considered offering an amendment to the legislation that would have delayed the EPA from regulating greenhouse gasses (GHGs) under the Clean Air Act for two years. Additionally, early last week, the Senate Defense Appropriations Subcommittee approved \$125 million for research and development of alternative energy as a part of the legislation, language that was included in the text that reached the Senate floor.

Timing on any legislation this Congress is uncertain. With just a couple of weeks left in this legislative session, and facing an increasingly partisan climate, some contend that any hope for moving energy policy this year will have to rely on the progress made between now and a lame duck session, during which Majority Leader Reid has indicated that he is open to considering a small energy bill.

Senate

Tax Extender Measure Floated

Senate Finance Committee Chairman Max Baucus (D-MT) floated legislation last week that would pay for the retroactive extension of several expired energy tax credits by raising an oil industry spill liability tax fund ninefold. The measure would, among other things, extend for one year a biodiesel production tax credit, an alternative transportation fuel credit, a steel industry fuel tax credit, and a direct payment in lieu of energy-efficient appliance tax credits to manufacturers, as well as restore \$1.5 billion to the Department of Energy's loan guarantee program by raising the Oil Spill Liability Trust Fund tax from eight cents to 78 cents a barrel.

Legislation Introduced

Senators Jeanne Shaheen (D-ND) and Mary Landrieu (D-LA) introduced legislation (S. 3780) September 14th to establish a building efficiency retrofit loan credit support program, a state building revolving fund grant program, and a commercial and large building grant program.

Senator Kirsten Gillibrand (D-NY) introduced legislation (S. 3787) September 15th to amend the Internal Revenue Code of 1986 to extend and modify the benefits available in empowerment zones and other tax-incentive areas to require the Secretary of Commerce to establish a program for the award of grants to states to establish revolving loan funds for small and medium sized manufacturers to improve energy efficiency and produce clean energy technology, to amend the Internal Revenue Code of 1986 to provide a tax credit for farmers' investments in value-added agriculture.

Senators Ron Wyden (D-OR) and Mike Crapo (R-ID) introduced legislation (S. 3788) to amend the Internal Revenue Code of 1986 to temporarily increase the investment tax credit for geothermal energy property. The measure raises an existing investment tax credit from 10% to 30% through 2016, bringing it to the level of renewable tax credits for the solar and fuel cell industries. Congressman Earl Blumenauer (D-OR) introduced identical companion legislation (H.R. 5612) this summer.

Senator David Vitter (D-LA) introduced legislation (S. 3792) to provide for restoration of the coastal areas of the Gulf of Mexico affected by the Gulf Coast oil spill.

Upcoming Hearings

The Senate Energy Committee will hold a hearing September 23rd on the Department of Energy's Loan Guarantee Program. The committee will examine the program's impact on the deployment of clean energy technology.

House

\$100 Million Requested in Oversight Funding

President Obama asked Congress September 14th to increase the budget for offshore drilling regulation by \$100 million and pay for it by doubling drilling inspection fees and canceling an oil and gas research and development program. Following an announcement from Interior Secretary Ken Salazar the previous

week, President Obama sent a letter to House Speaker Nancy Pelosi (D-CA) asking the House to amend the Interior Department's proposed fiscal year 2011 budget to include the additional money for oversight.

House Passes Rural Star Legislation

The House voted (240-172) September 16th to pass the Rural Energy Savings Program Act (H.R. 4785). The legislation establishes an almost \$5 billion consumer loan program administered by the nation's electric cooperatives to retrofit homes in rural communities with energy-efficiency improvements. The bill would authorize Congress to appropriate \$993 million to jump-start the loans. Senators Lindsey Graham (R-SC) and Jeff Merkley (D-OR) introduced similar legislation in the Senate that has not yet been taken up by the Agriculture Committee.

Legislation Introduced

Congressman Steve Scalise (R-LA) introduced legislation (H.R. 6112) September 14th to provide for restoration of the coastal areas of the Gulf of Mexico affected by the Deepwater Horizon oil spill.

Congressmen Jim McDermott (D-WA), Earl Blumenauer (D-OR), Earl Pomeroy (D-ND) and Linda Sanchez (D-CA) introduced legislation (H.R. 6117) to amend the Internal Revenue Code of 1986 to repeal the limitation on the issuance of new clean renewable energy bonds and to terminate eligibility of governmental bodies to issue such bonds.

Congressman Frank Pallone (D-NJ) introduced legislation (H.R. 6119) to amend the Federal Water Pollution Control Act to ensure safe and proper use of dispersants in the event of an oil spill or release of hazardous substances.

Congressman Ed Pastor (D-AZ) introduced legislation (H.R. 6120) to direct the Secretary of Commerce to establish a technology deployment and early-state business investment grant program.

Congressman Joe Sestak (D-PA) introduced legislation (H.R. 6121) to amend the Internal Revenue Code to extend the production tax credit and investment tax credit to increase the investment tax credit with respect to equipment used to generate electricity by geothermal power and to extend specified energy property grants under the Recovery Act.

Congressmen Joe Barton (R-TX), Michael Burgess (R-TX), and Marsha Blackburn (R-TN) introduced legislation (H.R. 6144) September 16th to repeal certain amendments to the Energy Policy and Conservation Act with respect to lighting energy efficiency.

Upcoming Hearings

The House Select Committee on Energy Independence and Global Warming will hold a hearing September 22nd titled "The Global Clean Energy Race." Later that day, the Committee will examine the relationship between climate change and extreme weather events.

The same day, the House Homeland Security Committee will hold a hearing to examine the Department of Homeland Security's planning and response in light of the Gulf Coast oil spill.

The Economic Development, Public Buildings, and Emergency Management Subcommittee of the House transportation and Infrastructure Committee will hold a hearing to discuss the status of and lessons learned from Hurricane Katrina clean-up efforts.

The Science and Technology Committee will mark up legislation on nuclear energy research and development on rare earth minerals September 23rd.

Additionally, the House will consider the recently passed (61-38 on September 16th) Senate version the Senate Business Lending Fund Act (H.R. 5297) this week. The legislation would create a \$30 billion lending pool for small community banks and offer tax incentives for small businesses.

Administration

FTC to Release Revised Green Guides

The Federal Trade Commission said last week that it will soon release revisions to the Guides for the Use of Environmental Marketing Claims. The Green Guides, which have not been updated since 1998, are expected to address new terms used in environment-focused marketing, including "carbon neutrality," and "sustainability," as well as offer guidelines on the sale of carbon offsets and renewable energy certificates.

Review of GHG Permitting Guidelines Underway

The White House received long-anticipated draft guidance from the EPA about how large industrial sources will be required to reduce their greenhouse gas emissions under new climate regulations last Friday, September 20th, and has begun its review. The document will serve as an early indication of how aggressively the agency will pursue GHG reductions from large industrial facilities when GHG regulations take effect in January.

Department of Energy

Efficiency Standard Enforcements Proposed

The Department of Energy proposed September 16th to expand its authority to enforce energy efficiency standards as part of a planned overhaul of its energy conservation programs. The proposed rule would allow the DOE to initiate enforcement actions to verify the energy use data of appliances and industrial equipment covered under the Energy Policy and Conservation Act of 1975. Currently, the Department may only initiate these actions after receiving a written complaint that a covered product may be violating the standards. Three days earlier, the agency announced that it has proposed penalties of over \$3.5 million against 27 companies that allegedly sold products without verifying that they comply with energy efficiency or water conservation standards.

DOE Holds Offshore Wind Webinar and Announces Seminars

The Department of Energy Wind Powering America Program September 16th conducted a webinar and announced that it will host two seminars called "Creating an Offshore Wind Industry in the United States: A National Vision and Call to Action." The events will outline the vision the Office of Energy Efficiency and Renewable Energy has developed to guide the country in creation of a world-leading offshore wind industry.

Countries Host Renewable Energy and Energy Efficiency Seminar

The Department of Energy and the Kazakhstan Ministry of Industry and New Technologies, under the direction of the US-Kazakhstan Energy Partnership, hosted a seminar September 3rd to address barriers and incentives for renewable energy and energy efficiency. Renewable energy conversations focused on the economic value of developing Kazakhstan's renewable energy potential, methods to address barriers to renewable energy, and use of analytical tools to map wind resources potential while energy efficiency discussions explored ways to implement an energy management program, surveyed industrial energy efficiency tools and standards, and described techniques to conduct plant assessments and identify energy saving opportunities.

\$20 Million to Boost Geothermal Technologies

On September 15th, Energy Secretary Steven Chu announced \$20 million to research, develop, and demonstrate cutting-edge geothermal technologies that could reduce U.S. demand for fossil fuels, significantly reduce GHG pollution, and create new jobs in geothermal manufacturing and operations. Awards were announced for projects in low temperature geothermal fluids, geothermal fluids produced from oil and gas wells, and highly pressurized or geopressured fluid.

\$57 Million for Small Business Technology Commercialization

Energy Secretary Steven Chu awarded \$57 million last Wednesday to support clean energy technology commercialization for 33 small businesses across the country. The projects are funded as part of the agency's Small Business Phase III Xlerator program.

\$5 Million for Wind Energy Development

The Department of Energy awarded a total of \$5 million to five projects September 13th to support domestic wind energy development. The projects will improve short term wind forecasting, which will accelerate the use of wind power in electricity transmission networks by allowing utilities and grid operators to more accurately forecast electricity generation from wind power and increase the speed and scale of midsize wind turbine technology development and deployment.

Environmental Protection Agency

Eighty Percent of States on Track

The National Association of Clean Air Agencies released a report September 15th showing that states are moving swiftly towards issuing GHG emission permits by January 2nd, 2011, the state date for GHG permitting under the Clean Air Act and rules developed by the EPA. The agency issued a tailoring rule in May, which required states to initially issue GHG permits to only the largest polluters and required states to submit letters describing their progress by early August. These letters indicate that roughly 80% of states are on track to meet the early 2011 deadline.

Climate Leaders Program to Phase Down

The EPA said September 15th that it will phase down technical assistance and other services it offers under Climate Leaders, a voluntary program that assists companies in developing strategies to quantify and reduce their GHG emissions. The EPA will encourage its industry partners, many of whom have reported to the program since its 2002 inception, over the next year to switch to similar climate programs operated by states and non-government organizations.

Maximum Achievable Control Technology (MACT) Proposal Could Eliminate Thousands of Jobs

The Economic Impact of Proposed EPA Boiler/Process Heater MACT Rule on Industrial, Commercial, and Institutional Boiler and Process Heater Operators report from the Council of Industrial Boiler Owners found September 15th that a proposed EPA rule that would establish hazardous air pollutant emission standards for boilers and process heaters could eliminate 337,703 jobs, an estimate several times more than EPA initial projections. The American Forest and Paper Association also predicted significant job losses last week.

Groups Ask Court to Stay EPA GHG Regulations

State, industry, and congressional petitioners September 15th asked the U.S. Court of Appeals for the District of Columbia Circuit to stay a series of EPA rules establishing GHG emissions limits for cars, light trucks, and stationary sources. Should the stays be granted, EPA rules would halt the agency's efforts to establish mandatory emissions control requirements for GHGs under the Clean Air Act.

\$10 Million for Innovative Vehicles

The EPA awarded \$10 million to three teams September 16th that have designed highly efficient vehicles as part of the Progressive Insurance Automotive X Prize. The prize, awarded to vehicles that achieve fuel economy ratings greater than 100 miles per gallon and are ready for production, went to one ethanol-powered vehicle and two electric vehicle designs.

Thirty-Six Governments to Discuss GHG Reductions

EPA Administrator Lisa Jackson will join ministers from the Methane to Markets Partnership countries in Mexico City on October 1st to discuss methods to encourage global action to reduce methane emission sources and identify possible additional resources to achieve this goal.

Clean Air Act Turns 40

The EPA commemorated the 40th anniversary of the Clean Air Act last week by highlighting significant health and environmental progress made under the 40 years of the Clean Air Act. The legislation has resulted in improved air quality and public health, cleaner cars, trucks, and transportation, reductions in acid rain and industrial toxic air pollution, cleaner power plants, and significant economic and health benefits.

Federal Energy Regulatory Commission

Federal Energy Regulatory Commission (FERC) Chair Applauds Demand Response Plan

FERC Chairman Jon Wellinghoff urged support for a national demand response program for wholesale electricity September 14th. The program would create a national standard for compensating wholesale electricity customers who reduce their energy use with the goal of lowering peak demand for energy, thereby reducing the need to construct expensive generation units.

Personnel

The Department of Energy announced September 17th that Undersecretary of Energy Kristina Johnson and Matt Rogers, who advises Energy Secretary Steven Chu on implementing energy programs created by the 2009 Recovery Act, are leaving. Cathy Zoi, who currently serves as Assistant Secretary for Energy Efficiency and Renewable Energy, will become acting Undersecretary after Ms. Johnson leaves next month.

The Senate Homeland Security and Governmental Affairs committee voted unanimously September 21st to approve Jack Lew's nomination to serve as the White House Office of Management and Budget. The Senate Budget Committee, which held a confirmation hearing last Thursday, has not yet scheduled a vote, but hopes to move on the nomination this week.

The World Bank appointed University of California energy professor Daniel Kammen September 10th to be the organization's chief technical specialist to provide strategic leadership on renewable energy and energy efficiency. Dr. Kammen is the founding director of the Renewable and Appropriate Energy Laboratory, co-director of the Berkeley Institute of the Environment, and director of the Transportation Sustainability Research Center.

Miscellaneous

Morocco Invests in Solar

Positioning itself to become North Africa's leading provider of renewable energy, Morocco has begun aggressive investment plans, projected of upwards \$510 billion, in large-scale solar thermal farming. By 2050, roughly 15% of European energy could be generated by wind and solar-thermal power in North Africa and parts of the Middle East.

Aviation Biofuels Advance

Global aviation representatives said September 16th that important advancements have been made in the development of biofuels for use in commercial jets, but they admitted significant barriers remain to their widespread production and sale. The air transport sector is under pressure to reduce GHG emissions, and industry representatives expect the movement to receive a boost with the expected full certification of aviation biofuel for commercial use in early 2011.

Court Blocks California Rail Yard GHG Reductions

The U.S. Court of Appeals for the Ninth Circuit ruled September 15th that federal interstate commerce laws preempt two measures to curb locomotive idling at 19 rail yards in the Los Angeles area and a third measure that would have required the facilities to develop an emissions inventory and assess the health risks of diesel emissions pose to nearby residents.

TVA Eyes Energy Shift Strategies

According to a 20-year draft plan the Tennessee Valley Authority released September 16th, the authority is likely to continue expanding nuclear generation in the future, with the potential for nuclear to overtake coal as the leading energy source. The TVA is considering three of five final planning strategies to determine how to continue providing electricity to approximately 9 million people throughout the Southeast.

California Energy Commission Grants Solar License

The California Energy Commission approved a license September 15th to build and operate the 1,000 MW Blythe Solar Power Plant in Riverside County. The action is the third such licensing in as many weeks.

Report Finds 20% Renewable Portfolio Standard Possible in California

The California Independent System Operator Corporation completed an analysis September 17th that demonstrates the ability of California's power grid to cope with an increasing level of electricity from renewable sources. The report found that that California's grid can reliably integrate a 20% renewable portfolio standard.

MIT Suggests Nuclear Storage

The Massachusetts Institute of Technology's Nuclear Power Study Group found last Thursday that the U.S. needs interim storage facilities where spent nuclear fuel can be housed safely for 100 years rather than recycling the fuel. The report comes as the Obama administration's Blue Ribbon Commission on America's Nuclear Future deliberates on potential policy options for managing high-level radioactive waste from nuclear power plants, with recommendations due in 2012.

Midwestern Greenhouse Gas Reduction Accord Stalls

Since six Midwestern governors signed onto the Midwestern Greenhouse Gas Reduction Accord three years ago, little regional progress has occurred, leaving states to take steps on their own to deal with the issue. Governors of Iowa, Illinois, Kansas, Michigan, Minnesota, and Wisconsin, along with the Canadian premier of Manitoba signed onto the 2007 accord, and governors from Indiana, Ohio, South Dakota, and Ontario signed on as observers to the process. The Association is hosting a meeting September 21-22nd to discuss how to improve the investment climate and will discuss the new energy economy.

Hong Kong Proposes Carbon Intensity Reductions

Hong Kong's Environmental Department Secretary announced September that it is seeking public comment on a proposed climate change strategy that includes reducing its carbon intensity by 50-60% below 2005 levels by 2020. As part of its climate strategy, the consultation document includes proposals for increasing energy efficiency, encouraging the use of environmentally friendly transportation, adopting cleaner fuels, and using waste to generate energy.

Chinese Provinces Restrict Electricity Use

Provincial and local governments in China have been taking steps to reduce energy consumption the past several months, including raising electricity taxes, imposing punitive rates on over-consuming businesses, and ordering rolling blackouts for businesses and residents in some areas. The measures come after the State Council called on regional and local governments in May to craft policies to reduce energy intensity as a part of the nation's 11th Five-Year Plan, which established a goal to reduce energy intensity 20% compared to 2005 levels by 2010.