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ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Legislation

Last week, Senators John Kerry (D-MA), Lindsey Graham (R-SC), and Joseph Lieberman (I-CT) announced that will unveil their compromise climate legislation on April 26. Though the trio had initially planned to introduce it this week, the week of, but not on, Earth Day, they are still working out some of the major points of contention around manufacturing and trade issues as well as allocation decisions. The legislation is expected to include caps on greenhouse gas emissions from power plants beginning in 2012, with a phase-in of manufacturing beginning in 2016, and a separate carbon-linked fee on transportation fuel. The legislation may also include a \$10 per ton price floor and \$30 per ton price ceiling on the cost of emissions permits.

With the passage of healthcare policy, many believed that all other major issues would be left unattended through the elections, but with the bipartisan leadership of the trio, as well as quiet support from the Administration, including via talks last week with environmental groups and the Chamber of Commerce, and fear among industry officials that the EPA would begin regulating greenhouse gas emissions from stationary sources beginning in 2011, it is becoming increasingly possible that the Senate could pass a moderate climate bill this year.

There is some belief that the three Senators may leave some key issues undecided, including the portion of free allowances that would be set aside for trade-sensitive manufacturers, as well as what offsets might be permitted under the bill.

When the bill is unveiled, it will likely bypass the committee process and instead be managed by Senate Majority Leader Harry Reid (D-NV) as he works to combine the climate bill with last year's energy bill and other related provisions. In order to bypass the committee process, the trio is likely to unveil their legislation to the public for discussion first before officially introducing it.

Senator Sherrod Brown (D-OH) and eight manufacturing and coal state Democrats sent a letter to the trio last week listing a number of industry protections they believe crucial for a successful climate bill, and ultimately, for the their support for such a bill. Meanwhile, both Senators Maria Cantwell (D-WA) and Susan Collins (R-ME) continue to express frustration that their support is being taken for granted, since both believe that their shorter consumer-protection focused climate bill is the better course of action. Senators Frank Lautenberg (D-NJ) and Bob Menendez (D-NJ) said last week that they would oppose any legislation that supported offshore drilling. In a road to 60 votes, the trio of Senators will have to gather five to six Republicans along the way to compensate for a few likely Democrat defections, but there are at least 25 undecided fence sitters at present.

Climate legislation will battle for floor time with financial services reform, jobs and tax extenders bills, and a Supreme Court judicial nominee all on the schedule before the end of summer. Justice John Paul Stevens is expected to retire at the end of the court term this summer, and the Administration hopes to have a successor in place before the Court returns in October.

On the international front, the search is underway for a new Executive Secretary of the UNFCCC when Yvo de Boer steps down on July 1. Thus far, eleven countries have nominated individuals for the post, though only seven names have been made public thus far. Christiana Figueres of Costa Rica appears to be the front runner for the position, and other known nominees include Maria Fernanda Espinosa of Ecuador, Tariq Banuri of Pakistan, Janos Pasztor of Hungary, Marthinus van Schalkwyk of South Africa, Vijai Sharma of India, and Elizabeth Thompson of Barbados.

UN Secretary-General Ban Ki-moon will work with top UNFCCC officials to name the new Executive Secretary, and though no final date for an appointment has been given, most expect the announcement to be made in late May or early June.

Senate

Ohio's Brown Wants DOE Action on Gas Prices

Senator Sherrod Brown (D-OH) sent a letter April 13 to Energy Secretary Steven Chu urging him to prevent rising gas prices from further harming American families struggling in a down economy. He requested that the Secretary seek proactive solutions to prevent a summer price spike, and also asked him to further energy independence by promoting domestic clean energy research, development, and production.

Energy Committee to Add Additional Efficiency Standards

Senate Energy Committee Democrats are weighing the option of adding additional energy efficiency standards to an energy policy when it comes to the floor. The Committee included several energy efficiency standards for various appliances in S. 1462, but they may update the language to include standards for items ranging from street lights to hot tubs that are parts of several separate energy efficiency related bills that have been introduced since the Committee approved the energy bill last summer. The Committee plans on holding a hearing on additional energy standards in the near future.

Led by Growth Energy, the ethanol industry is hoping the legislation will amend the EPA's renewable fuel standard to allow corn ethanol to qualify as an advanced biofuel and temporarily bar the EPA from considering the climate impact of international land use changes when setting the RFS.

Upcoming Hearings

On Tuesday, April 20, the Senate Energy and Natural Resources Committee will hold a hearing on carbon capture and storage legislation including S. 1856, S. 1134, and other bills. Witnesses will include DOE Assistant Secretary of Fossil Energy Jim Markowsky, Department of Interior Assistant Secretary for Water and Science Anne Castle, Joan MacNaughton, Senior Vice President for Alstom Power, Ben Yamagata, Executive Director of the Coal Utilization Research Council, Mark Brownstein, Deputy Director of the Environmental Defense Fund, Kurt House, CEO of C12 Energy, and Adam Vann, Legislative Attorney at the Congressional Research Service.

House

House GOP Request Hearing on Administration Offshore Drilling Plan

The 20 Republican members of the House Natural Resources Committee signed a letter last week asking for a hearing on the Obama Administration's recently announced plan for oil and gas development in US waters. The group believes that the Administration's plan actually blocks drilling on the majority of the outer continental shelf and delays other projects that are already underway. Committee Chairman Nick Rahall (D-WV) is already planning to call for such a hearing later this spring.

Ways and Means Committee Holds Energy Tax Hearing

The House Ways and Means Committee held a day-long hearing on energy taxes. During the hearing, Acting Chairman Sandy Levin (D-MI) said that the comprehensive discussion was intended to lay the groundwork for legislation to promote the Administration's clean energy goals, including paving the way for a green jobs bill later this year, as well as building a domestic manufacturing base for renewable

energy. Two of the most discussed issues included the oversubscribed and successful Advanced Energy Manufacturing Tax Credit and the 1603 grants in lieu of tax credits program.

The Joint Committee on Taxation released a report just prior to the hearing outlining energy-related tax provisions and changes proposed in President Obama's fiscal year 2011 budget.

Select Committee Hosts Coal CEOs for Hearing

The House Select Committee on Energy Independence and Global Warming held a hearing last Wednesday on coal's place in a clean energy economy. Top industry executives from Arch Coal Inc., Peabody Energy Corp, and Rio Tinto testified amidst some heckling and found themselves divided on several key policy questions. Though all three said that coal will provide the fuel of the future, and that federal funding for carbon capture and storage technology is essential, Peabody believes that Congress should wait to limit carbon emissions until CCS technology is commercially viable sometime in the 2020s, while Rio Tinto is a founding member of USCAP, and Arch Coal, too, believes that the coal industry is better served by participating in climate negotiations than refusing to collaborate with regulators who may create harsher restrictions without their participation.

Subcommittee Hearing on Climate Adaptation in Africa

The Africa and Global Health Subcommittee of the House Foreign Affairs Committee held a hearing last Thursday on the steps the United States is taking to help Africa adapt to the effects of climate change. Jonathan Pershing, Deputy Special Envoy for the State Department, Franklin Moore, Deputy Assistant Administrator for the Bureau of Africa at USAID, Leon Rajaobelina, Chairman of the Madagascar Foundation for Protected Areas and Biodiversity, and Fred Boltz, Senior Vice President for Conservation International, testified. Many impoverished nations in Africa are among those most at risk to the drought, desertification, and floods that could accompany climate change. These most vulnerable developing countries will receive priority for the \$30 billion in financing promised by wealthy countries over the next three years as part of the Copenhagen Accord.

Science and Technology Subcommittee Approves Research and Development Funding

The Research and Science Education Subcommittee of the House Science and Technology Committee approved by voice vote April 14 a \$48 billion research and development funding bill for the National Science Foundation that includes boosts in funding for innovative technology and manufacturing research. This move is part of the process for reauthorizing language for the 2007 America COMPETES Act.

Big Week for Home Star Legislation

A day after Congressmen Welch, Ehlers, Markey, Waxman, and Cardoza introduced the Home Star Energy Retrofit Act (H.R. 5019), the House Energy and Commerce Committee approved the legislation April 15 by a vote of 30 to 17. The bill, very similar to companion legislation (S. 3177) introduced by Senator Bingaman in late March, establishes a \$6 billion two-tiered homeowner energy efficiency program and is expected to create 170,000 jobs and save homeowners \$10 billion on their energy bills over the next decade. The program may be included in a green jobs bill or upcoming energy or climate legislation.

CHP Tax Credits in Green Jobs Bill

A group of 90 business, labor, and environmental groups sent a letter April 12 to congressional tax writers encouraging them to include tax credits for combined heat and power and waste energy recovery in upcoming energy tax legislation. Current law provides for a 10 percent investment tax credit for the first 15 MW of CHP projects producing up to 50MW, but the groups asked leaders of the Senate Finance Committee and House Ways and Means Committee to support legislation that would expand the credits to larger projects as well as extend the credit to recycled waste energy.

Upcoming Hearings

On Tuesday, April 20, the Domestic Policy Subcommittee of the House Oversight and Government Reform Committee will hold a hearing titled "Nuclear Power's Federal Loan Guarantees: The Next Multi-Billion Dollar Bailout?"

Department of Agriculture

Secretary of Agriculture Tom Vilsack announced April 16 that the USDA is seeking public comment on three proposed loan and grant programs aimed at increasing production of biofuels. One proposed rule regulates loan guarantees for the development and construction of commercial-scale biorefineries and retrofitting of existing facilities, another creates a rolling application process for projects valued at less than \$250 million, and a third establishes a payment program for advanced biofuels from renewable biofuels.

Department of Energy

DOE Issues Vehicular Emissions Reduction Guidance

The Department of Energy issued guidance to federal agencies on April 15 that detailed methods for reducing greenhouse gas emissions from federally operated vehicle fleets by reducing petroleum use and other measures. The President issued Executive Order 13514 October 5 that required federal agencies to establish GHG reduction targets for 2020 and reduce vehicle fuel use in federal fleets 30 percent by 2020. Last week's guidance, a project in conjunction with the General Services Administration, lays out framework for agencies to put together a three-part plan for reducing emissions from vehicle fleets, and then collect information, formulate an emissions reduction strategy, and implement it.

DOE and Department of State to Work with Latin America

Last week Secretaries Chu and Clinton announced that the US will partner with the Inter-American Development Bank and with Latin American Countries to improve the availability of clean, affordable energy across the Western Hemisphere. At a meeting of the Energy and Climate Partnership of the Americas, Secretary Chu pledged to work with the IBD on research, development, and deployment clean energy technologies, and Secretary Clinton outlined six US-led initiatives to improve Latin American energy security.

Changes to Energy Star Program Announced

The EPA and DOE announced last week changes to the Energy Star product certification process. In an effort to bolster the verification, testing, and enforcement aspects of the program, the agencies are working to ensure that only products that meet program requirements can receive the Energy Star label. Manufacturers who wish for the products to qualify as Energy Star must submit complete lab reports and results for review and approval by the EPA. Later this year, manufacturers will be required to submit test results from an approved, accredited lab for any product seeking the Energy Star label.

Solar America Cities Meeting

DOE held its third annual Solar America Cities Meeting last week in Salt Lake City. Through the Solar America Cities program, the agency has formed strategic partnerships with 25 American cities, including Salt Lake City. The federal-city partnerships are intended to accelerate the adoption of solar technology by engaging city governments because they are the nation's centers of electricity consumption. The program aims to increase the use and integration of solar energy in communities across the US as a part of DOE's goal of generating 10 to 15 percent of the nation's energy from solar sources by 2030.

Organizations File Comments with FERC

In response to a notice of enquiry from the Federal Energy Regulatory Commission, the American Wind Energy Association said last Tuesday that the FERC should require electric utilities to eliminate barriers to the integration of renewable energy sources into the nation's electricity grid. The Solar Energy Industries Association filed similar comments last week as well. The Federal Trade Commission said that FERC should study ways to make electricity markets more accurately reflect the costs and constraints of integrating alternative energies into the market. The National Association of Regulatory Utility

Commissioners said that FERC should be mindful that in examining policies for variable resources in wholesale electricity markets that no new policies undermine grid reliability or efficiency.

Department of Interior

The Wind Turbine Guidelines Advisory Committee recommended April 13 that the potential impacts of climate change on wildlife should be considered in setting federal wind turbine siting policy. The Committee advises the US Fish and Wildlife Service. Interior Secretary Ken Salazar will review the committee's recommendations as well as corresponding recommended guidelines as the department directs the USFWS to develop guidelines for evaluating wind projects on public and private lands.

Environmental Protection Agency

US GHG Inventory Finalized

The EPA released last week the 15th annual Inventory of US Greenhouse Gas Emissions and Sinks: 1990-2008, which showed a 2.9 percent reduction in overall emissions from 2007 to 2008. The downward trend is attributed to a decrease in CO2 emissions from mobile fuel and electricity consumption. Emissions of the 6 major gases are still 13.5 percent higher than they were in 1990.

BACT Guidance Available Before the End of the Year

On April 13, the EPA said that is planning to release guidelines on what states may consider best available control technology for greenhouse gas emissions by the end of the year. Prevention of significant deterioration provisions of the Clean Air Act triggered by the March 31 mobile source requirements require new and modified stationary sources to apply BACT to limit GHG emissions.

CHP Facilities to Report GHG Emissions

The EPA proposed April 12 that combined heat and power generation units report their GHG emissions to the agency in order to provide important data that could benefit future GHG mitigation strategies. Only limited data are available from other federal and state programs.

General Services Administration

The GSA recently reached a milestone of investing \$4 billion in stimulus funds for energy efficiency in federal buildings across the nation. Since passage of the Recovery Act in 2009, the GSA has awarded construction projects to more than 500 companies, creating jobs in all 50 states, two territories, and DC.

Miscellaneous

RFF Releases GHG Limit Policy Recommendations

Resources for the Future released a study April 15 that concluded that new source performance standards are the best and most flexible option offered by the Clean Air Act for regulating greenhouse gas emissions from stationary sources. The Greenhouse Gas Regulation under the Clean Air Act report analyzes for Clean Air Act programs that could be used to regulate GHG emissions. Other possible scenarios included the EPA regulating GHGs under national ambient air quality standards, under international air pollution standards, and under hazardous air pollutant standards.

SC Utilities to Offer Efficiency Loans

South Carolina utilities are considering starting a loan program that encourages homeowners to make efficiency improvements. Under the plan, a group of rural electricity operatives will fund the improvements and homeowners will pay them off in their monthly utility bill. The report follows the recent release of a study by Duke University and Georgia Tech researchers who found that states in the south could lower their electric bills by about \$41 billion and create 380,000 new jobs by 2020 if they carry out a set of nine aggressive energy-efficiency policies for residential, commercial, and industrial sectors.

Americans Choose Energy over Environment

For the past ten years, Gallup polls have been asking Americans which is a higher priority -- energy development or environmental protection. In surveys released last Tuesday, respondents chose for the first time energy development over environmental protection.

CA Ports Update Emissions Targets Plan

The California ports of Long Beach and Los Angeles last week proposed updates to their 2006 joint clean air plan by setting new targets to cut diesel particulate emissions from port-related activities 77 percent by 2023 and N₂O emissions by more than half.

Canadian Proposal Requires Renewable Content in Gasoline

Environment Canada proposed regulations on April 10 to require an average of 5 percent renewable fuel content in gasoline sold in Canada after September 1 of this year. The renewable fuel content requirement in the Renewable Fuels Regulations from the Canadian Environmental Protection Act is expected to reduce GHG emissions by 23.8 million MT over the next 25 years. Renewable fuel content from any liquid petroleum-based fuel would be recognized in meeting the requirement so long as it does not contain undesirable materials.

WI Legislators Release Emissions Legislation

Wisconsin legislators unveiled a new draft of a greenhouse gas emissions reduction bill last week. Though a scaled-back version of the one discussed last year, the legislation would ramp up renewable energy and allow the possibility of nuclear reactors in the state. The state would be required to have 10 percent of its energy from in-state renewable sources by 2025, and consumers would receive incentives for the use of renewable energy products.

MD Passes Two Energy Bills

Last week, the Maryland General Assembly passed two energy bills just before the April 12 close of the 2010 legislative session, and Governor O'Malley has until June 1 to sign or veto the measures. The first (H.B. 72) establishes new fees and regulatory requirements for oil and gas producers. The other bill, S.B. 277, would increase the percentage of solar power that electric utilities must include in their energy portfolios in 2011-2016. Under the bill, utilities would have to derive at least .05 percent of their electricity from solar energy in 2011, and .5 by 2016.

Natural Gas Fleets Would Reduce Oil Imports

The Center for American Progress released a report April 14 that concluded that converting trucks and buses to natural gas would reduce oil imports. *Developing Natural Gas for Heavy Vehicles* said that replacing half of the nation's trucks and buses with natural gas fueled models would reduce petroleum consumption by 1.2 million barrels per day by 2035. The report comes as the EPA is considering a petition to establish GHG emissions limits for heavy-duty vehicles; the agency announced limits for cars and light trucks April 1.

Geothermal Industry Grew in 2009

New projects under development in the US geothermal industry grew by 26 percent last year. According to the latest figures released last week by the Geothermal Energy Association, 188 new installations in 15 states are under construction to produce nearly 8,000 MW of additional power. Nevada continued to lead the industry with over 3,000 MW under development.

Solar Industry Grew in 2009

According to a Solar Energy Industries Association annual report, US solar industry experienced significant growth in 2009 and stands to continue that trend in 2010, partially due to strong federal support and stimulus spending. Overall, the industry saw a 36 percent increase in revenue in 2009 and a five percent boost in installations, and the total electrical capacity grew to more than 2 GW.

China to Include Low Carbon City Standards in Five-Year Plan

China hopes to soon formulate standards for low carbon cities that would combine urban planning, renewable energy, and energy-efficient policies to reduce carbon footprints in Chinese cities, and these concepts are likely to be included in the nation's 12th Five-Year Plan, which runs from 2011-2015. Xie

Zhenhua, Special Envoy to Chinese President Hu Jintao, said late last week that China will work vigorously toward a cleaner economy by strengthening energy laws and investing in research and development projects to reduce CO2 emissions.

Auto Industry Favors Electric-Car Subsidies

Automobile industry leaders are encouraging the Administration to provide more government subsidies to encourage mass-market sales of electric vehicles, including new tax breaks for consumers, utilities, and car companies. Last week, industry representatives presented a list of proposals that would get more cars on the road more quickly to Ron Bloom, the President's manufacturing czar. President Obama has set a goal of having one million electric or plug-in hybrid vehicles on the road by 2015.