

David Leiter

Sarah Litke

DJLeiter@mlstrategies.com

SLitke@mlstrategies.com

-ENERGY AND ENVIRONMENT UPDATE
October 3, 2010

Energy and Climate Debate

After introducing a flurry of final energy bills and passing a Continuing Resolution that will fund the government through December 3rd, Congress adjourned until after the midterm elections.

Yet even in a short week, a number of energy pieces continued to move forward, putting pressure on leadership to address some clean energy initiatives when they return for the lame duck session November 15th. Though the schedule will be tight, there are a number of possible energy contenders for inclusion in expiring tax cuts legislation, a tax extenders package, or an omnibus appropriations bill.

Ending their September push for a renewable electricity standard, Senators Jeff Bingaman (D-NM), Sam Brownback (R-KS), Byron Dorgan (D-ND), Susan Collins (R-ME), Tom Udall (D-NM), John Ensign (R-NV) and 38 other Senators who have publically declared their support for passage of a renewable electricity standard this Congress will urge their colleagues to pass the 15% by 2021 standard during the lame duck session. Complicating matters, Senator Lindsey Graham (R-SC) introduced a clean energy standard (S. 20) last week that may draw support from additional republicans and moderates. His legislation, introduced as a counterproposal to the Bingaman-Brownback RES, would also include nuclear energy, clean coal, and an expanded definition of biomass in the list of eligible clean energy sources.

Senator Cantwell is working to ensure that the 1603 extension is in the mix for when Congress returns for the lame duck session. She is talking with Senators Mike Crapo (R-ID) and George LeMieux (R-FL), and other potential Republican supporters include Senators Ensign, Chuck Grassley (IA), Olympia Snowe (ME), Brownback, Collins, and Pat Roberts (KS), as well as Senator Dianne Feinstein (D-CA).

Senators Bingaman, Orrin Hatch (R-UT), Debbie Stabenow (D-MI), Bob Menendez (D-NJ) and others will work to include an expansion of the 48C Advanced Energy Manufacturing Tax Credit in any energy legislation. Majority Leader Harry Reid (D-NV) hopes to move his natural gas and electric vehicles bill and Senator Bingaman is working on including funding for the HomeStar energy efficiency program and the creation of a green bank, such as the Clean Energy Development Administration, in any legislation that moves in the upcoming lame duck session, as well as additional pieces of the energy efficiency tax package he and Senator Snowe introduced last week. With the EPA's regulation of greenhouse gases under the Clean Air Act on the horizon, Senator Jay Rockefeller (D-WV) is also likely to get a vote in the lame duck session on his two-year delay.

President Obama reiterated last week that he believes that passage of comprehensive climate and energy legislation is imperative, but noted that it is likely that the measures will be broken into chunks. With Republican gains in the November elections probable, energy measures are increasingly likely to move in piecemeal approaches first in the lame duck session and then again in the next Congress.

Senate

Inhofe Blasts EPA Rules

Senator James Inhofe (R-OK), Ranking Member of the Environment and Public Works Committee issued a report September 28th highlighting what he calls the job-killing EPA rules moved by the Obama administration. The document, "EPA'S Anti-Industrial Policy: Threatening Jobs and America's Manufacturing Base," offers a road map for Republican attacks on the agency if they win control of the Senate in November. The analysis suggests that the EPA, through its air pollutant regulations to the upcoming GHG emissions regulations, could cost hundreds of thousands of jobs and harm an already struggling economy.

Energy and Natural Resources Hearing on Strategic Minerals

An Energy and Natural Resources Energy Subcommittee held a hearing last Thursday on the role of strategic minerals in clean energy technologies. The hearing focused on the Rare Earths Supply Technology and Resources Transformation Act of 2010 (S. 3521), and the need for the United States to ramp up domestic mining and production of rare earth minerals.

Legislation Introduced

Senators Cantwell, Ben Nelson (D-NE), Patty Murray (D-WA), and Bernie Sanders (I-VT) introduced legislation (S. 3855) September 28th to repeal the limitation on the issuance of new clean renewable energy bonds that consumer-owned public utilities are permitted to issue for such projects and to terminate eligibility of governmental bodies to issue such bonds. The legislation also clarifies that tribal utilities can issue Clean Renewable Energy Bonds (CREBs), makes technical modifications to the CREB program to make the bonds more consistent with other types of tax credit bonds, and enables consumer-owned utilities to develop and own renewable resources directly rather than through a third-party contract.

Senators Bingaman and Snowe introduced the Advanced Energy Tax Incentives Act of 2010 (S. 3935) September 29th, a bipartisan comprehensive package of advanced energy tax incentives that will create clean energy and manufacturing jobs, enable American businesses to make long-term energy savings investments, reduce GHGs, and increase domestic energy security. Incorporating several previously introduced proposals, the Act focuses broadly on building and industrial energy efficiency, domestic manufacturing, emerging clean energy technologies, and carbon mitigation. The proposal would add \$2.5 billion in credit allocation authority to the 48C Advanced Energy Manufacturing Tax Credit, extend the 2.2-cents-per-kilowatt production tax credit for offshore wind projects, provide tax credits for investment in on-site energy storage projects, establish a 30% tax credit for manufacturing facilities that increase their overall energy efficiency, expand tax credits for the builders of energy-efficient homes and manufactured homes, establish a \$120-per-horsepower tax credit for efficient motor systems with adjustable speed capability, and raise a tax credit for Carbon Capture and Storage projects to \$25 per ton.

Also last week, Senator Brownback introduced legislation (S. 15) to create a carbon sequestration investment tax credit.

Senator Graham introduced S. 20 to establish a federal clean energy standard, as described above.

Senator Barbara Boxer (D-CA) introduced legislation (S. 3874) to reduce lead in drinking water.

Senators Kay Bailey Hutchison (R-TX) and John Cornyn (R-TX) introduced legislation (S. 3916) to require the Consumer Product Safety Commission to study and report on the impact on consumers of permitting an increase in the amount of ethanol blended with gasoline for use in gasoline powered engines.

Senator Sanders introduced legislation (S. 3923) to clarify the authority of states to adopt renewable energy incentives.

Senators Bingaman and Amy Klobuchar (D-MN) introduced legislation (S. 3925) to improve the energy efficiency of, and standards applicable to, certain appliances and equipment.

Senator Michael Bennet (D-CO) introduced legislation (S. 3936) to establish a competitive grant program in the Department of Energy to provide grants to states and units of local government to carry out clean

energy and carbon reduction measures and to close big oil company tax loopholes to pay for the program.

Upcoming Hearings

The Senate will be in recess until November 15th.

House

House Urges Administration to Act on China's Energy Practices

Responding to the United Steelworkers' September 9th petition, 181 members of Congress asked President Obama September 28th to protest China's practices to support its green energy manufacturing sector. The Steelworkers argue that China is violating World Trade Organization agreements in implementing performance requirements and billions of dollars in subsidies, giving the Chinese green energy industry an unfair competitive advantage. The Congressional letter added that the policies encourage Chinese exports to the U.S. while making it difficult for the U.S. to export green energy equipment to China.

House Passes Rare Earth Minerals Bill

Responding to recent Chinese moves to restrict the supply of rare earth materials, the House passed (325-98) the Rare Earths and Critical Materials Revitalization Act of 2010 (H.R. 6160) September 29th. Representative Kathy Dahlkemper (D-PA) crafted the legislation in response to China cornering the market on these elements and U.S. production falling behind. The bill would establish in the Department of Energy a research, development, and commercial application program to assure the long-term, secure, and sustainable supply of rare earth materials to satisfy the national security, economic well-being, and industrial production needs of the U.S.

Forum Signals Republican EPA Opposition

House Republicans held a forum September 29th on the effect of EPA regulations on rural America, signaling that the EPA is likely to face stiff opposition if Republicans win control of the House in the November elections. Additionally, should Congressman Jim Sensenbrenner (R-WI) become head of the Select Committee on Energy Independence and Global Warming, he is expected to examine issues such as the Climategate scandal.

House Passes Algae Legislation

The House passed the Algae-based Renewable Fuel Promotion Act (H.R. 4168) September 28th by voice vote. The legislation would make algae-based biofuel eligible for the cellulosic biofuel production tax credit and the special allowance for cellulosic biofuel plant property.

Legislation Introduced

Several pieces of energy and environment related legislation were introduced last week just before the House recessed.

Congressman Lamar Smith (R-TX) introduced legislation (H.R. 6329) to provide targeted liability protections for claims based on damages resulting from or aggravated by the inclusion of ethanol in certain fuel.

Representative Charlie Gonzalez (D-TX) introduced legislation (H.R. 6243) to make the U.S. exclusively liable for certain claims of liability to the extent such liability is a claim for damages resulting from or aggravated by the inclusion of ethanol in transportation fuel.

Representative Earl Pomeroy (D-ND) introduced legislation (H.R. 6246) to provide for loans to rural energy-producing communities in the U.S.

Representative Tim Holden (D-PA) introduced H.R. 6341 to establish a loan program to promote energy conservation in rural areas and H.R. 6342 to establish pilot projects for agriculture renewable energy systems.

Representative Jay Inslee (D-WA) introduced legislation (H.R. 6343) to authorize the Secretary of Agriculture to make loans to qualified projects for the production of renewable sources jet fuel.

Representatives Inslee and Brian Baird (D-WA) introduced legislation (H.R. 6344) to promote the research, development, demonstration, and commercial application of marine and hydrokinetic renewable energy technologies, to identify the potential environmental impacts of these technologies and ways to address these impacts.

Upcoming Hearings

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Administration

Adaptation Summit Calls for Broad Framework

The National Climate Adaptation Summit released a report October 1st for the White House Office of Science and Technology Policy that called for the development of a broad federal policy framework to coordinate adaptation research and planning within federal agencies. The report offers seven high-priority, near-term actions the nation should take, including implementing an overarching national plan that establishes what role each agency should play and how their efforts can best be coordinated.

Report Finds Projects on Schedule

Vice President Joe Biden delivered a report September 30th on the progress of the Recovery Act that shows that funds are being spent on time and jobs are being created as expected. The report projects that the 70% spending goal was met by the end of September and also that every spending deadline was met on time or ahead of schedule.

Department of Defense

Navy Promotes Energy Security

The 2010 Navy Energy Forum will be held October 12-13th and will bring together military, government, and industry leaders to discuss the importance of energy to the war fighter and combat capability. The theme for the forum is "Seapower Repowered: Energy as a Force Multiplier and Strategic Resource."

Solar Panels Installed

With \$1.9 million in Recovery Act funding, the Navy installed a solar parking lot at a facility in Seal Beach, California. The installation will assist the Navy in reaching its goal of obtaining 7.5% of its energy from renewable sources.

Department of Energy

\$1 Billion for FutureGen2

The Department of Energy announced September 28th that it has completed a formal agreement to provide \$1 billion to the FutureGen2 project to build a coal-fired power plant that captures CO2 emissions and injects them into the ground.

Offshore Wind Project Goals Set

According to a September 22nd report, the Department of Energy hopes to have large-scale offshore wind farms operating in federal waters within five years under an initiative it plans to launch in fiscal year 2011. The Offshore Wind Innovation and Demonstration Initiative represents the first formal offshore wind development program established within the department and is intended to remove barriers that have slowed the development of offshore wind power in the U.S.

Refrigerator Efficiency Standards Proposed

The Department of Energy released a new proposed energy efficiency standard for residential refrigerators, refrigerator-freezers, and freezers on September 27th. Under the proposed standard, the energy use of most refrigerators would decrease by 20-25% by 2014.

Department of Interior

New Agency Established

The Department of Interior formally established the Office of Natural Resources and Revenue October 1st. The new office replaces the former Minerals Revenue Management Program under the Minerals Management Service (MMS) and will be responsible for collecting and dispersing revenues from energy production on the Outer Continental Shelf and other areas. The restructuring plan will also create the Bureau of Ocean Energy Management and the Bureau of Safety and Environmental Enforcement.

Offshore Drilling Rules Added

Interior Secretary Ken Salazar announced two new rules September 20th for drilling and workplace safety in offshore energy exploration. The drilling safety rule makes mandatory the drilling requirements laid out in Secretary Salazar's May 27th report, and the workplace safety rule requires operators to have comprehensive safety programs.

Corporate Strategy Outlined

The U.S. Fish and Wildlife Service plans to form 21 landscape conservation cooperatives to develop better knowledge about the local impacts of climate change through partnerships with other government agencies and NGOs. According to a September 21st report, the partnerships will inform federal and state regulatory decisions and promote the best management of resources as part of the service's strategic plan for addressing climate change.

Environmental Protection Agency

Fuel Economy Standards Proposed

The Environmental Protection Agency and the National Highway Traffic Safety Administration (NHTSA) said in a notice of intent October 1st that it will propose stringent federal greenhouse gas and fuel economy standards for model years 2017-2025. The notice did not propose a specific level, but asked for comment on four possible targets for reducing emissions beyond 2016: 3, 4, 5, and 6% per year, which could correspond to fuel economy requirements of up to 62 miles per gallon and lifetime emissions reductions of up to 590 million tons. The agencies plan to issue a proposed rule establishing new fuel economy standards and emissions limits by September 30, 2011, with a final rule by July 31, 2012. The EPA is also conducting a review to determine whether or not additional standards are needed for N₂O and air toxic emissions. Additionally, the Obama Administration directed the EPA and the NHTSA to propose the first-ever GHG emissions limits and fuel economy standards for medium and heavy-duty trucks and finalize them by July 30, 2011; the agencies had been expected to release that proposal along with the notice of intent, but did not do so.

Methane Reduction Efforts Underway

The EPA announced October 1st that it, along with 37 other nations, will launch a global initiative to reduce emissions of methane. The agency pledged \$50 million over the next five years to the Global Methane Initiative and said it would seek similar pledges from other developed countries to support emissions reduction projects and technologies.

Industry Concessions Anticipated in Final Boiler Rule

The EPA indicated last week that it could offer some concessions in its final air toxics rule for boilers in order to address industry and lawmakers' concerns that the proposed rule is unachievable and prohibitively costly. From a letter EPA Administrator Lisa Jackson sent to Senator Mary Landrieu (D-LA) September 28th, it appears that the agency is open to adopting industry's preferred method for subcategorizing boilers to set a varying air toxics standard depending on the type of boiler.

Miscellaneous

Maritime Panel Weighs GHG Limits

During an annual round of talks, the International Maritime Organization's environment committee considered rules that would require freight and passenger ships to reduce their GHG emissions last week. The IMP is a UN-sponsored panel that enforces international agreements on shipping pollution.

China Seeks 2011 Climate Deal

Chinese Climate Negotiator Li Gao said early last week that China hopes to sign an international climate change deal by late 2011, but that it will not negotiate certain principles such as requiring developed countries to cap more GHG emissions than developing countries. Mr. Gao also blamed the U.S. for impeding progress on the international treaty, which is intended to succeed the Kyoto Protocol when it expires in 2012.

Smart Grid Advisory Committee Named

The National Institute of Standards and Technology (NIST) named a 15-member panel September 27th to help direct the agency's smart grid work. The Smart Grid Advisory Committee will meet at least twice a year and report to NIST's director on efforts to ensure that the digital, two-way communication-enabled grid is compatible between technologies and secure from cyber attacks.

Climate Law Opponents Impede Future

California Governor Arnold Schwarzenegger (R) said September 27th that if opponents of the California Global Warming Solutions Act of 2006 (A.B. 32), which requires the state to reduce GHG emissions to 1990 levels by 2020, succeed in passing Proposition 32, they would impede the future of green technology in the U.S.

The Governor also signed a number of energy and environment pieces of legislation last week, including a bill that would require utilities to purchase energy storage systems and meet certain targets by 2015 and 2020, legislation that would delay the implementation of the California Energy Commission's recently approved labeling requirements for television energy use until July 2011, a proposal that would establish water recycling standards multiple uses, legislation that expands the list of eligible applicants for urban greening projects and planning management for Strategic Growth Council grants, a bill that allows regional water quality regulators to exempt certain waste discharge violations from mandatory minimum civil penalties, and at least 10 other pieces of energy and environment legislation.

Germany Weighs Possible 100% Renewable Energy

The German government last week began considering how to power the nation entirely with renewable energy by midcentury. Germany already has a plan to increase its renewable energy from 16 to 80% by 2050.

Virginia Dealers May Publicize Energy Star Holiday

The Virginia Department of Taxation posted guidelines and rules September 28th on the annual sales tax holiday for purchases of many water and energy-saving household appliances and allowed dealers to begin advertising for it immediately. The tax holiday will take place October 8-10th and will cover Energy Star-certified refrigerators, dehumidifiers, dishwashers, clothes washers, air conditioners, ceiling fans, programmable thermostats, and compact fluorescent light bulbs.

Regional Greenhouse Gas Initiative Trading Declines

According to a September 27th report from Potomac Economics, trading in Regional Greenhouse Gas Initiative allowance futures dropped 83% in the first quarter. The decline is attributed to the recession, falling natural gas prices, and the subsequent decline in demand for electricity.

EU Panel Backs Carbon Limits and Deepwater Drilling Moratorium

The European Parliament's Environment Committee approved draft legislation September 28th that would cap CO2 emissions from vans and light commercial vehicles beginning in 2014, thus filling a gap in emissions limits that could result in some vehicles being classified as vans to escape regulation. The same day, the Committee adopted a resolution calling for a moratorium on oil drilling in deep waters.

Ohio to Implement Green Energy Break

Ohio Governor Ted Strickland (D) signed an executive order September 29th to immediately implement property tax exemptions for advanced and renewable energy projects looking to build or expand in the state. The Ohio legislature passed S.B. 232 in June to eliminate the state's tangible personal property tax and real property tax for green energy facilities.

Alliance Calls for CHP Tax Credit Expansion

The Alliance for Industrial Efficiency, a group of more than 100 business, labor, and environmental organizations, urged the House Ways and Means and Senate Finance Committees September 29th to expand tax credits for combined heat and power and for recycled energy. Signatories to the letter also called on Congress to pass legislation that would provide a 30% investment tax credit to highly efficient combined heat and power projects carrying efficiencies higher than 70%, and to recycled energy projects.

WTO Dispute Talks on Ontario Green Energy Rules

Citing economic interests in the dispute, the U.S. asked September 28th to take part in World Trade Organization dispute talks between Japan and Canada regarding green energy rules in Ontario. At issue is the province's Feed-In Tariff program, which aims to phase out coal-fired electricity generation in the province by 2014 and boost the development of renewable energy technologies.

Northwest Wind Power on the Rise

Expansion of wind power in the Northwest is forcing generators, including the Bonneville Power Administration, to look beyond hydroelectric dams as backups for the intermittent supply from wind turbines. As more wind projects are put on line, the area's dams may not have enough hydropower generation to provide backup power to even out the electricity load.

California Energy Commission Grants Solar Licenses

The California Energy Commission approved two licenses September 29th to build and operate the 250 MW Genesis Solar LLC power plant and the 709 MW Imperial Valley Solar Project from Tessera Solar. The licenses are the fifth and sixth such announcements in just over a month.

European Television Efficiency Plan Announced

The European Commission announced September 28th that it would try to introduce an energy efficiency consumer labeling scheme for televisions sold in the EU after a previous proposal was rejected by the European Parliament in May 2009. Televisions would be graded on a scale from A to G in a similar manner to existing labels for refrigerators, washing machines, and dishwashers.

Alternative Vehicles Needed to Address Global Warming

The International Energy Agency said October 1st that 1 billion electric and plug-in hybrid vehicles will need to be in place by 2050 as part of a comprehensive clean energy effort to hold climate change to levels considered less risky for the planet.