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

Four months into their weekly, and now daily, meetings, Senators John Kerry (D-MA), Joe Lieberman (I-CT), and Lindsey Graham (R-SC) are preparing to abandon the cap and trade approach to climate legislation that has defined the debate since 2001. At the urging of Majority Leader Harry Reid (D-NV), who said this past week that in order to address a comprehensive energy and climate bill this spring the three would need to immediately introduce a bill, the trio plans to introduce legislation this month that would reduce greenhouse gases by targeting three major sources of emissions separately. This sectoral approach would impact electric utilities, transportation, and industry as power plants would face an overall and increasing cap on emissions, vehicle fuel would be subject to a carbon tax, and industrial facilities would be phased in to the cap on GHG emissions. The legislation would also expand offshore oil and gas drilling and provide federal assistance for constructing nuclear power plants and CCS projects at coal plants. The three Senators are still ironing out the details of allowance distribution, but, among other things, they are considering a cap and dividend approach, which would return the money raised through allowance trading back to consumers. Though their bill is not expected to have 60 votes when it becomes public, the Senators are optimistic that they will gain the votes necessary for passage later this year. Before a floor debate, the EPA will need to take roughly four weeks to analyze the bill. White House energy and climate chief Carol Browner said last week that the White House does not expect to release its own legislative proposal, but plans to work with the Senators to continue moving forward with their compromise bill.

Early last week, EPA Administrator Lisa Jackson laid out a timetable for regulating GHG emissions. In a response to a letter sent by eight coal and manufacturing state Democrats seeking clarification of the EPA's plans to act on its December endangerment finding with subsequent regulations, Administrator Jackson said that the EPA plans to begin targeting large facilities such as power plants in the second half of 2011, and that it will phase in smaller emitters beginning in 2016. She said that the EPA will consider "substantially" raising the thresholds above the 25,000 ton level in its proposed tailoring rule to exempt more facilities from requirements. For the first half of 2011, only facilities that already need permits under the Clean Air Act's prevention-of-significant-deterioration program would be required to have carbon permits in addition to the permits they acquire for additional GHGs. In her response, Administrator Jackson also cautioned that Senator Lisa Murkowski's (R-AK) resolution disapproving the EPA's endangerment finding would complicate mobile source agreements. The National Highway Safety Traffic Administration sent a letter to Senator Dianne Feinstein early last week seconding Administrator Jackson's concerns that the resolution jeopardizes the historic deal that harmonizes state GHG vehicle rules with national fuel economy standards (CAFE Standards).

Senator Murkowski is on track to have a mid-March floor vote on her proposal to block the EPA from regulating GHGs, but it is unclear whether or not she is nearing the 51 votes needed to pass the measure. As of late last week, she had 40 co-sponsors. House Armed Services Chairman Ike Skelton (D-MO) and Agriculture Chairman Collin Peterson (D-MN) introduced identical companion legislation last Thursday. Even if the measure passes Congress, it is likely to face a White House veto.

Senator Jay Rockefeller (D-WA), who was one of the lead signatories on the letter sent to the EPA Friday, February 19, said last week that he plans to introduce a bill that would halt the EPA's rules for between two and five years because the regulations would have disproportionate consequences for coal state economies that would better be handled by Congress. Senator Rockefeller is working with Senators Mark Begich (D-AK) and Ben Nelson (D-NE) to draft the legislation.

Regardless of the method by which the US chooses to regulate GHGs, it is imperative that a strong resolution is soon finalized. The United Nations Environment Program released a report February 23 that says that current plans to reduce GHGs under the Copenhagen commitments are insufficient to ensure that global temperatures will not rise by more than 2 degrees. Furthermore, Connie Hedegaard, the new European commissioner for climate action, said last week that the world is unlikely to agree to CO2 reduction targets at the annual UNFCCC conference in December this year, but should instead aim for a comprehensive and binding agreement in 2011.

On the jobs front, last Wednesday the Senate advanced (70-28) the first in a string of modest jobs creation bills. The \$15 billion bill includes an extension of the current highway and transit law, Build American Bonds, hiring tax credits, and a provision to allow small businesses to write off some capital investment costs.

A second jobs creation bill is expected to include \$31 billion in one-year extensions for alternative fuels and large hybrid vehicles and other provisions backed by the bipartisan leaders of the Finance Committee. This extenders package, to include unemployment insurance benefits, tax credits and expiring programs, and extension of COBRA, Medicare physician updates, and small business loan guarantee enhancements, could be brought to the floor the week of March 1 while the House will consider the scaled-back jobs bill passed by the Senate last week.

## **Senate**

### EPW Committee Holds EPA Budget Hearing

Last Tuesday, the Senate Environment and Public Works Committee held a hearing on the EPA's FY2011 \$10 billion budget request at which Administrator Lisa Jackson defended the Administration's request to increase funds for climate regulations and plans to phase in greenhouse gas emissions controls for large stationary sources. Though the FY2011 budget request would cut the agency's total funding by about \$300 million from 2010 levels, it would provide \$56 million (\$43 in new funding) for GHG reduction programs. Of the requested \$56 million for climate regulatory programs, \$25 million would aid states as they begin to account for GHGs, \$7 million would help develop new stationary source emissions performance standards, \$6 million would be used to implement EPA's pending mobile source standards, and \$5 million would be used to develop best available practices and technologies for controlling greenhouse gas emissions. An additional \$21 million would implement the EPA's GHG reporting rule. Administrator Jackson also testified on the FY2011 budget in the House Interior and Environment Appropriations Subcommittee last Wednesday.

### Interior Appropriations Subcommittee Holds Interior Department Budget Hearing

Interior Secretary Ken Salazar defended the Obama Administration's \$12.04 billion fiscal year 2011 budget request for his department last Wednesday. The budget request is a \$36 million decrease from 2010 that funds some major priorities including the Land and Water Conservation Fund and renewable energy project permits on federal lands, but also endures some significant cuts including in the National Park Service, hazardous fuels, and abandoned coal mine cleanup programs. Secretary Salazar also reiterated the need to fast track renewable energy development on federal lands.

### Secretary Clinton Testifies on State Department Budget

Secretary of State Hillary Clinton testified before the Senate Appropriations Foreign Operations and Related Programs Subcommittee and the Senate Foreign Relations Committee last Wednesday to defend the Administration's State Department budget request. The State Department is seeking \$646 million, a 38 percent funding increase, for climate change programs to develop U.S. leadership in green

technologies and enlist other countries in the effort to combat climate change, including through the Copenhagen Accord.

#### Commerce Subcommittee Explores Smart Grid Technologies

The Communications, Technology and the Internet Subcommittee of the Senate Commerce Committee held a hearing last Tuesday on the relationship between smart grid technologies and broadband and their contribution toward greater domestic energy efficiency. President Obama's Chief Technology Officer, Aneesh Chopra, was joined by several industry experts and leaders to testify on the Administration's 2011 budget request, which includes \$7.2 billion to expand broadband deployment; the Federal Communications Commission is working on a plan to improve broadband access as mandated by the stimulus bill. With this wireless communication in place, utilities and other companies can remotely manage power use through the smart grid, which could revolutionize electricity consumption.

#### Senators Introduce Legislation to Expand Renewable Energy Definition

Senators Russ Feingold (D-WI) and John Ensign (R-NV) introduced legislation (S. 3021) last Tuesday that expands the definition of renewable energy to include direct-use lighting and heating technologies under a national renewable electricity standard.

#### SEC Climate Change Reporting Legislation Introduced

Senator John Barrasso (R-WY) introduced the Maintaining Agency Direction on Financial Fraud bill ("MADOFF," S. 3032) last Wednesday that prohibits the U.S. Securities and Exchange Commission from requiring publically traded companies to disclose climate change risks to their shareholders. The SEC voted 3-2 in January to issue interpretive guidance that says companies should explain in agency filings how economic and physical risks impact the bottom line.

#### Upcoming Hearings

Senate Committees will hold a number of energy and environment hearings on March 3.

The Interior, Environment, and Related Agencies Subcommittee on the Senate Appropriations Committee will hold hearings on proposed FY2011 appropriations for programs under its jurisdiction.

The Energy and Natural Resources Committee will hold a hearing on the proposed FY2011 budget for the Department of the Interior.

The Environment and Public Works Committee will hold a hearing on transportation investments as related to the national economy and jobs.

The Oceans, Atmosphere, Fisheries, and Coast Guard Subcommittee of the Senate Commerce Committee will hold a hearing in the FY2011 budget request for NOAA and for fisheries enforcement programs and operations.

The following day, there are several additional energy and environment hearings.

The Senate Energy and Natural Resources Committee will hold a hearing on the Department of Energy's implementation of stimulus programs.

The Energy and Water Development Subcommittee of the Senate Appropriations Committee will hold hearings on proposed FY2011 appropriations for programs under its jurisdiction.

### **House**

#### Natural Resources Subcommittee Considers Geothermal Leasing Legislation

The Energy and Mineral Resources Subcommittee of the House Natural Resources Committee heard testimony last Wednesday on a bill that would expand access to geothermal resources on federal lands. Congressmen Jay Inslee (D-WA) and Mike Simpson (R-ID) introduced H.R. 3709 last fall. The legislation would allow the Bureau of Land Management to offer noncompetitive geothermal leases to companies

that hold leasing rights on adjacent federal lands to prevent speculators from driving up leasing costs near geothermal development sites.

#### Science and Technology Committee Considers R&D Budget Request

John Holdren, director of the White House Office of Science and Technology Policy, testified before the House Science and Technology Committee on the Administration's \$66 billion broad nondefense research and development budget request for FY2011 last Wednesday. The funding request, which would cover R&D efforts at the Departments of Energy and Transportation, the National Science Foundation, NASA, the EPA, and NOAA, is \$3.7 billion more than the 2010 enacted level, and demonstrates the Administration's belief that strong R&D is crucial to becoming a leader in the clean energy economy. The Administration plans to double within the next decade the budgets of three research agencies, DOE's Office of Science, the National Institute of Standards and Technology, and the National Science Foundation, and the FY2011 budget request is on track to achieve that goal.

#### Legislation Introduced

Congressman Leonard Boswell (D-IA) introduced H.R. 4674 last Wednesday, which authorizes loan guarantees for projects to construct renewable fuel pipelines. He was joined by Congressmen Terry, Herse, Sandlin, Loeb, Latham, Foster, Hare, and Peterson, and the bill was referred to the Committees on Energy and Commerce and Transportation and Infrastructure.

Also last Wednesday, Congressman Mike Quigley (D-IL) introduced H.Res. 1106 with Congressmen Bartlett, Murphy, Walz, Smith, Carnahan, Kissell, Bigert, Tonko, Giffords, and Kirk that commends the Army for its achievements in and commitment to environmental sustainability and energy security.

#### Upcoming Hearings

On Wednesday, March 3, the House Science and Technology Committee will hold a hearing on the proposed FY2011 budget for energy research and development programs.

The following day, several House committees will hold energy and environment hearings.

The Energy and Water Development Appropriations Subcommittee will hold hearings on proposed FY2011 appropriations for programs under its jurisdiction.

The Commerce, Trade, and Consumer Protection Subcommittee of the House Energy and Commerce Committee will hold a hearing on the Toxic Substances Control Act and persistent, bioaccumulative, and toxic chemicals.

The Water Resources and Environment Subcommittee of the House Transportation and Infrastructure Committee will hold a hearing on budgets and priorities for FY2011 water resources and environment programs and activities.

The Interior, Environment, and Related Agencies Appropriations Subcommittee will hold a hearing on proposed FY2011 appropriations for programs under its jurisdiction.

#### **Department of Energy**

##### Weatherization Program off to a Bad Start

Department of Energy Inspector General Gregory Friedman issued a report last Wednesday that demonstrated that the Administration's plan to create jobs and rein in energy costs through a weatherization program has met less than 2 percent of its three-year goals to date. Energy Efficiency and Renewable Energy Assistant Secretary Cathy Zoi followed up on the report by saying that while the weatherization program has gotten off to a slow start, it is gaining momentum quickly.

##### California Solar Project Awarded Conditional Loan Guarantees

The Department of Energy announced a \$1.37 billion conditional loan guarantee for a BrightSource Energy Inc. project called the Ivanpah Solar Complex. The 4,000 acre, 440 MW project would double the

country's thermal solar power generation when complete and would employ about 1,000 people during its construction. Funding for the project is conditioned on financial and environmental requirements being met, including an ongoing NEPA review since the project will be located on federally owned land in the Mojave Desert.

### **Environmental Protection Agency**

#### **OECA Programs Updated**

The EPA updated its Office of Enforcement and Compliance Assurance (OECA) programs early last week with its final enforcement priorities for fiscal years 2011-2013. In January, the agency proposed 15 priorities, carrying over several existing priorities and doubling the target areas to include new areas such as environmental justice. The revised proposal includes six priorities: keeping raw sewage and contaminated stormwater out of water; preventing animal waste from contaminating surface and ground waters; cutting toxic air pollution "that affects communities' health;" reducing widespread pollution from large sources such as coal-fired utilities; cutting pollution from mineral processing operations; and assuring that the energy extraction sector complies with environmental laws. Additionally, the EPA has overhauled its approach to priority planning by renaming its priorities "initiatives," and establishing new criteria of enforcement goals that do not warrant major initiative listing.

#### **EPA and NREL Partner to Develop Renewable Energy on Brownfields**

Last week, the EPA announced a partnership with the National Renewable Energy Lab to evaluate the feasibility of developing renewable energy production on twelve Superfund, brownfields, and former landfill or mining sites across the country. The EPA will invest \$650,000 in the project, which is part of the Re-Powering America's Land initiative, to determine the most efficient and productive potential development of wind, solar, or small hydro development at the sites.

### **Government Accountability Office**

The GAO released a report February 18 that detailed the several causes of stimulus project delays. Federal regulations such as prevailing wage requirements, Buy American requirements, and the National Historic Preservation Act impacted the selection and start of stimulus projects. Other challenges associated with starting new programs, state budgeting issues, staff capacity, seasonal issues, and a lack of clarity on the meaning of shovel-ready contributed to additional delays. By the end of 2009, the 27 federal agencies GAO reviewed obligated \$194 billion, or 63% of the \$309 billion that was appropriated for stimulus projects.

### **Personnel**

Last Wednesday, Secretary of Energy Steven Chu appointed Karina Edmonds as coordinator for technology transfer. Dr. Edmonds is an aeronautical engineer who currently directs technology transfer activities at the California Institute of Technology's Jet Propulsion Laboratory. She is expected to start in April, and will be the first to fill the position on a full-time basis.

### **Miscellaneous**

#### **Study Shows Energy Efficiency Could Save Consumers Hundreds**

The Consumer Federation of America released a study last week that found that 20-30% of reductions in electricity and natural gas use are feasible at a very low cost and would help to make climate change policies more affordable for consumers. With average utility bill savings of \$300-\$450, the national effects of GHG reduction targets could reach as much as \$37 billion per year.

#### **States Threaten to Implement Mobile Source Rules**

California and eight other states are threatening to implement strict GHG emission standards for passenger vehicles if the Congress approves of legislation that invalidates EPA's endangerment finding. In a February 23 letter to Senate Majority Leader Reid and Senate Minority Leader Mitch McConnell, environmental officials from California, Connecticut, Maine, Massachusetts, New Mexico, New York,

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Oregon, and Rhode Island argue that Senator Murkowski's resolution would prevent the mobile source GHG standards from being finalized, and thus the states would be enforce the stricter California GHG standards.