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

With Congress in recess until after the midterm elections, energy and environment groups are preparing for a lame duck session during which Congress may pass omnibus appropriations legislation, extend the expiring tax cuts, and take up Majority Leader Harry Reid's (D-NV) natural gas and electric vehicles legislation (S. 3815).

Depending on how the elections go, there are a number of possibilities for energy legislation during the lame duck session, including moving renewable electricity standards language forward, expanding the 48C Advanced Energy Manufacturing Tax Credit, extending the 1603 Grants in Lieu of Tax Credits program, providing funding for the HomeStar energy efficiency program, and creating a green bank along the lines of the Clean Energy Development Administration. As the timeframe for the lame duck session is limited, with Congress expected to return for the weeks of November 15<sup>th</sup> and November 29<sup>th</sup>, any pieces that do move forward will need to be included in a larger package such as the natural gas vehicles legislation for which Majority Leader Reid has already scheduled a November 17<sup>th</sup> cloture vote.

In the meantime, the Administration is preparing to move forward on a number of energy and environment initiatives as well, the principal among them being the Environmental Protection Agency's regulations of greenhouse gas emissions under the Clean Air Act.

There are still efforts afoot to delay such regulations, but others are beginning to significantly push to protect the EPA's authority to regulate under the Clean Air Act. For example, the Small Business Majority and the Main Street Alliance, coalitions of more than 500 small businesses, urged Congress October 5<sup>th</sup> not to limit the Environmental Protection Agency's authority to regulate greenhouse gas emissions under the Clean Air Act.

**Congress**

**Appropriations Staff Discuss Omnibus Bill**

Staff to the House and Senate Appropriations panels began discussions last week on the size and shape of the omnibus spending bill that will be considered during the lame duck session. The starting point will be two versions of 12 appropriations bills that Congress had yet to pass before the new fiscal year began October 1<sup>st</sup>, and Senate Appropriations Committee Chairman Daniel Inouye (D-HI) and House Appropriations Committee Chairman David Obey (D-WI) plan to produce one large bill for consideration as a must-pass item during the lame duck session.

**Upcoming Hearings**

Congress will be in recess until November 15<sup>th</sup>.

**Administration**

**White House to Install Solar Panels**

The Obama administration announced October 5<sup>th</sup> that it will install solar panels on the roof of the White House. At a GreenGov symposium last week, Council of Environmental Quality Chair Nancy Sutley and Energy Secretary Steven Chu marked the one-year anniversary of an executive order (No. 13514) instructing federal agencies to reduce energy consumption and GHG emissions by calling the move a good example of sustainable energy use and a symbol of the Administration's commitment to move toward a clean energy economy. The solar panels will be a PV system between 5 and 15 KW that is estimated to produce about 19,700 kWh per year in electricity.

#### More Transmissions Lines Needed

Cheryl LaFleur, the newest member of the Federal Energy Regulatory Commission (FERC), said October 5<sup>th</sup> that the commission's proposal to expand the federal role in building high-voltage transmission lines is a measured approach to developing domestic renewable energy, but that a final rule was still several months out. FERC's transmission planning and cost allocation rulemaking will be the high profile task for the commission in the coming months, and nearly 200 comments on the proposed rule were submitted by the September 29<sup>th</sup> deadline.

#### Federal Trade Commission (FTC) Releases Green Guides

The Federal Trade Commission proposed several changes to its Guides for the Use of Environmental Marketing Claims October 6<sup>th</sup>, which cover the claims companies can make about the environmental benefits of their products. The proposed changes address several kinds of claims already included in the FTC guidelines—"eco-friendly" and "ozone-safe," for example—as well as new claims previously not included, such as those regarding carbon offsets, renewable energy, and third-party certifications. Last updated in 1998, these revisions come as a response to the recent proliferation of eco-labeling and of companies advertising "green" products. Comments on the proposed changes are due December 10<sup>th</sup>.

#### FTC Seeks to Protect Confidential Information

The Federal Trade Commission said in comments released October 8<sup>th</sup> that the Environmental Protection Agency (EPA) should not publically release certain data submitted under GHG emissions reporting requirements. The FTC said a July 7<sup>th</sup> EPA proposal would make public some categories of data that would reveal sensitive business information, such as data on production, throughput, raw material consumption, capacity, and future operations, that could facilitate tacit or explicit collusion among competitors that could harm customers through higher prices, decreased quality, and reduced innovation.

#### Council on Environmental Quality (CEQ) Issues GHG Reporting Guidance

The White House Council on Environmental Quality issued guidance October 6<sup>th</sup> for federal agencies and departments that have been directed by President Obama to begin reporting their annual GHG emissions. The Greenhouse Gas Protocol directs federal departments and agencies to report emissions beginning in January 2011; the federal government, which owns 500,000 buildings and maintains and fuels more than 600,000 vehicles, is the largest energy consumer in the country.

### **Department of Agriculture**

#### Vilsack to Make Speech October 21<sup>st</sup>

Agriculture Secretary Tom Vilsack is scheduled to make a major speech on biofuels October 21<sup>st</sup> at the National Press Club. The Secretary is expected to discuss the progress the USDA and other federal agencies are making toward achieving the 36 billion-gallon biofuels production goal managed by the renewable fuels standard, and signals the administration is nearing finalization of its policies on the ethanol tax credit and tariff.

### **Department of Commerce**

#### National Institute of Standards and Technology (NIST) Sends Smart Grid Technical Standards to FERC

Complying with the Energy Independence and Security Act of 2007, the Department of Commerce's National Institute of Standards and Technology advised the Federal Energy Regulatory Commission October 7<sup>th</sup> that it has identified five sets of standards for smart grid development that are ready for action by federal and state energy regulators. The standards, produced by the International Electrotechnical

Commission, focus on the fundamental information models and protocols important to efficient and reliable grid operations as well as on cybersecurity concerns.

### **Department of Defense**

#### Nearly \$3 Million for Ocean Power Technologies

The U.S. Navy awarded \$2.72 million in additional funding October 4<sup>th</sup> to marine energy developer Ocean Power Technologies under the second stage of its contract to provide an autonomous PowerBuoy wave conversion system for its coastal anti-terrorism and marine surveillance program.

### **Department of Energy**

#### DOE and Pacific Northwest National Laboratory (PNNL) Release Restaurants Report

The Department of Energy and the Pacific Northwest National Laboratory released a technical report October 8<sup>th</sup> that provides recommendations on how to achieve up to 50% energy savings in quick service restaurants. The Technical Support Document, "50% Energy Savings for Quick-Service Restaurants," encourages reducing site energy usage in all eight domestic climate zones.

#### Advanced Research Projects Agency-Energy (ARPA-E) Energy Innovation Summit Announced

The Department of Energy announced October 8<sup>th</sup> that it will hold the second annual ARPA-E Energy Innovation Summit February 28-March 2, 2011 at the Gaylord Convention Center near Washington, DC. The event will unite key players from all sectors of the nation's energy innovation community to share ideas for developing and deploying the next generation of clean energy technologies.

#### DOE Offshore Wind Goal Decade Away

The National Renewable Energy Laboratory released a report October 7<sup>th</sup> that concluded that the Department of Energy's goal of obtaining 54 GW of offshore wind power might take as much as a decade to accomplish due to the fact that it may take this long for such projects to be permitted.

#### Appliance Efficiency Proposal Draws Opposition

A Department of Energy proposal to incorporate an analysis that would measure GHGs and broaden the energy consumption information in future appliance efficiency standards began drawing opposition October 7<sup>th</sup> from several utility groups. The Edison Electric Institute, the American Public Power Association, and the National Rural Electric Cooperative Association found that a shift to full fuel cycle measures would be confusing and economically unfeasible. Currently, appliance efficiency standards are based on point-of-use measurements, which take into account only the energy consumed to operate the appliance, and not the energy consumed in extracting, processing, and transporting fuels to run an appliance.

#### Federal Energy and Water Management Awards Announced

The Department of Energy awarded on October 7<sup>th</sup> Federal Energy and Water Management Awards to more than 30 individuals, teams, and organizations across the federal government. The award recognizes outstanding and innovative efforts to implement sustainable strategies that improve energy, water, and vehicle fleet efficiency.

#### Domestic Renewable Energy Rising

According to the Energy Information Administration's Monthly Energy Review, renewable energy sources provided 11.14% of domestic U.S. energy production during the first half of 2010. This continues the steady growth trend for renewable energy in the country, with the largest source of growth coming from biomass.

#### Electric Vehicle Industry Requires Support

David Sandalow, Assistant Secretary of Energy for Policy and International Affairs said October 1<sup>st</sup> that international standards and protocols for electric vehicle charging systems, batteries, and related technology are needed to spur rapid growth in the industry. Speaking at an International Energy Agency forum on advanced vehicles at the Paris motor show, he said that a strong government policy framework

is essential for electric vehicles to become competitive and affordable. The Obama administration has invested over \$3 billion in grants for research and design on electric vehicles and battery components and has offered loan guarantees to industry and tax incentives to buyers.

#### U.S. and Iceland Sign Geothermal Agreement

The United States and Iceland signed a bilateral agreement aimed at increasing the world's understanding of advanced geothermal technologies and accelerating their deployment October 6<sup>th</sup>. The Scientific and Technological Cooperation on Geothermal Research and Development agreement was established cooperatively by the U.S. Department of Energy and Iceland's Ministry of Industry, Energy, and Tourism, and is designed to allow an exchange of researchers, joint projects, and education initiatives to accelerate advanced geothermal development, and to identify key obstacles to increasing the use of geothermal resources.

#### **Department of Interior**

##### Renewable Projects on Federal Land Approved

The Department of Interior's Bureau of Land Management granted final approval for three solar projects and a wind project to be constructed on federal land last week. On October 5<sup>th</sup>, the Department announced the first permits for solar projects on public land: the Imperial Valley Solar Project and the Lucerne Valley Solar Project in California desert areas. The next day, Interior Secretary Salazar granted a lease for the first commercial offshore wind farm on the Outer Continental Shelf in the 130-turbine "Cape Wind" wind farm off the coast of Cape Cod, Massachusetts. On October 7<sup>th</sup>, the Bureau of Land Management granted final approval for the Ivanpah Solar Electric Generating System in California.

#### **Department of Transportation**

##### \$776 Million for Bus and Facility Upgrades

The Department of Transportation announced October 4<sup>th</sup> that it will distribute \$776 million in discretionary grants for upgrades to public transportation bus fleets and related facilities around the country. The Federal Transit Administration's new State of Good Repair discretionary grant program will help fund 152 projects in 45 states and DC in both urban and rural areas. Local governments and transit agencies are required to contribute at least 20% of the overall cost, and the projects are subject to Buy American provisions.

#### **Environmental Protection Agency**

##### EPA Releases Five-Year Plan

The EPA released its five-year strategic plan October 7<sup>th</sup>, and in it, set out five priorities to guide the agency's work for 2011-2015. The five priority areas include taking action on climate change and improving air quality; protecting America's waters; cleaning up communities and advancing sustainable development; ensuring the safety of chemicals and preventing pollution; and enforcing environmental laws.

##### Permitting Guaranteed for GHG Emissions

The EPA said October 6<sup>th</sup> that it will guarantee that permits will be issued beginning next year for GHG emissions from new and modified sources, even in states, such as Texas and Wyoming, that are resisting implementing the permitting scheme. The clarifying comments came a day after an agency official said that GHG emissions sources might be unable to begin construction on new plants or make modifications in states that are not adapting their own laws and regulations to allow permitting and are not cooperating with the agency in implementing a federal implementation plan.

##### Ozone Standards Expected by October 31<sup>st</sup>

Speaking to the Clean Air Act Advisory Committee October 6<sup>th</sup>, EPA Assistant Administrator for Air and Radiation Gina McCarthy said that the agency intends to finalize more protective air standards for ambient ozone by the end of October despite objections from some Congressmen and industry groups

that the rule would be too expensive during a down economy. The proposed standard is in a range between 0.060 and 0.070 parts per million.

## **Personnel**

Department of Energy Assistant Secretary for Fossil Energy James Markowsky announced his resignation last week. Deputy Assistant Secretary for Fossil Energy Victor Der will fill in as acting assistant secretary, focusing on carbon capture and storage efforts.

Pete Miller also resigned as head of the Energy Department's nuclear energy office last week. Pete Lyons, a former member of the Nuclear Regulatory Commission and current principal deputy assistant secretary for nuclear energy, will serve as acting assistant secretary.

## **Miscellaneous**

### Alternative Methods of Charging Road Users Proposed

The University of Virginia's Miller Center of Public Affairs held a conference last year that culminated in a report, released October 4<sup>th</sup>, that called on federal policymakers to consider alternate ways of charging road users. "Well Within Reach: America's New Transportation Agenda" offers an overview of a 2009 transportation policy conference that featured more than 80 transportation experts from the private sector and various levels of government, and suggests that the best approach would be to replace the current motor fuel tax with a per-mile road use fee. The report also calls for increased transportation spending.

### Supreme Court Rejects Road Builder Petition

The U.S. Supreme Court declined October 4<sup>th</sup> to review an appeals court opinion that dismissed as untimely a challenge by a construction trade association to nonroad engine emissions rules under the Clean Air Act (American Road and Transportation Builders Association v. EPA). At issue were provisions of the Act that preempt state regulation of emissions from nonroad construction and other nonroad engines, but allow certain state regulations if they are covered by EPA waivers.

### California Proposes Diesel Regulation Relaxations

During a series of workshops last week, the California Air Resources Board (CARB) proposed relaxing its in-use heavy-duty diesel regulations for trucks, buses, and construction and industrial equipment. The proposed revisions are designed to significantly reduce the costs of compliance, and come in the wake of CARB's August announcement that it had overestimated emissions from the heavy-duty diesel sector.

### International Maritime Organization (IMO) Fails to Reach Consensus

The International Maritime Organization's week-long meeting to discuss ways to reduce GHG emissions from international shipping ended in stalemate October 1<sup>st</sup>. As the world's shipping industry accounts for over 2.7% of total CO<sub>2</sub> emissions, the IMO was seeking resolution on several issues, including possible adoption of mandatory technical and operational standards and the advisability of market-based mechanisms to encourage shipping to reduce its emissions.

### Tianjin Talks Initiate Cancun Agreements

The latest round of international climate change talks took place October 4-9<sup>th</sup> in Tianjin, China. The negotiations, which focused on areas where delegates believed an agreement could be finalized by the COP 16, centered primarily around draft treaty texts, a new obstacle to an adaptation fund for poor countries, and a call from top U.N. officials for greater flexibility among parties, were the final set of multilateral consultations before the year-end Conference of Parties to the United Nations Framework Convention on Climate Change in Cancun, Mexico. Friction between the U.S. and China on issues ranging from requirements for developing countries to insufficient leadership could become a significant distraction as the countries prepare for the November and December talks.

### U.N. Report Describes Financial Commitment Divide

The High Level Advisory Group on Climate Change Financing issued a draft report to U.N. Secretary General Ban Ki-moon last week that revealed significant differences on how industrialized countries

should meet their commitment to raise \$100 billion a year beginning in 2020 to help poorer nations mitigate and adapt to the effects of global warming. The report also indicated disagreement over whether the commitment should be met primarily from public or private sources, and what financing flows, including offsets, should count toward the commitment. The Advisory Group will meet in Ethiopia on October 12<sup>th</sup> before delivering its final report to the Secretary General before the COP 16 meets at the end of the year.

#### Canada Sets GHG Emissions Standards

Canada's environment minister unveiled final regulations October 1<sup>st</sup> to impose progressively more stringent GHG emissions standards for new passenger cars and light trucks for the 2011-2016 model years. The regulations largely mirror U.S. standards, and are expected to reduce vehicular GHG emissions in the 2016 model year by 25% from 2008 levels. Additionally, a special incentive will be provided for advanced technology vehicles.

#### Large Solar Farm Expected in Ohio

Ohio Governor Ted Strickland (D) announced October 5<sup>th</sup> that a 49.9 MW solar array will be built near Zanesville, Ohio on reclaimed strip-mining land. American Electric Power signed a memorandum of understanding in the governor's office with developers of Turning Point Solar, agreeing to buy the facility's electricity, enough to power 25,000 homes for 20 years. The governor signed an executive order September 28<sup>th</sup> eliminating the state's tangible personal property tax and real property tax for advanced and renewable energy project facilities, making it easier for energy companies to do business and create jobs in Ohio.

#### Committee on Climate Change (CCC) Advises Carbon Reduction Commitment Simplifications

The Committee on Climate Change told the British government September 24<sup>th</sup> that it should simplify its program to reduce GHG emissions and boost energy efficiency before its second phase begins in 2013. Beginning in April 2011, the Carbon Reduction Commitment Energy Efficiency Scheme will require all organizations to buy and trade allowances for annual CO<sub>2</sub> emissions if they do not already participate in the European Union's Emission Trading System.

#### International Finance Corporation (IFC) Seeks Private Sector Climate Support

The International Finance Corporation established the Climate Business Group October 4<sup>th</sup> to promote business opportunities arising from climate change, with a goal of increasing IFC support for climate-related projects in the next three years. The Group will streamline the Corporation's climate-related programs and make them more central to the organization's operations.

#### UK Reiterates Green Bank Support

British Prime Minister David Cameron reiterated October 6<sup>th</sup> his coalition government's support for creating a green investment bank to help fund major infrastructure projects. The Prime Minister also pledged support for infrastructure projects such as high-speed rail, super-fast broadband, carbon capture and storage, and a nearly \$1.58 billion regional growth fund to stimulate enterprise. The outgoing Labour government first touted the concept of a green investment bank last March.

#### Energy-Related Emissions Rose

The International Energy Agency released its "CO<sub>2</sub> Emissions from Fuel Combustion: Highlights" October 6<sup>th</sup>, demonstrating that global energy-related CO<sub>2</sub> emissions increased by 400 megatons, or 1.5% between 2007 and 2008. The full-scale study will be released in November.