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## **ENERGY AND ENVIRONMENT UPDATE** **May 2, 2010**

### **Energy and Climate Legislation**

Even though Senators Kerry, Graham, and Lieberman failed to unveil their comprehensive climate legislation last week, the Senators continue to negotiate on the timing of the debate and they submitted an outline of the legislation to the EPA for analysis.

Last weekend Senator Lindsey Graham (R-SC) walked away from climate negotiations after Majority Leader Harry Reid (D-NV) said the week before that immigration may move before climate. Last week, though Senator Reid said that it was more likely that climate would move before immigration because it is further along in the legislative process, he refused to take immigration off the table for the year completely, as Senator Graham had requested.

Senators John Kerry (D-MA) and Joe Lieberman (I-CT) received Senator Graham's blessing to provide detailed descriptions of the legislation to the EPA last Wednesday for the economic modeling necessary before the bill can reach the floor. The Energy Information Agency at the Department of Energy will also analyze key details of the climate bill. The agencies are expected to take six to eight weeks to run numbers on what the legislation means through 2035 for energy supply, demand, prices, and GHG emissions. Though a number of organizations have sent Freedom of Information Act requests to the EPA and EIA to see the language, Senators Kerry and Lieberman have no plans to release their climate bill until the immigration issue is resolved between Senators Graham and Reid. Senator George Voinovich (R-OH) also called last week on Majority Leader Reid to ensure that whatever legislation eventually hits the Senate floor undergoes a full economic analysis.

Following the April 20 oil rig disaster and massive oil spill along the Gulf Coast, the White House announced Friday morning that there will be no new domestic offshore oil drilling while the Administration reviews the situation. The delayed release of the climate and energy legislation could allow the bill's sponsors to assess their response to the worsening spill, which has already prompted some environmentalists and members of Congress to call for scaling back offshore drilling provisions that have long been expected to be included in the plan.

Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (D-NM) advocated early last week for the Senate to take up his energy only bill (S. 1462). He said that that approach would allow debate to begin on energy legislation while allowing senators to attach climate provisions if they can garner enough support. Meanwhile, coalitions of business, environmental, and public interest groups released letters last week urging the Senate to pass climate change legislation this year.

Alternative approaches are beginning to receive some additional traction. For example, Senator Tom Carper (D-DE) expects that his three pollutant utility bill may begin moving forward later this month. Senator Lamar Alexander (R-TN) is a co-sponsor of the measure, and moderates on both sides of the aisle are increasingly viewing it as a possible way to move forward on greenhouse gas emission reduction legislation.

The Senate schedule is getting increasingly busy, with financial reform negotiations now expected to take longer than originally anticipated, and a Supreme Court nomination, food safety legislation, and jobs bills also waiting in the wings alongside immigration reform.

## **Senate**

### Subcommittee Examines Long Term Energy Solutions

The Senate Energy and Water Development Appropriations Subcommittee held a hearing last Wednesday to examine long-term energy policies, including whether recycling spent nuclear fuel could serve as part of an alternative solution to burying it at Yucca Mountain or another storage facility. Eric Loewen, chief consulting engineer for advanced plants at GE Hitachi Nuclear Energy testified, as well as Energy Secretary Steven Chu, Resources for the Future President Phillip Sharp, and Robert Fri, former president and visiting scholar at RFF. During the hearing, Senator Dianne Feinstein (D-CA) expressed frustration that the Department of Energy is taking too long to review applications for stimulus money to build renewable energy projects in California, especially on private lands, and in some cases, denying good applications with no explanation. Also during the hearing, Secretary Chu expressed strong support for the development of modular nuclear reactors that could be used in places that are too small to accommodate large base-load plants and said that more loan guarantee money is needed to build nuclear power plants.

### Legislation Introduced

On April 22, Senator Tom Carper introduced legislation (S. 3251) to improve energy efficiency and the use of renewable energy by Federal agencies.

Earlier in the week, Senator Jim Inhofe (R-OK) introduced legislation (S. 3230) to specify that federal agencies should not take into account greenhouse gas emissions when assessing the environmental impact of federally supported projects under the National Environmental Policy Act.

### Upcoming Hearings

On Wednesday, May 5, the Senate Environment and Public Works Clean Air and Nuclear Safety Subcommittee will examine the oversight of the Nuclear Regulatory Commission. Gregory Jaczko, NRC Chairman, is scheduled to testify.

On Thursday, the Senate Energy and Natural Resources Committee will mark up legislation, vote on pending nominations, and hold a hearing on issues in offshore oil drilling, including the Department of Interior's five-year planning announcements and the recent accident in the Gulf of Mexico.

The same day, the Senate Environment and Public Works Committee will hold a hearing on the Water Resources Development Act of 2010: Jobs and Economic Opportunities.

Also on May 6, the Senate Commerce Committee will hold a hearing called "America Wins When America Competes: Building a High-Tech Workforce."

On May 20, the Senate Finance Committee's Subcommittee on Energy, Natural Resources, and Infrastructure will hold a hearing on incentives for advanced energy manufacturing. There are three objectives for the hearing: to consider how other countries have attracted advanced energy manufacturing through tax and other incentives; to assess the Section 48C program's experience to date; and to evaluate the case for making an additional tax credit allocation authority to the 48C program and consider program refinements.

## **House**

### Subcommittee Holds Hearing on Reducing Oil Dependence

The House Committee on Energy and Commerce's Subcommittee on Energy and Environment held a hearing last Wednesday to discuss how the country can reduce its dependence on oil. During the hearing, EPA Administrator Lisa Jackson warned that overturning the agency's endangerment finding would hurt US efforts to reduce oil imports and limit the fuel savings and emissions reductions anticipated under EPA's new rule to curb tailpipe emissions.

#### Committee Approves America COMPETES Act

The House Science and Technology Committee approved legislation (29-8) April 28 that would fund a wide range of Department of Energy research and development programs. The America COMPETES Reauthorization Act of 2010 (H.R. 5116) reauthorizes the 2007 legislation, including funding for math and science education, loans for innovative manufacturing technologies, and other programs, and was introduced by Congressman Bart Gordon (D-TN) April 22.

#### Home Star Legislation This Week

The House is expected to consider a \$6 billion home energy efficiency rebate bill (H.R. 5019) this week. The Home Star legislation includes a two tiered approach that offers rebates of \$3000 to purchase and install energy efficiency products and conduct home energy audits. The House Energy and Commerce Committee passed the bill earlier this month in a 30-17 vote.

#### Legislation Introduced

Congressman Jason Altmire (D-PA) introduced two bills, the Nuclear Power 2021 Act and the Nuclear Energy Research Initiative Improvement Act, April 28 to accelerate the design and licensing of small nuclear reactors in the US. He was joined by a bipartisan coalition of 19 House members.

Congresswoman Allyson Schwartz (D-PA) introduced legislation (H.R. 5142) April 26 that would provide a 30 percent investment tax credit for certain biofuel facilities under Section 48 of the Internal Revenue Code. The legislation would also extend the production tax credit for cellulosic and algae-based biofuel through 2016.

Congressmen Doris Matsui (D-CA) Bobby Rush (D-IL), John Dingell (D-MI), and Anna Eshoo (D-CA) introduced the Clean Energy Technology Manufacturing and Export Assistance Act of 2010 April 27 to authorize \$75 million over five years help implement a national clean energy technology export strategy. The bill directs the Secretary of Commerce to develop a critical analysis of policies to reduce production costs in the clean energy technology sector and encourage innovation, investment, and productivity.

#### Administration

After touring a biorefining plant in Missouri early last week, President Obama reaffirmed the Administration's goal of tripling US ethanol production in twelve years, in part to make the nation less dependent on foreign oil.

#### Department of Defense

##### 454 Renewable Energy Projects Underway

The Government Accountability Office released a report last week that culled together information on Defense Department renewable energy projects. According to the DOD, and the GAO report, the Department currently has 454 renewable energy initiatives in operation or under development at or near its installations. Projects include 252 solar photovoltaic installations, 59 solar heat projects, 56 geothermal heat pumps, 25 wind projects, 14 daylighting installations, seven waste-to-energy programs, and four geothermal projects.

##### DOD Withdraws Objection to OR Wind Farm

On April 30 the Department of Defense withdrew its objection to construction of the nation's largest wind farm in north central Oregon after concluding that the risks of radar interference were less than originally thought. On March 1, the Federal Aviation Administration issued a Notice of Presumed Hazard saying

that the project's turbines would have negative impacts on radar equipment used by the DOD. The Department wants to work better with other agencies so that they can identify problems early in the permitting process.

### **Department of Energy**

#### **EERE Announces \$3 Million for Wind Research**

The Department of Energy announced an investment April 27 of nearly \$3 million to advance wind power research at 16 institutions across the country. Recipients will use the funds to advance wind turbine technology research and development, enhance wind technology curricula for university coursework, provide students with educational opportunities for hands-on wind technology research, develop training programs that will build the wind power workforce, and research possible environmental impacts of wind power deployment.

#### **\$106 Million for ARPA-E Projects**

In the second round of funding, the Department of Energy announced April 29 \$106 million for 37 transformational energy research projects through the Advanced Research Projects Agency – Energy. Research projects in 17 states will focus on new liquid transportation fuels, advanced carbon capture technologies, and ultra-high-density batteries. ARPA-E has completed the evaluation of over 500 concept papers in response to its third FOA which was released last March. The deadline for applicants to submit a full application for the funding is May 24, 2010, and final selections are expected by mid-summer.

#### **Wind and Water Power Program FOA**

DOE's Wind and Water Power Program will host a webinar May 17 on a recently announced funding opportunity that will award up to \$38.6 over four years to advance the technology readiness of marine and hydrokinetic energy technologies.

#### **FERC to Revisit Transmission Planning**

J. Arnold Quinn, director of the Division of Economic and Technical Analysis in the Federal Energy Regulatory Commission's Office of Energy Policy and Innovation, said last week that FERC needs to revisit transmission planning regulations as more renewable energy sources come onto the grid. FERC is reviewing comments from about 130 entities on a notice of inquiry it issued in January on variable energy resources integration. The notice focuses on potential discrimination against variable energy resources, existing provisions that could serve as barriers to those resources and to their integration, and reliability.

#### **Outdated Efficiency Standards in Energy Management Program**

A Department of Energy Inspector General issued a report last Wednesday that said that the Federal Energy Management Program has not maintained up-to-date energy efficiency standards for a wide array of products purchased by the federal government. The government is required to purchase efficient products that are designated by an agency or that meet Energy Star qualifications. The report said that the program is as many as nine years behind schedule on the standards. DOE and EPA are currently working to revise the Energy Star standards.

### **Department of Interior**

Interior Secretary Ken Salazar approved the \$1 billion Cape Wind project off the coast of Cape Cod on Wednesday, April 28. With Massachusetts Governor Deval Patrick (D), Secretary Salazar announced that he will approve the farm's federal permit because of the national implication it could have for the US offshore wind industry. Senator Kerry issued a statement immediately following the announcement and praised the decision, saying that wind energy is an important part of the domestic energy portfolio.

### **Environmental Protection Agency**

#### **EPA Sends CAIR Replacement to OMB**

The EPA sent its draft replacement for the Bush-era Clean Air Interstate Rule on April 26 to the White House Office of Management and Budget for review. The proposal came after a federal appeals court

ordered the agency in 2008 to revise the cap and trade rule aimed at reducing SO<sub>2</sub> and NO<sub>x</sub> emissions from power plants. EPA is planning to issue the draft rule in June, and expect to roll out the final regulation by early 2011.

#### Air Toxics Proposal Requires Mercury Emission Reductions

The EPA issued two proposed rules April 30 to control air toxics from small and large boilers. National emissions standards for hazardous air pollutants would require operators to install controls to reduce emissions of mercury, dioxins, hydrogen chloride, and carbon monoxide. EPA released the proposals as part of a larger rulemaking that addresses boilers and incinerators. A third proposal would establish new source performance standards for commercial and industrial solid waste incinerators, and a fourth would clarify what materials are considered fuel as opposed to solid waste.

#### EPA Issues Causation Report

The EPA released a report called Climate Change Indicators in the United States last week, in which researchers concluded that 24 environmental phenomena, including temperature increases and sea level rises, show that the earth is warming due to greenhouse gas emissions from human activities. Annual domestic GHG emissions increased 14 percent from 1990 to 2008, and global emissions increased 26 percent between 1990 and 2005.

#### Reporting Requirement Changes Withdrawn

The EPA withdrew April 29 a direct final rule making technical changes to greenhouse gas reporting requirements because it received negative public comments since its March 16 release; the EPA will address the comments under a new final rule. The direct final rule made changes to an economy wide mandatory reporting rule for GHG emissions from sources that emit more than 25,000 MT of CO<sub>2</sub>e per year issued by EPA in October 2009.

#### **Government Accountability Office**

The GAO released a report April 29 that concluded that the Cash for Clunkers program was a success. The report said that it both stimulated automobile sales across the country and lowered the average environmental impact of each car. The average fuel economy of vehicles bought through the program was 24.9 mpg, and the trade-ins averaged 15.7 mpg. The National Highway Traffic Safety Administration recently released a report saying that Cash for Clunkers motivated Americans to purchase 600,000 cars during its tenure.

#### **Miscellaneous**

##### CCS Report Provides 23 Emissions Reduction Suggestions

The Center for Climate Strategies released a report last week that provided 23 policy suggestions that would help to prevent climate change without a national carbon cap. If adopted in every state across the country, the measures, ranging from nuclear power incentives to building codes, would reduce GHG output 27 percent below 1990 levels by 2020 and create 2.5 million new jobs in the next decade while expanding GDP by 134.3 billion and reducing electricity costs by 2 percent.

##### Productive Week for CA Energy Policy

Last week, California established a \$50 million fund to back local retrofits by including energy efficiency and renewable energy improvements on property tax bills. Speaking at the California Air Resources Board, Stanford economists concluded last week that California's energy and climate change policies under AB32 will have little impact on the state economy.

##### Japan Files Complaint

Japan filed a complaint against Canada's alternative energy program last week with the World Trade Organization charging that the Ontario Feed-In Tariff program contains local content requirements that appear to violate WTO subsidy rules. Australia, Germany, Ireland, Switzerland, the UK, and several US states have also adopted FIT programs.

#### Particulate Matter Pollution Declining

The American Lung Association released its annual report last Tuesday called State of the Air 2010. Twenty of the 25 metropolitan areas with the worst annual fine particulate matter pollution levels reported lower concentrations of particulates from 2006 to 2008, but 58 percent of the country still lives in areas with unhealthy levels of air pollution.

#### GHG Emissions from EU Transportation Sector on the Rise

The European Environment Agency published a report April 27 that showed that GHG emissions from the EU's transportation sector rose by almost 30 percent between 1990 and 2007. While technological advances have produced cleaner modes of transportation, transportation use has increased. The report provided various options to reduce transportation emissions including pricing instruments, telecommuting, vehicle efficiency improvements, and cleaner fuels, and called on the EU to develop better long term transportation goals. The European Commission outlined a comprehensive 40-point action plan April 28 to promote the manufacturing and use of clean, energy efficient vehicles in the EU.

#### Australia Halts GHG Trading Plan

The Australian government abandoned its push to have a GHG emissions trading system in place by mid-2011 last Tuesday. The Senate may consider the scheme at the end of 2012, making 2013 the earliest possible start date for a national trading system.

#### UN Issues Global Targets for Energy and Energy Efficiency

The UN Secretary General's Advisory Group on Energy and Climate Change released a report April 28 saying that the whole world should have access to modern energy by 2030 and that global energy intensity should be reduced by 40 percent then. The Energy for a Sustainable Future report concluded that it is possible to reduce energy-related GHGs while expanding access to electricity, but that such a goal would require a three pronged approach from low, middle, and high-income countries. First, the world would need to launch a global campaign to support energy for sustainable development, and then individual countries would need to form national strategies reflective of their income levels, and finally high-income countries would need to increase financing to low-income nations.

#### EU Approves Energy Efficiency Drafts

The European Parliament's Industry Committee approved EU energy efficiency legislation addressing buildings' energy consumption and labeling on April 28. The draft legislation would require each EU country to define nearly zero-energy building and to ensure that public buildings built after 2020 are constructed to this standard. The labeling legislation would revise and expand an existing scheme that ranks household appliances.

#### Indian GHG Reduction Efforts to Stagnate

The Center for Science and Environment released a report April 27 that concluded that India will find it difficult to reduce its GHG emissions after 2020 when energy efficiency measures peak. The organization recently completed a study of the energy use of six industries – paper and pulp, cement, aluminum, steel, fertilizer, and power generation – that contribute more than 60 percent of India's CO2 emissions to see what reductions they could make up to 2020 and how expensive it would be to make further changes after that.

#### Adaptation Program Needed

The Pew Center on Global Climate Change released a report April 30 suggesting that the Administration create a national adaptation program to coordinate federal resources to protect the US and minimize the costs associated with climate change. The report urged President Obama to issue an executive order to better coordinate existing programs across federal agencies and ensure that they incorporate climate risks in their programs and to create a National Climate Service.

#### IN Enacts Solar Deduction Legislation

Indiana enacted legislation (H.B. 1086) to establish a deduction for certified technology parks and modify the deduction for solar heating and cooling. The law, retroactively effective to March 1, provides that the owner of real property or a mobile home that is equipped with a solar heating or cooling system used for

domestic hot water or space heat or preheating for an industrial process may have the property's assessed value reduced by the cost of the components and installation. The law takes effect July 1, 2010.