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ENERGY AND ENVIRONMENT UPDATE **November 21, 2010**

Energy and Climate Debate

As Congress heads home for Thanksgiving, a number of energy and environment issues are still on the table for the remainder of the lame duck session and others will wait to be addressed in the upcoming Congress.

Behind closed-doors, Congressmen principally used the first week of the post-election session to chart a course for the final weeks of the lame duck and to shape the agenda for the 112th Congress. The remainder of the session is likely to focus largely on tax and spending measures, as well as defense authorization language, immigration reform, and START Treaty ratification, and may extend as long as three weeks into December after Congress returns November 29th.

While the midterm elections made clear that comprehensive climate legislation would be off the table for the foreseeable future, a number of issues are still alive during the lame duck. An extension of the 1603 Grants in Lieu of Tax Credits program and an expansion of the 48C Advanced Energy Manufacturing Tax Credit program are possible additions to a tax package. Senators are currently circulating Dear Colleague letters calling on Senate and Senate Finance Committee leadership to include the provisions in the soon-to-be debated legislation.

Though more difficult, passage of a renewable electricity standard is still also a possibility; early last week Senators Kent Conrad (D-ND) and Arlen Specter (D-PA) signed on as cosponsors of the Renewable Electricity Promotion Act of 2010 (S. 3813). Additionally, a November study from the University of Tennessee showed that a federal 25% by 2025 renewable electricity standard and carbon pricing would benefit the country's agricultural and forestry sectors.

Funding for a HomeStar energy efficiency home retrofit program and the creation of a green bank are two other possibilities for inclusion in some broad energy compromise that could be included in must-pass legislation.

Senate Majority Leader Harry Reid (D-NV) met with Senator Jay Rockefeller (D-WV) last week to discuss Senator Rockefeller's plan to delay the Environmental Protection Agency from regulating greenhouse gas emissions under the Clean Air Act. No decisions were made in the meeting, though the issue is certain to quickly make its way to center stage in the next Congress. Senator Rockefeller did say last Wednesday that he will drop his quest for a two-year delay if he cannot get the bill to the floor this year because he believes that a 2011 vote would only aid expected Republican attacks on the Environmental Protection Agency (EPA).

On the Committee leadership and membership front, with Senator Lisa Murkowski almost certain to win her election, she said last week that she plans to remain in her Ranking Member position in the Senate Energy and Natural Resources Committee. New West Virginia Senator Joe Manchin (D) said shortly after his swearing-in ceremony that he will ask to join the Senate energy panel, even after months of opposing his party's energy agenda. With the November 2nd defeat of Senate Agriculture Chairman Blanche Lincoln

(D-AR) and Senate Budget Committee Chairman Conrad announcing that he would remain in his current position, Senator Debbie Stabenow (D-MI) is in line to be the new chairman of the Senate Agriculture Committee. Representative Doc Hastings (R-WA), likely House Natural Resources Committee Chairman, proposed November 18th to the House Republican Conference that all energy issues, including those generally addressed within the Energy and Commerce Committee, be consolidated in the Natural Resources Committee. Energy and Commerce members reacted with unified opposition to the proposal. In an effort to position himself as more conservative, Congressman Fred Upton (R-MI), a contender for the Energy and Commerce Chairmanship, identified the Department of Energy's Energy Star and Weatherization programs as examples of programs that should be cut to reduce spending, and several possible chairs of other energy-related committees question the science of climate change all together.

While lame duck conversations are underway, the Obama Administration is preparing to participate in the 16th annual Conference of Parties to the United Nations Framework Convention on Climate Change in Mexico and planning its energy strategy for the next year. White House Council on Environmental Quality Chair Nancy Sutley said at the Governors' Global Climate Summit last week that the White House will continue to pursue a series of meaningful clean energy policies, even as Congress appears certain to not pass comprehensive cap and trade or climate legislation.

Absent comprehensive climate legislation, Congress is likely to focus on a piecemeal approach of energy policies to reduce emissions, including broad energy efficiency measures such as tax incentives for efficiency improvements, rebates for homeowners for efficiency upgrades, and energy conservation standards. Majority Leader Reid postponed action November 17th on his \$4.5 billion electric and natural gas vehicles legislation after Republicans objected to paying for it with an increase in taxes on oil companies. The Majority Leader will try to find new sources of financing, and if the matter is not addressed during the lame duck session, it, as with all of the other issues above, will be a central part of the energy debate in the next Congress.

Administration

Office of Management and Budget (OMB) Completes Storage Review

The White House Office of Management and Budget completed November 15th a review of a final rule from the Environmental Protection Agency to govern underground storage programs for CO₂. The review could allow the EPA to issue the rule by the end of 2010 or early 2011, and regulations would be issued under the authority of the Safe Drinking Water Act, which includes provisions for underground injection programs, almost all of which are managed by state regulators.

Department of Energy

Department of Energy (DOE) Outlines Conservation Plan

The Department of Energy announced November 16th that it will skip framework documents and preliminary analyses in order to expedite the rulemaking process for energy conservation standards. The changes come as the agency works to reduce a backlog of recent legislation-mandated energy efficiency standards. The department also plans to establish a standing negotiated rulemaking committee to implement a consensus process before a proposed rule is issued.

Bilateral Energy Dialogue Underway

Energy Secretary Steven Chu and Japanese Minister of Economy, Trade, and Industry Akihiro Ohata signed a joint statement November 18th to promote a project to build energy-efficient communities and to establish a bilateral energy policy forum. The Energy-Smart Community Initiative will promote energy-efficient buildings, transportation, and electric power supply in the two countries and the Asia-Pacific Economic Cooperation forum region.

Department of Interior

Solar Project Approved

The Department of Interior approved a 500-MW solar energy project November 15th, the second such large-scale project authorized on public lands in Nevada. The Solar Millennium LLC's Amargosa Farm Road Solar Project, on 4,350 acres of public land northwest of Las Vegas, will use concentrated solar power technology and thermal energy storage to provide electricity to about 150,000 homes.

Bureau of Land Management (BLM) Conservation Lands Elevated

Interior Secretary Ken Salazar elevated the Bureau of Land Management's National Landscape Conservation System's status November 15th and set conservation as a top priority for federal lands. The System is a collage of more than 27 million acres of wilderness, conservation areas, rivers, and monuments managed and protected by the Bureau.

Environmental Protection Agency (EPA)

Broad Support Voiced for Truck Fuel Standards

During joint Environmental Protection Agency and National Highway Traffic Safety Administration hearings in Chicago and Boston November 15th and 18th, industry, environmental, and state regulatory groups voiced strong support for a federal proposal to set fuel economy and GHG emissions standards for medium- and heavy-duty trucks for the first time.

2009 Vehicles Have Better Fuel Economy

The Environmental Protection Agency released a report November 17th that concluded that 2009 model year cars and light duty trucks had lower average CO2 emissions and higher fuel efficiency than in 2008. According to the *Light-Duty Automotive Technology, Carbon Dioxide Emissions, and Fuel Economy Trends: 1975 through 2010* report, emissions were the lowest on record, and fuel economy increased by 1.4 MPG over 2008.

E15 Decision Delayed

The Environmental Protection Agency said November 19th that it will delay until next year a decision on whether to allow fuel blends with 15% ethanol in model year 2001-2006 vehicles so that the Department of Energy can complete vehicle testing in December. The agency also ruled that it will indefinitely delay a decision on whether E15 is safe in vehicles model year 2000 and older, citing insufficient data and potential air quality problems.

Underground Storage Tank (UST) Guidance Proposed

The Environmental Protection Agency proposed guidance for underground storage tanks November 16 as part of its commitment to help ensure that biofuels are safely stored underground. The agency is requesting comments on the proposed guidance that clarifies how an UST owner or operator can comply with the federal compatibility requirement for the systems storing gasoline containing greater than E10; after reviewing comments, the agency will issue final guidance in early 2011.

Tools to Rate Infrastructure Sustainability Launched

The Transportation and Development Institute of the American Society of Civil Engineers, the Environmental Protection Agency, the Federal Highway Administration, the American Association of State Highway and Transportation Officials, and the American Public Works Association hosted the Green Streets and Highways Conference November 14-17. A broad range of topics related to the design of green streets and highways, livable communities, best practices for stormwater runoff, green pavements and materials, transportation corridors, complete streets, and context-sensitive solutions was discussed, the Federal Highway Administration launched new standardized tools to measure and rate the sustainability of highways and other infrastructure projects, and several engineering groups released a similar, but broader tool, that will focus on civil infrastructure projects.

Federal Energy Regulatory Commission (FERC)

FERC Proposes Rule to Integrate Renewables

The Federal Energy Regulatory Commission issued a proposed rule November 18th to facilitate the integration of renewable energy resources into the nation's electric grid. The unanimously adopted

proposed rule addresses a narrow operational issue involving how much reserve generation capacity must be made available to keep the grid running smoothly and still accommodate renewable generation.

Personnel

Jacob Lew was sworn in November 19th to head the White House's Office of Management and Budget a day after Senator Mary Landrieu (D-LA) dropped her hold on his confirmation. Mr. Lew fills a post that had been held by Jeffrey Zients on an acting basis since the July 30th resignation of Peter Orszag, and he will soon face budget decisions as the fiscal year 2012 budget is being prepared for submission to Congress in February 2011.

Miscellaneous

Fleet Electrification Roadmap Released

The Electrification Coalition released their Fleet Electrification Roadmap November 15th. The analysis focuses on the business case for domestic fleets to adopt electric-drive technology, and argues that the lower operating costs of electric drive vehicles coupled with the operational norms of commercial and government fleets could make adoption of plug-in hybrid and electric vehicles highly attractive. The report was released just days after GE announced that it will purchase 25,000 electric vehicles by 2015 for its own fleet.

Connecticut Clarifies Tax Exemptions

The Connecticut Department of Revenue Services circulated guidance November 12th explaining the sales and use tax exemption available for the machinery, equipment, tools, and other materials used directly in the renewable energy and clean energy technology industry.

California Signs Finance Pact

California Governor Arnold Schwarzenegger, Ile-de-France President Jean Paul Huchon, Nigerian Delta State Governor Emmanuel Uduaghan, and Association of Regions of Europe President Michele Sabban signed a memorandum of understanding November 16th in a bid to assert regional authority on climate change policy. The government leaders teamed up with private and nongovernmental entities from around the world to form a coalition dedicated to building a global green economy. The R20 Charter establishes regions of climate action that will share best practices and technologies and form public-private partnerships to expedite development and implementation of low-carbon and climate-resilient projects. The announcement wrapped up the third annual Governors' Global Climate Summit hosted by Governor Schwarzenegger and the University of California, Davis.

Guatemala to Focus on Climate Change

Guatemala announced last week that it will establish an interagency commission to oversee the policy to help adapt to climate change and include climate change in disaster prevention. Increased extreme weather events are said to have prompted the country to expedite its national climate change policy.

China to Study Cap and Trade

The head of development strategy at China's State Council development research center said November 17th that the country is studying a cap and trade system to help reduce greenhouse gas (GHG) emissions. China, the world's biggest polluter, is considering establishing emissions quotas for large enterprises and allowing a certain portion of them to be traded.

Canadian Senate Kills Climate Legislation

Canada's Senate killed (43-32) a crucial climate change bill November 16th in a sudden vote that caught Liberals unaware amid sparse attendance and gave Tories the opportunity to vote it down.

Organization for Economic Cooperation and Development (OECD) Begins Tax Subsidy Estimations

Tax experts from over 30 countries gathered at the Organization for Economic Cooperation and Development November 18-19th to begin work on a method to accurately estimate tax-related subsidies that governments give producers of fossil fuels. National leaders restated their goal of phasing out fossil

fuel subsidies at the recent Group of 20 leaders summit, and the OECD has said that ending them would reduce GHG emissions 10% by 2050.

California Air Resources Board (CARB) Reduces Ethanol Penalty

The California Air Resources Board adopted a resolution November 18th to integrate new research on indirect land use change into the Low Carbon Fuels Standard. The resolution will reduce the penalty on corn ethanol by at least half, said the Renewable Fuels Association November 19th.

Virginia to Fast Track Wind Permits

Following 2009 passage of the Small Renewable Energy Projects Act, Virginia's Department of Environmental Quality November 16 approved a streamlined permitting process for the construction and operation of new wind farms capable of generating up to 100 MW of electricity. The streamlined process will no longer require the State Corporation commission to give final approval for new power plants.

New York Release Vulnerability Report

The New York State Department of Environmental Conservation released a draft task force report November 12th that assesses the state's vulnerability to rising sea levels and makes a series of recommendations to protect the state's coastal communities and natural resources. The New York State Sea Level Rise Task Force projects that sea levels in the Lower Hudson Valley and Long Island region of the state will rise up to five inches by the 2020s and 23 inches by the end of the century.

Major Economies Forum Focuses on Future

Special Envoy for Climate Change Todd Stern said November 18th that participants in a two day Major Economies Forum on Energy and Climate focused on ways to ensure progress on key issues at the upcoming 16th annual Conference of Parties to the United Nations Framework Convention on Climate Change in Mexico. Climate leaders worked to lay the groundwork for agreements that could yield results even in the absence of a legally binding treaty such as monitoring emissions in developing countries, adaptation funding for poor nations, and the fulfillment of countries' pledges to curb GHG emissions.

Local Governments Share Adaptation Resources

The ICLEI-Local Governments for Sustainability announced that eight local governments committed November 17 to be the founding participants in a program that will offer resources for cities working to protect themselves from the impacts of climate change. Boston, Tucson, Flagstaff, Cambridge, Grand Rapids, Miami Dade, and Lee Counties and a community in the San Francisco Bay area will serve as initial participants in the Climate Resilient Communities program.

Britain Proposes Cap and Trade Delay

British Environment and Climate Change Secretary Chris Huhne proposed November 17th postponing the cap and trade phase of its domestic carbon emissions trading scheme by two years, to 2013. The postponement is a response to recent criticisms that the recently launched scheme was too complex.

Chevrolet Invests \$40 Million

Chevrolet announced November 18th that it will invest \$40 million in clean energy projects with a goal of eliminating 8MMT of CO2 emissions. The company will make investments in wind farms, solar energy systems, efficiency measures, forestry projects, and methane capture through third-party organizations, working with an advisory board made up of environmental experts and academics.

India to Reduce Transportation Emissions

India's government launched a \$3.49 million effort November 11th to develop a national plan for reducing CO2 emissions from transportation and to design a low-carbon mobility plan for four major cities.

EU Considers Transportation Reductions

The European Commission said November 10th that it is considering a long-term target for road transportation emissions that would require vehicle manufacturers to reduce by over half the CO2 produced by the vehicles. The target would follow an existing mandatory limit of 130 g/km to be met through energy efficiency improvements, which will be phased in between 2012 and 2015.