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## **ENERGY AND ENVIRONMENT UPDATE** **December 5, 2010**

### **Energy and Climate Debate**

With lame duck debates ongoing and members on both sides of the aisle hoping to complete work on the tax extenders legislation before adjourning for the holidays, the Senate is expected to continue its work on the legislation this week, and further action on funding bills is possible as well.

A bipartisan working group established to negotiate a deal on tax cuts will continue meeting this week, and a proposed deal from White House and congressional leaders could be presented to the group in the coming days.

Senate Finance Committee Chairman Max Baucus (D-MD) introduced a measure (S. Amdt. 4727 to H.R. 4853) December 2<sup>nd</sup> to extend the middle class tax cuts that also included several clean energy tax credits via the tax extenders legislation passed by the House (234-188). Among other things, Baucus's draft includes a one-year extension of the 1603 Grants in Lieu of Tax Credit program, a \$2.5 billion expansion of the 48C Advanced Energy Manufacturing Tax Credit, an extension of the ethanol tax credit at a rate of 36 cents per gallon, and the extension of numerous energy efficiency tax credits. Initial votes taken December 4<sup>th</sup> failed, though the energy provisions remain squarely on the table.

Because Congress has failed to enact any of the regular 12 appropriations bills, both chambers passed another continuing resolution (CR) last week to tie them over until December 18<sup>th</sup>. The two-week CR gives Congress time to either work on a longer-term resolution to fund the government until they return in January or negotiate an omnibus package that could fund the government for the rest of the fiscal year. The House is now likely to pass a 10-month CR on Wednesday that would fund the government through the September 30<sup>th</sup> end of fiscal year 2011. The CR may include several anomalies, including additional funding for the Advanced Research Projects Agency – Energy (ARPA-E) and reduced funding for the War in Afghanistan. Facing some Republican opposition, Senate Democrats may try to attach an omnibus appropriations measure to the resolution, though many Republicans are now coming to the understanding that passing a long-term CR would prevent them defunding or denying the authority of the Environmental Protection Agency to regulate greenhouse gas (GHG) emissions under the Clean Air Act, among other things. Should negotiations fall apart on a longer-term CR in the Senate, the Chamber is likely to pass a more limited bill that funds the government through February 2011.

House Republicans are planning to make aggressive use of the Congressional Review Act to block the EPA and other agencies' regulations when the 112th Congress convenes. Additionally, several key policymakers are pushing legislation that would require Congress to vote on any agency rule costing more than \$100 million to implement, while others are vowing to block funds all together for implementing some agency rules. Representative Jerry Lewis (R-CA), who is expected to reassume the chairmanship of the House Appropriations Committee in the new Congress, told Environmental Protection Agency Administrator Lisa Jackson last Monday that House Republicans will initiate a thorough evaluation of the criteria used by the EPA to initiate, develop, and finalize its rules and regulations.

Additionally, Senate Environment and Public Works Committee Ranking Member James Inhofe (R-OK) identified last week 11 Senate Democrats who are up for re-election in 2012 that may try to bolster their bids by voting with Republicans next Congress to help resist several upcoming EPA rules.

Committee membership discussions for the 112th Congress are underway. Even with the likely return of Senator Lisa Murkowski (R-AK) to her leadership position on the Senate Energy and Natural Resources Committee, a number of other positions on the panel are free, due to several retirements and other open seats. North Dakota Senator-Elect John Hoeven, who is completing his duties as North Dakota Governor over the next few weeks, has been promised a seat on the committee. Incoming Senators Mark Kirk (R-IL), Rob Portman (R-OH), Joe Manchin (D-WV), and Rand Paul (R-KY) are also possibilities. A heated battle continues for the chairmanship of the House Energy and Commerce Committee, with Representative Fred Upton (R-MI) appearing to be the frontrunner.

The 16th Annual Conference of Parties to the United Nations Framework Convention on Climate Change began November 29<sup>th</sup> in Cancun, Mexico. The success of the Conference depends largely on whether the U.S. and Chinese negotiators can find common ground on a host of unresolved climate issues. Toward the end of the first week, negotiations are beginning to focus on a two-pronged approach: a comprehensive treaty that would involve more countries than the Kyoto Protocol and would take effect around 2015, and an extension to the Kyoto document acting as a bridge starting after 2012.

Negotiators are working to lay the groundwork for a future binding accord with smaller agreements on financing, clean technology transfer, reducing deforestation, and ensuring transparency and verification of countries' actions to address emissions. Though neither Congressional delegations nor President Obama are expected to travel to Mexico for the negotiations, Energy Secretary Steven Chu, Agriculture Secretary Tom Vilsack, and White House Council on Environmental Quality Nancy Sutley will join the second week of the conference to discuss clean technology, reducing emissions from deforestation and forest degradation, and adaptation.

The United Nations Environment Program released the *Environmental Consequences of Ocean Acidification: A Threat to Food Security* report last Friday as part of the Conference of Parties (COP), which concluded that rising CO<sub>2</sub> levels could have wide-ranging negative impacts on the health of the world's oceans.

## **Senate**

### Ethanol Letters Sent

A bipartisan group of 17 senators sent a letter to congressional leadership last week opposing the extension of the volumetric ethanol excise tax credit, which costs roughly \$5 billion a year. The White House and several key senators, including Energy and Natural Resources Committee Chairman Jeff Bingaman, support extending the tax credit at a lower rate such as 36 cents. In response, a separate bipartisan group of 16 senators indicated their support for the extension during the lame-duck session of tax credits and tariff protections for ethanol. The current rate is 45 cents per gallon of ethanol blended with gasoline.

### Environment and Public Works (EPW) Approves Diesel Grants

The Senate Environment and Public Works committee unanimously approved legislation (S. 3973) November 30<sup>th</sup> that would reauthorize grants to state, local, and tribal governments for programs to reduce emissions from existing diesel engines. The Diesel Emissions Reduction Act of 2010, sponsored by retiring Senator George Voinovich (R-OH) and 29 of his colleagues, would reauthorize \$200 million each year for the grants for fiscal years 2012 through 2016.

### Geothermal Expansion Legislation Introduced

Senator Ron Wyden (D-OR) introduced legislation (S. 3993) with Senators Jim Risch (R-ID), Mike Crapo (R-ID), and Jeff Merkley (D-OR) December 1<sup>st</sup> that could expand access to geothermal resources on federal lands across the West. Representatives Jay Inslee (D-WA) and Mike Simpson (R-ID) introduced companion legislation (H.R. 3709) in the House last year.

### Senators Urge U.S. to Freeze Aid

Republican Senators David Vitter (LA), James Inhofe (OK), George Voinovich (OH), and John Barrasso (WY) sent a letter to Secretary of State Hillary Clinton December 2<sup>nd</sup> calling on the United States to freeze pledged aid for climate change programs in developing countries and to avoid pledging any more, citing concerns about the economy and the validity of climate science.

## **House**

### House Select Committee to be Disbanded

Representative Jim Sensenbrenner (R-WI), current ranking member of the House Select Committee on Energy Independence and Global Warming, announced during the panel's final hearing December 1<sup>st</sup> that Republicans have decided to kill the Select Committee for the coming Congress. The Select Committee's final hearing, "Not Going Away: America's Energy Security, Jobs, and Climate Challenges," featured testimony from experts who said that government action is needed on energy policy and climate change.

### Energy Training Bill Passed

The House passed legislation (S. 3250) December 1<sup>st</sup> that would establish energy efficiency and other training programs for federal workers who maintain federal buildings. The Federal Buildings Personnel Training Act of 2010 will now go to President Obama for his signature.

### Nuclear R&D Bill Passed

The House passed a bill (H.R. 5866) by voice vote November 30<sup>th</sup> to expand and revamp the Energy Department's nuclear research and development programs. The legislation, sponsored by Representative Bart Gordon (D-TN), aims to reduce the cost of nuclear energy, improve its efficiency and safety, and minimize waste and proliferation risk.

## **Administration**

### President's Council of Advisors on Science and Technology (PCAST) Releases Energy Roadmap

The President's Council of Advisors on Science and Technology presented its *Accelerating the Pace of Change in Energy Technologies through an Integrated Federal Energy Policy* report to the President November 29. The report provides a roadmap for the federal role in transforming the country's energy system within the next two decades, calls for regular strategic quadrennial reviews of energy policy, recommends significantly increasing federal investments in energy research and development from \$5 billion to \$16 billion per year, and suggests that the president engage the private sector, consumer representatives, and Congress in exploring new revenue stream options to support the development of more efficient technologies.

## **Department of Energy**

### Efficiency and Renewables Advisory Committee (ERAC) Holds First Meeting

The Department of Energy's Efficiency and Renewables Advisory Committee met for the first time November 30<sup>th</sup>. The 20-member group was formed to provide formal review and input on the direction of the agency's clean energy portfolio projects and initiatives to the Secretary of Energy and will meet twice a year.

### Energy Secretary Talks "Sputnik Moment"

Energy Secretary Steven Chu delivered remarks at a Newsmaker luncheon at the National Press Club November 29<sup>th</sup> and said that the clean energy successes of China and other nations will represent a "Sputnik Moment" for the U.S. that requires the country to focus on clean-tech innovation. During his speech, Secretary Chu called on the nation to increase its efforts to develop and deploy the next generation of energy alternatives to ensure the country's ability to compete for the jobs of the future.

### Department of Energy (DOE) Announces Supercomputer Awards

The Department of Energy awarded November 30<sup>th</sup> the largest awards to date of its supercomputing time to 57 innovative research projects that are using computer simulations to perform experiments in areas such as climate change and biofuels. The research will use two world-leading supercomputers with a computation capacity equal to about 135,000 laptops with quad-core processors, to help speed the development of more efficient solar cells and foster improvements in biofuels production.

#### Carbon Sequestration Atlas Released

The Department of Energy released an updated edition of its Carbon Sequestration Atlas December 1<sup>st</sup>. The report concluded that the U.S. and Canada, under current emissions scenarios, store between 500 and 5,700 years of CO2 emissions in porous rock formations deep underground.

#### \$21 Million for Commercial Building

The Department of Energy announced November 30<sup>th</sup> that 24 projects are receiving a total of \$21 million in technical assistance to reduce the energy used in commercial buildings. The Commercial Building Partnerships initiative will connect commercial building owners and operators with multidisciplinary teams including researchers at national labs and private sector building experts.

### **Department of Interior**

#### Rules Possible on Shale Gas

Speaking at an Interior Department forum on natural gas practices December 1<sup>st</sup>, Interior Secretary Ken Salazar announced plans to consider developing new policies for hydraulic fracturing on public lands. The potential regulations would establish general fracking standards and mandate that companies leasing Bureau of Land Management lands for such exploration disclose the list of chemicals they plan to unlock shale gas.

#### Leasing Plan Released

The Department of Interior outlined its 2012-2017 leasing plan December 1<sup>st</sup> for drilling in federal waters. The administration is scheduled to keep federal waters in the eastern Gulf of Mexico and off the Atlantic and Pacific coasts off-limits to drilling for the next seven years.

### **Environmental Protection Agency**

#### Peak Energy Production Limits to be Reconsidered

The Environmental Protection Agency posted a notice December 1<sup>st</sup> announcing that it will reconsider a portion of its hazardous air pollutant rule that regulates emissions of toxic air pollutants from stationary diesel engines and limits the time the engines can be used to meet peak electricity demands annually. The rule allows engines to provide electricity during period of high energy demand for 15 hours a year to ensure the stability of the power grid in emergency situations and prevent blackouts.

#### 13 States Required to Revise GHG Regulations

The Environmental Protection Agency issued a final rule December 3<sup>rd</sup> requiring 13 states to revise their implementation plans to enable them to issue pre-construction permits for new and modified sources of GHG emissions. Prevention of significant deterioration emissions control and permitting requirements will apply to GHGs under the Clean Air Act beginning January 2<sup>nd</sup>, and Arizona, Arkansas, California, Connecticut, Florida, Idaho, Kansas, Kentucky, Nebraska, Nevada, Oregon, Texas, and Wyoming will be required to revise all or parts of their implementation plans in order to comply.

#### EPA Celebrates 40th Anniversary

During a celebration of the 40th Anniversary of the Environmental Protection Agency December 3<sup>rd</sup> at Harvard University, EPA Administrator Lisa Jackson recommitted to an aggressive environmental agenda that extends beyond what was achieved during the past four decades. The event, which capped a week of events celebrating EPA's 40th birthday, featured appearances by EPA's first administrator Bill Ruckelshaus, and former Vice President Al Gore.

#### New Source Review Information Sought

The Environmental Protection Agency's Air Enforcement Division Director predicted December 3<sup>rd</sup> that more power companies would agree to close older coal-fired power plants as the agency prosecutes violations of the Clean Air Act's new source review requirements. Phillip Brooks announced that the agency will soon request more information about industrial facilities' future maintenance and expansion projects, and will continue to target coal-fired power plants, acid manufacturing, glass manufacturing, and cement manufacturing for new source review enforcement.

#### More Analysis Needed

The Environmental Protection Agency and the National Highway Traffic Safety Administration issued a notice November 30 stating that they needed more analysis before they can narrow the options they will consider in proposing more stringent fuel economy and emissions standards for model-year 2017-2025 cars and light trucks. The agencies plan to issue a proposed rule setting new standards and limits by the end of September next year and a final rule by the end of July 2012.

#### Renewable Fuel Standard 2 (RFS2) Finalized

The Environmental Protection Agency finalized the 2011 percentage standards for the four categories of fuel under the agency's renewable fuel standard program November 29<sup>th</sup>. The four categories are cellulosic biofuel, biomass-based diesel, advanced biofuel, and renewable fuel.

### **Federal Energy Regulatory Commission**

#### Comments Requested on Barrier Removal

The Federal Energy Regulatory Commission approved a draft rule unanimously November 18<sup>th</sup> to remove barriers to integrate renewable energy on the nation's transmission system. The proposed rule, Integration of Variable Resources, was published December 2<sup>nd</sup> in the Federal Register, and comments are due by January 31<sup>st</sup>.

### **United States Geological Survey**

#### Climate Change Could Destroy Most Wetlands

Scientists at the U.S. Geological Survey published a study December 1<sup>st</sup> that concludes that rising sea levels caused by climate change could destroy most coastal wetlands by the end of the century. The research was published in *Geophysical Research Letters*, a journal of the American Geophysical Union.

### **Miscellaneous**

#### Organization for Economic Cooperation and Development (OECD) Calls for Reporting Standard

The Organization for Economic Cooperation and Development released a report November 30<sup>th</sup> calling for an international standard for corporate reporting of carbon emissions. The *Transition to a Low Carbon Economy: Public Goals and Corporate Practice* report found that while nearly 80% of the Global 500 companies measure and report their emissions, no internationally agreed-upon standards exists for corporate GHG reporting, making the reports neither comparable nor credible.

#### National Wildlife Federation (NWF) Unveils Wind Report

The National Wildlife Federation and more than 25 other groups unveiled a report December 1<sup>st</sup> highlighting the vast potential for offshore wind projects in the Atlantic. The Offshore Wind in the Atlantic: Growing Momentum for Jobs, Energy Independence, Clean Air, and Wildlife Protection report recommends that the government and stakeholders improve the offshore wind permitting process, identify high-priority zones off the coast with minimal conflict to the environment that can be fast tracked for permits, ramp up research on offshore wind tech, coordinate regional planning and economic development and advance efforts to promote jobs.

#### California Adaptation Advisory Panel (CARB) Releases Adaptation Report

The California Adaptation Advisory Panel released a report November 22<sup>nd</sup> that provides plans for California to adapt to climate change impacts. The report calls for Governor-elect Jerry Brown (D) to appoint a Climate Risk Council that would assess relevant science and provide guidance to the Governor

on risks associated with climate change, focusing primarily on diminishing water supplies, sea level rise, and severe fire outbreaks.

#### National Research Council (NRC) Council to Study Sustainability

The National Research Council launched a study November 30<sup>th</sup> to examine how the Environmental Protection Agency can incorporate sustainability into its programs. An ad hoc committee under the Science and Technology for Sustainability Program of the National Academy of Sciences will conduct the study.

#### West Virginia Energy Star Holiday Ends

West Virginia's third, and final, Energy Star sales tax holiday ended November 30<sup>th</sup>, with state officials estimating that consumers saved \$3.9 million over the past three months. Since the beginning of September, state residents have not had to pay the state's 6% sales and use tax on certain Energy Star qualified products costing \$5,000 or less purchased for noncommercial, home, or personal use.

#### Regional Trading Scheme Tested

A coalition of 12 states and three Canadian provinces has expressed interest in attempting to create a carbon market on a regional level in the absence of a nationwide cap-and-trade scheme. The trading scheme would be modeled after the carbon market in the Regional Greenhouse Gas Initiative and that planned in California for 2012.

#### Solar Energy Industries Association (SEIA) Releases Climate Report

The Solar Energy Industries Association released its *Seizing the Solar Solution: Combating Climate Change through Accelerated Development* report last week in conjunction with 40 other solar organizations around the globe. According to the report, the U.S. will create 683,000 jobs by 2020 under its solar energy target and the combined world solar deployment could reduce carbon emissions by 570 MMT.

#### Global Adaptation Institute Founded

Founding members announced a new Global Adaptation Institute December 1<sup>st</sup>. The institute, chaired by former Spanish prime minister Jose Maria Aznar, will focus on using private investment to fund projects to help developing countries adapt to climate change and will work to raise awareness of the need for adaptation and funding.

#### Earth Engine Unveiled

Google Inc. unveiled Earth Engine December 2<sup>nd</sup> in Mexico. The technology uses images from multiple satellites to make composite maps of forest cover to ease the difficulties of monitoring forest-protection plans in developing countries.

#### Regional Greenhouse Gas Initiative (RGGI) Allowances Unsold

The Regional Greenhouse Gas Initiative announced the results of its latest auction December 3<sup>rd</sup> and recorded the second consecutive auction in which some of the allowances were unsold. Only 57% of the CO2 allowances, available for immediate use, offered for sale were sold at \$1.86 each, the minimum reserve price.

#### Shell Seeks Carbon Capture and Storage (CCS) Approval

Shell Canada submitted a regulatory application November 30<sup>th</sup> for an oil sands carbon capture project to be built in central Alberta province. According to the application, the Quest Carbon Capture and Storage project would capture up to 35% of carbon emissions from the Scotford Upgrader, a facility that breaks large bitumen molecules into smaller particles by adding hydrogen.