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ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Debate

House and Senate leaders are hoping to close the lame duck session of the 112th Congress by December 24, though there remains a chance that they will return to complete a fiscal cliff deal the week between Christmas and New Years. Though a final agreement is still forthcoming, all potential components, including tax extender items such as the production tax credit, are being discussed and scored.

More than 100 groups representing wild life enthusiasts, sportsmen, consumers, conservationists, and environmental advocates sent a letter to Congress December 4 expressing their support for the production tax credit. Additionally, the Western Governors' Association urged Congress to extend the tax credit December 7.

House Natural Resources Ranking Member Ed Markey (D-MA) led 70 of his colleagues December 6 in sending a letter to President Obama and Speaker of the House John Boehner (R-OH) asking for a fiscal cliff agreement to include eliminating breaks and other loopholes currently provided to the oil and gas industry.

As fiscal cliff negotiations continue, Congress will move on other issues this week. The Senate will consider a motion to proceed to a bill (S. 3254) that would extend a deposit insurance program. The House plans to appoint conferees on the National Defense Authorization Act (H.R. 3410) to come to a consensus with their Senate counterparts.

Though movement on climate change legislation during the lame duck session is unexpected, the 113th Congress may bring renewed efforts on the issue. Environment and Public Works Chair Barbara Boxer (D-A) and Bernie Sanders (I-VT) have indicated that they intend to introduce climate change legislation in the coming year. Others, including Dianne Feinstein (D-CA) and Sheldon Whitehouse (D-RI), have indicated interest in reopening the debate soon. In the wake of Hurricane Sandy, a joint Yale-George Mason University survey found that in September 2012 70 percent of Americans believed that climate change is real compared to 57 percent in January 2010.

Congress

EE Legislation Approved

The House passed, 398-2, the American Energy Manufacturing Technical Correction Act (H.R. 6582) December 4, allowing alternative technologies to be used to meet existing efficiency standards for

coolers, refrigerators, and water heaters. The measure includes provisions from earlier House and Senate efficiency bills, including some minor language from Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) that requires a study of industrial electric efficiency and standards for federal energy management. The package approved by the House differs slightly from legislation the Senate approved in September by unanimous consent. The Senate approved the measure December 7, sending the bill to the president's desk for signature.

EE Caucus Formed

Representatives Cory Gardner (R-CO) and Peter Welch (D-VT) announced the formation of a bipartisan caucus December 5 focused on promoting energy efficiency in government buildings. Additional members include Democrats Earl Blumenauer (OR), Madeleine Bordallo (Guam), Michael Michaud (ME), and Charlie Rangel (NY); and Republicans Charlie Dent (PA), Paul Gosar (AZ), Lee Terry (NE), and Joe Wilson (SC).

LIHEAP Funding Requested

A bipartisan group of 40 Senators sent a letter December 7 to President Obama asking the administration to restore federal heating aid funds for the Low Income Home Energy Assistance Program. With heating costs expected to rise this winter, the senators are seeking \$4.7 billion for the 2014 fiscal year.

Groups Oppose Revisions to Science Advisor Standards

Public health scientists and environmental organizations sent letters December 6 to the House Science, Space, and Technology Committee opposing the adoption of legislation (HR. 6564) that they argue would reduce safeguards against conflicts of interest in the Environmental Protection Agency's scientific research. Committee Chairman Ralph Hall's (R-TX) measure would revise current ethical standards for nominees to the agency's scientific advisory panel.

Legislation Introduced

Senator David Vitter (R-LA) was joined by 20 of his Republican colleagues in introducing a concurrent resolution December 5 opposing the creation of a carbon tax.

Representative Mike Pompeo (R-KS) introduced a concurrent resolution (H. Con. Res. 144) December 7 expressing the sense of Congress that a carbon tax is not in the economic interest of the United States.

Upcoming Hearings

The Senate Finance Committee will hold a hearing December 12 to review tax reform as it relates to the nation's federal energy policy, particularly energy efficiency incentives.

Administration

OMB Requests Spending Information From Agencies

The White House Office of Management and Budget asked federal agencies December 6 to submit additional information including a record of sequestrable administrative expenses and analysis on their spending in advance of spending cuts slated to go into effect January 2.

Department of Defense

TX Wind Farm Agreement

Officials from the Department of Defense, the Department of the Navy, E.ON Climate and Renewables North America, and Petronila Wind Farm announced a memorandum of understanding December 3 to allow the development and operation of new wind turbines in Nueces County, Texas, while working to protect the Navy's ability to continue its training mission at NAS Kingsville and NAS Corpus Christi. E.On will install and operate up to 100 turbines at the Petronila Wind Farm site and provide \$750,000 to the Department of Defense to research, test, and implement solutions to mitigate potential negative impacts.

Department of Energy

EERE Re-Org

The Department of Energy's Office of Energy Efficiency and Renewable Energy released a memorandum December 5 outlining organizational changes that are designed to strengthen American competitiveness, improve energy security, and reduce energy costs. The agency is re-organizing its program offices around relevant energy sectors; implementing ARPA-E style active project management for all investments; and flattening its organization and creating uniform job titles, roles, and responsibilities across all programs.

2013 Energy Outlook Preview

The Energy Information Administration released its *Annual Energy Outlook 2013* reference case December 5, highlighting a growth in total domestic energy production that exceeds growth in total domestic consumption through 2040 and finding that the United States will become a net exporter of natural gas earlier than previously estimated. The preview also found that renewable fuel use will grow faster than fossil fuel use while net imports of energy decline. EIA's report also predicted that advanced biofuels would grow more slowly than its previous reports indicated due to decreased overall demand for gasoline and technological difficulties. The full report will be released in March of next year.

LNG Study

The Department of Energy's Office of Fossil Energy released a NERA Economic Consulting study on natural gas exports December 5. The report found that from a macroeconomic perspective the export of LNG benefits the U.S. economy. The agency will accept comments on the report for 45 days after the official notice appears in the Federal Register; reply comments will be accepted for 30 days after the conclusion of the initial comment period. This means that any final decisions on pending license applications will need to wait until early spring.

Department of State

Keystone Pipeline Environmental Review

The State Department may release a draft supplemental environmental review for the Keystone XL oil pipeline this week. Opponents of the pipeline would prefer that the department wait on moving forward with its review until Nebraska state officials decide on an alternative pipeline route, which will be integrated into the department's final environmental review.

Environmental Protection Agency

Glass Manufacturing Case Settled

The Environmental Protection Agency announced a settlement December 3 with Owens-Brockway Glass Container for alleged air pollution violations at five of its 19 manufacturing facilities. The company did not obtain required permits or install pollution control equipment either when it was built or when it modified furnaces at some facilities. The company will pay a \$1.45 million civil penalty and will spend \$37.5 million to install emissions monitors and pollution controls for NOx, particulate matter, and SO2. The company will also close the Clarion, Pennsylvania, facility and two furnaces in Atlanta and will spend \$200,000 to retrofit Georgia diesel school buses or fleet vehicles.

Sustainable Design Grants Awarded

The Environmental Protection Agency awarded 45 college design teams a total of \$675,000 in grants December 4 as part of the agency's sustainable technology competition to help protect health and the environment while promoting economic development. The projects will be on display during the Annual National Sustainable Design Expo in April.

Brick and Clay Manufacturing Emission Standards Forthcoming

The Environmental Protection Agency published a notice December 7 announcing that it will propose national emission standards for hazardous air pollutants for brick and structural clay product manufacturing facilities by August 30. The agency agreed to undertake the rulemaking after the Sierra Club filed a complaint charging that the agency failed to meet Clean Air Act obligations to set the standards by November 15, 2000; the agency will finalize the rule no later than July 31, 2014.

Two Rules to OMB

The Environmental Protection Agency sent two air emission rules to the White House Office of Management and Budget December 6 for interagency review – the National Emissions Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines and an emissions rule for cement manufacturing.

Fine Particulate Matter Standard Forthcoming

Attorneys general from nine states sent a letter to the White House Office of Management and Budget December 6 urging the Environmental Protection Agency to set a stringent national ambient air quality standard for fine particulate matter not higher than 12 ug/m³. The office recommended that the agency release a proposed rule this summer considering a range of 12-13 ug/m³, rather than the agency's 12 ug/m³, and to take comment on setting the standard at 11 ug/m³. The agency faces a December 14 court deadline to finalize the rule.

Air Standards Necessary

The Center for Biological Diversity, the Clean Air Council, and the National Parks Conservation Association filed an opening brief November 30 in the U.S. Court of Appeals for the District of Columbia Circuit arguing that the Environmental Protection Agency must, under the Clean Air Act, set air quality standards despite scientific uncertainty. The group is seeking a court order to vacate an agency final rule released in April that retained existing NO_x and SO_x secondary standards, which could force the agency to establish additional standards.

Ethanol Modeling Update Needed

The Renewable Fuels Association sent a letter November 30 urging the Environmental Protection Agency to update its life cycle greenhouse gas emissions modeling for corn ethanol and sugar cane ethanol under the renewable fuel standard to better reflect actual emissions. The Argonne National Laboratory has issued three updates to its Greenhouse Gases, Regulated Emissions, and Energy Use in Transportation model since the agency issued its renewable fuel standard rule in 2010.

RIN Fraud Claim Denied

The U.S. District Court for the Southern District of Texas denied OceanConnect LLC's motion November 29 to refile its claim that mismanagement by the Environmental Protection Agency allowed fraudulent renewable fuel credits to enter the marketplace. The judge ruled that alleging that the agency mismanaged the program would not resolve breach of contract claims against the energy broker. Renewable fuel credit trading is part of the renewable fuel standard program under the Energy Independence and Security Act of 2007.

Fuel Economy Guide Released

The Environmental Protection Agency and the Department of Energy released the *2013 Fuel Economy Guide* December 6. The guide provides consumers information to help them choose the most fuel efficient and low GHG emitting vehicles that meet their needs. The 2013 models include efficient and low emission vehicles in a number of classes and sizes, but the guide notes that there is a growing availability of hybrids and an increasing number of electric vehicles on the market.

Diesel Sulfur Content Rule

The Environmental Protection Agency released a notice December 6 announcing plans to move forward with a proposed rule that would allow petroleum refiners to produce diesel fuel with higher sulfur content used by older locomotive and marine engines beyond 2014. Under the proposed rule, some home heating oils would also qualify as renewable fuels via the renewable fuels standard.

Sorghum-Based Biofuels Qualify as Renewables

The Environmental Protection Agency issued a final rule issued December 4 finding that ethanol produced from grain sorghum at dry mill facilities using natural gas has 32 percent fewer emissions than petroleum and may be considered a renewable fuel. The agency concluded that fuels produced from

sorghum at dry mill facilities using biogas for process heat and electricity generation have less than half of the lifecycle emissions of petroleum, allowing them to qualify as advanced biofuels.

Personnel

Chris Miller, Senate Majority Leader Harry Reid's (D-NV) top energy aid, announced December 3 that he is leaving Capitol Hill. Mr. Miller has worked for numerous top Democrats throughout his more than 20 years on the Hill.

Senate Energy and Natural Resources Committee ranking member Lisa Murkowski (R-AK) has hired three new aides for the next Congress and is welcoming back Brian Hughes, who left the panel in June to work on Mitt Romney's campaign. Mr. Hughes will continue to work on alternative fuels, biofuels, biomass, and vehicles. Kate Williams is rejoining the committee after working with the Alaska Oil and Gas Association; she previously worked for the late Senator Ted Stevens (R-AK), and will handle oil and gas issues. Lucy Murfitt moves to the committee from the office of retiring Senator Jon Kyl (R-AZ), where she served as his legislative counsel for energy, environment, and natural resources since 2009; she will manage public lands issues. Ron Faibish will be a nuclear fellow from Argonne National Laboratory, handling nuclear and science issues on the panel; he was a program manager for the lab's Nuclear Engineering Division.

House Energy and Commerce Chairman Fred Upton (R-MI) has picked Tom Hassenboehler, vice president of policy development and legislative affairs at America's Natural Gas Alliance, to be his senior aide on energy and environmental issues. Mr. Hassenboehler is a former counsel on the House Energy panel who also worked for Senator Jim Inhofe (R-OK) on the Senate Environment and Public Works Committee; he replaces Maryam Brown, who left the panel to be the top energy and environment aide for House Speaker John Boehner (R-OH).

International

COP/MOP Concludes

Negotiators at the 18th Conference of the Parties to the Framework Convention on Climate Change in Doha, Qatar, signed a deal December 8 to extend the terms of the Kyoto Protocol through 2020. The new iteration requires no CO₂ reductions from the United States, India, China, Russia, Canada, or Japan, but member countries are hoping for a global, legally binding treaty in 2015 based on CO₂ reductions within each country. That treaty would not go into effect until 2020, a timetable that is too slow to prevent the critical 2 °C increase in average annual global temperatures. At sideline talks, groups called December 5 for the Green Climate Fund to be extended to other industrialized economies, contending that those countries already planning to put the Tobin tax into force should dedicate more toward climate issues.

Green Economy Indicators

The United Nations Environment Program issued guidelines December 3 at the opening of a three-day international conference in Geneva on the development of green economy indicators to help countries write and implement policies to promote a green economy. The guidelines lay out a framework for the use of indicators in developing and tracking green economy policies. Indicators include climate change, ecosystem management, resource efficiency, chemicals and waste management, green investment, green fiscal reform, pricing externalities and valuing ecosystems, and green procurement.

Global Temperature Rise Goal Unlikely Without CCS

The Global Carbon Project published a study in the journal *Nature Climate Change* December 2 finding that the likelihood of limiting global temperature rise to the international goal of 2 degrees Celsius is diminishing. The report, "The Challenge to Keep Global Warming Below 2 °C" concludes that keeping the temperature increase below that goal is likely to require using technologies that remove CO₂ from the atmosphere. CO₂ emissions rose 3 percent in 2011, to 9.5 billion MT, and are projected to increase by 2.6 percent by the end of this year. Emissions grew at an average annual rate of 3.1 percent from 2000 to 2011. If current trends continue, the global mean temperature is likely to increase by more than 5 °C in 2100.

NAFTA Commission Reviews Quebec Emissions Enforcement

The Commission for Environmental Cooperation, a Canadian agency that oversees the environmental agreement passed alongside the North American Free Trade Agreement, released a final review December 6 reviewing claims that the Quebec government has failed to fully enforce laws limiting emissions from automobiles and other light-duty vehicles. Quebec's environment ministry continues to work on creating an emissions inspection and maintenance program for light-duty vehicles.

Qatar Launches Two Climate Science Organizations

In an effort to promote climate science in the Persian Gulf nations, Qatari officials launched December 5 The Qatar Premier Climate Change Research Institute and a global Climate Change Forum. Though the two organizations will initially be operated from the Potsdam Institute for Climate Impact Research in Germany, they will eventually be relocated to Qatar.

States

San Diego Meets Ozone Standard

The California Air Resources Board approved a resolution December 5 announcing that San Diego County has met the 1997 national eight-hour standard for ground-level ozone. The board also approved a plan designed to ensure that the county remains in accordance with the standard.

NY Tax Department Explains Solar Sales Exemption

The New York State Department of Taxation and Finance issued a memo December 6 clarifying a state law offering a sales tax exemption for the sale and installation of commercial solar energy systems. The new exemption is applicable to sales and services after January 1, 2013.

CO City Fracking Ban

Colorado Governor John Hickenlooper (D) stated December 6 that the state will support any oil and gas company that chooses to sue the City of Longmont over a citywide fracking ban. The ban, approved by voters in November, prohibits fracking to extract oil, gas, and other hydrocarbons within city limits.

LA Emissions Reduction Plan

The South Coast Air Quality Management District adopted December 7 a clean air strategy designed to reduce emissions of fine particulates and other air pollutants in the Los Angeles area. The plan will bring the area into alignment with the federal 24-hour standard for fine particulates by 2014. The California Air Resources Board intends to review the plan in January.

\$10.71 Allowance Floor

The California Air Resources Board announced December 3 that the floor price for GHG emission allowances at quarterly cap-and-trade auctions in 2013 will be \$10.71. Next year's auctions will be held February 19, May 16, August 16, and November 19.

MT Tax Credit Eligibility

The Montana State Tax Appeal Board ruled November 14 that costs associated with replacing a roof and siding to add insulation to a residence are eligible for the state's energy conservation installation tax credit. The Montana Department of Revenue had previously restricted eligibility for the credit to the cost of the insulation installed beneath the roof and siding.

Miscellaneous

Energy Security Report

Securing America's Future Energy, a group of corporate and retired military leaders, released a report December 3 outlining steps to reduce the country's dependence on foreign oil. Focusing on reducing oil dependence; streamlining the regulatory process; studying long-term global issues; and expanding domestic energy production, the report, *A National Strategy for Energy Security*, calls on the

administration to open the nation's coastline to offshore oil and gas drilling; increase vehicle fuel economy standards; promote electric vehicles and alternative fuels; and leave fracking regulations to the states.

BPC Energy Blueprint Forthcoming

The Bipartisan Policy Center announced December 7 that it will release its blueprint for energy legislation and policy in early February. The plan will include 50 specific recommendations and will be given to Congress and the president. The Energy Policy Initiative released the first piece of the blueprint last month, calling on the White House and Congress to create a National Energy Strategy Council.

41 Percent Building Energy Use Decrease

The International Council of Chemical Associations released a report December 7 concluding that greater adoption of energy efficient technologies could reduce building energy use 41 percent and emissions 70 percent by 2050. The report, *ICCA Building Technology Roadmap*, found that a combination of improved energy efficiency standards for new buildings and an accelerated rate of building renovations would result in a 12 to 23 percent decline in energy use and GHG emissions by 2050 compared to 2000.

Landfill Methane Emissions

Contrary to previous estimates finding that 35 MMT CH₄ are emitted annually from landfills around the world, a December 5 Clean Air Task Force report concluded that the amount of methane emitted is substantially less - between 10 and 15 MMT. The report, *Good News From the Dump*, suggests that CH₄ landfill emissions might not grow as quickly as previously predicted.

Q3 Carbon Allowance Prices Stable

According to a December 5 Regional Green House Gas Initiative report, the price of CO₂ allowances in the secondary market was steady during the third quarter of 2012, fluctuating between \$1.95 and \$1.93. The report indicated that these prices were consistent with the September 5 \$1.93 auction price.

NRC Committee Assesses Fuel Economy Technologies

Speakers at a December 5 briefing sponsored by the Center for Automotive Research found that a National Research Council assessment of technologies to improve vehicle fuel economy will be useful to the National Highway Traffic Safety Administration and the Environmental Protection Agency as they judge the auto industry's success in conforming with new regulations designed to increase fuel efficiency and limit vehicle greenhouse gas emissions. The committee is expected to release its report in 2015.

Utility Executives Applaud Smart Grid Technology

At a December 4 Edison Foundation Institute for Electric Efficiency event, electric utility executives expressed approval of the increased use of smart grid technology but called for greater engagement with federal and state regulators to promote technological innovation. Smart grid technology has improved power restoration times, enhanced employee safety, and allowed remote power supply connection and disconnection.

Flexible Statewide GHG Caps Proposed

The Natural Resource Defense Council released a report December 4 finding that individual, statewide CO₂ emissions limits for existing power plants could decrease sector emissions 26 percent in 2020 and reduce wholesale generating costs. The report, *Closing the Power Plant Carbon Pollution Loophole: Smart Ways the Clean Air Act Can Clean Up America's Biggest Climate Polluters*, concluded that the program would cost power companies \$4 billion annually but would encourage \$90 billion in energy efficiency investments.

Executives Support Packaging Sustainability Initiatives

During a December 4 *The Atlantic* forum on conservation, efficiency, and growth, a group of corporate executives indicated that a key sustainability objective of companies is reducing and improving packaging. Participants added that sustainability initiatives offer savings to companies and customers.