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

The White House released a \$3.8 trillion Fiscal Year 2011 budget proposal last Monday, calling for a freeze on non-security discretionary spending for three years while increasing funding for several energy-related programs.

While a number of programs were cut or terminated, overall departmental spending for energy and environmental agencies mostly received funding increases. Energy spending received the second largest percentage increase from current FY2010; Veterans Affairs was up 7.3% and the Department of Energy was up 7.2%. At the other end of the spectrum, the Department of Commerce's budget request was 12.7% below the current spending level.

The Department of Energy's \$28.4 billion budget request includes a \$369 million funding increase for energy science research and energy research laboratories. The budget also eliminates tax breaks for oil and gas production, which would produce \$38 billion over 10 years. Though much of the spending increase is due to additional funding for nuclear weapons programs, the budget as a whole invests \$6 billion in clean energy projects. The budget proposal includes a \$36 billion expansion of the loan guarantee authority, a credit subsidy of \$500 million to support \$3 to \$5 billion in loan guarantees for renewable energy and energy efficiency projects, and an additional \$5 billion to expand the Advanced Energy Manufacturers Tax Credit. DOE's budget request also includes \$4.7 billion for clean energy technology investments, \$300 million for ARPA-E, and \$545 million for advanced coal technologies.

Though the Environmental Protection Agency's \$10 billion budget request is 3% below FY2010 levels, it includes \$43 million in new funding for greenhouse gas emissions regulations. The budget request also noted but did not allocated more than \$1 trillion in possible funding from new revenues from a proposed cap-and-trade emissions trading program. Last year's FY2010 budget included \$646 billion in carbon revenues, so the change indicates a shift in strategy by the president to emphasize greenhouse gas rules while Congress continues the climate legislation debate. The budget proposal also requests \$21 million to help the EPA implement its reporting rule for GHG emissions.

The Department of Commerce's \$8.9 billion budget request increases funding for the National Oceanic and Atmospheric Administration's weather and climate satellite programs and ocean policy making.

The Department of Interior's \$12.2 billion budget request increases funding for new policies for licensing renewable energy sources on federal lands and increased land conservation. However, as the budget as a whole seeks to reduce or eliminate 120 different programs for a total savings of \$20 billion, two grant programs at the National Park Service and an abandoned mines payment program were cut completely.

Other departments received clean energy specific funding as well. The Department of Transportation's \$78.8 billion budget request is an increase of almost \$2 billion, including additional funding for highway and infrastructure projects. The State Department's budget proposal includes \$1.4 billion to help

developing nations adapt to climate change and pursue low carbon development, and the Department of Agriculture request includes funding in five core areas to promote rural job creation, two of which are in the areas of renewable energy and climate change, but farm subsidies were cut substantially.

Across agencies, the proposal has more than \$61 billion for various research and development programs, a 6.4 percent increase over last year. That includes more than \$100 billion to help states and local governments invest in infrastructure, \$4 billion for national and regional infrastructure projects and \$6 billion for research, development and demonstration of clean energy technologies.

For the complete fiscal year 2011 budget request, see <http://www.whitehouse.gov/omb/budget/fy2011/assets/budget.pdf>.

Congressional reaction to the Administration's budget proposals has been mixed. Senate Energy and Natural Resources Chairman Jeff Bingaman (D-NM) released a statement last week in support of increased DOE spending, but the Senate Budget Committee's Ranking Member, Judd Gregg (R-NH), suggested that the proposal does not freeze domestic spending, and others are concerned about the amount requested for or cut from particular budget items.

As budget debates begin, and appropriators attempt to balance the budget, Congress continues its efforts to pass a jobs bill. Senate Majority Leader Harry Reid (D-NV) signaled late last week that renewable energy and energy efficiency will be a key aspect of Democratic-sponsored legislation to spur job creation, although it remains unclear whether energy provisions will be included in the first jobs bill expected to come to a vote this week, though it is more likely that they will be included in a green energy specific jobs bill. On Thursday, Senator Stabenow and 22 of her Democratic Senate colleagues sent a letter to Finance Chairman Max Baucus (D-MT) and Ranking Member Chuck Grassley (R-IA) asking them to consider including the Advanced Energy Manufacturing Tax Credit (48C) program in the jobs package or another appropriate vehicle.

There were a number of interesting developments last week regarding energy and climate legislation. Senate Foreign Relations Chairman John Kerry (D-MA), who is working with Senators Joe Lieberman (I-CT) and Lindsey Graham (R-DC) on compromise climate legislation, said that draft language has been crafted to help nuclear, natural gas, and alternative renewable energy sources, but that no deal has emerged on how to cap carbon emissions. The three Senators are also searching for additional Republican support, and are considering Senator Scott Brown (R-MA), who was sworn in Thursday night, a key target. Earlier in the week President Obama hinted for the first time that an energy bill might move separately from a climate bill this year, though he still favors a comprehensive bill that includes a price on carbon.

Senator Ben Nelson (D-NE) has begun talking recently about organizing a bipartisan gang of ten to pass energy legislation this year. Others are talking more about a sector-specific approach that focuses first on power plants, and last Thursday, Senators Tom Carper (D-DE) and Lamar Alexander (R-TN) introduced legislation to expedite EPA regulations on SO<sub>2</sub>, N<sub>2</sub>O, and mercury emissions via a cap and trade program.

Opposition to the ongoing EPA rulemaking on climate change emissions under the Clean Air Act grew last Tuesday when House Armed Services Chairman Ike Skelton (D-MO), House Agriculture Chairman Collin Peterson (D-MN), and Congresswoman Jo Ann Emerson (R-MO) introduced legislation (H.R. 4572) that co-opts the agency's authority. An alternate Senate measure (S.J.Res. 26), proposed by Senator Lisa Murkowski (R-AK), would overturn the EPA's December finding that greenhouse gas emissions endanger the public, and is expected to come up for a vote next month. House Energy and Commerce Republicans wrote a letter to EPA Administrator Lisa Jackson last Thursday about agency's vetting of U.N. reports in light of the Climategate scandal.

## **Senate**

### Energy Secretary Testifies On DOE Budget Request

Secretary of Energy Steven Chu testified last Thursday before the Senate Energy and Natural Resources Committee on the President's budget request for the Department of Energy. Responding to Senate inquiries about particular programs, the Secretary defended the increased funding for various clean energy programs throughout the Department.

#### Environment and Public Works Subcommittee Discuss Federal Chemicals Law

The Superfund, Toxics, and Environmental Health Subcommittee of the Senate Environment and Public Works Committee met last Thursday to discuss recent science such as biomonitoring that analyzes how people are exposed to toxic chemicals. As the Senate prepares for one of the next big environmental debates, TSCA (Toxic Substances Control Act) reform, additional hearings can be expected on a variety of related issues, and Subcommittee Chairman Frank Lautenberg (D-NJ) will take the lead in crafting new Senate legislation

#### Upcoming Hearings

The Energy and Natural Resources Committee will hold a number of relevant hearings this week. On Tuesday, the full committee will examine financial transmission rights and other electricity market mechanisms, and will hear from FERC Chairman Jon Wellinghoff, Gary Gensler, Chairman of the Commodity Futures Trading Commission, Elizabeth Moler of the Edison Electric Institute and the Electric Power Supply Association, Vince Duane, Vice President and General Counsel of PJM Interconnection, and Michael Henderson of the Arkansas Rural Electric Cooperatives.

On Wednesday, the Energy Committee will meet to consider the proposed budget for the Department of the Interior. Interior Secretary Ken Salazar will testify.

The Committee will also hold hearing February 11 on the Department of Energy's loan guarantee program.

The Senate Environment and Public Works Committee will meet this Tuesday to consider pending nominations, including Arthur Elkins Jr. to be Inspector General of the Environmental Protection Agency.

### **House**

#### Science and Technology Subcommittee Holds Geoengineering Hearing

According to witnesses at last Thursday's Science and Technology Subcommittee's hearing on geoengineering research and development, geoengineering to counteract climate change might be worth pursuing along side greenhouse gas emissions reductions. Though the practice is both expensive and risky, the subcommittee is looking into a possible role for the U.S. government in a range of strategies to deliberately alter the earth's climate systems. The second of three hearings on the subject, Congressmen on Thursday examined Solar Radiation Management, which reduces the amount of sunlight that reaches the earth by injecting reflective substances into the atmosphere or elsewhere, and Carbon Dioxide Removal, which draws CO<sub>2</sub> out of the atmosphere to store or dispose of it. All four witnesses emphasized the need to put a price on carbon emissions, to increase energy efficiency, and to invest in renewable energy and CCS, but contended that geoengineering might be another significant part of the solution to addressing climate change.

#### Agriculture Chairman Prepares to Rewrite the Farm Bill

House Agriculture Chairman Collin Peterson (D-MI) plans to hold hearings as early as March to begin preparation for the next farm bill, over two years before it is due for completion. In so doing, he is planning significant changes to conservation programs and biomass incentives. The complete measure oversees more than \$200 billion in mandatory spending for crop subsidies, food aid, and conservation programs that pay landowners to set aside land, improve wildlife habitat, or grow alternative energy crops. Senate Agriculture Chairwoman Blanche Lincoln (D-AR) is not planning any farm bill hearings this year.

#### Markey Introduces Home Energy Assistance Legislation

Congressman Ed Markey (D-MA) introduced legislation last week that would boost funding for and expand the Low-Income Home Energy Assistance Program (LIHEAP) to \$7.6 billion for fiscal years 2011-

2014, a level that is \$2.5 billion more than previously authorized in the 2005 Energy Policy Act. LIHEAP helps low-income families pay their home energy bills, and last year assisted 8.3 million households.

#### Braley Introduces Wind Energy and Energy Efficiency Legislation

Congressman Bruce Braley (D-IA) introduced legislation February 3 to authorize the Secretary of Labor to award grants for worker training, technology development, and applied research in the wind energy industry production and energy efficient construction, retrofitting, and design industries. H.R. 4584 has been reported to the Committee on Education and Labor.

#### Upcoming Hearings

The House Energy and Commerce Subcommittee on Energy and the Environment will hold a hearing February 10 on the oversight of the Federal Energy Regulatory Commission.

#### Department of Agriculture

The Federal Register is scheduled to publish a Department of Agriculture proposed rule Monday that provides further details on a financial assistance program to promote development of biomass fuel crops by farmers and forest owners called the Biomass Crop Assistance Program. Subject to a 60-day comment period, the proposal specifies the requirements for eligible crops, participants, and biomass conversion facilities to be a part of the program, which was authorized by the Food, Conservation, and Energy Act of 2008 (the 2008 Farm Bill). The act provides for matching payments to biomass growers of \$1 for each \$1/dry ton paid by a biomass conversion facility.

#### Department of Defense

The Pentagon released last Monday a long-term strategy that for the first time recognizes climate change as a direct threat that could put U.S. forces in harm's way. The Defense Department's Quadrennial Defense Review states that while climate change alone does not cause conflict, it may "act as an accelerant of instability or conflict, placing a burden to respond on civilian institutions and militaries around the world." The largest energy user of the Federal Government, the DOD is considering creating an innovation fund to enable competition for funding on projects that advance integrated energy solutions.

#### Department of Energy

The Department of Energy and the Environmental Protection Agency announced last Tuesday the creation of the State Energy Efficiency Action Network. The network will assist states with their energy efficiency initiatives, including residential efficiency programs, financing solutions, and improving availability of energy usage information. The program will help states achieve maximum cost effective energy efficiency improvements in homes, offices, buildings, and industry by 2020. The Executive Group will meet for the first time in early March, and working groups will continue to meet throughout the year to deliver specific goals.

#### Department of the Interior

During a boat tour last Tuesday off Cape Cod, Massachusetts, Interior Secretary Ken Salazar said that the outcome of the controversial wind farm proposed for the Nantucket Sound would not hurt the country's developing offshore wind industry. The Cape Wind project would be the nation's first offshore wind farm, and Secretary Salazar has committed to making a licensing decision by April.

#### Environmental Protection Agency

##### RFS Boosts Biofuels GHG Benefits

The EPA issued a final renewable fuel standard (RFS) last Tuesday that boosts the greenhouse gas benefits of many types of biofuels compared to its previously proposed RFS. The move allows biofuels such as corn ethanol and soy biodiesel to qualify for credit under the standard, but is creating debate over the scientific validity of the changes. The rule requires refiners to blend almost 13 billion gallons of

biofuels into the fuel supply in 2010, including 6.5 million gallons of cellulosic biofuel and over a billion gallons of bio-based diesel. The standard is expected to boost biofuel use to 36 billion gallons by 2022, and will consider international land use when measuring fuel's greenhouse gas emissions. In the same announcement, the Administration also unveiled a number of other steps to boost biofuels and clean coal., including an inter-agency work group's first report on ideas for increasing commercial development of biofuels, a proposed USA rule to boost efforts for converting biomass to bioenergy and bio-based products, and a new inter-agency task force to develop a comprehensive and coordinated federal strategy to speed the development and deployment of clean coal technologies.

#### OMB Clears EPA Fuel Efficiency Guidance for Federal Fleet

Last Monday, the White House Office of Management and Budget completed its review of the EPA's final rule on fuel-efficiency guidelines for the Federal vehicle fleet. Though details of the imminent guidance are not yet clear, many lawmakers are concerned that the guidance will restrict their use of larger domestic vehicles.

#### Personnel

The Senate Energy and Natural Resources Committee considered the nomination of Larry Persily to be Federal Coordinator for the Alaska Natural Gas Transportation Projects and Patricia Hoffman to serve as the Department of Energy's Assistant Secretary of Energy for Electricity Delivery and Energy Reliability; both nominees received bipartisan support.

Last week, President Obama nominated Larry Robinson to be Assistant Secretary for Conservation and Management at the Commerce Department; he would oversee ocean policy at the National Oceanic and Atmospheric Administration last week. Dr. Robinson is an environmental science professor and vice president for research at Florida A&M's Environmental Sciences Institute, and has directed NOAA's environmental cooperative science center at the university for the past nine years. Previously, he was a research scientist at the Oak Ridge National Laboratory.

President Obama nominated Jeffrey Lane to be the Energy Department's Assistant Secretary for Congressional and Intergovernmental Affairs last Monday. Jeffrey Lane is the former Chief of Staff for Democrats Michael Bennet and Ken Salazar of Colorado and John Edwards of North Carolina. He also served as senior aide to former Senate Democratic Leader Tom Daschle (SD) and legislative director for Senator James Sasser (D-TN).

#### Miscellaneous

##### European Investment Bank to Be In Charge of Sequestration Funding

On Wednesday, European Union member states decided that the European Investment Bank would be put in charge of a stock of 300 million carbon credits established by EU lawmakers to help fund the development and spread of carbon sequestration technologies. Member states agreed in mid-2008 that 12 carbon sequestration demonstration plants should be operating in the area by 2015 as part of the overall GHG reduction strategy.

##### Exelon Corporation Joins FutureGen Alliance as DOE Mulls Options

Exelon Corporation Announced its intention to join the FutureGen Alliance last Sunday, a month before Energy Secretary Steven Chu is scheduled to announce a final decision on federal support for the FutureGen project. Last summer, Secretary Chu said that the FutureGen Alliance's ability to attract additional private sector support for the project would be a factor in the government's decision on whether to provide funding to the project, which could be as much as \$1.1 billion for research and development.

##### CARB Plans Emissions Monitors Network

The California Air Resources Board announced early last week plans to install a network of emissions monitoring devices this summer. The devices will be installed throughout the state and will allow regulators to track compliance with the state's new restrictions on GHG emissions.