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ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Debate

Facing the threat of a government shutdown, after an intense week of budget negotiations, Congress passed a short term spending measure late last Friday night to keep the government running through this Thursday. The measure averts the shutdown while giving Congress time to pass the six-month budget compromise to which Senate Majority Leader Harry Reid (D-NV), House Speaker John Boehner (R-OH), and President Obama agreed just hours prior.

The proposed six-month agreement would reduce domestic and foreign aid by more than \$40 billion from the fiscal year 2010 budget, and both chambers are expected to pass the measure before adjourning at the end of the week for a two-week spring recess.

On April 7, the House approved (255-172) a bill (H.R. 910) that would remove the Environmental Protection Agency's authority to regulate greenhouse gas emissions. Nineteen Democrats joined 236 Republicans in voting for the Upton measure. The legislation was approved with only a single Democratic amendment from Congressman Jerry McNerney (D-CA) that would exempt voluntary climate change programs from the prohibitions of EPA's authority, defeating 11 other amendments outright.

The day before, however, the Senate failed to approve any of the four EPA amendments to the small business bill. As predicted, both parties are claiming victory. Democrats are celebrating the fact that not only did all of the EPA riders fail to reach the 60 votes needed for passage, the McConnell amendment, which is identical to the Upton measure in the House, came up one vote short of earning the support of a majority of senators -- Senator Susan Collins, R-ME, was the lone Republican to vote no on the measure. Republicans, meanwhile, are happy to announce that 64 senators, including 17 Democrats, voted for one or more of the proposals to prohibit, stall, or weaken the EPA's authority to regulate GHGs. Vote totals were as follows: McConnell: 50-50; Rockefeller: 12-88; and Stabenow and Baucus were both 7-93.

Given the Senate votes, as well as the threat of a White House veto, last week's House vote won't mean a whole lot in terms of the legislation becoming law, but the floor action will leave House Republicans with plenty to talk about during the upcoming campaign season.

Congress

62 MPG Standard Requested

A bipartisan group of 18 senators sent a letter to Transportation Secretary Ray LaHood and EPA Administrator Lisa Jackson April 4 calling on the administration to raise federal fuel economy standards to 62 miles per gallon by 2025 and to make it easier for consumers to learn about and purchase fuel-efficient vehicles. Senator Dianne Feinstein (D-CA), who led the effort, introduced the Ten-in-Ten Fuel Economy Act in 2007 that required an increase to 35 mpg by 2017 that was signed into law in 2010.

E85 Mandates Draw Concern

During an April 7 Senate Energy and Natural Resources Committee hearing, Chairman Jeff Bingaman (D-NM) said that he was concerned about legislation that would mandate new cars and gasoline pumps that are compatible with motor fuel that contains up to 85 percent ethanol. The hearing was scheduled to, among other thing, consider Senator Tom Harkin's (D-IA) Biofuels Market Expansion Act of 2011 (S. 187), which would authorize \$1 billion over FY 2012-2016 for grants.

Senate Ag Subcommittees Assigned

Senate Agriculture Committee Chair Debbie Stabenow (D-MI) and Ranking Member Pat Roberts (R-KS) announced assignments for the panel's five subcommittees for the 112th Congress April 6. Democratic Senators Sherrod Brown (OH), Tom Harkin (IA), Kent Conrad (ND) Ben Nelson (NE), Robert Casey (PA), and Amy Klobuchar (MI), and Republican Senators John Thune (SD), Dick Lugar (IN), Saxby Chambliss (GA), Chuck Grassley (IA), and John Hoeven (ND) will serve on the Subcommittee on Jobs, Rural Economic Growth and Energy Innovation.

Legislation Introduced

Congressmen Jim Matheson (D-UT) and John Sullivan (R-OK) introduced legislation last week that would direct the Environmental Protection Agency to provide more information about the cumulative economic impacts of EPA regulations and to harmonize pending rules to give the industry increased authority.

Congressman Pete Olson (R-TX) introduced legislation (H.R. 1341) April 4 to amend title 5 to require the Environmental Protection Agency to include in any notice of rule making a statement regarding the impact of the rule on job loss or creation.

Congressman Ed Markey (D-MA) introduced legislation (H.R. 1352) to prohibit the Secretary of the Interior from issuing any new lease that authorizes the production of oil or natural gas under the Outer Continental Shelf Lands Act to a person that does not renegotiate existing leases held by the person to incorporate limitations on royalty relief based on market price that are equal to or less than price thresholds that apply to other leases under the Act.

Congressman Bob Goodlatte (R-VA) introduced legislation (H.R. 1372) to authorize the Secretary of the Interior to conduct oil and natural gas exploration, leasing, and drilling activities on the outer Continental Shelf offshore the state of Virginia.

Democratic Senators Tom Udall (NM) and Mark Udall (CO) introduced legislation (S. 741) on April 6 that would establish a 25 percent renewable electricity standard by 2025. The legislation, nearly identical to a measure introduced by the Senators Udall last Congress, outlines a gradual series of steps beginning with a requirement that 6 percent of electricity come from renewable sources by 2013; the percentage would increase every one to two years until it reached 25 percent.

Congressman John Sullivan (R-OK) introduced the New Alternative Transportation to Giver Americans Solutions Act of 2011 (H.R. 1380). The legislation provides incentives for the use of natural gas vehicles.

Senator Debbie Stabenow (D-MI) introduced legislation (S. 734) to provide for a program of research, development, demonstration, and commercial application in vehicle technologies at the Department of Education.

Senator Sherrod Brown (D-OH) introduced legislation (S. 751) to require the Secretary of Commerce to develop a comprehensive national manufacturing strategy. Congressman Dan Lipinski (D-IL) introduced companion legislation (H.R. 1366) in the House.

Congressman Gary Peters (D-MI) introduced legislation (H.R. 1367) to provide for a program of research, development, demonstration, and commercial application in vehicle technologies at the Department of Energy.

Congressman John Sullivan (R-OK) introduced legislation (H.R. 1380) to amend the Internal Revenue Code of 1986 to encourage alternative energy investments and job creation.

Congressman Dean Heller (R-NV) introduced legislation (H.R. 1384) to amend the Internal Revenue Code of 1986 to temporarily increase the investment tax credit for geothermal energy property.

Congressman David McKinley (R-WV) introduced legislation (H.R. 1391) to prohibit the Environmental Protection Agency from regulating fossil fuel combustion waste under subtitle C of the Solid Waste Disposal Act.

Congressman Vern Buchanan (R-FL) introduced legislation (H.R. 1393) to reform the Bureau of Ocean Energy Management, Regulation, and Enforcement and offshore drilling for oil and gas and to repeal the limitation of liability of a responsible party for discharge of oil from an offshore facility.

Congressman Bob Latta (R-OH) introduced legislation (H.R. 1405) to prohibit the Environmental Protection Agency from regulating coal combustion byproducts as hazardous waste under subtitle C of the Solid Waste Disposal Act.

Senator Bill Nelson (D-FL) introduced legislation (S. 748) to amend the Internal Revenue Code of 1986 to expand the definition of cellulosic biofuel to include algae-based biofuel for purposes of the cellulosic biofuel producer credit and the special allowance for cellulosic biofuel plant property. Senator Nelson introduced the same measure last Congress.

Senators John Barrasso (R-WY) and Jeff Bingaman (D-NM) reintroduced their bipartisan measure April 7 that would award monetary prizes to researchers who figure out a way to suck CO₂ directly from the air. The pair introduced the CCS legislation last Congress, where it stalled in committee.

Upcoming Hearings

The Senate Environment and Public Works Committee will hold a joint hearing April 12 with the Subcommittee on Clean Air and Nuclear Safety on the Japanese nuclear crisis. Environmental Protection Agency Administrator Lisa Jackson and Nuclear Regulatory Commission Chair Gregory Jaczko will testify.

The Senate Environment and Public Works Committee will hold an April 12 hearing with the Subcommittee on Water and Wildlife on natural gas drilling. Representatives from the Environmental Protection Agency, the Pennsylvania Environmental Council, and the Colorado Oil and Gas Conservation Commission will testify on the public health and environmental impacts of drilling.

The House Natural Resources Committee will meet April 13 to vote on three bills designed to increase domestic energy production by allowing for drilling. The committee will mark up the Putting the Gulf Back to Work Act (H.R. 1229), the Restarting American Offshore Lease Sales Now Act (H.R. 1230), and the Reversing President Obama's Moratorium Act (H.R. 1231).

The Senate Environment and Public Works Committee will hold a hearing April 13 on domestic renewable fuels, focusing on ethanol and advanced biofuels.

The House Science Subcommittee on Investigations and Oversight will hold a hearing April 13 on green jobs, focusing on federal efforts to encourage employment.

The House Energy and Commerce Subcommittee on Energy and Power will hold an April 13 hearing on the American energy initiative, focusing on the discussion draft of the Jobs and Energy Permitting Act of 2011.

The House Science Committee will hold an April 14 hearing on hydraulic fracturing technology and practices.

The House Small Business Subcommittee on Agriculture, Energy, and Trade will hold a hearing April 14 on drilling, focusing on ways to mitigate the impact of high gas prices on small business.

Department of Agriculture

REAP to Promote Biofuel Use

Department of Agriculture Secretary Tom Vilsack announced program April 8 to provide funding for the installation of flexible fuel pumps. An interim rule for the program will soon be announced in the Federal Register, and is intended to clarify that the definition of renewable energy systems in the Rural Energy for America Program includes flexible fuel pumps, or blender pumps. The clarification will make eligibility requirements under the program consistent with other USDA energy programs, which will help to meet the administration's goal of installing 10,000 flexible fuel pumps nationwide within five years.

Department of Energy

EECBG Difficulties Continue

An April 7 Government Accountability Office analysis found that Department of Energy officials and recipients of Energy Efficiency and Conservation Block Grants are having difficulty obligating and spending funds due to local jurisdiction requirements and limited staff and resources. The \$3.2 billion Recovery Act program is directed toward developing, promoting, and managing projects to improve energy efficiency and reduce energy use and fossil fuel emissions in local communities.

\$112 Million for PV Projects

The Department of Energy awarded \$112 million over five years to three photovoltaic energy projects April 5 as part of the agency's Sunshot initiative. The funds were awarded under the SunShot Advanced Manufacturing Partnerships, a recently formed program that helps the solar power industry overcome technical barriers and reduce costs for PV installations, modeled on a similar program that successfully helped to grow the semiconductor industry. The projects were made available to applicants in university and industry and include \$62.5 million for the U.S. Photovoltaic Manufacturing Consortium, an industry group in Albany, NY, and Palm Bay, FL, \$25 million for the Bay Area PV Consortium, a project managed by Stanford University and the University of California, and \$25 million to San Jose-based SVTC Technologies. At the same time, the Departments of Energy and Interior awarded \$26.6 million to develop advanced hydropower technologies, including \$10.5 million over three years for sustainable small hydropower projects, \$11.9 million for sustainable pumped storage hydropower, \$2.3 million for environmental mitigation technologies for conventional hydropower, and \$2 million for advanced conventional hydropower system testing at a Bureau of Reclamation facility.

US-Qatar MOU Signed

The Department of Energy and Qatar Science and Technology Park signed a Memorandum of Understanding April 6 to promote collaboration on the development and deployment of cost-effective and sustainable clean energy technologies. The countries will exchange scientific and technical information and undertake joint research, development, and deployment initiatives that help spur energy innovation, create new markets for clean energy, and support economic growth.

Department of Interior

Renewable Generation Permits to More than Double

The Department of Interior will permit 10,000 MW of renewable energy generation on public lands by the end of the year. The agency approved 4,000 MW in 2010, the equivalent of 10 coal-fired power plants.

Energy Security Sessions

Interior Secretary Ken Salazar held an online question and answer session last week on the White House website on energy security. Following last week's session, President Obama will hold a Facebook town hall on April 20, the one-year anniversary of the Deepwater Horizon explosion.

Environmental Protection Agency

Light Fixture Standards to Increase

The Environmental Protection Agency announced April 5 that Energy Star standards for light fixtures will become more stringent this October. The new standards will require certified products to be 30 percent more efficient than the currently qualified fluorescent light fixtures. That standard will increase again in 2013, when certified products will need to be 40 percent more efficient than currently qualified technology.

Federal Energy Regulatory Commission

FERC to Move Forward

Jon Wellinghoff, chairman of the Federal Energy Regulatory Commission, said April 6 that despite resistance from major segments of the electric industry, he plans to move forward on schedule with his dual goals of promoting large-scale renewable energy generation and implementing demand-response programs to cut electricity usage.

Miscellaneous

Smart Grids to Reduce Emissions

The International Energy Agency found April 4 that smart electricity system grids could contribute to reducing peak demand load by 13 to 25 percent by 2050 and reduce electricity-related greenhouse gas emissions by over 2 GT per year by that date. IEA executive director Nobuo Tanaka said last week that developing the grids would require aggressive investment in large-scale regional pilot projects, accommodated by global standards and regulatory changes.

German Nuclear Company Challenges Moratorium

German energy company RWE filed a complaint with the Administrative Court in Kassel April 1 challenging the federal state of Hesse's authority to carry out a temporary federal-government-ordered shutdown of the country's seven oldest nuclear plants after the nuclear crisis in Japan. RWE Power was ordered to shut down the Biblis power plant four days after the government imposed the moratorium March 14, and the company is questioning the legal underpinnings of the federal government's action; the company also plans to sue to government for approximately \$1.4 million a day in lost revenue.

CO RES Challenged

The American Tradition Institute filed a lawsuit in the U.S. District Court for the District of Colorado April 4 against the state, arguing that its renewable electricity standard should be declared unconstitutional because it violates the Constitution's commerce clause. The institute claims that the state's renewable energy standard provides economic benefits to CO's renewable electricity generators that are not available to out-of-state power generators, and the burdens imposed on interstate electricity generators are not commensurate with the benefits provided to the state and its citizens.

EU Steelworkers to Challenge Allowance Allocations

The European Confederation of Iron and Steel Industries said April 4 that it plans to take legal action against the European Commission to request annulment of rules on the continued allocation of free carbon dioxide emission allowances to some industrial sectors under the EU Emissions Trading System. The benchmarking decision, which was finalized in March, establishes a system for allocating free CO2 allowances based on performance of the most energy-efficient companies, with less efficient companies having to buy additional allowances because of their higher GHG emissions.

NCA Initiates Mitigation, Adaptation Report

The federal advisory committee of the National Climate Assessment began reviewing draft material and discussing the way forward on domestic mitigation and adaptation strategies during its first meeting April 4-6. The NCA is a project of the U.S. Global Change Research Program, which involves 13 agencies and is overseen by the White House Office of Science and Technology Policy; it is required to release a climate change report at least once every four years.

Japanese GHG Targets May be Abandoned

Japanese Environment Ministry Vice Minister Hideki Minamikawa said April 3 that the continuing emergency at the Fukushima Daiichi nuclear power station may force the country to abandon its 2020 target to reduce greenhouse gas emissions by 25 percent from 1990 levels. Unless Japan builds nine more nuclear power plants by 2020, the nation will be unable to meet its power supply needs with clean sources.

CA Adds GHGs to Landfill Rule

California's South Coast Air Quality Management District decided last week to broaden the scope of a rule that limits ozone-forming emissions and reduces odors from municipal landfills to include methane emissions. The agency's governing board approved amendments to Rule 1150.1 that incorporate the landfill methane-reduction measures adopted in 2009 by the California Air Resources Board under the Global Warming Solutions Act of 2006 (A.B. 32).

World Bank Energy Report Released

The World Bank released a draft energy strategy last week that would, if approved, restrict lending for financing coal-fired power plants to only the poorest countries. The document outlines a range of methods to encourage low-emissions electricity generation and energy efficiency.

Indian Wind Energy Developing

At the Wind Power India 2011 conference April 7, the country released a report that concluded that the country has the world's fifth largest installed capacity for wind power. The India Wind Energy Outlook 2011 found that in 2008, the country trailed on the United States and China in the amount of wind energy fed into the grid.

GE to Build Solar Factory

General Electric announced last week that it will soon build the nation's largest solar factory, investing more than \$600 million in technology. The new plant will employ 400 people and produce enough solar panels to power 80,000 homes per year.

Valuation Guide Launched

The World Business Council on Sustainable Development launched an initiative April 8 to help communities better understand the costs and benefits of their activities as they relate to the environment. The *Guide to Corporate Ecosystem Valuation* is designed to help businesses make better-informed decisions by placing a value on ecosystem degradation and the benefits provided by ecosystem services like waste management, emissions reductions, and reforestation.

U.N. Talks Produce 2011 Agenda

Six days of United Nations-sponsored climate change talks in Bangkok concluded April 8 with an agenda broadly outlining the negotiation priorities for the rest of the year, but they fell short on a number of other issues and did little to heal the rift between rich and poor countries on post-2012 goals. The general outline of the issues for June's meeting of the subsidiary bodies in Bonn, a likely follow-up meeting in September or October, and the 17th Conference of Parties summit in South Africa.

EU Broaches CA Linkage

European Union Climate Commissioner Connie Hedegaard said April 8 that Europe's emissions trading system could be linked with California's effort over the next year. Ms. Hedegaard spoke with California Governor Jerry Brown (D) and California Air Resources Board chair Mary Nichols about the possibility April 5, and both were receptive to the idea.