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ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Debate

After Congress approved the measure (H.R. 1473) April 14, President Obama signed a compromise government funding plan for the rest of the fiscal year April 15 that would reduce the Environmental Protection Agency's budget by \$1.6 billion, about 16 percent, and the entire budget by about \$40 billion. The final bill provides \$78.5 billion less than the president requested over a year ago and reflects an agreement worked out April 8 between House and Senate leaders and the White House that averted a government shutdown the previous Friday. The House approved the legislation on a vote of 260-167, and the Senate passed it by a vote of 81-19.

Though the compromise cuts the EPA's budget for the rest of fiscal year 2011 from \$10.3 billion to \$8.7 billion, riders to the bill that sought to restrict or delay the agency's regulatory authority over greenhouse gas emissions and other pollutants were dropped.

The Department of Energy also sustained cuts to its programs as well. Most notably, the agency's Office of Energy Efficiency and Renewable Energy budget was reduced by 18 percent, to \$1.83 billion. Loan guarantees under the Energy Policy Act of 2005 were spared, but funding for climate change issues was cut across all agencies by \$49 million and the legislation prohibits the White House from using funds to appoint an assistant to the president on energy and climate change and bars the National Oceanic and Atmospheric Administration from creating a climate service.

Enactment of the bill concludes debate on fiscal year 2011 appropriations and sets the stage for Congressional and Administration leaders to turn their attention to the fiscal year 2012 budget and spending bills. On April 15, the House approved (235-193) a 2012 budget plan set forth by Congressman Paul Ryan (R-WI) with four Republicans opposing the measure and no Democrats supporting it. This initial budget is far from what may be expected from a Senate version, but is meant to lay out a long-term vision for the GOP on spending as it restructures Medicare and Medicaid and seeks to cut \$6 trillion in spending over the next decade. The new fiscal year begins October 1, 2011.

Congress

CES Comments to be Reviewed

Comments to the clean energy standard white paper released by Senate Energy and Natural Resources Committee Chair Jeff Bingaman (D-NM) and Ranking Member Lisa Murkowski (R-AK) were closed April 11. Though the committee is expected to review the comments for two to three weeks prior to beginning work on legislative language that would require power companies to obtain a portion of electricity from clean and renewable sources, approximately 150 responses were received.

ENR Approves Efficiency, Hydro Bills

The Senate Energy and Natural Resources Committee approved (18-4) its appliance efficiency legislation (S. 398) April 12. The legislation would increase efficiency standards for air conditioners, heat pumps, refrigerators, freezers, clothes washers and dryers, and dishwashers, and create new standards for outdoor lighting, pool heaters, and drinking water dispensers. The committee also considered three hydropower bills, and passed one, S. 629, the Hydropower Improvement Act; Chairman Jeff Bingaman (D-NM) expects the committee to reconsider the other two bills and present a package of legislation to be considered on the Senate floor before the end of May.

Vilsack Urges Reconsideration of Ethanol Credit

Agriculture Secretary Tom Vilsack testified before the Senate Environment and Public Works Committee April 13 that a 45 cent per gallon tax credit for ethanol producers should be revisited by Congress. Secretary Vilsack told the committee, who was meeting to discuss oversight of renewable fuels, that the credit could be used to create incentives for the purchase of infrastructure needed to sell gasoline with higher ethanol content.

MACT Hearing Held

At an April 15 House Energy and Commerce Subcommittee on Energy and Power hearing on the impact of the Environmental Protection Agency's maximum achievable control technology rules, utility executives of coal-fired, natural gas-fired and nuclear power plants could not agree on whether the agency's rules on hazardous air pollutants for cement kilns, electric utilities, and boilers are reasonable, affordable, or achievable. During the hearing, the fifth by the committee this year to gauge the impact of EPA rules on the economy, the coal representatives testified that the new limits would increase compliance costs and disrupt the reliable supply of power, while natural gas and nuclear representatives said that the standards were unsurprising and their anticipated cost of compliance was less than the EPA projected.

WAP and SEP Funding Sought

25 senators sent a letter April 15 to the Department of Energy calling on the agency to retain consistent funding for its Weatherization Assistance Program and State Energy Program despite the funding cuts of the recently approved government spending measure. President Obama signed legislation (H.R. 1473) April 15 that funds the government for the remainder of the fiscal year and cuts more than \$400 million for the Energy Department's Office of Energy Efficiency and Renewable Energy. In a separate April 15 letter to Energy Secretary Steven Chu, Senators Bernie Sanders (I-VT) and Olympia Snowe (R-ME) requested that the programs at least be funded at fiscal year 2010 levels.

Legislation Introduced

Congressman John Shimkus (R-IL) introduced legislation (H.R. 1499) April 12 to create clean energy jobs and set efficiency standards for small duct high-velocity air conditioning and heat pump systems.

Congressman Leonard Boswell (D-IA) introduced legislation (H.R. 1516) April 13 to authorize loan guarantees for projects to construct renewable fuel pipelines.

The same day, Congressman Connie Mack (R-FL) introduced legislation (H.R. 1522) to repeal the Energy Independence and Security Act of 2007.

Congresswoman Lynn Woolsey (D-CA) introduced Legislation (H.R. 1568) April 14 to amend title VII of the Oil Pollution Act of 1990.

The same day, Senator Chris Coons (D-DE) introduced legislation (S. 825) to amend the Internal Revenue Code of 1986 to permanently extend and modify the research tax credit. Senator Coons' first piece of legislation, the Job Creation Through Innovation Act, would expand, simplify, and make permanent the Research and Development Tax Credit; create a new Small Business Innovation Tax Credit; create a Domestic Manufacturing Tax Credit; extend the 1603 Grants in Lieu of Tax Credits program; and provide an additional \$5 billion for the Advanced Energy Manufacturing Tax Credit.

Senator Mark Udall (D-CO) introduced legislation (S. 828) to amend the Energy Policy and Conservation Act to establish the Office of Energy Efficiency and Renewable Energy as the lead Federal agency for coordinating Federal, State, and local assistance provided to promote the energy retrofitting of schools.

Later that day, he introduced legislation (S. 841) to provide cost-sharing assistance to improve access to the markets of foreign countries for energy efficiency products and renewable energy products exported by small and medium sized businesses in the United States.

Upcoming Hearings

Congress will be in recess until May 2.

Administration

CEQ Finds Adaptation Assistance for Local Governments Possible

Speaking at the 2011 Water Policy Conference of the Association of Metropolitan Water Agencies April 11, White House Council on Environmental Quality Chair Nancy Sutley said that the federal government is working to make information available to cities, counties, and states so that they can make effective infrastructure decisions while accounting for the effects of climate change. She said that the federal government can help local governments by providing resources that can inform adaptation decisions, including by ensuring that access to scientific data is widely available.

Department of Energy

AC and Dryer Efficiency Standards Strengthened

The Department of Energy will publish a direct final rule in the *Federal Register* this week that will require increased efficiencies for residential clothes dryers and room air conditioners. The standards, which largely adhere to an Energy Efficient and Smart Appliance Agreement reached last July, will require air conditioners to be 10 to 15 percent more energy efficient than current models, and clothes dryers to be 5 percent more efficient. The standards will become effective in 2014.

\$30 Million for Biomass R&D

The Departments of Agriculture and Energy jointly announced April 15 up to \$30 million over three to four years to support research and development in advanced biofuels, bioenergy, and high-value biobased products. Projects funded through the Biomass Research and Development Initiative will help to create a diverse group of economically and environmentally sustainable sources of renewable biomass and increase the availability of alternative renewable fuels and biobased products.

EcoCAR Competition Launched

At the SAE 2011 World Congress in Michigan April 11, Department of Energy Assistant Secretary for Policy and International Affairs David Sandalow launched EcoCAR 2: Plugging into the Future. Sixteen university teams will compete in the partnership between General Motors and the Department of Energy to help prepare future engineers for opportunities in clean energy and advanced vehicle industries.

EIA Confirms Higher Gas Prices

The Energy Information Administration confirmed April 12 that gas prices are headed to and perhaps past the highest levels seen since the all-time record of 2008. The agency also predicted that the annual average price for regular retail gasoline will increase from \$2.78 per gallon in 2010 to \$3.70 per gallon in 2011 – up 92 cents per gallon – and will continue to rise up to \$3.80 per gallon in 2012.

Two Loan Guarantees Awarded

The Department of Energy offered a \$1.187 billion conditional loan guarantee to SunPower Corporation's California Valley Solar Ranch project San Luis Obispo County April 12. The project will include the construction of a photovoltaic power generator capable of producing 250 MW. The previous day, the department had announced it had finalized a \$1.6 billion loan guarantee for the BrightSource Energy Inc. Ivanpah Solar Energy Generating System in California's Mojave Desert. The 392 MW solar-thermal generation facility will go live in 2013.

DOE and Power Industry Sign MOUs

Duke Energy and the Electric Power Research Institute signed a pair of memoranda of understanding April 14 with the Department of Energy's ARPA-E under which they will test experimental technologies developed by the agency in an effort to move promising technologies from the lab into the marketplace. Among the technologies that will be tested and deployed are those related to the smart-grid, grid-scale energy storage, power electronics, and energy-efficient cooling.

Environmental Protection Agency

Efficiency Report Unveiled

The Environmental Protection Agency released a study April 6 that concluded that a number of strategies to increase travel efficiency and reduce vehicle miles traveled in urban areas could reduce emissions between 0.26 and 8 percent by 2050. The study, Potential Changes in Emissions Due to Improvements in Travel Efficiency, is intended to determine the effectiveness of a range of strategies from reducing vehicle miles traveled and corresponding potential for reductions in emissions in metropolitan areas.

Emissions Reductions on Schedule

The Environmental Protection Agency's Inspector General released a report April 13 that found the agency is on track to meet its goals to reduce GHG emissions from its buildings and vehicles so long as it receives the necessary funding. In response to Executive Order 13514, EPA committed to reducing scope one and two emissions 25 percent from 2008 levels by 2025.

Monitoring Requirements Criticized

In comments submitted last week, state transportation and environmental officials criticized a proposed EPA rule that would require them to locate more carbon monoxide monitors near busy urban roadways. State officials are concerned that locating the monitors near highways rather than in communities would not accurately reflect residents' actual exposure to CO because the readings would be skewed by vehicle emissions.

Lawsuit Challenges Biomass Reconsideration

The Center for Biological Diversity, Conservation Law Foundation, and Natural Resources Council of Maine filed a lawsuit April 7 against the Environmental Protection Agency, arguing that the agency improperly granted an industry petition to reconsider portions of its GHG tailoring rule in a proposed rule that would defer for three years permitting requirements for industries that burn biomass. EPA issued the tailoring rule in June 2010 to exclude all but the largest sources from GHG permitting.

TVA Settles

As part of an April 14 settlement with the Environmental Protection Agency, the Tennessee Valley Authority will invest between \$3 billion and \$5 billion in new air pollution controls and retire almost one-third, or 18 of its 59, of its coal-fired generating units. The power authority will also invest \$250 million over the next five years in Alabama, Kentucky, North Carolina, and Tennessee in clean energy and other projects aimed at reducing air pollution.

Aircraft Motions Denied

A judge for the U.S. District Court for the District of Columbia denied motions April 11 by four aircraft trade groups asking to intervene in a lawsuit that seeks to compel the Environmental Protection Agency to respond to petitions urging regulation of GHG emissions from aircraft and ships.

Federal Energy Regulatory Commission

Demand-Response Compensation Rule Questioned

Federal Energy Regulatory Commission Chairman Jon Wellinghoff reiterated his commitment to encouraging demand-response programs last week. Major segments of the electric industry have filed petitions seeking a rehearing of FERC's demand-response compensation rule that would require grid operators to pay large electricity customers for not using power at peak hours. The rule is strongly supported by energy

conservation groups and environmental organizations that promote demand-response programs as a way to reduce the need to build more generation and to reduce carbon emissions.

Federal Trade Commission

FTC Addresses EnergyGuide Violations

The Federal Trade Commission settled one violation and initiated charges against another April 13. Universal Appliances, Kitchens, and Baths, Inc. agreed to pay a \$100,000 penalty to settle charges of violating the Appliance Labeling Rule, and the FTC is seeking a penalty of \$540,000 from Universal Computers for violating the EnergyGuide.

Personnel

The Senate confirmed the nomination of Peter Lyons as the Department of Energy's assistant secretary for nuclear energy April 14, two days after the Energy and Natural Resources Committee unanimously approved his nomination. Mr. Lyons previously served as acting assistant secretary for nuclear energy and the principal deputy assistant secretary for the Office of Nuclear Energy, as well as a commissioner of the Nuclear Regulatory Commission from 2005 to 2009.

President Obama nominated William Ostendorff to the Nuclear Regulatory Commission April 14 for a five-year term ending June 30, 2016. Mr. Ostendorff was sworn in as a member of the commission April 1, 2010. The nomination requires confirmation by the Senate following a confirmation hearing by the Environment and Public Works Committee.

Miscellaneous

Nova Scotia to Consider Hydropower Legislation

The Nova Scotia government introduced legislation (Bill 15) April 8 that would permit the use of hydropower to meet the province's 2020 goal to have 40 percent of its electricity come from renewable sources. The bill would specify that hydropower, whether produced within the country or imported, could be applied to meet the renewable electricity target established in April 2010 under the province's Renewable Electricity Plan, which set a regulated target of 25 percent renewable electricity by 2015 and a goal of 40 percent by 2020.

MD Forgoes Offshore Wind Legislation

The Maryland General Assembly concluded its 2011 legislative session April 11 without voting on legislation (H.B. 1054 and S.B. 861) that would have required electric utilities to enter into long-term contracts to buy power from offshore wind developers. Lawmakers will consider the issue further before resuming debate next year.

European Investment Lending to Change

The European Parliament told the European Investment Bank April 7 that it should cease lending to fossil fuel-based energy projects. The parliament voted by simple majority on a resolution on the bank's 2009 annual report, requesting that the bank adopt a plan for the phase-out of fossil fuel lending, including to coal-fired power plants, and increase its efforts to transfer to renewable energy and energy efficient technologies.

RGGI Considers Methodology Update

The Regional Greenhouse Gas Initiative released a report April 8 in which it recommended a change in the way minimum prices are determining for the auction of emissions allowances as the cap and trade system reaches a new point in its maturity. The new minimum price, determined through a formula based on the closing prices of former auctions and the average futures prices from the Chicago Climate Futures Exchange, would be called a current market reserve price.

OR Rule Would Set Reduction Targets

Oregon's Land Conservation and Development Commission will hold a public hearing April 21 on proposed rules to establish targets for reducing emissions from light-duty vehicles for the state's six metropolitan

areas. The rules are intended to aid the state in meeting an emissions reduction target of 75 percent by 2050 from 1990 levels.

33 Percent CA RPS Adopted

California Governor Jerry Brown (D) signed into law a measure April 12 requiring one-third of the electricity sold in the state to come from solar, wind, geothermal, or other renewable sources by the end of 2020. The legislation (S.B. 2X) establishes the nation's most aggressive renewable portfolio standard, and writes into law a renewable energy goal the California Air Resources Board adopted in 2010. Interim targets include 20 percent by 2013 and 25 percent by 2016.

Natural Gas GHG Report Unveiled

Three Cornell University professors published a report April 11 finding that natural gas obtained by hydraulic fracturing has a larger GHG footprint than conventional gas or oil or shale over a 20 year period. The report, *Methane and the Greenhouse-Gas Footprint of Natural Gas from Shale Formations*, notes that natural gas is largely composed of methane, and that 3.6 to 7.9 percent of the methane associated with production escapes through venting and leaks over the lifetime of a well.

Benefits 130 Times Greater than Costs

Exelon Corporation unveiled a report April 14 in which it found that the public health benefits of the Environmental Protection Agency's proposed interstate emissions rules for power plants would be as much as 130 times greater than the compliance costs. The report, *A Guide to Economic and Policy Analysis of EPA's Transport Rule*, concluded that between 80 and 96 percent of the benefits would come from preventing premature mortality from exposure to ozone and particulate matter pollution.

NACAA Calls for Diesel Program Funding

The National Association for Clean Air Agencies sent a letter to Senators Jack Reed (D-RI), chairman of the Senate Appropriations Subcommittee on Interior, Environment, and Related Agencies, and Lisa Murkowski (R-AK), the subcommittee's ranking member, and to Congressmen Mike Simpson (R-ID), chairman of the House Appropriations Subcommittee on Interior, Environment, and Related Agencies, and Jim Moran (D-VA), the subcommittee's ranking member, April 14 to restore \$50 million for the diesel emissions reductions programs that the Environmental Protection Agency deleted from its fiscal year 2012 budget request. The proposed budget does not include funds for programs authorized by the Diesel Emissions Reduction Act, which on January 4 authorized \$100 million annually from 2012-2016 for state and local air quality agencies to offer rebates, grants, and low-cost revolving funds for retrofitting diesel engines with emissions controls.

Russia Launches Monitoring System

Russian Prime Minister Vladimir Putin signed an order last week to create a nationwide monitoring system for weather emergencies, citing significant rise in natural disasters as well as risks to nuclear plants and other infrastructure from such events.

CCI to Cooperate with C40

Former President Bill Clinton and New York Mayor Michael Bloomberg (I) announced April 13 that the Clinton Climate Initiative and a global coalition of cities will increase their collaboration to advance local steps to address climate change. The expanded alliance between CCI and the C40 Cities Climate Leadership Group will boost financial support for the fourth biennial C40 summit May 31-June 2 in Brazil.

Extra Compensation Methodology Forthcoming

At the Business Forum 2011 on Energy Efficiency and Renewable Energy in Mexico April 12-13, Mexican energy officials said that the nation would publish a methodology for calculating extra compensation for private renewable energy projects as early as this June. The extra compensation will allow companies to sell electricity from renewable sources for more than the current rate.

WCI Leaders Remain Committed

Leaders of the Western Climate Initiative announced April 13 that they remain committed to launching a regional emissions trading program that would link California's multi-sector cap and trade program with those being developed by four Canadian provinces. California, Arizona, Washington, Oregon, New Mexico, British

Columbia, Manitoba, Ontario, and Quebec formed WCI in 2007 to jointly develop a regional trading program and to collaborate on other efforts to curb emissions.

Wetlands Drainage Causes Emissions

The World Bank released a report April 11 that concluded that drainage and degradation of coastal wetlands has become a major cause of CO₂ emissions that contribute to climate change. The report, *Mitigating Climate Change through Restoration and Management of Coastal Wetlands and Near-shore Marine Ecosystems*, said that drainage releases high volumes of emissions that are otherwise sequestered in coastal wetlands.