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ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Debate

With Congress in recess until September 10, energy issues continued to make headlines on the campaign trail last week, and the House and Senate will face a continuing resolution, intense debate on tax extenders, and other measures when they return.

The Congressional Budget Office released its latest *Update to the Budget and Economic Outlook: Fiscal Years 2012 to 2022* August 22, finding that allowing the Bush-era tax cuts to expire would result in a budget deficit of \$641 billion for fiscal year 2013, while extending the tax cuts and avoiding immediate automatic spending cuts would result in a budget deficit of \$1.037 trillion. Pointing to a shrinking domestic economy and rising unemployment, the report concludes that the country faces a recession unless policymakers find a way to avoid the fiscal cliff.

United States officials will lead ten trade missions across the world in the remaining months this year in an attempt to open opportunities for U.S. companies looking to export their goods and services. The Commerce Department has scheduled a mission September 17-20 to Thailand and the Philippines, where companies are hoping to introduce their products and services into the renewable energy sector. Another to the United Kingdom October 15-17 will introduce U.S. companies to opportunities in the smart grid sector, and another to Israel from October 27-31 will introduce American firms to Israel's expanding oil and gas market as well as natural gas opportunities in Greece and Cyprus.

In campaign news, Republican presidential candidate Mitt Romney highlighted a 21-page plan August 23 in New Mexico to achieve North American energy independence by 2020. The key provisions, estimated to create 3 million jobs and \$500 billion in Gross Domestic Product, include giving states unprecedented control over energy production on federal lands located within their borders; aggressively expanding offshore oil and gas leasing beginning with Virginia and the Carolinas; approving the Keystone XL oil pipeline and instituting fast-track approvals for energy projects with Canada and Mexico; expediting permits for seismic surveys to make an accurate national assessment of all onshore and offshore energy resources; implementing environmental statute and regulation reforms; licensing new nuclear power plants within two years; and eliminating the Obama administration's stimulus program subsidies for renewable energy sources.

The previous day, the Republican Governors Association released its *Energy Blueprint for America*, advocating for streamlined regulations with cumulative cost-benefit analysis, expanded access to domestic resources, and an emphasis on state rather than federal leadership.

Congress

Fuel Economy Rejection Sought

Following a recent committee report that pointed to flaws in the Environmental Protection Agency and National Highway and Traffic Safety Administration's fuel economy standard rule, House oversight Republicans sent a letter August 21 asking the Office of Information and Regulatory Affairs to reject the rule. The office is currently reviewing the proposal.

Department of Energy

Ethanol Waiver Won't Reduce Corn Prices

Energy Information Administration Administrator Adam Sieminski said August 22 that a short-term waiver of the Environmental Protection Agency's ethanol mandate under the renewable fuel standard would probably have little impact on corn prices because current ethanol production comes from last year's corn crop, and is thus not impacted by the drought. At the same time, the drought could have more of an impact on ethanol production in the future.

Department of Transportation

NHTSA Denies Veggie Diesel Petition

The National Highway Traffic Safety Administration published a notice in the Federal Register August 24 denying Plant Oil Powered Diesel Fuel System Incorporated's petition to revise the joint fuel economy and greenhouse gas emissions standards for medium- and heavy-duty trucks. The company, which manufactures systems to enable diesel engines to run on vegetable oil, claimed in a February 27 petition that the Department of Transportation and the Environmental Protection Agency had excluded the company's technology when they established the standards. The administration denied the petition because including vegetable oil diesel engines in the analysis would have resulted in different standards.

Environmental Protection Agency

GHG Reporting Technical Corrections

The Environmental Protection Agency published a final rule in the Federal Register August 24 making technical corrections to the greenhouse gas emissions reporting requirements for industrial waste landfills, electronics manufacturing, petroleum and natural gas systems, and fluorinated gas production. The clarifications and corrections, which reduce some of the reporting burden, will apply to the 2011 emissions reporting rule; reports are due September 28.

TX Implementation Plan Rescindment Defended

The Environmental Protection Agency filed a brief in the U.S. Court of Appeals for the District of Columbia Circuit August 17 saying that it acted within its Clean Air Act authority when it rescinded approval of Texas' state implementation plan for failing to include provisions to address greenhouse gases. The agency's decision was aimed at ensuring that industrial facilities were able to obtain the necessary prevention of significant deterioration permits, and it argued in its brief that Texas lacks standing to challenge the action because the state is not harmed by it.

Ethanol Comments Sought

The Environmental Protection Agency announced August 20 that it will solicit public comments on whether to waive the renewable fuel standard for ethanol after the governors of Arkansas, Delaware, Maryland, and North Carolina raised concerns last week about the drought's impact on the corn supply and feed prices for livestock producers. Georgia Governor Nathan Deal (R) also petitioned the agency to waive the mandate August 20.

Cellulosic Mandates Defended

The Environmental Protection Agency filed a brief August 20 in the U.S. Court of Appeals for the District of Columbia Circuit saying that it carefully considered Energy Information Administration data and its own analyses of cellulosic biofuel production capabilities when it established volume requirements for the

2012 renewable fuel standard. The agency also defended its decision to not reduce the overall volume of required advanced biofuels even as it lowered the standard for cellulosic biofuels. The American Petroleum Institute sued the agency in March, contending that the cellulosic standards are unachievable.

CSAPR Vacated

The U.S. Court of Appeals for the District of Columbia Circuit vacated the Environmental Protection Agency's Cross-State Air Pollution Rule August 21. The court ruled that the transport rule exceeds the agency's statutory authority under the Clean Air Act and ordered the agency to continue administering the less-stringent 2005 Clean Air Interstate Rule while it promulgates a valid replacement.

Efficient Trains

GE Transportation unveiled a new locomotive August 24 that it hopes will be the first to meet the Environmental Protection Agency's Tier 4 emissions standard. The newest in the Evolution Series Locomotive line will reduce emissions by 70 percent and save railroads \$1.5 billion in infrastructure and operating expenses. The Tier 4 standards, which call for a 70 percent emissions reduction, are scheduled to become effective in 2015.

AK and NC RFS Waiver Petitions

The Environmental Protection Agency will begin accepting public comments August 27 on petitions from the Arkansas and North Carolina governors for waivers of the renewable fuels volumes required of them by the Renewable Fuel Standards program. Comments will be accepted for 30 days and the agency will make a final decision within 90 days of the August 13-14 petitions, making the final decision deadline about a week after the November election.

Challenge to EPA Diesel Fracking Guidance

Industry groups, including America's Gas Alliance and the American Exploration & Petroleum Council, filed comments with the Environmental Protection Agency last week arguing that the agency should withdraw or substantially revise its draft guidance on fracking to minimize regulation. In contrast, environmental advocates filed comments calling for a ban on diesel in fracking fluids. The draft guidance was issued May 4 as part of the Underground Injection Control program of the Safe Drinking Water Act. The Independent Petroleum Association of America argued that though the Energy Policy Act of 2005 allows the agency discretion in its application of UIC regulations where diesel fuels are used, it does not give the agency a mandate to apply those regulations.

States

CA Resource Shuffling

California Air Resources Board Chair Mary Nichols said last week that the agency will suspend for 18 months enforcement of greenhouse gas emissions trading rules requiring electricity importers to legally attest each year that they have not engaged in resource shuffling. The announcement comes two weeks after a Federal Energy Regulatory commissioner criticized the board for not clearly defining the practice. Under board rules, resource shuffling occurs when an electricity importer delivers renewable or other low-emissions sources of power to California's grid in lieu of previously contracted carbon-intensive electricity, and then sells the inefficient electricity out of the state.

MD Electric Distribution Roundtables

Maryland Governor Martin O'Malley (D) convened August 21 the first of nine roundtable discussions focused on improving and strengthening the reliability and resiliency of the state's electric distribution system. Each discussion will focus on a specific topic and include presentations and dialogue with invited community leaders, policy experts, and the electricity industry.

CA Bioenergy Opportunities

According to an August 22 California government report, *2012 Bioenergy Action Plan*, the state must eliminate financial and regulatory barriers to increase the development and use of biofuels and other types of bioenergy in order to meet its climate protection goals. The plan recommends more than 50

measures that could be used to hasten efforts to turn agricultural, forest, and urban wastes into efficient electricity, liquid fuels, and biogas.

CA Utilities Adopting Efficiency Projects

Southern California Edison, Pacific Gas & Electric Co., Southern California Gas, and San Diego Gas & Electric told the California Public Utilities Commission during an August 21 hearing on corporate sustainability that they are embracing energy efficiency projects to increase conservation and greenhouse gas reduction efforts. The utilities are projected to save about 7,000 GWh and 150 MMt of natural gas through efficiency programs in 2010-2012, thereby avoiding 3 MMT of GHG emissions.

SC Coal Ash Removal

South Carolina Electric & Gas Company will move toward decommissioning coal ash storage ponds at its Wateree Station under terms of an August 20 settlement with Catawba Riverkeeper Foundation Inc. The utility will remove 240,000 MT of coal ash from the wet storage facility by 2015, and all coal ash will be removed from storage ponds by 2021 at the 685 MW Richland County station.

CA Fracking Bills Stalled

California's Senate Appropriations Committee put a hold last week on two bills to regulate fracking in the state, making passage of the regulations unlikely before the legislative session ends August 31. All pending legislation had to clear the committee by August 17 to head to the Senate floor for a vote.

TVA Responsible for Coal Ash Damages

The U.S. District Court for the Eastern District of Tennessee ruled August 23 that the Tennessee Valley Authority is liable for damages to individual plaintiffs under negligence, trespass, and private nuisance claims for a December 2008 coal ash spill.

International

Climate Fund Representation

At the initial meeting of the Green Climate Fund August 23, representatives of indigenous people and nongovernmental organizations pushed for greater representation in the fund. The board will hear from six countries that are seeking to host the fund at the meeting and will discuss making the fund operational. The next board meeting is scheduled for October in South Korea. The fund was established under the U.N. Framework Convention on Climate Change at the U.N. Conference of Parties in South Africa last December to raise \$100 billion a year by 2020 to help developing countries limit or reduce the emissions and help them adapt to climate change impacts.

China Increases Rare Earth Export Quotas

China's Ministry of Commerce announced August 22 new export quotas for the second half of the year, showing a slight increase of 2.7 percent for the year compared to last year. The most recent quotas allow 8,537 MT of light rare earths and 1,233 MT of medium and heavy rare earth materials to be exported in the second half of the year by 24 companies, for a second half total of 9,770 MT, and a yearly quota of 30,996 MT. Chinese rare earth industry and business experts are calling for the review and potential abolishment of the nation's export quota system because they believe that they undermine their businesses and fuel corruption, especially smuggling of resources out of the country.

China Charges U.S. with WTO Violations

China's Commerce Ministry ruled August 20 that U.S. government support to six American solar and wind power projects violates free trade rules. The announcement made no mention of potential penalties, but called on the U.S. to cease the support it says violates World Trade Organization rules.

Argentina Challenges Spanish Biofuel Import Rules

Argentina's Foreign Ministry filed a dispute August 17 with the World Trade Organization against Spain's biofuel import curbs, charging that they violate World Trade Organization rules and harm Argentinian exports. Argentina, the world's top supplier of soy oil and soy-based biofuel, opposes Spain's April Ministerial Order implementing the European Union's renewable energy directive. The order specified that

biofuels used in transportation must be met with EU fuel. The European Union agrees with Spain that the directive is compliant with WTO rules, but Argentina said that it closes the door to shipments of the fuel and is in violation of accepted international trade practices.

EU Seeks Global Action on Carbon Market

According to an August 13 European Union proposal, the European Commission is seeking action by the United Nations on establishing a voluntary global carbon market to help reduce GHG emissions. The EU is encouraging participants at this November's 18th Conference of the Parties to the United Nations Framework Convention on Climate Change to agree on rules to define a global emissions trading system. The EU also wants countries to agree to a process for implementing the system.

Insurers Could Help Manage Climate Risks

Speakers from Swiss Reinsurance Co. Ltd. said at a briefing held in advance of the annual Climate Week NYC August 21 that the insurance industry, with its expertise in evaluating and managing risks, can help governments and companies devise better responses to climate change impact challenges. Climate Week, a public private partnership forum that coincides with meetings of the United Nations General Assembly, the Clinton Global Initiative, and others, will be held September 24-30.

Chinese Energy, Emissions Plan Released

China's State Council released August 21 a plan for energy saving and reducing emissions covering the rest of the 12th Five Year Plan (2011-2015) period and has projected that the country will spend \$372 billion on investments to achieve energy conservation and emissions reduction goals by the end of the period. The country aims to reduce energy intensity by 16 percent by 2015 compared to 2010 levels, saving 670 MMT of standard coal-equivalent.

China Hastens Coal Output Reduction

China's National Development and Reform Commission issued implementation measures for the country's Coal Industry 12th Five Year Development Plan (2011-2015) and set coal production goals for the rest of the year, with expected production levels in three major coal producing areas all lower than last year. Coal Production will increasingly be provided by larger players in 16 coal production bases, many of which are located in areas with already depleted water resources.

Drought Policies Urged

The World Meteorological Organization and the United Nations Convention to Combat Desertification urged countries August 21 to establish stronger national policies to address drought, saying almost none have policies in place to address drought risk, which is expected to increase in frequency, intensity, and duration due to climate change. Australia is the only country with a national drought policy. United Nations agencies are meeting March 11-15 in Geneva to address national drought policy.

Fossil Fuel Subsidies Rising

The Worldwatch Institute released a research paper August 21 concluding that progress by the Group of 20 nations toward reducing fossil fuel subsidies has been minimal. G-20 members pledged in 2009 to reduce inefficient fossil fuel subsidies, but the report, *Fossil Fuel and Renewable Energy Subsidies on the Rise*, finds that little progress has been made.

Japan Plans for New Energy Conservation Standards

Japan's Ministry of Land, Infrastructure and Transport and its Ministry of Economy, Trade and Industry are preparing new energy conservation standards for buildings with the goal of reducing energy consumption and greenhouse gas emissions. According to the proposed standards, which would be phased in next year, energy conservation for commercial and industrial buildings would be measured in a way that would encourage the use of advanced energy-saving products and equipment. Under separate standards for residential buildings, houses that have solar panel systems would receive bonus credit in the performance rating scheme.

Miscellaneous

August 26, 2012

Page 6

Geothermal Capacity

According to a recent study from the Massachusetts Institute of Technology, the United States could produce 100,000 MW of geothermal energy within the next 50 years. The report estimates that 200,000 EJ of energy could be captured from enhanced geothermal systems by 2050 in the United States – roughly 2,000 times the total consumption of the country in 2005.