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**ENERGY AND ENVIRONMENT UPDATE**  
**September 26, 2010**

**Energy and Climate Debate**

With a new fiscal year beginning this Friday, October 1, Congress is under pressure this week to give final approval to a continuing resolution that will fund the government through the fall. Details of the CR have not been announced, but Congress may simply extend FY2010 funding for federal programs into November, when they return for two lame duck sessions after the midterm elections to work on regular appropriations bills.

Though passage of the CR is the top priority for this week, the House is scheduled to take up a foreign currency reform bill, and the Senate will debate legislation to promote job growth and discourage outsourcing. Congress is expected to adjourn at the close of this week's business until after the November elections.

And in the middle of this rush to return home to campaign, Senate momentum builds for clean energy and jobs, most notably in last Tuesday's introduction of the Renewable Electricity Promotion Act of 2010 (S. 3813). As of the end of last week, Senators Jeff Bingaman (D-NM), Sam Brownback (R-KS), Byron Dorgan (D-ND), Susan Collins (R-ME), Tom Udall (D-NM), and John Ensign (R-NV) were joined by 21 additional cosponsors, including Republican Senator Chuck Grassley (R-IA) as well as moderate Democrats such as Senator Debbie Stabenow (D-MI). Additional cosponsors are expected to sign on this week as well.

The bipartisan legislation, which establishes a 15% by 2021 federal renewable electricity standard, has the same targets and timeframes for renewable energy deployment as the RES in the bipartisan American Clean Energy Leadership Act (S. 1462), which was reported out of the Senate Energy Committee last summer, but with 2012 as first year rather than 2011 due to the fact that a year has elapsed since the previous legislation was the focus of Senate energy debates.

Even with the growing enthusiasm and support for the legislation, with just a few days before the Senate recesses, Majority Leader Harry Reid (D-NV), a cosponsor to the legislation, is almost certain to wait until after the elections to bring the measure to the floor. Several other likely candidates for a lame duck energy debate include an expansion of 48C Advanced Energy Manufacturing Tax Credit, an expansion and extension of the 1603 grants in lieu of tax credits program, funding for the HomeStar energy efficiency program, and the creation of a green bank along the lines of a Clean Energy Development Administration. Some Senators are also looking for opportunities to attach language that will delay the Environmental Protection Agency from regulating greenhouse gas emissions under the Clean Air Act to other moving legislation this year.

Facing difficult midterm elections, clean energy groups, industry representatives, and environmental organizations will need to continue working this week with Senators to garner additional support for policies that boost clean energy development in the US so that forward movement might remain a possibility come November 15.

## **Senate**

### ENR Holds Loan Guarantee Hearing

The Energy and Natural Resources Committee held a hearing September 23 to examine the renewable energy loan guarantee program. Though the Office of Management and Budget did not appear at the hearing, Jonathan Silver, Executive Director of the Department of Energy's loan guarantee program, testified that the program is continuing to work with the OMB to work out the growing pains of the program. The Department's loan guarantee program has been widely criticized for not allocating the guarantees fast enough, but OMB has received the blame from clean energy groups and some senators, too, as it is integral to the review and approval process. Senators Dianne Feinstein (D-CA), Barbara Boxer (D-CA), Bingaman, Tom Udall (D-NM) Debbie Stabenow (D-MI), and Maria Cantwell (D-WA) sent a letter last week to the OMB asking for more information into the agency's role in the program, as it has come under increasing scrutiny while loan guarantee applicants voice frustrations with the perceived lack of transparency and certainty in the program. The letter asked the agency to answer several detailed questions, including its precise role in the review process, its statutory basis for such review, and whether it would be feasible to have the OMB complete its review of each applicant within 30 days of receiving the material from DOE.

### Power Plant Bill Dies

Senator Tom Carper (D-DE) dropped plans last week to pursue legislation to cap emissions of mercury, sulfur dioxide, and nitrogen oxides from power plants after negotiations over the bill broke down. After several months of debate, Senator Carper said members of the Environment and Public Works Committee were unable to reach an agreement on the Clean Air Act Amendments of 2010 (S. 2995) and that he would likely bring the legislation back next Congress.

### Legislation Introduced

On September 21, Senators Kirsten Gillibrand (D-NY) and Ben Cardin (D-MD) introduced legislation (S. 3810) to restrict participation in offshore oil and gas leasing by a person who engages in any activity for which sanctions may be imposed under section 5 of the Iran Sanctions Act of 1996 and to require the lessee under an offshore oil and gas lease to disclose any participation by the lessee in certain energy-related joint ventures, investments, or partnerships located outside Iran.

The same day, Majority Leader Reid introduced legislation (S. 3815) to amend the Internal Revenue Code of 1986 to reduce oil consumption and improve energy security. The legislation is a stand-alone version of natural gas incentives language that was included in his late July energy and oil spill response package.

On September 22, Senators Dick Durbin (D-IL), Reid, and Dorgan introduced the Creating American Jobs and Ending Offshoring Act (S. 3816). The legislation attempts to rebalance the tax code that critics argue subsidizes the closing of U.S. production facilities in favor of facilities located overseas by creating a new, pro-business incentive to encourage companies to relocate facilities to the US and eliminating two provisions of the tax code that subsidize employers' decisions to locate U.S. facilities abroad.

### Upcoming Hearings

The Energy and Natural Resources Energy Subcommittee will hold a hearing September 30 to examine the role of strategic minerals in clean energy technologies.

The same day, the Senate Environment and Public Works Committee will hold a hearing titled "Water Resources Development Act of 2010: Legislative and Policy Proposals to Benefit the Economy, Create Jobs, Protect Public Safety and Maintain America's Water Resources Infrastructure."

## **House**

### Small Business Package Sent to President

The House voted 237-187 September 17 to pass a small business bill (H.R. 5297) that includes \$12 billion in tax cuts for small businesses and a new \$30 billion lending fund to aid credit availability for small

firms. President Obama is expected to sign the bill into law Monday, September 27. The legislation includes a one-year extension of the 50 percent bonus depreciation provision created in the Recovery Act.

#### Committee Examines U.S. Clean Tech Investment

The House Select Committee on Energy Independence and Global Warming held a hearing September 23 to assess the nation's position in the global clean energy race in the wake of a fight over China's alleged subsidies to clean energy companies that export to the United States. Experts from Deutsche Bank, Bloomberg New Energy Finance, New Enterprise Associates, and Nordic Windpower spoke about where clean energy investments are occurring around the world, what factors are driving those investments, and the broader economic and employment implications of such investments and the challenges to growing an American clean energy sector. The experts urged Congress to adopt a renewable electricity standard as well as other energy and climate measures in order to better compete in the quickly growing global clean energy market.

#### Upcoming Hearings

The Transportation and Infrastructure Water Resources and Environment Subcommittee will hold a hearing September 30 called the "Impact of Green Infrastructure and Low Impact Development on the Nation's Water Quality, Economy, and Communities."

### **Administration**

#### GAO Releases Oversight Report

The Government Accountability Office released a report September of its oversight of Recovery Act funds, including providing five new proposals for agencies handling the money. As of early September, \$154.8 billion of the \$282 billion had been given out to federal agencies. The Department of Energy has allotted \$2.8 billion to recipients from the Energy Efficiency and Conservation Block Grant. As a result of the delayed progress of the weatherization program, the GAO also recommended that the department clarify its calculation methodologies and accelerate the development of a standard for weatherization training, certification, and accreditation.

### **Department of Commerce**

#### NOAA Plans Federal Climate Service Goals

The National Oceanic and Atmospheric Administration released a draft vision and strategic framework document September 21 that outlines a plan for a National Climate Service that can provide climate change data and research needed by decision makers in government and the private sector. Currently, climate research is scattered throughout the federal government, but under the new plan, NOAA would serve as the lead agency for climate data through the National Climate Service.

### **Department of Energy**

#### Lighting for Tomorrow Winners Announced

The Department of Energy, the American Lighting Association, and the Consortium of Energy Efficiency announced the winners of the eighth annual Lighting for Tomorrow competition at the 2010 ALA Annual Conference in Las Vegas September 24. The Lighting for Tomorrow competition aims to increase market acceptance and awareness of energy efficient lighting by recognizing the best designed energy efficient lighting products available to the residential market.

#### Commercial Building Energy Reductions Recommended

The Department of Energy and its National Renewable Energy Laboratory released technical reports September 24 that provide recommendations on how to achieve 50% energy savings in large office buildings and hospitals. NREL's Commercial Buildings Group, under the direction of DOE's Building Technologies Program conducted the studies in an effort to significantly improve the energy efficiency of new and existing commercial buildings across the country.

#### Announcements during GridWise Forum

At the inaugural GridWise Global Forum September 23, Energy Secretary Steven Chu said that he expects the Department of Energy to move forward with its planned energy-saving reforms and innovative technologies even if Congress remains stalled on comprehensive energy and climate legislation. The same day, Secretary Chu announced funding of \$30 million for 10 projects related to cybersecurity issues facing the nation's electric grid. Additionally, the Secretary also released the findings of a new research study, the 2010 U.S. Smart Grid Vendor Ecosystem Report, which shows \$2.75 billion in annual product sales in three key smart grid categories: advanced metering infrastructure, demand response, and distribution grid management.

#### Offshore Wind Developments Planned

The Department of Energy released a draft plan September 22 to push offshore wind developments. 'The new Offshore Wind Innovation and Demonstration Initiative, slated to launch in fiscal year 2011, aims to provide the needed momentum to propel such work forward; this report outlines a plan to develop three to five partnerships that could serve as the initial research and permitting test cases for offshore wind.

### **Department of Interior**

#### DOI Scraps Royalty in Kind Program

The Department of Interior's regulator of offshore drilling announced plans September 24 to end a controversial program that allows oil companies to make federal royalty payments in oil and gas instead of cash. The Bureau of Ocean Energy Management, Regulation and Enforcement said it would no longer accept new contracts for the royalty in kind program and that remaining contracts would expire September 30.

### **Environmental Protection Agency**

#### EPA Releases States' Plans to Comply with Federal GHG Regulations

The EPA released states' plans September 23 to comply with federal climate rules after Senate Environment and Public Works Committee Ranking Member Jim Inhofe (R-OK) pressed the agency to unveil the documents. According to a survey released last week by the National Association of Clean Air Agencies, nearly 80 percent of states have indicated that they will be ready to issue GHG permits for large industrial sources by January 2, 2011, when the agency's climate rules formally begin. Some states, however, will need to modify laws and regulations that do not allow for the regulation of GHGs or do not comply with the EPA's plans to regulate only the largest emitters under its tailoring rule.

#### Groups Petition to Regulate Train Emissions

The Center for Biological Diversity, Friends of the Earth, and the International Center for Technology Assessment petitioned the EPA September 21 to issue standards for emissions of GHGs and black carbon from locomotives. EPA's draft strategic plan for 2011-2015 includes setting GHG emission standards for locomotives, aircraft, and marine vessels.

#### Reporting Rule Changes Announced

The EPA published a final rule September 22 that will require companies that report GHG emissions under the reporting program to provide information on their corporate ownership and indicate whether any emissions are from cogeneration units.

### **Personnel**

The White House announced September 21 that Larry Summers, director of the National Economic Council, will step down from the position after the midterm elections and return to a teaching position at Harvard University in January 2011.

Jack Lew cleared another hurdle September 23 with a 22-1 vote in the Senate Budget Committee in favor of his nomination to head the White House's Office of Management and Budget. Senator Mary Landrieu

(D-LA) said the same day that she plans to block his nomination until the recent moratorium on deepwater oil and gas drilling is rescinded or significantly modified.

## **Miscellaneous**

### OECD Says Cap and Trade Most Cost Effective

In its newest economic survey of the US, the Organisation for Economic Cooperation and Development said September 20 that the US would see a better return on its investment from putting a price on carbon than from federal regulation of emissions.

### CA Clean Energy Plan to Boost Renewables Finalized

On September 21, California unveiled new clean energy targets for 2020 and a plan to achieve them. The California Clean Energy Future calls for increasing the supply of renewable power sources near the power grid, energy-efficient products and buildings, bringing on line at least one large-scale generating facility with carbon capture and storage, building a smart grid, and developing an infrastructure to support 1 million electric and hybrid vehicles. The California Air Resources Board unanimously approved the plan September 23, which also requires utilities to obtain 33 percent of the electricity they sell in the state to come from renewable sources. The standard is now the most aggressive in the nation. The same day, CARB adopted goals for reducing GHG emissions from automobiles and light trucks in 18 urban planning areas around the state. On a related note, California's Republican gubernatorial candidate Meg Whitman said September 23 that she opposes Proposition 23, the ballot measure seeking to suspend implementation of the state's Global Warming Solutions Act of 2006 (A.B. 32).

### Major Economies Forum Expect Progress but No Binding Treaty

Speaking at a news briefing after the ninth meeting of the Major Economies Forum on energy and climate last week, U.S. Special Envoy for Climate Change Todd Stern said that officials from 17 major economies are in broad agreement on the need to make progress in upcoming climate change negotiations in Cancun at the 16th Conference of Parties to the United Nations Framework Convention on Climate Change, but they do not expect a legally binding treaty to be completed this year. Instead, the Conference will focus on making decisions about the core issues of mitigation, transparency, finance, and technology for adaptation. The same week, UNFCCC Executive Secretary Christiana Figueres urged businesses concerned about climate change to push their governments to reach international agreements at the negotiations by educating political leaders on the economic benefits of technological innovation linked to emissions reductions.

### CEC Grants Solar License

The California Energy Commission approved a license September 22 to build and operate the 392 MW BrightSource Energy Inc's power project in Ivanpah, California. The action is the fourth such licensing in as many weeks.

### NY Power Plant Emissions Declining

The New York Independent System Operator released a report September 20 that demonstrates that New York power plants have significantly reduced their emissions of three key pollutants over the past ten years. Sulfur dioxide emissions have declined by 82 percent from 1999 to 2009, while nitrogen oxide emissions declined by 62 percent and carbon dioxide emissions declined by 31 percent.

### Smart Grid Foundation Formed

The leaders of smart grid organizations from seven countries launched a new international organization September 20 to help accelerate the deployment of smart grid technologies around the globe. The new group, called the Global Smart Grid Federation, will enable countries to share their best practices and help overcome barriers to smart grid deployment around the world.

### CDP Reports on Business Climate Integration

The Carbon Disclosure Project released a report September 20 that shows that nearly half of the top global companies surveyed for the past decade on their carbon disclosure policies are now integrating climate change and efforts to reduce GHG emissions into their business strategies.

MS Enacts Sales Tax Exemption

Mississippi enacted a sales and use tax exemption (H.B. 8b) September 3 for materials used in the construction, improvement, or enlargement of a facility for the production of renewable crude oil from biomass.