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ENERGY AND ENVIRONMENT UPDATE
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Energy and Climate Debate

Congress returns for a brief post-August recess session September 10, and when it does, the first thing on the agenda will be passing a six month Continuing Resolution to keep the federal government funded for the first six months of fiscal year 2013.

Over the past two weeks, the political parties held the Republican National Convention in Tampa and the Democratic National Convention in Charlotte, and each released a 2012 party platform containing reference to energy issues.

Republicans adopted a 2012 platform August 28 that calls for a dramatic expansion of domestic fossil fuels, including coal-fired power plants, nuclear power plants, onshore and offshore oil and gas development, sharing more offshore drilling revenue with states, opening the Arctic National Wildlife Refuge, and approving the Keystone XL oil pipeline, as well as the development of renewable energy via a market-based approach. It also promises to rein in environmental regulations. Unlike in previous years, their platform makes no mention energy efficiency or energy conservation, nor of global warming, save to use it as an example of a failed national security strategy under the Obama Administration. Democrats approved their package September 4 by pledging to continue efforts to combat climate change and calling for an all of the above energy strategy that includes wind, solar, biofuels, geothermal, hydropower, nuclear, oil, natural gas, and clean coal. The Democratic Party platform also highlights the increased use of energy efficiency; reducing mercury, particulate matter, and other pollutant emissions; and restoring the Great Lakes, the Florida Everglades, and the Gulf of Mexico.

In addition to passing a continuing resolution, Congress may deal with four other energy-related pieces of legislation before the end of the year, most likely all during the Lame Duck session after the elections. Potential areas of forward movement include energy efficiency legislation, such as the Shaheen-Portman language; Defense reauthorization, which will include a debate over the Navy's use of biofuels; the Farm bill, which expires September 30 unless Congress passes a short-term extension; and the tax extender package.

The Congressional Budget Office reported August 31 that the temporary tax cut provisions for individuals in the Senate Finance Committee-approved tax extenders bill will add $145.7 billion to the federal deficit over the next 10 years. Energy tax breaks will cost another $18.1 billion. Senate Majority Leader Harry Reid (D-NV) has said he hopes to bring the measure to the Senate floor when Congress returns in September, though real movement is not anticipated until the Lame Duck session. The House Ways and Means Committee is working on its own version of a tax extenders package and does not expect to act

on it until after the elections. House members will be speaking Wednesday in support of the Production Tax Credit and the Investment Tax Credit, though it is still unclear how the House will get votes on a tax extenders package.

Congress

No More Solyndras Act
The House Energy and Commerce Committee announced September 7 that the No More Solyndras Act (H.R. 6213) will be considered on the House floor on September 14. The bill, which was approved by the committee August 1 on a party-line vote, would phase out the Department of Energy's loan guarantee program. It would also impose new restrictions on pending loan guarantee applications, including a ban on revising loan guarantee terms without consulting the Treasury Department, and a requirement to report to Congress any new loan guarantee issued. According to the bill, the Energy Department currently has authority to issue $34 billion in new loan guarantees.

EU ETS Prohibition
Senators John Thune (R-SD) and Claire McCaskill (D-MO) released a letter September 4 requesting swift action on their bill – the European Union Emissions Trading Scheme Prohibition Act of 2011 (S.1956). The measure would excuse American airlines from having to purchase emission allowances in accordance with the European Union's emissions trading system for U.S. flights arriving in or departing from Europe. The House approved a similar bill (H.R. 2594) last October.

Upcoming Hearings
The House Energy and Commerce Subcommittee on Energy and Power will hold a September 11 hearing to discuss legislation that would bar the Environmental Protection Agency from awarding grants under the Clean Air Act to programs, projects, or activity that would occur outside of the United States.

The House Natural Resources Committee will hold a September 11 hearing to consider whether directives in a memorandum issued by Energy Secretary Steven Chu would increase electricity costs for over 40 million families and small businesses.

The Senate Environment and Public Works Committee will hold a hearing September 12 at which all five members of the Nuclear Regulatory Commission leadership will provide an update of post-Fukushima safety measures.

The Senate Energy and Natural Resources Committee will hold a September 12 hearing to review the Nuclear Waste Administration Act (S. 3429).

The House Energy and Commerce Subcommittee on Energy and Power will hold a September 13 hearing entitled "Achieving North American Energy Independence Within the Decade." The subcommittee has also scheduled a hearing September 14 on legislation to block the Environmental Protection Agency's emissions standards for new power plants until carbon capture technology is feasible.

Administration

Industrial Energy Efficiency Order
President Obama signed an Executive Order August 30 to facilitate investments in industrial energy efficiency that will strengthen domestic manufacturing and create jobs. The order also establishes a new national goal of 40 GW of new combined heat and power capacity by 2020, a 50 percent increase. Additionally, it directs the Environmental Protection Agency and the Departments of Agriculture, Commerce, and Energy to coordinate actions at the federal level while providing policy and technical assistance to states to promote investments in industrial energy efficiency.

PTC Support

White House Council on Environmental Quality Chair Nancy Sutley said August 28 that the expiring production tax credit has helped manufacturers, and extending it is essential to the success of the wind energy and the revitalization of the American economy.

Department of Energy

LEDs Most Environmentally Friendly
The Department of Energy's Pacific Northwest National Laboratory released a report September 7 concluding that LED light bulbs do the least environmental harm when compared with compact fluorescent lights and traditional incandescent bulbs. The report, taking into account the mining of raw minerals, disposal, manufacturing, and degree of electricity, found that traditional incandescent bulbs consumed the most electricity and had the worst environmental repercussions and that using a CFL or LED bulb could reduce environmental degradation by three to ten times, respectively.

$4.4 Million for Solar
The Department of Energy announced August 29 a $4.4 million investment in five new research projects to accelerate innovations that could reduce the cost of photovoltaic and concentrating solar power technologies. The investments will enable teams from industry, universities, and national laboratories to collaborate at the agency's Scientific User Facilities.

CA Leads in Fuel Cell Vehicles
According to a Department of Energy August 30 report, *State of the States: Fuel Cells in America 2012*, California ranks first in the deployment of hydrogen fuel cell vehicles. California has more than 200 fuel cell vehicles on the road; the next highest, Hawaii, has 16 fuel cell vehicles. California also leads the country in hydrogen fueling stations, with eight, 14 new or upgraded stations in development, and 15 private stations. The state also has the most fuel cell buses, 15, in use, and seven more planned; it is first in fuel cell-powered forklifts, with more than 762 deployed or ordered.

Department of Interior

Solar Industry Challenges Solar Zones
The Solar Energy Industries Association and the Large-scale Solar Association jointly filed a formal protest August 27 with the Interior Department, which established a final rule in July establishing 17 zones on 285,000 acres on federal land in six Western states where commercial solar development will be expedited. As the agency moves to finalize the Final Solar Energy Development Programmatic Environmental Impact Statement, the solar industry contends that the zones are too restrictive because they place limits on lands for solar development based on how much insolation they receive.

Environmental Protection Agency

Particulate Matter Standards
The Environmental Protection Agency, several states, and environmental groups asked the U.S. District Court for the District of Columbia August 31 to sign a consent decree requiring the agency to finalize particulate matter air quality standards by December 14. The agency issued a court-ordered proposed rule in June.

Air Toxics Challenges Separated
The U.S. Court of Appeals for the District of Columbia Circuit severed challenges August 24 to the Environmental Protection Agency's mercury and air toxics standards for power plants, separating arguments over the new source performance standards set by the agency from other challenges to the regulation. The order means that the court will hear three separate challenges to the agency's air toxics standards for power plants, but all of the legal challenges will be heard on the same day. Petitioners challenging the standards must file their opening brief by October 23.

Agency Regulation Costs

The Environmental Protection Agency's Economics Advisory Committee released a draft report August 27 concluding that the agency should develop ways to compare the actual costs of its regulations with the outlays the agency predicts. The analysis, *Retrospective Study of the Costs of EPA Regulations: An Interim Report of Five Case Studies*, offers recommendations on how to make the incurred costs a better match with the agency's cost estimates.

GHG and CAFE Standards
The Environmental Protection Agency and the Department of Transportation's National Highway Traffic Safety Administration finalized August 28 combined greenhouse gas emissions and corporate average fuel economy standards requiring cars and light-duty vehicles to achieve 54.5 mpg by 2025. The agencies project that the standards will save consumers up to $7,400 in gasoline over the life of a fuel-efficient vehicle and reduce greenhouse gas emissions by 2 billion metric tons.

SmartWay Data Verification
The Environmental Protection Agency announced August 31 that it will publish guidance by the end of next year to ensure that the freight industry is accurately reporting greenhouse gas emissions reduction and fuel efficiency data as part of the SmartWay program. The guidance comes in response to findings from an Office of Inspector General assessment that found that the agency has no way of directly verifying that the self-reported data are accurate.

CSAPR Ruling Creates Uncertainty
Speaking August 28 at the annual meeting of the Environmental Council of the States, Gina McCarthy, assistant administrator for air and radiation, said that the August 21 United States Court of Appeals for the District of Columbia ruling vacating the Environmental Protection Agency's Cross State Air Pollution Rule creates uncertainty as it works to address air pollution crossing state lines. The agency is discussing whether it should appeal the ruling with the Justice Department.

Stove Standards Requested
The Environmental Council of States called August 28 on the Environmental Protection Agency to establish new source performance standards for residential coal-burning devices and to create more stringent standards for residential wood and biomass-burning devices.

Navistar Diesel Engine Nonconformance Penalty
The Environmental Protection Agency published a final rule September 5 that would allow Navistar Inc. to produce heavy-duty diesel engines that fail to meet a nitrogen oxide emissions standard as long as the company pays nonconformance penalties of up to $3,775 per engine. According to the agency, it increased the penalty to nearly double the amount it proposed in January after considering public comments.

Federal Trade Commission

Environmental Marketing Claims
The Federal Trade Commission sent August 29 warning letters to 14 window manufacturers and one window glass manufacturer urging them to review their current energy savings claims. The commission found that the companies' environmental marketing claims are similar to those made by five companies that have been challenged in commission cases earlier this year, and is working to ensure that the marketing is truthful and consistent with scientific evidence.

International Trade Commission

Renewable Energy Services Trade Examination
At the request of the Office of the U.S. Trade Representative, the International Trade Commission opened an investigation August 28 into trade and market trends in the renewable energy services sector. A few days prior, the commission commenced an investigation into the trade and market trends in the environmental services sector. The commission will hold a public hearing November 29.

Nuclear Regulatory Commission

No Nuke License for EDF
The Nuclear Regulatory Commission's Atomic Safety and Licensing Board issued a ruling August 30 concluding that Electricite de France cannot be granted a license to build a third reactor at the Calvert Cliffs nuclear power plant in southern Maryland because the French company has no American partner. The board gave EDF 60 days to provide proof of progress toward finding an American partner.

Personnel

Jonathan Levy moved from the Department of Energy's Deputy Secretary office September 6 to the White House on detail to the Domestic Policy Council to support Heather Zichal.

States

State Clean Air Agency Alternative
The Ohio Environmental Protection Agency and others are working to launch an organization at the beginning of next year as an alternative to the National Association of Clean Air Agencies. The organization, the Association of Air Pollution Control Agencies, issued a request for proposals August 24 for assistance in establishing and staffing the association. Up to 15 state and 20 local agencies could be part of the organization in its first year.

Economists Urge CA to Maintain A.B. 32
Forty-six economists urged California Governor Jerry Brown (D) August 26 not to cave to industry calls to change the design of the state's greenhouse gas emissions cap and trade program, which applies to 360 businesses, representing 600 facilities. The California Manufacturing and Technology Association has held events the past few weeks in Sacramento and San Diego to outline results of a report it commissioned predicting the program would financially harm businesses and local governments.

CARB GHG Trading Program Tests
The California Air Resources Board tested August 30 the allowance auction designed for the state's greenhouse gas emissions cap and trade program. The trial run provided the state's major greenhouse gas emission sources an opportunity to learn how the system will work and gave regulators a chance to test the system. About 150 participants registered for the practice session to bid on 60 million vintage 2013 and 2015 allowances, though neither the total number of allowances sold nor the settlement price will be made public.

Support for Green Chemistry
The Environmental Council of the States reaffirmed a policy statement (No. 09-6) August 28 urging support for green chemistry research and to incorporate green chemistry into reform of the Toxic Substances Control Act. The council supports legislation to promote incentives for economic development, education, and innovation in green chemistry and expanded support of green chemistry education and training.

OR Energy Tax Credits
The Oregon Department of Energy adopted recently final regulations on the application process for the energy conservation project tax credit and the transfer of this and other energy tax credits to other passthrough partners. The energy conservation project credit is an income tax credit available to taxpayers investing in energy conservation projects up to 35 percent of the project's certified cost.

Green Infrastructure Support
The Environmental Council of States adopted a resolution last week reaffirming its support for ongoing federal assistance through the state revolving fund program to finance green infrastructure projects by wastewater and drinking water utilities. The council adopted the resolution to demonstrate that states support efforts for wastewater and drinking water utilities to reduce their energy and water costs by engaging in alternative, low-cost techniques such as green infrastructure.

Sierra Club Challenges AZ Waste-to-Energy Ruling
The Sierra Club filed a lawsuit September 4 with the Arizona, Maricopa County Superior Court, which aims to overturn an Arizona Corporation Commission June 26 ruling that allowed a utility to deem trash burning a renewable energy resource under the state's renewable energy standard. The Arizona Corporation Commission's ruling permits Mohave Electric Cooperative to proceed with plans for a waste-to-energy facility as a pilot program.

CA Energy and Environment Bills Await Governor's Approval
California Gov. Jerry Brown (D) must decide to either sign or veto a slate of energy and environment related bills by September 30. Among the measures is a bill that would specify how revenue generated from the auction of green house gas emission allowances, or permits, from California's cap-and-trade system ought to be spent.

International

Chinese Energy Demonstration Areas
China's National Energy Administration announced last week that Chinese cities seeking designation as new energy demonstration areas will be required to display plans to satisfy at least 6 percent of their energy needs from renewable sources by the end of 2015 and to use at least two types of renewable energy. Under its 12th Five Year Plan, the country is aiming to develop 100 new energy demonstration cities.

Flexible Post-2020 Climate Goals
Delegates to the most recent round of United Nations climate talks said September 5 that a new negotiating stance from the United States, with support from China, India, and Russia, for the post-2020 period was emerging that called for flexible and dynamic rather than binding rules. The August 30-September 5 Bangkok talks, designed to set the stage for progress at this year's 18th Conference of the Parties to the U.N. Framework Convention on Climate Change in Qatar, are the first time proposals for the post-2020 period have been discussed without referring to some type of binding action from all countries as agreed to in the Durban Platform at last year's climate change summit.

South Korea's Pollution Regulation
South Korea's Ministry of the Environment announced August 29 that it will expand air pollution surveillance to fine particles 2.5 microns in diameter or smaller starting in January 2015. The country will set up 36 sampling points across the country to collect the data.

Linking EU-Australia Carbon Programs
Australia's climate change minister announced August 28 that the continent will partially link its carbon price scheme to the European Union's carbon market by mid-2015 and aim to be fully linked by mid-2018. Companies and organizations covered by Australia's program can buy European emission allowances now and bank them for use when the scheme transitions from its three-year fixed-price phase to its trading phase in July 2015. Three years later, EU organizations will be able to purchase and use Australian carbon units.

Biodiesel Antidumping Trade Investigation
The European Commission launched an antidumping trade investigation August 29 into biodiesel fuel imports from Argentina and Indonesia due to concerns that export tax schemes in both countries are illegally undercutting European Union biofuel producers. The European Biodiesel Board filed a complaint in July that the European Commission concluded presented enough evidence to support the accusations; it will complete its probe within 15 months. The European Commission imposed antidumping and countervailing duties on American biodiesel importers over three years ago.

Europe Investigates Chinese Solar Dumping
The European Commission launched an investigation September 6 into suspected dumping of solar panels by Chinese producers. The investigation into the largest import sector ever targeted by the

Commission originates from a complaint by a group of European solar companies led by Germany's SolarWorld. The commission made the decision to go forward with the investigation after concluding that there is sufficient evidence that the solar panels are being sold in the European Union market at prices below production costs.

China Hastens Clean Development Mechanism Approvals
China's National Development and Reform Commission has hurried to confer domestic approvals on Clean Development Mechanism projects currently being considered by the U.N. Framework Convention on Climate Change. China may possibly be aiming to have the approvals in place before the expiration of Kyoto Protocol's first commitment period on December 31.

US and Canada Sign Water Quality Agreement
The United States and Canada signed September 7 a revised version of the Great Lakes Water Quality Agreement that updates phosphorous standards for open waters and near-shore areas, and places greater emphasis on pollution prevention, the effects of climate change on coastal communities, and threats posed by invasive species.

New Russian GHG Emission Reduction Measures
The Russian Government is considering a new greenhouse gas emissions reduction target as well as a proposal that would allow domestic entities to take part in foreign emissions trading programs. The missions reduction target less strict as the 25 percent reduction goal discussed by Prime Minister Medvedev at the U.N. Conference on Sustainable Development in Rio and is seen as weak in comparison to the country's goal to reduce its energy intensity by 40 percent by 2020.

Miscellaneous

E-Waste Market Growing
Frost & Sullivan released a report August 29 that the electronic waste processing and recycling market was valued at $1.42 billion in 2011 and will grow to around $1.87 billion in 2017. The report, *Global Opportunities in the Waste Electrical and Electronic Equipment Recycling Services Market*, concludes that the e-waste sector will continue to grow at a compound annual growth rate of 4 percent. Under European Union rules that went into effect August 13, members must recycle 45 percent of electronics sold by 2016, and 65 percent by 2019.

Atlantic Shoreline Susceptible to Climate Impacts
The Natural Resources Defense Council and the Rocky Mountain Climate Organization released a report August 29 finding that low-lying Atlantic Ocean shorelines are especially susceptible to climate change-caused sea-level rise, flooding, and erosion. The report, *Atlantic National Seashores in Peril: The Threats of Climate Disruption*, recommends that the country take steps to reduce greenhouse gas emissions 20 percent below current levels by 2020 and 80 percent by 2050, and invest in additional clean, renewable energy sources to reduce emissions.

NYC Needs Additional Natural Gas Capacity
ICF International issued a study August 27 finding that New York City needs more natural gas capacity to help reduce air pollution rates, especially as city buildings make mandatory conversions from heavy heating oil to cleaner fuels. The report, *The Assessment of New York City Natural Gas Market Fundamentals and Life Cycle Fuel Emissions*, found that the region's natural gas system operates near its limits during peak periods. It also found that production, transport, and use of natural gas are estimated to result in 20 percent lower greenhouse gas emissions than heavy heating oil.

Ethanol Waivers Could Weaken Biofuel Ventures
The Biotechnology Industry Organization announced August 28 that requests for waivers of federal ethanol requirements for transportation fuels could weaken financial support for advanced biofuel ventures at a time when $1 billion in investment is in the pipeline.

Carbon Tax Could Prevent Budget Cuts

The Massachusetts Institute of Technology released a report August 27 finding that a tax on carbon dioxide emissions could raise $1.5 trillion that could be used to prevent or delay budget cuts as Congress seeks to reduce a looming federal deficit. The report, *Carbon Tax Revenue and the Budget Deficit: A Win-Win-Win Solution?*, examined the effects of a carbon tax starting at $20 per ton in 2013 and rising four percent annually. The tax would reduce CO2 emissions 20 percent below 2006 levels by 2050, encourage the use of renewables, and reduce oil imports.

Arctic Sea Ice Shrinking

The National Snow and Ice Data Center reported August 27 that Arctic sea ice cover has shrunk its lowest level since satellite records began in 1979. The ice cover has melted down to 1.58 million square miles from a record low of 1.61 million square miles that was reached September 18, 2007.

Climate Change Modeling Framework

The National Research Council argued in a September 7 report, *A National Strategy for Advancing Climate Modeling,* that the United States should construct a single climate change modeling framework. Though the council's plan would not prohibit agencies from continuing to develop their own methodologies, it argued that a single national framework would allow research agencies to more easily share data standards, tools, and model components. The council also recommended that federal agencies convene an annual climate modeling forum to encourage coordination.

Wind Energy PTC Challenged

A group of 60 organizations, led by conservative groups Americans for Prosperity, Freedom Works, and National Taxpayers Union, argued in a September 6 letter that Congress should allow the wind energy production tax credit to expire at the end of 2012 as scheduled. The wind energy production tax credit was established in 1992 and offers a tax break of 2.2 cents per kilowatt hour to wind power producers.

Commercial Scale Biofuels Expected

Representatives from companies that produce advanced biofuels, including DuPont and POET, announced September 5 that they are close to achieving commercial scale production of cellulosic ethanol and that they expect production of cellulosic biofuel to increase substantially next year as biorefineries in the planning and construction stages go online. The statements conflict with criticism of the inability to meet biofuels use mandates in the renewable fuels standard due to missed production targets and this year's drought.