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## **ENERGY AND ENVIRONMENT UPDATE**

**June 19, 2011**

### **Energy and Climate Debate**

The Senate voted, 73-27, June 16 to approve Senator Dianne Feinstein's (D-CA) amendment (S. Amdt. No. 476) eliminating the 45 cent per gallon tax credit for ethanol refiners and remove the 54 cent per gallon import tariff on the alternative fuel. The vote on the Volumetric Ethanol Excise Tax Credit may have ramifications on future votes to reduce the deficit, as many Republican Senators supported the bill even though it does not include another tax break to offset the elimination of the tax credit. An identical measure introduced by Senators Feinstein and Tom Coburn (R-OK) failed two days prior on procedural grounds. A second amendment, offered by Senator John McCain (R-AZ) to prevent federal funds from being used to build ethanol blender pumps or storage facilities, failed.

Senators Feinstein and Coburn will continue to negotiate with Senators Amy Klobuchar (D-MN) and John Thune (R-SD) on a compromise measure. The two farm state senators introduced legislation to phase out the ethanol subsidies more gradually, and hope to reform, but not eliminate, federal support for ethanol.

Following a week of intense Congressional meetings on the issue, Vice President Joe Biden will meet with congressional leaders for at least three three-hour sessions this week to finalize a deficit reduction plan by July 1.

The Senate ethanol votes and House budget votes of last week signal a shift in negotiations that could result in the curtailment of energy subsidies across the board. Democrats are telling their Republican colleagues that if they are willing to vote to repeal ethanol subsidies, they should also be ready to end oil and gas subsidies as part of the overall budget negotiations. Senators will spend much of this week considering the Economic Development Revitalization Act of 2011 (S. 782), which authorizes EDA programs for five years.

In the House, representatives will consider the America Invents Act, drilling legislation, and possibly the Department of Defense budget prior to adjourning for the Fourth of July recess.

### **Congress**

#### **Uranium Legislation Considered**

The Government Accountability Office told the House Energy and Commerce Subcommittee on Energy and Power on June 13 that legislation to direct the Department of Energy to re-enrich its depleted uranium and allow its sale could generate \$4.2 billion. The hearing focused on Congressman Ed Whitfield's (R-KY) bill (H.R. 2054), the Energy and Revenue Enrichment Act of 2011.

#### **DOE Scrutinized**

During a hearing June 15 in the House Science Subcommittee on Energy and Environment, House Republicans said that the Obama administration should anticipate added scrutiny regarding the effectiveness of the Department of Energy's clean technology programs. They questioned whether the agency is duplicating research that can be carried out better by the private sector, while Democrats defended the programs and expressed their support for the president's request for an \$8 billion increase in clean energy technology funding for fiscal year 2012.

#### Canadian Pipeline Decision Hastened

The House Energy and Commerce Subcommittee on Energy and Power approved the North American-Made Energy Security Act (H.R. 1938) June 15 along party lines. The Keystone XL pipeline expansion project, which runs from Hardisty, Alberta, to an oil trading hub at Cushing, Oklahoma and then to the Texas Gulf Coast, was first proposed in 2008 to handle increasing oil volumes from the Alberta oil sands. Additionally, the Pipeline and Hazardous Materials Administration told the House Energy and Commerce Subcommittee on Energy and Power that the agency would study the impact of transporting tar sands through pipelines only if Congress requires it.

#### EPA May Delay Toxics Rule

Environmental Protection Agency Administrator Lisa Jackson told the Senate Environment and Public Works Committee on June 15 that the agency is considering delaying its proposed air toxics rule for utilities in response to calls from congressional Republicans and industry. The maximum achievable control technology requirements for boilers were proposed May 3 and the comment period closes July 5.

#### House Committee Approves Spending Bill

The House Appropriations Committee approved (26-20) a \$30.6 billion energy and water funding bill for fiscal year 2012 June 15 that would reduce spending on renewable energy and energy efficiency programs. Democrats opposed the bill, which allocates \$5.9 billion less than President Obama had requested, and offered amendments to increase energy research funding, maintain the composition of a hydraulic fracturing advisory panel, and clarify Clean Water Act jurisdiction; all of the amendments were defeated.

#### House Passes USDA Budget

The House approved a fiscal year 2012 spending bill for the Department of Agriculture June 16 that would stop the department from integrating climate change adaptation planning in its programs and cut nearly \$1 billion from water conservation, environmental quality, and rural energy programs.

#### Legislation Introduced

Senator John Thune (R-SD) introduced legislation (S. 1185) June 13 to amend the Internal Revenue Code of 1986 to provide for a variable VEETC rate based on the price of crude oil.

House Republicans introduced four bills June 14 aimed at expanding the production of renewable energy on public land and waters by streamlining and easing environmental reviews required under the National Environmental Policy Act. Congressman Doc Hastings (R-WA) introduced legislation (H.R. 2170) to streamline Federal review to facilitate renewable energy projects. Congresswoman Kristi Noem (D-SD) introduced legislation (H.R. 2172) to facilitate the development of wind energy resources on Federal lands. Representative Rob Wittman (R-VA) introduced legislation (H.R. 2173) to facilitate the development of offshore wind energy resources. Congressman Stephen Fincher (R-TN) introduced legislation (H.R. 2175) to require certain agencies to submit a cost-benefit analysis to Congress before implementing proposed regulations. The bills will be the subject of a hearing by the House Natural Resources Subcommittee on Energy and Mineral Resources on June 23.

Representatives Martin Heinrich (D-NM) and Ed Markey (D-MA) introduced legislation (H.R. 2176) to dedicate a portion of the rental fees from wind and solar energy projects on Federal land under the jurisdiction of the Bureau of Land Management for the administrative costs of processing applications for new wind and solar projects.

Senator Bernie Sanders (I-VT) introduced a bill (S. 1200) that would require the Commodity Futures Trading Commission to take action within two weeks to curb speculation by Wall Street investment banks and large

hedge funds. Provisions of the bill adopt position accountability levels used by the New York Mercantile Exchange since 2001. Representative Maurice Hinchey (D-NY) will soon introduce a companion bill in the House.

Senator Mark Udall (D-CO) introduced legislation (S. 1204) June 15 to reform Department of Defense energy policy. The Department of Defense Energy Security Act of 2011 includes a broad range of measures from authorizing funding for energy efficiency improvements to requiring a study on incorporating high-efficiency propulsion systems in tactical vehicles. Senator Udall and Representative Gabrielle Giffords (D-AZ) introduced similar legislation in the 111th Congress.

Senator Kent Conrad (D-ND) introduced legislation (S. 1220) June 16 to expand offshore drilling, promote low-carbon energy sources via tax incentives and a clean energy standard, and develop electric and alternative vehicle technology. Senator Conrad was a leading member of a bipartisan gang of senators who worked to develop an energy compromise in 2008, and this legislation echoes many of the provisions offered in those proposals.

Senator Lisa Murkowski (R-AK) introduced legislation (S. 1226) to amend the Clean Air Act to address air pollution from Outer Continental Shelf activities.

Congressman Ed Markey (D-MA) introduced legislation (H.R. 2196) to direct the President, using the Western Area Power Administration, to acquire renewable energy in amounts sufficient to ensure that, of the total amount of electric energy the Federal Government consumes during any fiscal year, certain minimum amounts shall be renewable energy.

Congressman Jerry McNerney (D-CA) introduced legislation (H.R. 2208) to incorporate smart grid capability into the Energy Star Program, reduce electric demand, and reauthorize an energy efficiency public information program to include Smart Grid information.

Congressman Joe Donnelly (D-IN) introduced a bill (H.R. 2222) to direct the Environmental Protection Agency Administrator to publish annually a list of vehicles that satisfy requirements for certification as low emission and energy efficient vehicles.

Congresswoman Kristi Noem (R-SD) introduced legislation (H.R. 2231) to terminate ethanol tax credits.

Representative Aaron Schock (R-IL) introduced a bill (H.R. 2238) to amend the Internal Revenue Code of 1986 to modify the incentives for the production of biodiesel.

#### Upcoming Hearings

The Senate Committees on Foreign Relations and Commerce will hold a joint hearing June 22 on oceans.

The House Natural Resources Subcommittee on Energy and Mineral Resources will hold a hearing June 23 on pending alternative energy legislation, including the Advancing Offshore Wind Production Act (H.R. 2173), the Utilizing America's Federal Lands for Wind Energy Act (H.R. 2172), the Cutting Federal Red Tape to Facilitate Renewable Energy Act (H.R. 2170), and the Exploring for Geothermal Energy on Federal Lands Act (H.R. 2171).

#### **Administration**

##### Smart Grid Report Released

The White House Office of Science and Technology Policy unveiled a report June 13 announcing several initiatives that focus on bridging state and regional differences that could slow the development of smart grid technologies. The report, "A Policy Framework for the 21st Century Grid: Enabling Our Secure Energy Future," included \$250 million in Agriculture Department loans for smart-grid technology development in rural areas; the launch of Grid 21; a Department of Energy program to improve consumer access to their own energy usage; a renewable energy rapid response team; and upgrading the electric system to ensure protection against cyber attacks.

#### OMB Completes RFS Review

The White House Office of Management and Budget completed its review June 15 of an Environmental Protection Agency proposed rule that would establish renewable fuel production requirements for 2012. The rule would implement the renewable fuel requirements of the Energy Independence and Security Act, which requires 15.2 billion gallons on renewable fuels in 2012, including 2 billion gallons of advanced biofuels, 500 million gallons of cellulosic biofuel, and 1 billion gallons of biomass-based diesel fuel.

#### Mobile Standards Finalized in July

The White House Office of Management and Budget said June 16 that it will finalize an Environmental Protection Agency rule in July that would establish greenhouse gas emissions and fuel economy standards for medium- and heavy-duty trucks. The rule has been under review by the office since June 6.

#### OMB Reviewing Secondary Air Standards

The White House Office of Management and Budget announced June 16 that it is reviewing an Environmental Protection Agency proposed rule that would establish secondary national ambient air quality standards for nitrogen oxides and sulfur dioxide. The agency has conducted separate reviews of the primary standards, but proposals have not yet been released. A final rule is expected by March 2012.

### **Department of Energy**

#### \$275 Million Loan Guarantee

Energy Secretary Steven Chu announced June 16 the offer of a conditional commitment for a \$275 million loan guarantee to Calisolar Inc. to commercialize its innovative solar silicon manufacturing process. The process is expected to produce silicon for use in solar cells at less than half the cost of traditional polysilicon purification processes. The manufacturing plant will produce 16,000 MT of solar silicon per year and will create 1,100 permanent jobs and 1,000 construction jobs.

#### \$30 Million for Efficiency Training

The Department of Energy announced the availability of more than \$30 million to train undergraduate and graduate engineering students in manufacturing efficiency to help them become the nation's next generation of industrial energy efficiency experts. University teams will work through the Industrial Assessment Center program to gain practical training that will enable to conduct energy assessments.

#### REC Webinar Upcoming

The Department of Energy's Federal Energy Management Program will present a webinar June 23 focused on renewable power purchases and renewable energy certificates.

#### Energy Performance and Building Appraisal Partnership Formed

The Department of Energy announced a partnership with The Appraisal Foundation June 13 that will help expand access to energy efficiency and building performance information for commercial buildings and help American businesses reduce energy waste. The agency and foundation will work to ensure that appraisers nationwide have the information, practical guidelines, and professional resources they need to evaluate energy performance when conducting commercial building appraisals.

#### \$1.2 Billion and Loan Guarantees

The Department of Energy announced almost \$2 billion in loan guarantees for two solar power projects in California June 14. The agency offered a conditional commitment for a \$1.2 billion loan guarantee to the Mojave Solar Project in San Bernardino County and a loan guarantee of \$681.6 million to the Genesis Solar Project in Riverside County. The agency and its Loan Programs Office has offered more than \$32 billion in loans, loan guarantees, or conditional commitments for clean energy projects to date.

#### VT Wins EcoCAR

A team of students from Virginia Tech University were named overall winners of EcoCAR: The NeXt Challenge June 16. Competing against 15 other universities to take top prize in the three year competition

sponsored by the Department of Energy and General Motors, the students designed and built an extended range electric vehicle using E85.

## **Department of Transportation**

### \$175 Million for Sustainable Communities

The Department of Transportation announced the availability of \$175 million in merit-based grants to promote livable communities June 16. The Partnership for Sustainable Communities, one of the administration's main emphases in its transportation work, is directed toward improving the quality of life by coordinating transportation, housing, and environmental decisions made by the agency, the Department of Housing and Urban Development, and the Environmental Protection Agency.

## **Environmental Protection Agency**

### CA Vehicle Standard Revisions OK

The Environmental Protection Agency published a notice June 14 that concluded that revisions made by the California Air Resources Board to align its vehicle-related GHG regulations with the nationwide vehicle standards fall within the scope of the Clean Air Act preemption waiver granted to the state in 2009. The modifications provide manufacturers more flexibility and reduce the costs of compliance.

### Diesel Performance Standards Revised

The Environmental Protection Agency released a final rule last week amending new source performance standards for stationary diesel engines, such as those used in industrial facilities to generate electricity for compressors and pumps. The final rule addresses a 2009 settlement agreement between the agency and the American Petroleum Institute in which the EPA agreed to delineate the responsibility between engine manufacturers and operators of the machinery to attain performance standards.

### NSP Deadline Extended

The Environmental Protection Agency and state and environmental groups agreed June 13 to postpone by two months the agency's deadline to propose greenhouse gas emissions limits on new and modified power plants. The EPA must now propose new source performance standards by September 30; the original deadline was July 26 but the agency has not yet sent a proposed rule to the White House Office of Management and Budget. The extension will not change the May 26, 2012 final rule deadline.

### Court Rejects EPA WI Approval Challenge

The U.S. Court of Appeals for the Seventh Circuit denied petitions by the Natural Resources Defense Council and Sierra Club June 16 that challenged the Environmental Protection Agency's approval of revisions to Wisconsin's Clean Air Act new source review program. The environmental groups claimed that the state used weaker emission controls than those previously in force, but the court faulted the groups for failing to provide sufficient quantitative evidence.

### ACC Challenges EPA GHG Rules

The American Chemistry Council filed a brief June 10 in the U.S. Court of Appeals for the District of Columbia challenging the Environmental Protection Agency's regulation of greenhouse gas emissions from mobile and stationary sources. The council claimed that the rules will increase costs for industrial facilities and lead to additional delays in obtaining permits.

## **Personnel**

Richard Newell announced last week that after nearly two years of service as the Administrator of the U.S. Energy Information Administration, he will return next month to his position as professor of energy and environmental economics at Duke University. EIA Deputy Administrator Howard Gruenspecht will serve as Acting Administrator effective July 1.

President Obama nominated Ken Kopocis last week to become the Environmental Protection Agency's assistant administrator for water. Mr. Kopocis has served as senior counsel for the House Transportation and

Infrastructure Committee since 2008 and is an attorney with more than 25 years of congressional experience on Clean Water Act issues.

## **Miscellaneous**

### CARB's Revised Analysis Supports Cap and Trade

The California Air Resources Board released an alternatives analysis June 13 of its plan for reducing greenhouse gas emissions. Issued in response to a court order, the document evaluates the impacts of a “no project” alternative, a cap and trade program, direct regulation of sources, a carbon fee or tax, and a combination of measures including cap and trade, and finds the same conclusion as the initial environmental analysis: that a cap and trade program is the best strategy for achieving the reductions required under the state’s Global Warming Solutions Act of 2006 (A.B. 32).

### Geothermal May Increase Tenfold

The International Energy Agency released a report June 14 finding that global production of heat and electricity from geothermal energy could be increased at least tenfold by mid-century with the right policies in place. The report, *Technology Roadmap: Geothermal Heat and Power*, called on governments to provide resources to help develop at least 50 pilot plants using hot rock resources in the next decade.

### Several Nations Won't Renew GHG Commitments

During the U.N. Climate Change Conference’s meeting in Bonn last week – the final meeting prior to the annual Conference of Parties, representatives of Japan and Russia announced that their countries will not sign on to a second compliance period for reducing greenhouse gas emissions after the Kyoto Protocol expires in 2012. Negotiators for Canada expressed that the country is also not likely to sign. Additionally, the talks failed to yield consensus on ways in which countries whose economies are hurt by international climate change policies might be compensated. The talks were suspended, rather than adjourned, so that a set of meetings could be added in September or October before the year-end climate summit in South Africa.

### Sweden Concerned About Sustainable Biomass

Sweden presented an information note to the European Union’s Energy Council June 10 voicing concern over the new EU criteria for the sustainability of biomass. The nation expressed concern that biomass used in energy production should be based on the origin of the biomass rather than its end usage. The EU’s 2009 Renewable Energy Directive required the European Commission to assess the need for sustainability criteria for solid biomass, and found that only certified biomass could count toward the bloc’s objective of meeting 20 percent of its energy needs by 2020 from renewable sources.

### Philippines Pursue 50 Percent Renewable Energy

The Philippines launched a program June 14 to raise the share of renewable energy to 50 percent by 2030. Currently, renewable energy sources, primarily from geothermal and hydropower, account for 35 percent of the mix.

### Brazil Releases 10 Year Plan

Brazil unveiled a new Energy Expansion Plan last week that includes a large increase in wind power and stable growth from other energy sources. The 10 year plan, like the previous one, calls for construction of hydroelectric dams in government protected areas, with hydropower supplying 71 percent of the country’s energy. Fossil fuel thermal plants would produce 15 percent; wind energy, 6.7 percent; biomass thermoelectric plants, 5.3 percent; and nuclear energy, 2 percent.

### SolarDay 2011 Held

The third annual SolarDay was held in the United States, Canada, and the United Kingdom on June 18. The event is an international day of awareness celebrating solar energy and energy independence, and this year marked strong growth in the U.S. solar industry.

### ERUs Should Continue

The U.N. Spinoff Group on Emissions Trading and Project-Based Mechanisms recommended June 15 that certain tradable credits issued under the Kyoto Protocol remain valid the protocol’s first compliance period

expires at the end of next year. The organization, a contact group associated with the U.N. Climate Change Conference, said in a discussion paper that the move could add stability to emissions trading markets. The group also recommended that the executive board of the Clean Development Mechanism should continue after 2012.

#### BC Clean Tech Industry Growing

KPMG released a report last week that found that British Columbia's clean technology sector is emerging as a strong force in the Canadian economy. The report, which covered areas including energy generation, energy transmission and storage, energy use in transportation, energy efficiency, and resource management, concluded that 202 clean tech firms in the province will generate \$2.5 billion in 2011, a 57 percent increase from 2008.

#### Non-OECD States to Drive Fossil Demand

The International Energy Agency predicted in a report released June 16 that growth in demand for oil and natural gas will be driven by non-OECD states through 2016. In launching its Medium-Term Oil and Gas Markets report at the International Economic Forum last week, the agency concluded that developed-country demand would stagnate and decline in coming years.

#### MT Denies Climate Petition

The Montana Supreme Court denied a petition June 15 from a group of parents on behalf of their children asking it to find that the state was constitutionally required to prevent climate change by regulating greenhouse gas emissions. The filing was part of a national effort to spur state governments to address climate change to preserve the environment for the sake of children. Suits have been filed in 10 states.

#### Cities Investing in Clean Tech

The U.S. Conference of Mayors released a report last week finding that cities are still planning to invest in clean energy technologies over the next half decade. Three of four cities surveyed predicted significant growth between now and 2016 when it comes to adding energy efficient lighting, building materials and appliances, solar panels, and hybrid vehicles.

#### Canada Blocks WTO Panel Request

On June 17, Canada blocked Japan's request for the establishment of a World Trade Organization dispute panel to examine whether domestic content requirements under a program in Ontario aimed at encouraging the development of alternative energies is in violation of global trade rules. Ontario's feed-in tariff program, established under the 2009 Green Energy and Green Economy Act to phase out coal-fired electricity by 2014, covers solar, wind, water, and bioenergy projects over 10 KW.