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ENERGY AND ENVIRONMENT UPDATE

July 15, 2012

Energy and Climate Debate

With Congress back from the Independence Day recess, hearings on the farm bill and budget issues sparked some energy debate while House Republicans began efforts to restrict and curtail the loan guarantee program.

In other news, Bank of America Merrill Lynch released a study July 12 finding that an abundant domestic energy supply may help to avert another U.S. recession.

The Senate will vote early this week on the motion to proceed to the DISCLOSE Act (S. 3369), which would create more transparency in campaign financing; the chamber may also return to tax legislation (S. 3364) that would create incentives for companies to bring jobs back to the United States. The House is scheduled to consider a sequestration report measure (H.R. 5872) to require the White House to outline its plans to address automatic budget cuts, and will spend much of the week debating the fiscal year 2013 Department of Defense appropriations bill (H.R. 5856). Committees in both houses will hold hearings ranging from economic outlook issues to the impact of tax reform on the domestic manufacturing sector to Dodd-Frank impacts, and will markup additional appropriations measures as well.

Congress

RFS Should Include Other Sources

Speaking before a House Energy and Commerce Subcommittee on Energy and Power July 10, witnesses said that the renewable fuel standard should be amended to include non-ethanol sources such as natural gas and clean electricity. The standard mandates that 36 billion gallons of ethanol and other biofuels be part of the country's vehicle fuel supply by 2022, and many doubt that the Energy Independence and Security Act of 2007 standard will be met as the Environmental Protection Agency has issued waivers the past three years lowering the required annual amount of cellulosic biofuel.

RIN Fraud and Oversight

At a House Energy and Commerce Subcommittee on Oversight and Investigations hearing July 11, industry representatives said that biodiesel producers are developing their own auditing and verification program after the Environmental Protection Agency identified millions of fake renewable fuel credits on the market. At the same time, the agency must revise the renewable fuel program regulations to provide more protection for petroleum refiners and others that unknowingly purchased the fraudulent renewable identification numbers. The industry's two-step verification program includes independent auditors to ensure that biodiesel facilities produce renewable fuels, and a requirement that producers install onsite

monitoring equipment to provide live data to industries required to purchase the credits. The agency reached settlements with 30 companies in April that were participating in the program; they agreed to pay \$3.65 million in penalties.

No Mandatory Energy Funding in House Farm Bill

The House Agriculture Committee adopted, 35-11, the Federal Agriculture, Risk, and Reform Management Act (H.R. 6083) July 12. The House Farm Bill would provide no mandatory funding for the legislation's energy title, potentially killing rural energy programs. The measure would authorize nearly \$1.4 billion in discretionary funding for energy programs, ranging from loan guarantees and grants for biofuels to support for renewable energy and energy efficiency programs, but little has been appropriated from previous years' farm bills. Speaker of the House John Boehner (R-OH) said July 12 that no schedule has been set for taking up the measure on the floor, but there is some belief that the farm bill could, like the transportation package, move to a conference committee without first hitting the House floor.

House Passes Hydro Legislation

The House passed, 372-0, the Hydropower Regulatory Efficiency Act (H.R. 5892) July 9. The bipartisan bill from Representatives Cathy McMorris Rogers (R-WA) and Diana DeGette (D-CO) would expand hydropower development by streamlining the regulatory process, directing the Federal Energy Regulatory Commission to study the feasibility of reducing the current licensing process to two years, from five or six, for converting non-powered dams and closed-loop, pumped-storage projects into hydroelectric facilities. The measure also increases the commission exemption for small hydroelectric power projects from 5-10 MW and would exempt small conduit projects. The legislation directs the Department of Energy to study the potential for using pumped storage hydropower facilities as a backup to intermittent renewable sources. The Senate Energy and Natural Resources Committee approved a similar bill (S. 629) in April.

No More Solyndras Legislation

Testifying before the House Energy and Commerce Subcommittees on Energy and Power and Oversight and Investigation July 12, David Frantz, acting executive director of the Department of Energy's Loan Programs Office, said that legislation unveiled earlier in the week to phase out the agency's loan guarantee program would not increase taxpayer protections and could even put funds at risk by hindering its ability to issue loan guarantees for new nuclear and renewable technologies. The June 10 No More Solyndras Act would prohibit the department from making any commitments for applications received after 2011 under the Energy Policy Act of 2005 loan guarantee program and would place new restrictions on loan guarantees issued for pending applications, including requiring a written recommendation from the Department of Treasury, banning restructuring of guarantee terms without Treasury consultation, and prohibiting investors from being repaid before taxpayers in the event of a default.

Legislation Introduced

Representative Doc Hastings (R-WA) introduced legislation (H.R. 6082) July 9 to officially replace, within the 60-day Congressional review period under the Outer Continental Shelf Lands Act, President Obama's Proposed Final Outer Continental Shelf Oil & Gas Leasing Program (2012-2017) with a congressional plan that will conduct additional oil and natural gas lease sales to promote offshore energy development, job creation, and increased domestic energy production to ensure a more secure energy future in the United States. Interior Secretary Ken Salazar formally delivered to Congress the administration's five year oil and gas leasing program on June 28.

Senators Mark Begich (D-AK) and Olympia Snowe (R-ME) introduced legislation (S. 3371) July 11, to establish, within the National Oceanic and Atmospheric Administration, an integrated and comprehensive ocean, coastal, Great Lakes, and atmospheric research, prediction, and environmental information program to support renewable energy.

The same day, Congressman Jeff Flake (R-AZ) introduced legislation (H.R. 6098) to amend the Federal Crop Insurance Act to immediately reduce crop insurance premium subsidy rates from the higher subsidies provided since the Agricultural Risk Protection Act of 2000.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will hold a hearing July 17 to discuss cybersecurity and the electric grid, particularly, ongoing efforts to defend the grid against cyber attacks.

The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing on the American Energy Initiative July 17, with specific focus on alternative fuels and vehicles.

The House Natural Resources Committee will hold a hearing July 19 to discuss the panel's efforts to subpoena details about the Interior Department's rewrite of the stream buffer zone rule on coal. Interior Secretary Ken Salazar and the Office of Surface Mining Reclamation and Enforcement Director Joseph Pizarchik will testify.

Department of Agriculture

Rural Power Loan Guarantees

The Department of Agriculture announced July 11 loan guarantees for rural electricity cooperatives and utilities in 15 states to make improvements to generation and transmission facilities and to implement smart-grid technologies. Iowa Corn Belt Power Cooperative received a \$55.8 million loan guarantee to finance advanced technology generating system improvements that increase efficiencies and manage costs. The Midwest Energy Cooperative in Michigan was awarded a \$24 million loan guarantee for the construction and improvement of 208 miles of distribution and transmission lines as well as more than \$10 million in smart-grid technologies.

Department of Commerce

NOAA Climate Report Unveiled

The National Oceanic and Atmospheric Administration released its 2011 State of the Climate report July 10, finding that La Niña helped to make 2011 the coolest year on average globally since 2008, but the last year's temperature average remained above the 30-year average and greenhouse gas emissions increased. A strong La Niña at the beginning of 2011 faded and redeveloped to constitute back-to-back La Niñas that helped cool the eastern Pacific and contributed to temperature and rainfall variables elsewhere. CO2 exceeded 390 ppm in the atmosphere at the Earth's surface for the first time since instrumental records began; the annual increase was slightly larger than the 10-year average increase.

Department of Defense

Alternative Fuels Necessary

Assistant Secretary of Defense for operational energy plans and programs Sharon Burke said July 11 that the agency actively is pursuing alternative fuels because it has no other choice. Military operations consists of 79 percent of the department's overall energy use, and as the petroleum supply could be limited in the future due to international conflict, climate change, or another reason, the government must be focused on making alternative fuels available for when that does happen. The Pentagon will continue using its current fleet for decades, so fuels need to be able to drop in to that equipment; the agency is working on certifying fuels for its equipment and will purchase them on a larger scale when they are cost-competitive.

Department of Energy

Home Energy Expenditures Increase

The Energy Information Administration released its *Residential Energy Consumption Survey* last week, finding that U.S. household energy expenditures rose 11.8 percent between 2005 and 2009, from \$1,810 to \$2,024. Energy expenditures are higher because of larger homes, bigger and more home electronics, and a doubling of major appliances as more households have two refrigerators. The Northeast has the highest expenditure, up 11.9 percent to \$2,595 in 2009, while the West has the lowest, up 5.3 percent to \$1,570.

\$30 Million for Nat Gas Vehicles

The Energy Department announced July 12 that it will provide \$30 million in funding for 13 projects to advance natural gas vehicles. The Methane Opportunities for Vehicular Energy program through the department's Advanced Research Projects—Energy comes as domestic shale gas production has grown from 5 to more than 30 percent of total domestic natural gas production, and the country now has a near 100-year supply of natural gas resources.

Biofuel Growth Requires Market Stability

Speaking at the Department of Energy's Biomass 2012 Conference July 10, Energy Secretary Steven Chu said that the current most pressing need for the domestic biofuel sector is more market stability. Secretary Chu urged the government to help by setting policies to encourage investment in biorefineries and infrastructure, similar to those it has used to support and grow the oil, wind, and solar industries. The agency's biomass program received approximately \$40 million in funding 20 years ago and now operates on an annual budget of about \$200 million, and the agency has spent about \$1 billion over the last five years to break ground on four biorefineries.

KS Utilities Entitled to Nuclear Storage Costs

The U.S. Court of Appeals for the Federal Circuit ruled July 12 that three Kansas utilities that together own the Wolf Creek Nuclear Generating Station near Burlington, Kansas, correctly apportioned their overhead costs for constructing spent fuel storage facilities and are therefore entitled to receive such costs from the federal government. The U.S. Court of Federal Claims ordered the Energy Department in November 2010 to pay the three utilities \$10.6 million for failing to honor its contract to collect spent fuel from the nuclear facility. The Energy Department failed to begin collecting spent fuel by the end of January 1998, as required by the Nuclear Waste Policy Act of 1982; the Kansas facility began operations in September 1985, and its first scheduled agency collection would have been in 2006.

Environmental Protection Agency

Biomass Delay Opposed

The Center for Biological Diversity and other environmental groups filed a brief in federal court July 10 arguing that the Environmental Protection Agency has not justified its decision to postpone until July 21, 2014 greenhouse gas permitting requirements for industrial facilities burning biomass. The agency has postponed the prevention of significant deterioration permitting requirements while it studies the life-cycle greenhouse gas impact of biomass combustion.

Leeway for Fraudulent RIN Purchases

Environmental Protection Agency assistant administrator for air and radiation Gina McCarthy and assistant administrator for enforcement and compliance assurance Cynthia Giles sent a letter June 28 to House Energy and Commerce Chairman Fred Upton (R-MI) saying that the agency is working to give more leeway to companies that unknowingly purchase renewable fuel certificates that are later found to be fraudulent. Responding to a May 24 letter from committee Republicans, the agency announced that it has issued an Interim Enforcement Response Policy to allow those businesses to pay only modest civil fines and have their total penalties capped.

Fracking Risks to Drinking Water Studies

The Battelle Memorial Institute issued a report finding that the Environmental Protection Agency should narrow the focus and increase the rigor of its study on the risks fracking may pose to drinking water. The report, *Review of EPA Hydraulic Fracturing Study Plan*, found that the agency is overreaching in the scope of its study by including a number of exploration and production activities that are already well known and not specific to fracking, and concluded that the study would benefit from more significant stakeholder collaboration. The agency will release some study findings by the end of this year and the full study in 2014.

EPA Regional Haze Plans Criticized

The United States Chamber of Commerce released a report July 13 criticizing the Environmental Protection Agency for its imposition of regional haze plans on several states. The report, *EPA's New Regulatory Front: Regional Haze and the Takeover of State Programs*, found that the costs of

implementing agency plans were higher than original state programs. The agency's imposed regional haze plans were the result of an effort to settle lawsuits brought by environmental groups. Six senators introduced legislation July 12 to curtail administration authority to strengthen regulation on similar grounds.

Federal Energy Regulatory Commission

Gas, Electric Market Coordination

The Federal Energy Regulatory Commission announced dates and locations last week for five regional technical conferences that will focus on ways to improve coordination between natural gas and electricity markets. The conferences will explore the growing interdependence of natural gas and electricity, focusing on communications, coordination, and sharing information; scheduling to meet power needs; market structures and rules; and reliability concerns. Dates and locations include St. Louis, August 6; Boston, August 20; Washington, D.C., August 23; Portland, August 28; and Washington, D.C., August 30.

Personnel

Allison Macfarlane was sworn in July 9 as the 15th chairman of the Nuclear Regulatory Commission, which oversees the country's 104 commercial nuclear power plants. The first geologist to serve as commissioner since the commission was created in 1975, she will fill the unexpired term of former chairman Gregory Jaczko, who recently resigned; his five year term ends next June 30.

States

MA GHG Target Panel

The Massachusetts Global Warming Solutions Act Implementation Advisory Committee announced July 10 that they have created a task force to ensure the state meets its greenhouse gas reduction targets outlined under the 2008 act. The committee will advise the state's environmental and energy agencies on plan development and strategy implementation to meet the state's targets of a 25 percent reduction in greenhouse gases by 2020 and an 80 percent reduction by 2050 from 1990 levels.

OH CAT Exemptions

Ohio enacted legislation (S.B. 315) June 11 that took effect June 30 exempting people who solely facilitates or services one or more securitizations of eligible electric utility assets from the commercial activity tax. Phase-in costs include expenditures for fuel, purchased power, compliance with federal emissions standards and state renewable energy benchmarks, and economic development and energy efficiency programs.

CA Clean Air Strategy

The South Coast Air Quality Management District of California announced July 13 that in order to bring Los Angeles in line with the federal 24-hour standard for fine particulate matter emissions by 2014, more stringent fine particulate and NOx regulations are needed. A July clean air strategy will require more robust measures to reduce emissions from wood-burning fireplaces, diesel exhaust, and 100 dairy farms and will explain how the proposed measures will aid efforts to defend against ground level ozone. The district's governing board will consider the federally required, three-year plan at its October 5 meeting.

International

Ambitious Asian GHG Mitigation Necessary

The Asian Development Bank Institute released a study July 11 finding that the continent's developing countries must expand their approach to climate change mitigation because isolated or sector-focused policies will not be sufficient to switch to a low-carbon, environmentally sustainable path. The study, *Climate Change Mitigation and Green Growth in Developing Asia*, overviews domestic policy for mitigation and environmental sustainability in China, India, Indonesia, Thailand, and Vietnam, and points to the rapidly growing economies as major sources of future emissions. The emissions surge reflects the

enormous rise in income, economic activity, and consequent energy consumption. Developing Asian countries account for nearly a third of global emissions today, with 2035 estimations rising to 42 percent.

More Efficient EU Vehicles

The European Commission published draft legislation July 11 that would require European Union automakers to make their vehicles 30 percent more fuel efficient by 2020. The 30 percent saving would equate to a CO2 emissions from cars reduction of 135.7 g/km currently to 95 g/km in 2020. Under a separate July 11 proposal, reductions in light van emissions would also be required, from 180 g/km currently to 147 g/km in 2020, a 19 percent reduction. Heavier vehicles would be allowed higher emissions than lighter vehicles, but all vehicles would need to reduce their emissions by the same proportion to stay within the fleet average limits.

Adaptation Financing Talks

Government, environmental, and private-sector organizations concluded three days of talks July 11 on long-term financing possibilities for climate change adaptation with some progress but no concrete decisions. Negotiators at last year's United Nations climate summit agreed to launch a Green Climate Fund to raise \$100 billion a year by 2020 to help developing countries cope with the impacts of climate change. The 18th Conference of Parties to the U.N. Framework Convention on Climate Change will take place November 26-December 7 in Doha, Qatar.

Chinese Clean Cars

China's State Council announced July 9 more specifics of the country's plan to increase production of energy efficient, electric, and hybrid vehicles. The plan aims for annual production of 500,000 "new-energy" vehicles by 2015 and 2 million annually by 2020 and offers support for the development and consolidation of the battery industry. China will offer subsidies to producers and buyers of the vehicles, representing one of seven key strategic industries the country aims to promote through 2020.

Reduction of 4 Key Pollutants

China's Ministry of Environmental Protection announced data on four key pollutants July 4 showing a slow rate of reduction as the country's economy cools. Figures for the first half of 2012 showed SO2 emissions fell 2 percent, chemical oxygen demand measured in wastewater fell 1.5 percent, and NOx emissions in air and ammonia nitrogen emissions in wastewater were unchanged compared to the first half of 2011. Overall goals for the four pollutants, singled out in the 12th Five-Year Plan, call for reducing SO2 emissions and COD levels 8 percent, and NOX and ammonia nitrogen emissions levels 10 percent by 2015, compared to the first half of last year. The ministry will explore administrative, technical, and economic incentives options to spur additional reductions.

China Rare Earth Materials Support

China's Ministry of Finance announced July 4 that it will subsidize 42 research projects on rare earth, rare metal, and new materials as part of its effort to strengthen its position as an industry leader. The country will launch a spot-trading platform for rare earths August 8 in order to improve price discovery of 17 key metals used in the electronics, defense, and renewable energy industries. The announcement comes as the European Union, Japan, and the United States criticize China's export duties, quotas, and other restrictions on rare earths, calling June 27 for the establishment of a World Trade Organization dispute panel to rule whether the country's export restrictions violate global trade rules. With 23 percent of the world's rare earth resources and accounting for 90 percent of total world output last year, the country produces more than 400 varieties of rare earth products in more than 1,000 specifications.

WTO Rare Earth Dispute Resubmitted

The European Union, Japan, and the United States placed July 13 a second request on the World Trade Organization's July 23 Dispute Settlement Body agenda asking the organization to establish a dispute panel to rule whether China's restrictions on rare earths exports violate global trade rules. Under organization rules, the second request can only be blocked if all attending members, including the three complainants, reject the request. The three countries have charged that China's export duties, quotas, and other measures violate global trade rules and specific commitments China made as part of its 2001 World Trade Organization accession agreement. Rare earths, a set of 17 chemical elements in the

periodic table – 15 lanthanides, scandium, and yttrium, are crucial to electronics, defense, and renewable energy industries worldwide.

Miscellaneous

More E-Waste Recycling Needed

Researchers released two studies July 9 on the electronic waste recycling industry finding large portions of the waste stream are not recycled and urging greater global recycling. Global Industry Analysts found that 82 percent of e-waste is not recycled, while United Nations University concluded that 85 percent of gold in electronic products is not recycled. According to the GIA report, the electronic waste recycling industry could expand to \$34.5 billion by 2018 because incinerators and landfills are currently being used beyond capacity to process electronic waste, in large part due to more frequent replacement of electronics.

Battery Recycling Program

Corporation for Battery Recycling announced July 10 that it is seeking a stewardship partner to implement a national collection and recycling program for batteries. The corporation, launched in 2011 by Duracell, Energizer, Panasonic, and Rayovac, issued a request for proposals last week to located businesses to implement a national recycling program. The program will collect all consumer batteries and recycle primary cylindrical and prismatic alkaline manganese, zinc carbon, and lithium batteries up to a maximum of two kilograms, as well as zinc air, silver oxide, alkaline manganese, and lithium button/coin cells.

Natural Disasters Up in 2012

German reinsurance company Munich Re released a report July 13 concluding that the United States suffered 90 natural disasters resulting in \$14.6 billion in economic losses – \$9.3 billion of which was insured – during the first six months of 2012 as a result of a severe spring thunderstorm and tornado season. Globally, the typical six-month average includes 395 natural catastrophes; this year, consistent with the trend of an increasing number of natural disasters over recent decades, 450 natural disasters occurred around the world between January and June.