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ENERGY AND ENVIRONMENT UPDATE **July 17, 2011**

Energy and Climate Debate

Debt and deficit measures are still the most important issues facing Congress as the August 2 deadline looms for raising the debt limit. While everyone seems to be at an impasse with everyone else on almost every issue, a short-term deal seems increasingly likely as a means of placating the bond market without either side sacrificing too much.

The House is in session all week, with mostly budget and debt legislation on the agenda, but also what could turn out to be a very contentious FAA reauthorization. The Senate will address the Military Construction Appropriations Bill and a confirmation vote. However, there are several hearings and markups of note. The future of natural gas, the Yellowstone spill, and the USDA's REAP program will all be discussed or examined this week away from the floor. These hearings will ultimately serve as a platform for each party to either attack spending or sing the praises of renewable energy.

Congress

Bill to Repeal Light Bulb Efficiency Standards Fails in House Vote

On July 12, the Better Use of Light Bulb Act (H.R. 2417) that would have repealed energy efficiency standards for light bulbs in the Energy Independence and Security Act of 2007 failed to gain a two-thirds vote necessary to pass the House because it was considered under a suspension of the rules. The bill lost 233-193 and failed to eliminate the light bulb provision of the 2007 law, which goes into effect for 100-watt incandescent bulbs January 1, 2012, and expands to include lower-wattage bulbs in each successive year until 2014. The bill also would have prevented state or local governments from passing similar laws.

Spending Bills Become Cornerstone of Republican Legislative Strategy

The Fiscal Year 2012 EPA-Interior Department spending legislation was approved by the House Appropriations Committee on a 28-18 party line vote, but not before the GOP tacked even more amendments onto the already rider-heavy bill and knocked down Democrats' attempts to remove some of the most controversial language. If this bill is a sign of the Republicans' legislative strategy, FY2012 spending measures will likely be packed full of symbolic provisions and have virtually zero chance of becoming law.

House Panel Moves to Strip EPA Authority Over Greenhouse Gases, Other Pollutants

On July 12, The House Appropriations Committee amended the FY2012 appropriations bill for Interior, Environment, and Related Agencies to strip from EPA regulatory authority over GHG emissions from stationary sources, and a variety of air, water, and solid waste programs. The measure also would cut EPA funding by 18 percent below current spending levels to \$7.1 billion in FY2012. Democrats offered amendments to the FY 2012 spending measure to roll back all policy riders, restore cuts to superfund and brownfield programs, EPA's GHG regulatory authority over stationary sources, but the committee's Republican authority quickly killed those measures.

Possible Ethanol Pact in Senate

Senator Jeff Bingaman (D-NM) confirmed he is backing a Senate compromise on ethanol subsidies struck last week between ethanol critic Sen. Dianne Feinstein (D-CA) and biofuel backers Sen. John Thune (R-SD) and Sen. Amy Klobuchar (D-MN). Senator Feinstein says a formal bill is being drafted that the Senators hope will be part of a larger debt deal.

House Republicans Seek to Subpoena WH Over Solyndra Loan Guarantee

On July 14, House Energy and Commerce Republicans met to approved a motion to authorize a subpoena of Office of Management and Budget records related to a 2009 Energy Department loan guarantee to solar company Solyndra.

Clean Energy Bills Approved by Senate Energy Committee

On July 14, Chairman Jeff Bingaman's (D-NM) The Clean Energy Financing Act of 2011 creating a \$10 billion Clean Energy Deployment Administration (CEDA) was reported out by the Senate Energy and Natural Resources Committee, along with the Energy Savings and Industrial Competitiveness Act of 2011 (S. 1000), broad energy efficiency legislation introduced by Sens. Jeanne Shaheen (D-NH) and Rob Portman (R-Ohio) in May. The committee also marked up S. 948, establishing a three-year program promoting the use of plug-in electric vehicles in model communities across the country; S. 512, requiring DoE to develop and demonstrate two small modular nuclear reactors; and S. 1067, requiring DoE to carry out a research, development, and demonstration program to reduce manufacturing and construction costs of nuclear reactors.

House Passes Trimmed Down Energy-Water Appropriations Bill

On July 12, House Democrats offered several amendments to FY2012 Energy and Water Appropriations bill (H.R. 2354) seeking to restore funding for energy efficiency and renewable energy programs, but Republicans easily defeated each amendment. The bill will cut funding for the Department of Energy, the Interior Department's Bureau of Reclamation, and the Army Corps of Engineers by \$1 billion. This bill is \$5.9 billion below the president's budget request, and \$2.8 billion below the enacted level for fiscal year 2010. The House bill would reduce funding to \$1.3 billion for DOE's Office of Energy Efficiency and Renewable Energy, which is \$491 million below current spending and \$1.9 billion below the president's budget request. The Senate Appropriations Committee has not yet acted on its version of the FY2012 energy and water development bill. And, in light bulb news, Rep. Michael Burgess (R-TX) secured passage of his amendment that would bar the federal government from using any money to enforce light bulb efficiency standards, after Rep. Joe Barton's stand alone light bulb legislation failed.

Committee Votes To Delay MACT, Interstate Pollution Rule, But Approves TRAIN Act

On July 12, by a vote of 33-13, the House Energy and Commerce Committee approved the Transparency in Regulatory Analysis of Impacts on the Nation (TRAIN) Act of 2011 (H.R. 2401) that included an amendment to delay until 2013 an EPA rule to curb interstate air pollution and proposed regulations to cut mercury and other air toxics emitted by power generators. Ed Whitfield (R-KY) and Mike Ross (D-AR) introduced the amendment delaying the agency's interstate pollution and utility emissions rules, which was approved 32-18.

House Natural Resources Approves Bills To Speed Permitting, Waive Some Reviews

On July 13, the House Natural Resources Committee approved four bills speeding the development of renewable energy on public lands via a waiver of National Environmental Policy Act review requirements. The primary bill was the Cutting Red Tape to Facilitate Renewable Energy Act (H.R. 2170), introduced by Committee Chairman Rep. Doc Hastings (R-WA) and reported out of committee by a vote of 24-16. The legislation would require environmental reviews to be conducted only for the specific location of a renewable energy project, not, as currently mandated, for alternative locations. In addition, the committee approved three other bills exempting some projects from a NEPA provision that requires an environmental impact statement. Those bills were the Exploring Geothermal Energy on Federal Lands Act (H.R. 2171), introduced by Rep. Raul R. Labrador (R-ID), and approved by a vote of 24-16; the Utilizing America's Federal Lands for Wind Energy Act (H.R. 2172), introduced Rep. Kristi Noem (R-SD) and approved by a vote of 27-16; and the Advancing Offshore Wind Production Act (H.R. 2173), introduced by Rep. Rob Wittman (R-VA), which was approved by a vote of 24-18. The Obama administration officials and environmentalists opposed all four of the bills.

Legislation Introduced

Senator Jeff Bingaman (D-NM) introduced legislation (S.1342) on July 11 to amend the Federal Power Act to protect the bulk-power system and electric infrastructure critical to the defense of the United States against cybersecurity and other threats and vulnerabilities. Congressman Bingaman also introduced legislation (S.1343) to provide for the conduct of an analysis of the impact of energy development and production on the water resources of the United States, and for other purposes.

Senator Debbie Stabenow (D-MI) introduced a bill (S.1351) to promote the development, manufacturing, and use of advanced batteries, and for other purposes; to the Committee on Energy and Natural Resources.

Upcoming Hearings

The Senate Energy and Natural Resources Committee will hold a July 18 hearing on MIT's "Future of Natural Gas" report.

The Senate Commerce, Science and Transportation Committee will hold a July 20 hearing on lessons from the BP Gulf of Mexico oil spill.

The Senate Environment and Public Works Committee will hold a July 20 hearing on the Yellowstone River oil spill's causes and clean-up efforts.

The House Natural Resources Committee on July 20 will mark-up bills on land conveyances (HR 241, HR 1258, HR 473), mineral rights conveyance (HR 1158), federal electrical distribution system conveyance (HR 461), Chesapeake Bay restoration (HR 258), small-scale hydropower (HR 795), a U.S.-Utah Water Conservancy District contract (HR 818), W.D. Mayo Lock and Dam maintenance (HR 1421), American Indian tribal membership (HR 1560), and rare minerals (HR 2011).

The Senate Energy and Natural Resources Committee will hold a July 21 of marks up bills on oil and natural gas development (S 916), offshore drilling (S 917) and small modular nuclear reactor design (S 512).

The House Energy and Commerce Committee will hold a July 21 hearing on the Pipeline Infrastructure and Community Protection Act.

Administration

Department of Energy

Chu to Announce Conditional Loan Guarantee

DOE Chief Steven Chu and Sen. Debbie Stabenow (D-MI) will host a press call this week to announce a \$730 million conditional loan commitment to manufacturer Severstal Dearborn to upgrade its Michigan facilities that produce steel of an exceptionally high strength and promote the program of an example of advanced manufacturing.

Report Finds Increase in Domestic Wind Manufacturing

The Department of Energy released a report produced by the Lawrence Berkley National Laboratory that analyzes trends in wind power capacity, manufacturing, performance, and costs. Released on July 13, the report indicated that domestic manufacturing of wind turbine components continues to increase, with domestically produced goods used in U.S. wind power projects reaching approximately 68% in 2009-2010, up from 52% in 2005-2006. Another key finding from the report is that wind turbine prices declined by a third since 2008.

Department of Interior

Interior Seeks Comment on Offshore Wind Leases

On July 11, The Department of Interior's Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) asked for comments on a draft environmental assessment released that day that on the potential effects of issuing renewable energy leases in designated Wind Energy Areas (WEA) off the coasts of Delaware, Maryland, New Jersey, and Virginia. Comments will be accepted until August 11. The draft assessment examined the potential environmental and socioeconomic effects of the installation and operation of towers and buoys, on marine wildlife, shipping vessels, and archaeological resources in the WEAs, and examined the potential effects in the context of a "preferred alternative" as well as five alternative scenarios.

Environmental Protection Agency

Reconsidered EPA Ozone Standards To OMB for Regulatory Review

On July 11, a final EPA rule to reconsider the 2008 primary and secondary national ambient air quality standards for the ozone was sent to the OMB for review. Under the proposed rule, which EPA published in July 2009 and intends to issue in its final form on July 29, states would be required to increase the number of ozone monitors in cities, require monitoring in rural areas for the first time, and expand the monitoring season in some states.

EPA Says More Data Needed to Proceed On Nitrogen, Sulfur Multi-Pollutant Standard

On July 13, EPA said it does not have enough information to propose an acid rain related multi-pollutant secondary air quality standard for nitrogen oxides and sulfur oxides, but said it is planning a five-year field pilot program to collect data for the future development of a multi-pollutant standard.

Nuclear Regulatory Commission

NRC Calls for Review Of Safety Rules After Fukushima

On July 13, The Nuclear Regulatory Commission released a 90-page interim task force report recommending a comprehensive review of safety regulations for the U.S. nuclear industry in the wake of Japan's nuclear disaster, as well as several new and enhanced rules and initiatives to ensure operational safety for the nation's 104 commercial power plants. The proposed improvements address coping with the loss of power due to earthquakes, fires, and floods that can cause station blackouts; the industry practice of storing more and more spent nuclear fuel in cooling pools near reactor vessels; containment of hydrogen gas to prevent explosions and radiation leaks, and emergency systems.

Miscellaneous

Energy Subsidies In Trouble with Debt Deal

Measures repealing at least some ethanol subsidies and oil and gas tax breaks, will likely be part of any debt-deficit deal, according to a majority of experts polled by the National Journal. Renewable-energy subsidies will get a reprieve this time around but will be under intense scrutiny later this year. Seventy percent of those polled said ethanol subsidies will be cut as part of a debt-ceiling deal, and 59 percent oil and gas tax breaks were in danger.

Carolina Groups Launch Regional Effort On Offshore Wind Generation Development

On July 7, the North Carolina Offshore Wind Coalition, a group of academic, government, conservation, and other interested groups from North Carolina and South Carolina, announced their new organization's aim is to accelerate the development of wind energy projects in the region. The interested parties recently met in Charlotte, NC to kick-start their campaign. Ralph Nichols, wind energy program manager for the Energy Department's Savannah River National Laboratory in South Carolina, said the coasts of the Carolinas have immense wind energy potential, while Georgia and Virginia also have a notable amount of offshore wind power.

Australia Implements a Carbon Price Scheme

On July 10, Australian Prime Minister Julia Gillard unveiled a carbon price package involving a \$24.60 starting price per metric ton, backed by a new Clean Energy Finance Corp. that would invest \$10.7 billion over five years in renewable energy and other clean energy projects. Australia's mission to cut 2020 emissions between 5 percent and 25 percent below 2000 levels would remain unchanged. However, the package design means the nation could almost immediately set course to achieve 2020 cuts deeper than the 5 percent minimum. The package also includes a goal to construct a national energy efficiency scheme that would require companies that sell electricity to help fund actions that make households and businesses more efficient.

NH Governor Vetoes Withdraw from Regional Cap-and-Trade Program

On July 12, New Hampshire Governor John Lynch (D) vetoed legislation (S.B. 154) to withdraw New Hampshire from the Regional Greenhouse Gas Initiative, bringing this year's efforts to an end by the Republican-controlled Legislature to terminate or alter the state's participation in the carbon dioxide cap-and-trade program.

EU Countries Agree to 2012 Auction of Carbon Emission Allowances

On July 8, prior to approving the auction carbon allowances for 2012, for the European Trading System's (ETS) third trading phase, Poland's government filed a lawsuit in the European Union's Court of Justice contesting the European Commission-approved "benchmarking" system to be used to allocate free greenhouse gas emissions allowances for the power sector during the third phase of the EU Emissions Trading System (2013-2020). Then on July 13, European Union Member states approved 120 million

carbon allowances in 2012 to participants in the EU Emissions Trading System (ETS) for the system's third trading phase. The auctioning of emissions allowances, which begins in 2013, will replace free allocation as the main method for distributing allowances under the ETS. Starting in 2013, electricity generating companies must buy nearly all of their emissions allowances at auction, while heavy industry must buy upfront an increasing portion of their allowances. Airlines, which enter the ETS in 2012, must also buy some of their allowances at auction. The ETS is designed to cut emissions overall by gradually reducing the volume of allowances issued to participants, thus forcing them to make emissions-reducing investments or to buy additional allowances on the carbon market. The total amount of emissions allocations, or emissions cap, for 2013 will be just under 2.04 billion allowances, with each allowance representing the right to emit one metric ton of carbon dioxide.

China Considers Placing Cap on Total Energy Use

China's National Energy Administration (NEA) said on July 9 that China may cap its total energy consumption at a coal equivalent of 4.1 billion metric tons annually, or roughly 28 percent above current consumption levels, as the country deals with limited natural resources and energy security. The NEA noted that six industries including: electricity, steel, construction, non-ferrous metals, chemicals, and petroleum, accounted for 42.7 percent of China's energy consumption growth over the first half of 2011, and that a total cap on energy use will target the country's energy-intensive industries.

DE Governor Signs Bill Marking Interest On Energy Agency Bonds Tax-Exempt

On July 5, Delaware Governor Jack Markell (D) signed legislation (S.B. 125), which allows the Sustainable Energy Utility to be exempt from state income tax. The Sustainable Energy Utility, created by statute in 2007, is a nonprofit agency that operates and oversees programs to promote the sustainable use of energy by Delaware households as well as commercial, industrial, and transportation energy end-users. The agency has the authority to issue up to \$30 million in special purpose bonds to help finance its program activities between 2007 and 2015.

Report Released on the Growth of the "Clean Economy" Sector

A study completed by the Brookings Institution and the engineering firm Batelle indicated that the "clean economy" sector grew 3.4 percent between 2003 and 2010, a growth rate that lagged behind 4.2 percent growth of the economy as a whole. In addition, the report found that about 2.7 million people held green jobs in 2010.

DE Governor Allows Output From Fuel Cells to be Classified as Renewable

On July 7, Delaware Governor signed legislation (SB.124) permitting electricity suppliers to use energy output from fuel cells powered by nonrenewable fuels in order to meet the state's requirements for purchasing power from renewable sources. The legislation was needed to clear the way for a plan by California-based Bloom Energy to build a fuel cell manufacturing facility in Newark, Delaware. In connection with the project, Bloom Energy has partnered with Delmarva Power, an electric utility, to build a 30 megawatt (MW) fuel cell installation as part of Delmarva's renewable energy portfolio. The legislation allows the utility to use the energy from the fuel cell power generation project to meet up to 30 percent of its state-mandated solar renewable energy requirement.

GE Establishes New Energy Management Business

On July 13, GE Energy announced the formation of a new energy management business, which will consist of technology solutions for the delivery, management, conversion and optimization of electrical power for customers across multiple energy-intensive industries. The company continues to move into efficient energy technology, and in the last nine months has acquired Dresser, Wellstream, Lineage Power Holdings, and the John Wood Group.

China and Germany Lead in Global Renewable Energy Investment

A report completed by the United Nations Environment Program and London-based Bloomberg New Energy Finance on July 8 noted that global investment in renewable energy jumped 32 percent in 2010 from the previous year, to a record \$211 billion. The report entitled, "*Global Trends in Renewable Energy Investment 2011*," indicated that China led the surge by investing nearly \$50 billion. The largest gains were recorded in wind farms in China and small-scale solar panels on rooftops in Europe. Also, small-scale distributed capacity investments rose 132 percent to \$34 billion in Germany, 59 percent to \$5.5 billion in Italy, 150 percent to \$2.7 billion in France, and 163 percent to \$2.3 billion in the Czech Republic. The European boom occurred in part to guaranteed, above-market feed-in tariffs and a sharp fall in the cost of photovoltaic modules.

IL Governor Permits Coal-Gasification Project

On July 13, Illinois Governor Pat Quinn (D) signed Senate Bill 1533, so-called clean coal legislation, which will permit construction of a \$3 billion coal gasification facility on a brownfield site in Chicago. The

project will be Illinois' first large-scale coal-to-natural gas production facility and will be on a 140-acre former LTV Steel site on the city's South Side. The facility is required to capture and store 85 percent of its carbon dioxide emissions.

Study Cites Market and Policy Barriers Hindering "Clean" Economy Growth

On July 13, a report released by the Brookings Institution entitled, "*Sizing the Clean Economy: A National and Regional Green Jobs Assessment*," indicated that the U.S. "clean" economy employs millions of people in green jobs across some of the largest metropolitan areas, but market challenges and policy uncertainty have hindered the sector's ability to keep pace with other nations. The report identifies obstacles to growth, including policy gaps that undercut market demand, financing shortfalls that lead to uncertainty and instability for investors, and an inadequate system for supporting innovation. Furthermore, it noted that America's major competitors, such as China and Germany, have raced ahead in supporting clean economy development. The report also found the clean energy sector to be more driven by manufacturing and exports than the economy as a whole. Twenty-six percent of those jobs are in manufacturing, compared to nine percent in the broader economy, and the value of exports, on a per-job basis, is twice that of a typical U.S. job. In 2009, the clean economy generated nearly \$54 billion in goods and services exports. The electric vehicles (EV), green chemical products, and lighting segments are all highly manufacturing intensive while the biofuels, green chemicals, and EV industries are highly export intensive. As one of the report's policy recommendations was a suggestion that the federal government install a system of carbon pricing or set up national clean energy standards. Additionally, the report said states could adopt clean-energy standards and promote energy efficiency and renewable energy adoption. Additional recommendations included; developing and sustaining more energy innovation hubs; increasing the funding of the Advanced Research Projects Agency-Energy, the government agency set up in 2007 to promote and fund research and the development of advanced energy technologies; and launching new water sciences and regional clean economy consortia initiatives.

New Ships Required to Comply with Energy Efficiency Design Standards

On July 15, the committee of the International Maritime Organization (IMO) agreed to require IMO members to adopt the United Nations' Energy Efficiency Design Index for new ships in an attempt to reduce the shipping sector's greenhouse gas emissions. The Marine Environmental Protection Committee will require new ships to adopt a Ship Energy Efficiency Management Plan, which incorporates best practices for fuel-efficient ship operations, including improved voyage planning, optimization of speed and power, and improved fleet management and cargo handling. The Energy Efficiency Design Index requirements will apply to ships only weighing 400 metric tons or more. The world's shipping industry accounts for more than 2.7 percent of total carbon dioxide emissions.

Western Climate Initiative Proposes Framework for Evaluating Offset Projects

On July 14, the Western Climate Initiative proposed a step-by-step process that government entities participating in a regional GHG emissions trading program could adopt to ensure availability of high-quality emissions offset projects. The document entitled, "*Draft Offset Protocol Review and Recommendation Process*," highlights a strategy for identifying and evaluating offset protocols, or standards, already developed in use. According to the plan, the partner jurisdictions would revise and update the existing protocols to meet the geographic, regulatory, and technological scope of WCI's multi-sector regional cap-and-trade program. A July 20 webinar is planned to present the proposal to interested parties.

Electric Utility Suspends Carbon Capture Plan due to Uncertain Climate Policy

On July 14, American Electric Power (AEP) announced that they will suspend their plans to advance carbon capture and storage (CCS) technology to commercial scale in West Virginia, because of economic conditions and the uncertain status of U.S. climate policy. AEP had intended to install a commercial-scale system at its Mountaineer coal-fired power plant in New Haven, WV, with \$334 million worth of funding from the Department of Energy. AEP is putting the project on hold until economic and policy conditions create a clear path. AEP finds it impossible to gain regulatory approval to recover its share of the costs for deploying the technology without federal requirements to reduce greenhouse gas emissions already in place. AEP was selected by the Department of Energy in 2009 to receive Clean Coal Power Initiative matching funds for installation of a commercial-scale system at the Mountaineer plant. The project was to be completed in four phases, with commercial operation beginning in 2015.