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ENERGY AND ENVIRONMENT UPDATE

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Energy and Climate Debate

Amidst reports that crude oil futures rose to a 30-month high last week and predictions that domestic drivers will see \$5 a gallon gasoline by Memorial Day, President Barack Obama announced a new energy goal March 30 to reduce the nation's oil imports a third by 2025 by expanding natural gas and electric vehicles, developing advanced biofuels, making more fuel-efficient cars and trucks, and increasing domestic oil and gas production on existing leases.

The president's speech signals the administration's intent to take a more active role in trying to pass energy legislation in the 112th Congress. The administration's top priorities will include a clean energy standard of 80 percent by 2035, which the president proposed in his State of the Union Address in January. The same day, the White House released its Blueprint for a Secure Energy Future, which summarizes what the administration has done over the past two years and what it hopes to do going forward, including providing tax incentives for efficient cars and trucks, helping entrepreneurs break ground on four next-generation biorefineries in the next two years, increasing fuel economy standards, and moving forward with its Better Buildings Initiative.

Delays continue in the Senate's plan to vote on as many as four proposals targeting the Environmental Protection Agency's greenhouse gas rules. Senate Democratic and Republican leaders were unable to strike a deal last week to allow a number of amendments to be voted on as part of the Small Business Innovation and Small Business Technology Transfer Reauthorization Act of 2011 (S. 493); for example, Senator Tom Coburn (R-OK) temporarily stalled negotiations because he wanted the chamber to vote on his amendment to strike the 45 cents per gallon ethanol blender's tax credit. The legislation would reauthorize two small business research and development programs for an additional eight years. The Senate recessed March 31 before voting on pending amendments to the legislation. It is unclear how soon the votes could be scheduled, but it will not be until this week at the earliest. In addition to the proposed amendments from Senate Minority Leader Mitch McConnell (R-KY), who would block all current and future EPA GHG rules related to climate change, Senator Jay Rockefeller (D-WV), who would delay EPA regulations for two years, Senator Max Baucus (D-MT), who would exempt the agricultural sector, a fourth amendment was floated last week by Senator Debbie Stabenow (D-MI). Senator Stabenow's amendment would incorporate Senator Rockefeller's two year delay and part of Senator Baucus' amendment that would exempt the agricultural sector from the regulations; it also limits California's authority under the Clean Air Act to set greenhouse gas limits for vehicles and authorizes \$5 billion for the 48C Advanced Energy Manufacturing Tax Credit program. Senator Stabenow released, with Senator Sherrod Brown (D-OH), an updated version of her amendment March 31 in which she scrapped her plan to block California from setting emissions limits.

Congressional leaders will continue to negotiate fiscal year 2011 federal spending this week, with a government shutdown possible if a compromise is not reached by April 8, when the current continuing resolution expires. Senate Majority Leader Harry Reid (D-NV) said March 31 that an agreement had been reached to cut an additional \$33 billion in federal spending, which would fund the government at a level \$73 billion below President Obama's fiscal year 2011 budget request. House Speaker John Boehner (R-

OH) has since denied that an agreement had been reached, and said that negotiations were ongoing. The Senate may also return to the small business bill and potential consideration of and votes on the EPA amendments. The House is set to consider the Energy Tax Prevention Act of 2011 (H.R. 910), which would prohibit the Environmental Protection Agency from issuing regulations related to greenhouse gas emissions, thus reducing associated EPA appropriations by roughly \$250 million between fiscal years 2012 and 2016, according to a March 30 Congressional Budget Office analysis. There was some discussion last week over the possibility of including some version of the EPA amendments as a rider on an interim spending package, but Senate Majority Leader Reid has since reiterated that neither Senate leaders nor the White House will accept such a move.

Congress

e-KNOW Legislation Forthcoming

Senator Mark Udall (D-CO) is planning to reintroduce his e-KNOW legislation this week. The bill will be similar to the Electric Consumer Right to Know Act (S. 3487) he introduced last June.

Markey to Float Nuclear Legislation

Congressman Ed Markey (D-MA) is preparing a nuclear reactor safety bill that he hopes to soon introduce. The legislation will overhaul safety measures in the domestic nuclear industry in the wake of the Japanese crisis and will impose a moratorium on the licensing of new reactors or license extensions for existing plants until new safety requirements are in place.

NG Vehicle Promotion Act Forthcoming

Congressman John Larson (D-CT) has assembled a bipartisan coalition to reintroduce legislation promoting natural gas vehicles. He hopes to unveil the New Alternative Transportation to Give Americans Solutions Act this week which would extend tax credits and add incentives to boost natural gas vehicles.

Gang Reconvenes

A bipartisan group of senators reconvened three-year-old talks about energy legislation last week. Senators Kent Conrad (D-ND) and Saxby Chambliss (R-GA) reformed the group March 30 with the remaining members of the so-called "Gang of 10" from 2008: Republican Senators John Thune (SD), Lindsey Graham (SC), Susan Collins (ME), Lamar Alexander (TN), and Democratic Senators Mary Landrieu (LA), Amy Klobuchar (MN), and Mark Pryor (AR). Originally the gang was a bipartisan group of 10 moderate Senators that called for an increase in domestic drilling; the group eventually grew to 20 members and coupled their call for increased oil and gas development with conservation and alternative energy measures. Those legislative debates are now resurfacing as unrest in the Middle East and the Japanese nuclear crisis are causing energy prices to rise again. Congressman Tim Murphy (R-PA) launched a similar group of moderate House members last week as well; the group is aiming to develop language that meets the president's goal to reduce oil imports by one-third over the next 10 years.

Hydro Legislation Marked Up First

Senate Energy and Natural Resources Committee Chairman Jeff Bingaman (D-NM) said last week that a package of bills relating to hydropower, hydrokinetic energy, and the connection between energy and water use will be the subject of the Committee's first markup of the 112th Congress. The markup will take place in the next few weeks, and will include consideration of legislation (S. 629 and S. 630) about which the panel had a hearing March 31.

Legislation Introduced

House Natural Resources Chairman Doc Hastings (R-WA) introduced three bills March 29 that are intended to boost offshore drilling. The first would require the Interior Department to open waters off Alaska, southern California, and much of the Atlantic Coast to offshore drilling as part of a drilling plan for 2012 through 2017. The second would set 30-day deadlines for the Interior Department to approve or deny drilling permits in the Gulf of Mexico; the Department would be allowed no more than two 15-day extensions for a permit. The third measure would reinstate planned lease sales that the administration froze following the Gulf of Mexico oil spill last April.

Senator Kirsten Gillibrand (D-NY) and Congressman Jerry Nadler (D-NY) introduced their Green Taxis Act last week (S. 670). The legislation is similar to language introduced last Congress, and would allow U.S. cities to set minimum fuel economy standards for taxis.

Senators Jeff Merkley (D-OR) and Olympia Snowe (R-ME) introduced legislation (S. 689) March 30 to promote the oil independence of the United States by ending the nation's dependence on overseas oil by 2030. The bill would set up a National Energy Security Council, reporting directly to the president, in charge of establishing a timeline for meeting the goal and recommending legislation to Congress.

Senators Bingaman, Lisa Murkowski (R-AK), John Barrasso (R-WY), and Jay Rockefeller (D-WV) introduced legislation (S. 699) March 31 to authorize the Secretary of Energy to carry out a program to demonstrate the commercial application of integrated systems for long-term geological storage of carbon dioxide. The Department of Energy Carbon Capture and Sequestration Program Amendments Act of 2011 would create a national program to support large CCS projects.

House and Senate Republicans led by Senator David Vitter (R-LA) and Congressman Rob Bishop (R-UT) introduced companion bills March 31 to expand offshore drilling, open the Arctic National Wildlife Refuge coastal plain, and block regulation of greenhouse gas emissions. The Domestic Jobs, Domestic Energy, and Deficit Reduction Act, or 3-D Act, is seen as a Republican alternative to the Obama administration's approach to energy policy.

Congressman Henry Cuellar (D-TX) introduced legislation (H.R. 1292) April 1 to amend the Clean Air Act to provide that greenhouse gases are not subject to it.

Upcoming Hearings

The House Energy and Commerce Subcommittee on Energy and Power will hold an April 5 hearing on China's energy portfolio and its implications for domestic jobs and energy prices.

The House Natural Resources Subcommittee on Energy and Mineral Resources will hold an April 6 hearing on three bills that promote additional oil and natural gas production: the Putting the Gulf Back to Work Act (H.R. 1229), the Restarting American Offshore Lease Sales Now Act (H.R. 1230), and legislation that would establish a domestic oil and natural gas production goal and require that leases be offered in the areas that have the most prospective energy resources (H.R. 1231).

The House Science Subcommittee on Energy and Environment will hold a hearing April 6 on offshore drilling safety and response technology.

The House Oversight and Government Reform Subcommittee on Regulatory Affairs will hold an April 6 hearing on the impact of greenhouse gas regulations on business.

The Senate Energy Committee convenes April 7 for a hearing on biofuel programs at the Department of Energy, focusing on the Biofuels Market Expansion Act of 2011 (S. 187), which continues provisions that would require automobile manufacturers to ensure that new vehicles are capable of using biofuels and would make biofuel pipelines and renewable energy projects eligible for loan guarantee projects.

Administration

Energy Town Hall Scheduled

President Barack Obama will hold an energy-related town hall April 6 with workers of Gamesa Technology Corporation, a Philadelphia area manufacturer of wind turbines in Fairless Hills, Pennsylvania. The President will discuss his long-term plan to protect consumers against rising oil prices and decrease oil imports as well as key components of his broader energy plan to diversify American energy sources, ensuring a cleaner, safer, and more secure energy future.

Clean Fleets Partnership Announced

President Barack Obama launched a program April 1 to help large companies incorporate more clean vehicles into their transportation fleets as part of the recently announced White House initiative to reduce the amount of imported oil by one-third by 2025. The National Clean Fleets Partnership aims to reduce diesel and gasoline consumption by helping companies add electric vehicles, expand alternative fuel use, and institute fuel-saving measures through a public-private partnership involving the Energy Department's Vehicle Technology Program. According to data provided by the White House, more than 3 million commercial fleet vehicles were on the road in 2009, consuming nearly 4 billion gallons of fuel.

Department of Energy

EIA GHG Report Published

The Department of Energy's Energy Information Administration released its *Emissions of Greenhouse Gases in the United States 2009* report March 31. The report found that greenhouse gas emissions decreased by 5.8 percent, from 6,983 MMT CO₂e to 6,576 MMT CO₂e, in 2009 due to the recession, the relatively low cost of natural gas, and declining costs of renewable energy.

Credit Costs Could Reduce Funds

According to a Government Accountability Office report released March 30, the Department of Energy's Advanced Technology Vehicle Manufacturing loan program may not be able to offer the full \$25 billion in loans authorized by law because it has used a larger portion of funding allocated for credit subsidy costs than expected. The report said that the agency had three goals for the program: increase the overall fuel efficiency of passenger vehicles made in the United States, advance automated technology in the United States, and protect taxpayers' financial interests.

\$12 Million for Advanced Biofuels

The Department of Energy announced March 30 that it will accept applications for \$12 million in funding for laboratory or small pilot-scale projects that support the development of advanced biofuels. Successful projects, of which there may be as many as 5, will develop technologies that will be able to replace refinery feedstocks or directly replace gasoline, diesel, or jet fuels without requiring modifications to vehicles or fueling infrastructure.

America's Next Top Energy Innovator

Energy Secretary Steven Chu announced the America's Next Top Energy Innovator challenge March 29. The program will give startup companies the chance to license groundbreaking technologies developed by the National Laboratories for \$1,000. The agency will also trim the cost and paperwork requirements for startups to obtain an option agreement to license over 15,000 patents and patent applications held by the 17 labs in an effort to double the number of startups coming out of the national labs.

Department of Interior

NV Wind Project to Proceed

The U.S. District Court for the District of Nevada denied a request for a preliminary injunction from plaintiffs Western Watersheds Project and the Center for Biological Diversity March 28, ruling the Department of Interior Bureau of Land Management considered all the relevant factors in its analysis of the project's impact on the environment. The ruling clears the way for March 2012 construction of a 150 MW wind energy facility in east-central Nevada near a national park.

BOEMRE Approves Permits

The Department of Interior's Bureau of Ocean Energy Management, Regulation, and Enforcement approved three deepwater permits last week, bringing the total to eight new permits since the administration halted deepwater drilling in the Gulf of Mexico last summer in response to the BP oil spill. A Statoil and two Shell projects will be permitted to operate wells in more than 7,000 and 2,700 feet of water.

Environmental Protection Agency

AGs Ask EPA to Defer GHG Implementation

The attorneys general of 20 states and Guam sent Environmental Protection Agency Administrator Lisa Jackson a letter March 29 asking her to defer the implementation of greenhouse gas regulations to avoid hampering the country's economic recovery. The letter said that the AGs did not necessarily agree on whether regulation of GHGs is necessary or whether there is merit in EPA's approach to regulation, but that they did agree that the immediate consequences of implementing regulation will make economic recovery more difficult.

SO2 Limit Proposed

The Environmental Protection Agency released a proposed rule March 31 that would grant a petition from New Jersey filed under Section 126 of the Clean Air Act that alleges emissions from the Portland Generating Station in Pennsylvania contribute to violations of the national ambient air quality standard for SO2 in four counties. Boiler units at the plant built in 1958 and 1962 lack controls for SO2 emissions.

EPA Corrects Incinerators Standards Errors

The Environmental Protection Agency will publish a final rule April 4 that sets less stringent SO2 and nitrogen oxides emissions standards for the largest medical waste incinerators after discovering errors in a rule issued in 2009. The final rule revises the agency's new source performance standards and emissions guidelines for large hospital, medical, and infectious waste incinerators.

Diesel Emission Reduction Mismanaged

The Environmental Protection Agency's Inspector General released a report March 28 that found that the agency has ineffectively reported and recorded delays in diesel emissions reduction projects that were funded by the Recovery Act. The EPA Needs to Better Document Project Delays for Recovery Act Diesel Emission Reduction Act Grants found that EPA tracking officers did not always document delays about which they were aware.

Aftermarket System Certificates Streamlined

The Environmental Protection Agency released a final rule March 30 that will streamline the process to certify that aftermarket systems that allow vehicles and engines to run on alternative fuels comply with Clean Air Act emissions standards. The final rule will eliminate the need for manufacturers of the conversion systems for many older light-duty and heavy-duty vehicles and engines to obtain certificates of conformity under the Clean Air Act.

Stringent Fuel Standards Increase Profits

A March 30 analysis from Citi Investment Research and Citigroup Global Markets on behalf of the Investor Network on Climate Risk and Ceres found that the most stringent fuel economy standards being considered by the Environmental Protection Agency and the Department of Transportation could increase profits for automobile manufacturers by 8 percent by 2020. Increasing fuel economy requirements by 6 percent per year between model years 2017 and 2025 could create an additional \$9.1 billion in variable profits for automobile manufactures, an 8 percent increase over projections.

LA Air Plan Upheld

The U.S. Court of Appeals for the Ninth Circuit upheld March 30 the Environmental Protection Agency's approval of motor vehicle emissions budgets included in the South Coast air basin's 2007 clean air plan. The decision comes in an effort by environmental advocates to force the EPA to consider the elevated levels of fine particulates along roadways as part of the clean air planning process.

Nuclear Regulatory Commission

Safety Concerns Raised

The Nuclear Regulatory Commission has three nuclear power plants on an elevated level of inspection and oversight, and three others were recently removed from that list. All six plants were raised to a Level 3 status, based on a rating of Level 1 for minor problems to Level 5 for major problems that require plant shutdowns and possible license suspension. Problems with three units at the Oconee plant in South

Carolina have been resolved, and three plants – Fort Calhoun in Nebraska, Robinson Unit 2 in South Carolina, and Wolf Creek in Kansas – will still require oversight.

Personnel

Kenneth DeGraff, former legislative director for Congressman Mike Doyle (D-PA), will replace Karen Wayland as House Minority Leader Nancy Pelosi's (D-CA) energy and technology policy adviser. Ms. Wayland recently left to become director of climate policy at The Nature Conservancy.

Miscellaneous

U.S. Falls to Third Place

Pew Charitable Trusts released a report March 29 that found that the United States had fallen behind China and Germany in cumulative global clean energy investments among G-20 members in 2010. The report, *Who's Winning the Clean Energy Race? 2010 Edition*, said that the slide is caused in part by uncertainty over government policies and incentives.

Support for Loan Guarantee Programs

Seven renewable energy trade associations sent a letter to Senate Majority Leader Harry Reid, Senate Minority Leader Mitch McConnell (R-KY), House Speaker John Boehner, and House Minority Leader Nancy Pelosi March 28 calling on Congress to retain funding for the Department of Energy's loan guarantee program as it works to finalize spending for the federal government for the remainder of the year. Executives from 34 renewable companies sent a similar letter March 29. A continuing resolution (H.R. 1) passed by the House February 19 contains provisions that would reduce funding for the program by \$25 billion.

CA Approves 33 Percent RPS

The California legislature approved legislation March 29 to require private and public utilities to obtain 33 percent of the electricity they sell in the state from renewable sources by 2020. The 55-19 vote by the California Assembly sends the bill (S.B. 2X) to Governor Jerry Brown (D), who is expected to soon sign it into law.

Canadian Energy Policy on Hold until May

Canadian Prime Minister Stephen Harper said last week that he will reintroduce a proposed federal budget containing funds for energy-efficiency retrofits of buildings, clean energy technology, and other environmental efforts if his Conservative Party wins elections May 2. Canada's 2011 fiscal year began April 1; during an election period government operations continue to be conducted under the previous federal budget.

Most EU Registries Reopened

The European Commission announced March 28 that it had given Greece and Latvia permission to reopen their national carbon allowance registries, allowing them to restart emissions following fraud attacks in January. The national registries in Cyprus, Denmark, Hungary, Lithuania, and Malta are still closed.

Immediate Kyoto Successor Unlikely

European Union environment ministers conceded March 26 that an international climate deal to succeed the Kyoto Protocol is unlikely to be reached by the end of 2012, when the protocol's current commitment period ends. If that happens, there could be a period of a few years before countries agree to a new set of GHG reduction obligations.

BPC Energy Project Launched

The Bipartisan Policy Center announced March 30 the launch of a new project focusing on energy security. The BPC Energy Project will be led by former Senators Trent Lott (R-MS) and Byron Dorgan (D-ND), former National Security Adviser Jim Jones, and White House Oil Spill Commission Co-chair William K. Reilly. The project will be formally launched April 12.

Geothermal Industry Grows

The Geothermal Energy Association reported March 30 that the number of new U.S. geothermal projects and prospects under development grew by 12 percent in 2010. Currently, 3,102 MW of geothermal power are being produced in nine states, and plans are underway to develop another 5,000 MW in 15 states.

UN Nuclear Conference Scheduled

The United Nations' International Atomic Energy Agency will hold a global conference June 20-24 on safety procedures at nuclear plants in an effort to prevent future disasters. The meetings will focus on assessments of and lessons learned at the Fukushima Daiichi nuclear plant.

CCS Opposition Foreshadows Expansion Problems

Boosting the costs of some carbon capture and sequestration projects and threatening the future of others, the Dutch government's recent failure to win public support for the onshore storage of sequestered carbon in the Netherlands is a trend that stakeholders expect to see repeated across the European Union. The EU hopes to roll out a series of demonstration projects to test CCS technology soon as it needs the technology to meet its emissions reductions pledges of 80 to 95 percent from 1990 levels by 2050.

AFPA Unveils Sustainability Goals

The American Forest and Paper Association unveiled a set of sustainability goals March 29 aimed at reducing emissions by 15 percent or more in the sector by 2020. The *Better Practices, Better Planet 2020* program also sets goals of increasing energy efficiency by 10 percent by 2020 and combating illegal logging.

German Nuclear Closings Causing Fallout

The German government's decision to temporarily shut down seven nuclear plants March 14 and suspend a 2010 law extending the country's nuclear program is causing political fallout and legal chaos within the government and tension within the industry. Chancellor Angela Merkel's party lost an important state election March 27, and officials at several of the country's 17 plants are publically saying that they are considering whether to sue the government over financial losses from the plant's closures.

Transportation Sector Overhaul Needed

The European Commission published a strategy paper March 28 in which it found that the European Union needs to extensively overhaul its transportation sector to cope with oil scarcity and to ensure that greenhouse gas emissions from vehicles are reduced by 60 percent by mid-century. The *Roadmap to a Single European Transport Area: towards a Competitive and Resource-Efficient Transport System* suggests that EU governments commit to a series of goals for 2050, including phasing out fossil-fueled cars from cities, shifting many journeys between cities onto rail and waterborne transport, and cutting shipping emissions by 40 percent.

NAFTA Should Establish Freight Transport Forum

The Commission on Environmental Cooperation released a report March 31 that concluded that the North American Free Trade Agreement countries should establish a forum in which transportation and environmental officials could meet to develop long-term plans for reducing emissions from freight transportation. The report, *Destination Sustainability: Reducing Greenhouse Gas Emissions from Freight Transportation in North America*, recommends several steps the US, Canada, and Mexico should take to minimize GHG emissions from heavy-duty trucks and trains, which are projected to increase through 2030 even as emissions from light-duty vehicles decline by 11.5 percent in the US.

Poorer Nations May Continue Free Allowances

The European Commission published rules March 29 that 10 mainly former communist EU countries must follow if they want to continue giving free emissions allowances to their power sectors after 2012. The rules are designed to compensate the power sectors of the EU's poorer, most fossil-fuel-reliant countries; the power companies are required to participate in the EU Emissions Trading System but face high modernization costs.