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ENERGY & ENVIRONMENT UPDATE March 4, 2014

ENERGY AND CLIMATE DEBATE

With the reintroduction of energy efficiency legislation and a first move on comprehensive tax reform, energy issues received significant attention in Washington last week. They will continue to garner consideration this week as President Obama unveils his fiscal year 2015 budget request and Congress takes up several energy measures.

Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) introduced a revised version of their energy efficiency [legislation](#), the Energy Savings and Industrial Competitiveness Act of 2014, (S. 2074) February 27. Senators Kelly Ayotte (R-NH), Susan Collins (R-ME), Chris Coons (D-DE), Al Franken (D-MN), Johnny Isakson (R-GA), John Hoeven (D-ND), Mary Landrieu (D-LA), Joe Manchin (D-WV), Mark Warner (D-VA), and Roger Wicker (R-MS) cosponsored the measure. The updated package incorporates ten [amendments](#) on issues ranging from energy efficient federal data centers to water heaters; besides the amendments, the remainder of the text remains largely the same. The senators have been working behind the scenes for months to revive the bill, which collapsed on the Senate floor last year amid fights over amendments; they hope to show Senate Majority Leader Harry Reid (D-NV) that it has enough broad support to overcome procedural hurdles. House Energy and Commerce Committee Chair Fred Upton (R-MI) has promised that his committee will consider the legislation if it clears the Senate.

The House is expected to vote this week on its own energy efficiency package from Representatives David McKinley (R-WV) and Peter Welch (D-VT). The Better Buildings Act (H.R. 2126) would direct the Environmental Protection Agency to establish a Tenant Star program, similar to the Energy Star program, to promote efficiency in tenant-occupied commercial buildings. The House will consider the measure under a suspension of the rules. Text from several other noncontroversial energy efficiency measures have been added to the package, including language that would loosen water heater standards (H.R. 4066), that would increase government data center efficiency (H.R. 540), and that would encourage commercial building energy benchmarking (H.R. 3820). The provisions are also included in the Senate package.

House Ways and Means Committee Chair Dave Camp (R-MI) released draft tax reform legislation, the Tax Reform Act of 2014, February 26. As part of the comprehensive package, the measure would repeal nearly all energy tax credits, impacting both the fossil fuel and clean energy industries.

As a precursor to addressing comprehensive reform in the Senate, which is not likely to occur this year, Senate Finance Chair Ron Wyden (D-OR) is consulting with Ranking Member Orrin Hatch (R-UT) about moving forward with a tax extenders package. The committee may hold a vote on the package this spring. The Economic Policy Institute released a briefing February 25 on the expired tax extenders, finding that extending this year's provisions would cost \$46.6 billion over the next decade, and \$517 billion when including the perpetually expiring provisions through 2024. Supporters of the production tax credit, particularly, continue to urge an extension of expired provision.

President Obama released his fiscal year 2015 [budget](#) request March 4. Later this week, Senate and House Budget panels will begin to examine the request. Speaking to the Department of Energy's Advanced Research Projects Agency—Energy summit February 26, Energy Secretary Ernest Moniz said that the fiscal 2015 budget request will continue to demonstrate the president's commitment to clean energy, despite the discretionary spending cap that was included in the budget agreement earlier this year. Last year's budget agreement included budget resolution top line numbers for both fiscal years 2014 and 2015. Please find attached our analysis of the energy and environment portions of the [budget](#) request, including the Departments of Agriculture, Energy, and Interior, and the Environmental Protection Agency.

Senator Barbara Boxer (D-CA) said February 26 that the Water Resources Development Act conference committee has resolved the most problematic issues, and she hopes to wrap up an agreement in the next few weeks.

Also this week, the House will consider bills that address the disposal of mining waste near streams and valleys (H.R. 2824); would prohibit the Environmental Protection Agency from establishing greenhouse gas standards on power plants unless the limits were differentiated for coal and natural gas plants (H.R. 3826); would streamline the environmental review process for federal construction projects (H.R. 2641); would delay the Affordable Care Act (H.R. 4118); and would reduce flood insurance premiums (H.R. 3370). The Senate resumes debate on judicial nominations and a child-care block grants bill (S. 1086).

CONGRESS

Manchin Urges WV to Prepare for GHG Regs

Speaking to the West Virginia University College of Law February 24, Senator Joe Manchin (D-WV) said that the Clean Air Act provides the Environmental Protection Agency the authority to regulate greenhouse gas emissions from existing power plants, and that the state must work to prepare for the impacts the regulations will have on the coal sector. Senator Manchin is urging the administration to work with states to have maximum flexibility in achieving the standards. West Virginia Governor Earl Ray Tomblin (D) recently [met](#) with Administrator Gina McCarthy to discuss the agency's plans to regulate greenhouse gas emissions.

Impartial Keystone Assessment Questioned

Representative Raul Grijalva (D-AZ) asked the Government Accountability Office February 25 to investigate whether the State Department conducted a thorough and impartial assessment when it

favorably reviewed the environmental impacts of the Keystone XL pipeline. He charged that the agency's ability to conduct an unbiased assessment is questionable given that it hired Environmental Resources Management, which has close ties to the industry, to complete it. He [indicated](#) that the agency has privately committed to undertaking the investigation.

Climate Adaptation Fund Modest

Testifying before the Senate Environment and Public Works Oversight Subcommittee February 25, White House Office of Science and Technology Policy Director John Holdren said that President Obama's call for a \$1 billion climate adaptation fund is a bargain given the economic damages extreme weather events can cause. Eleven such events in 2012 killed 377 people and caused \$110 billion in damage. The president will propose the Climate Resilience Fund in his fiscal 2015 budget request.

Fossil Fuel Health Impacts

Senate Environment and Public Works Chair Barbara Boxer (D-CA), held a press briefing February 26 on health issues associated with extracting petroleum from Canada's oil sands as well as the Keystone XL pipeline. The same day, she and Senator Sheldon Whitehouse (D-RI) [asked](#) Secretary of State John Kerry to complete a comprehensive health impact study of the pipeline before he makes a decision about the project.

EPW Subcommittee Changes

Senate Environment and Public Works Committee Chair Barbara Boxer (D-CA) announced changes to the subcommittee leadership February 26 following Senator Max Baucus' (D-MT) confirmation as Ambassador to China. Senator Tom Carper (D-DE) will chair the subcommittee on transportation and infrastructure, while Senator Cory Booker (D-NJ) will head the oversight panel, and Senator Sheldon Whitehouse (D-RI) will chair the Clean Air and Nuclear Safety Subcommittee.

Interior Deputy Secretary Confirmed

The Senate confirmed Michael Connor as deputy Interior secretary February 27. Mr. Connor is currently a commissioner of the Interior's Bureau of Reclamation and previously served as counsel to the Senate Energy and Natural Resources Committee. In his new role, he will work on energy issues including fracking on public lands and offshore oil and natural gas development.

Markey Calls for Climate Legislation

Speaking to a Global Leaders Organization forum February 27, Senator Ed Markey said that Congress needs to pass a climate bill in the next two years to cement United States' leadership on the issue that could be critical to finalizing a global climate accord in Paris in 2015. The organization issued the *GLOBE Climate Legislation Study: A Review of Climate Change Legislation in 66 Countries* last week, detailing the approximately 500 climate laws that have thus far been enacted around the world.

House TSCA Draft Released

Representative John Shimkus (R-IL) released a discussion draft February 27 of Toxic Substances Control Act reform legislation. The Chemicals in Commerce Act would preserve state authority to ban or restrict chemicals until the Environmental Protection Agency makes a final decision that a chemical is not likely to cause unreasonable risk, or it promulgates a restriction itself after employing a tiered approach to evaluate chemicals. The draft is similar to the Chemical Safety Improvement Act (S. 1009) from Senators David Vitter (D-LA) and the late Frank Lautenberg (D-NJ). The House Energy and Commerce Subcommittee on Environment and the Economy will hold two hearings in March, with the goal to introduce a bill for markup in April.

Support for MHK Legislation

Testifying before the Senate Energy and Natural Resources Subcommittee on Water and Power February 27, Northwest National Marine Renewable Energy Center director Belinda Batten urged the subcommittee to approve the Marine and Hydrokinetic Renewable Energy Act of 2013 (S. 1419), saying that it is essential for creating a wave and tidal energy industry in the United States because it would help to commercialize the emerging technology by streamlining the regulatory process and reauthorizing the Department of Energy's related research, development, and demonstration programs. She said that marine and hydrokinetic energy could provide between 13 and 19 percent of current electricity demand.

Renewable Energy Area Designation Sought

Senator Barbara Boxer (D-CA) and Representatives Raul Ruiz (D-CA) and Juan Vargas (D-CA) sent a [letter](#) February 28 to Interior Secretary Sally Jewel urging her to designate the Salton Sea Lands as a renewable energy development focus area. The previous day, the Interior Department and the Salton Sea Authority signed a memorandum of understanding to collaborate and exchange technical and scientific information for development of a restoration plan for the area.

Legislation Introduced

- Representative Bill Shuster (R-PA) introduced legislation (H.R. 4076) February 26 to address shortages and interruptions in the availability of propane and other home heating fuels in the United States.
- Senator Mark Begich (D-AK) introduced legislation February 28 creating a \$5,000 tax credit for purchasing energy efficient space or water heating or cooling appliances that use natural gas or biomass. The same day, he introduced legislation creating a loan guarantee pilot program for fuel distribution grid projects, including natural gas and biofuels.

Upcoming Hearings

- The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing March 6 to consider the benefits of and challenges to energy access in the 21st century, with a specific focus on fuel supply and infrastructure.

ADMINISTRATION

Podesta to ARPA-E Summit

Speaking to the Department of Energy's Advanced Research Projects Agency—Energy summit February 25, White House adviser John Podesta said that the White House has been coordinating with the Departments of Energy and Housing and Urban Development to consider methods of privately financing distributed generation and energy efficiency projects. He said that energy financing was one area of the President's Climate Action Plan that needed additional work. He also noted that initial GHG emissions standards for existing power plants are likely to include mechanisms to increase the use of renewable energy and energy efficiency. Furthermore, he noted that the administration plans to again propose in its budget request making the renewable energy production tax credit permanent and refundable.

Social Cost of Carbon Comments

Industry groups led by the U.S. Chamber of Commerce, the American Chemistry Council, the American Petroleum Institute, and the National Association of Manufacturers released joint comments February 26 saying that the models the federal interagency working group used to devise the \$37/MT social cost of carbon figure have not been sufficiently peer reviewed. The group

charged that the figure also fails to meet the White House Office of Management and Budget's guidance for developing policy-relevant information under the Information Quality Act.

DEPARTMENT OF COMMERCE

CASE Seeks Solar Trade Resolution

The Coalition for Affordable Solar Energy sent a letter February 24 to President Obama asking him to direct the administration to seek a negotiated solution in the ongoing solar trade dispute with China and Taiwan. The Department of Commerce is investigating dumping and countervailing duty allegations against China and dumping charges against Taiwan.

DEPARTMENT OF ENERGY

Commercial Clothes Washer Standards Proposed

The Department of Energy proposed February 24 [standards](#) for commercial clothes washers that would require them to be 15 percent more efficient and would save consumers nearly \$1 billion over 30 years. The rule is subject to a 60-day public comment period.

Refrigeration Standards Finalized

The Department of Energy released a [final rule](#) February 28 tightening efficiency standards for commercial refrigeration. The final rule shows a nearly three-fold savings increase to customers compared to the September draft version, saving between \$4.93 billion and \$11.74 billion by 2047.

Commercial Refrigeration Efficiency Standards

The Department of Energy announced February 28 new energy efficiency [standards](#) for refrigerators, freezers, and other commercial refrigeration equipment. The final rule, which becomes effective in 2017, will make the average commercial unit about 30 percent more efficient and will save businesses \$11.7 billion over 30 years.

DEPARTMENT OF INTERIOR

Offshore Survey Study Released

The Bureau of Ocean Energy Management published February 27 a final environmental [review](#) of potential surveys for oil and gas resources off the Mid- and South Atlantic coasts. The programmatic environmental impact statement does not authorize offshore activity, but it identifies protective mitigation measures and safeguards that reduce or eliminate marine impacts.

DEPARTMENT OF STATE

IG Affirms Keystone Process

Assistant Inspector General for Audits Norman Brown released a [report](#) February 26 affirming the State Department's selection of Environmental Resources Management Inc. to conduct the environmental analysis for the Keystone XL pipeline. He found that the agency's conflict of interest review was effective and that the decisions made regarding the company were reasonable.

Asia-Pacific Clean Energy Program Launched

The Department of State, the U.S. Trade and Development Agency, the Overseas Private Investment Corporation, and the Export-Import Bank launched an Asia-Pacific Clean Energy Program February 27. The initiative, launched under the U.S.-Asia Pacific Comprehensive Energy Partnership, will

bring the agencies together to make \$6 billion available in loans, insurance, project preparation, and technical assistance support to enhance large scale energy partnerships.

DEPARTMENT OF TREASURY

Tax Credit Double Dipping

The Treasury Inspector General for Tax Administration released a [report](#) recently finding that wind and solar energy companies may have benefited improperly from more than one tax credit under the Recovery Act due to insufficient Internal Revenue Service controls. Specifically, the inspector general found that many companies have taken both the Section 1603 Grant in Lieu of Tax Credit and the Production Tax Credit or the Investment Tax Credit; rather than one or the other.

ENVIRONMENTAL PROTECTION AGENCY

E15 Rule Brief Filed

The Environmental Protection Agency filed a [brief](#) in the U.S. Court of Appeals for the District of Columbia Circuit February 24 charging that industry groups lack standing to challenge the agency's E15 labeling rule, and that they have not shown that the rule would harm them.

GHG Emissions Fell 3.3 Percent

The Environmental Protection Agency released February 24 a draft [inventory](#) showing that total United States greenhouse gas emissions dropped by 3.3 percent in 2012 due in part to low natural gas prices. The agency will finalize the annual Inventory of U.S. Greenhouse Gas Emissions and Sinks report in April.

Ozone Standards Finalized by November 2015

The Environmental Protection Agency [told](#) the U.S. District Court for the Northern District of California February 25 that it can finalize ozone standards by November 15, 2015. The agency missed its March 2013 deadline under the Clean Air Act to review the standards, but it needs until 2015 to finalize them because it is reviewing many pieces of complex scientific evidence.

U.S. Climate Commitment Demonstrated

Speaking at the Climate Leadership Conference February 25, Acting Assistant Environmental Protection Agency Administrator for Air and Radiation Janet McCabe said that President Obama's efforts to regulate greenhouse gas emissions from new and existing power plants, as well as state and local policies, demonstrate that the United States is committed to addressing climate change, even as Congress fails to act on the issue.

RIN QA Program Finalized

The White House Office of Management and Budget is reviewing a final Environmental Protection Agency rule that would create a voluntary quality assurance program for renewable fuel standard credits. The agency sent the final rule to the White House for interagency review February 25.

Open Mind on GHG Regs Sought

Speaking about climate change to community and faith leaders at the White House February 25, Environmental Protection Agency Administrator Gina McCarthy said that she hopes that critics of the agency's forthcoming greenhouse gas emissions regulations for existing power plants will keep an open mind about the rule. She said that the standards would attempt to strike a balance between ambitious GHG reductions and state flexibilities.

NSPS Comment Period Extended 60 Days

The Environmental Protection Agency announced February 26 that it would extend to May 9 the public comment period on a proposed rule that would establish a carbon dioxide performance standard for new fossil fuel-fired power plants. The agency proposed the rule January 8.

GHG Rule Comments

The Environmental Protection Agency published a [notice](#) of data availability February 26 soliciting comment on its interpretation of a provision of the 2005 Energy Policy Act that opponents contend could undercut the legal viability of the proposed greenhouse gas limits for new coal fired power plants. The agency will accept comment through March 10, which is also the deadline to comment on the proposed rule that would require future plants to capture 30-60 percent of their CO₂ emissions. The state of Nebraska has filed a lawsuit on the issue, seeking to stop the regulation.

RIN Final Rule to OMB

The Environmental Protection Agency sent February 26 to the White House Office of Management and Budget a final [rule](#) for a program designed to assure the legitimacy of Renewable Identification Numbers. The agency issued a proposed rule in January with two options for verifying RINs through its Draft Quality Assurance Plan.

Existing Plants Could Reduce Emissions via Natural Gas

The Clean Air Task Force released a [study](#) February 27 finding that increasing electricity generation from existing natural gas power plants while displacing coal plants could reduce power sector GHG emissions by 27 percent from 2005 levels by 2020.

McCarthy ND Comments

Environmental Protection Agency Administrator Gina McCarthy said during a February 28 trip to North Dakota that the agency will not overstate its authority by regulating greenhouse gas emissions from power plants. Administrator McCarthy visited the state at the request of the congressional delegation to discuss the new regulations as well as its proposal to reduce the renewable fuel blending mandates for this year.

FEDERAL ENERGY REGULATORY COMMISSION

No Consideration for Cost-Sharing Case

The U.S. Supreme Court declined February 24 to review the cost allocation of a tariff scheme that put upgrade costs onto energy consumers for adding renewable energy to an electric grid. Michigan petitioners had argued that rural areas that would financially benefit from wind generation should share more of the transmission upgrade costs.

SECURITIES AND EXCHANGE COMMISSION

Sustainability Reporting Guidelines Released

The Sustainability Accounting Standards Board released voluntary [guidelines](#) February 25 to help commercial banks, insurance companies, and other financial organizations report on sustainability issues in annual Securities and Exchange Commission filings.

INTERNATIONAL

EU ETS Allowance Price Increase

After the European Union cut the 2014 supply of carbon emissions permits under the Emissions Trading Program by one-fifth last year, the bloc had their biggest monthly gain in a year this month. The price of December allowances increased nine percent on the ICE Futures Europe exchange, extending the monthly gain to 28 percent.

EU Approves ETS Fix

European Union member states [finalized](#) a regulation February 24 reducing by 900 million the number of carbon permits to be distributed from 2014-2016 participants to the block's Emissions Trading System, postponing auctions until 2019-2020. The measure is designed to boost the system's carbon price, which has already risen in expectation of backloading.

EU Vehicle Regs Tightened

The European Parliament approved a [regulation](#) February 25 to limit carbon dioxide emissions from new passenger vehicles to 95 g/km by 2021. The current standard limits emissions to 135 g/km between 2012-2015. EU member states must formally adopt the regulation.

Japan Seeks Seat in Solar Trade Case Debate

Japan requested February 25 a set in consultations between the United States and India at the World Trade Organization on an American complaint against India's domestic solar content requirement, citing trade interest in the matter.

Canada to Comply with WTO Ruling

Canada outlined steps February 26 that Ontario has taken to comply with a World Trade Organization ruling striking down local content requirements in the province's green energy program. A proposal eliminating domestic requirements from the Feed-In Tariff program is still pending.

Natural Gas Important for Renewable Expansion

The International Energy Agency released a [report](#) February 26 examining the economic impact that a significant increase in variable renewable energies' share of overall energy production would have on total electricity costs. The agency said that the United States has massive potential to increase the share of wind and solar in its power generation, and that natural gas should play a role in providing the necessary flexibility to achieve the increase.

Figueres Urges Climate Action

Executive Secretary of the United Nations Framework Convention on Climate Change urged representatives from 50 countries at a climate summit February 27 to do as much as possible this year to make climate change progress ahead of the 2015 talks in Paris.

Straightforward Climate Science Q&A

The United States National Academy of Sciences and the United Kingdom Royal Society released a [report](#) February 27 providing simple answers to common questions about climate change science.

Climate Laws Up

Global Legislators Organisation and the London School of Economics Grantham Research Institute released a [study](#) February 27 finding that 66 countries representing 88 percent of global

greenhouse gas emissions have passed almost 500 climate change-related laws, up from fewer than 40 in 1997.

IPCC GHG Reporting Guidance

The Intergovernmental Panel on Climate Change released two technical documents February 28 to assist countries in their required greenhouse gas emissions reporting. The [first](#) details how to account for wetlands, and the [second](#) outlines best practices learned from Kyoto Protocol implementation.

STATES

CO Methane Reductions Required

The Colorado Air Quality Control Commission approved rule [revisions](#) February 23 making the state the first to require the oil and gas industry to detect and reduce methane emissions. Governor John Hickenlooper (D) proposed the revisions last November.

ND Natural Gas Haste

Speaking to the Energy 2020 conference February 24, North Dakota Governor Jack Dalrymple (R) said that companies are working diligently to build infrastructure to take advantage of an abundance of natural gas from the Bakken Shale. Capturing natural gas instead of flaring it can help fuel industry and reduce emissions.

RGGI Proceeds Save \$2 Billion

The Regional Greenhouse Gas Initiative released a [report](#) February 24 finding that auction proceeds will result in a lifetime energy savings of \$2 billion for residential customers in the region. About three million residential customers and 12,000 businesses will realize the savings.

RGGI Allowances Prices Up

Potomac Economics released a [report](#) February 25 finding that the price and trading volume of Regional Greenhouse Gas Initiative allowances on the secondary market significantly increased last year, sparked by changes in the cap and trade program. The price of allowances sold on the second market in the fourth quarter of 2013 was 56 percent higher than in the fourth quarter of 2012.

IN Clean Energy Program Scrapped

The Indiana House of Representatives passed an amendment February 25 that would eliminate former Governor Mitch Daniels' (R) clean energy program, Demand Side Management, at the end of the year.

VA Hybrid Tax Repealed

Governor Terry McAuliffe (D-VA) signed legislation () February 26 repealing the state's \$64 annual fee on hybrid vehicles. The repeal is effective July 1 and will impact 75,000 vehicles in the state.

MISCELLANEOUS

GCF Adaptation/Mitigation Funds

Green Climate Fund board pledged February 24 an even split between mitigation and adaptation efforts. The fund was created to disperse the \$100 billion industrialized nations pledged to help vulnerable nations address climate change impacts.

Social Cost of Carbon Figure too Low

Environmental Defense Fund Senior Economist Gernot Wagner said February 26 that the Obama administration relied on outdated data that produced a social cost of carbon figure that is too low. The federal government models have yet to include the most recent Intergovernmental Panel on Climate Change data summary.