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ENERGY & ENVIRONMENT UPDATE March 10, 2014

ENERGY AND CLIMATE DEBATE

Though we shared with you our [analysis](#) of the energy and environment portions of President Obama's fiscal year 2015 budget request last week, we wanted to highlight a few additional sections in this week's report as well. Most proposals in the budget request, released March 4, are holdovers from last year, though the administration included several new energy provisions. The budget request cuts \$48.8 billion in fossil fuel tax breaks, and offers new incentives for alternative fuel and energy efficiency projects. The president's budget request calls for a \$1 billion [climate](#) resilience fund, which the president announced last month to help coastal areas prepare for severe weather events. The funding, spread across multiple agencies, would increase research and planning efforts on a wide variety of climate impacts. Congressional committees will continue reviewing the president's budget requests this week, though sections pertaining to energy and environmental issues are not yet on the agenda.

The House passed the Better Buildings Act (H.R. 2126) March 5. The energy efficiency package from Representatives David McKinley (R-WV) and Peter Welch (D-VT) 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. Several energy efficiency measures were 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). Many aspects of the House legislation are also included in the Senate's energy efficiency package (S. 2074). Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) reintroduced their bipartisan measure February 27, though it remains unclear whether legislation can be enacted this year.

Some energy analysts and industry groups contend that the Ukrainian crisis points to yet another reason it is necessary to ease restrictions on American natural gas exports. Russia, the world's second largest natural gas producer, has cut natural gas supplies to Ukraine since 2006. Greater access to American supplies would lessen Russia's ability to use energy as a weapon. Currently, American companies need the Department of Energy's permission to export liquefied natural gas to countries that lack a free-trade agreement with the United States; they must also pass a Federal

Energy Regulatory Commission environmental and safety review. The agency is considering approving at least 24 applications after approving six since 2010, though the first will not be operational until late 2015.

Senators Mark Udall (D-CO) and Mark Begich (D-AK) introduced legislation (S. 2083) March 5 to expedite the Energy Department's approval process for World Trade Organization countries, including Ukraine, Japan, and India. The same day, Representative Ted Poe introduced legislation that would expedite Department of Energy approval of liquefied natural gas exports to Ukraine, all other former Soviet nations, and the European Union. The measure would also require the Department of State to report to Congress on the economic policies of countries with natural gas resources and reserves, the potential impact of exporting natural gas, and U.S. actions to foster natural gas exports. Representative Poe introduced a measure last June to remove the Energy Department from the permitting process completely. The following day, Representative Cory Gardner (R-CO) introduced the Domestic Prosperity and Global Freedom Act (H.R. 6), which would hasten the approval process for LNG exports. Under the Natural Gas Act, the agency is currently required to approve an application to export natural gas to a country without a free trade agreement with the United States unless it finds that the export is inconsistent with the public interest.

Speaker of the House John Boehner (R-OH) called on the administration last week to pick up its pace in approving liquefied natural gas export permits, citing Russian action in Ukraine. Senators Mark Udall (D-CO), John Barrasso (R-WY), and Jim Inhofe (R-OK) released statements urging the administration to expedite LNG export approval to Ukraine and other allies. Senators Barrasso and Inhofe have previously introduced legislation to that end, and others, including House Energy and Commerce Chair Fred Upton (R-MI) are considering adding their own measures to the pile. Representative Upton recently released a white paper detailing the benefits of increasing overseas LNG exports. House Foreign Affairs Chair Ed Royce (R-CA) said March 6 that the United States must hasten its LNG exports as part of its help for Ukraine.

Despite all of the renewed interest in hastening exports, not everyone in Washington is on board. Senator Ed Markey (D-MA) introduced the American Natural Gas Security and Consumer Protection Act (S. 2088) March 6 to require the Department of Energy to consider factors related to greenhouse gas emissions, cost to domestic natural gas consumers, and potential domestic transportation and industrial sector usage prior to approving LNG exports to overseas markets.

In other issues this week, the Senate will consider nominations to circuit and district judgeships, as well as military sexual assault prevention legislation (S. 1917). The House will debate Medicare's sustainable growth rate (H.R. 4015) and prescription drug program (H.R. 4160), as well as farm oil spill prevention (H.R. 311).

CONGRESS

Clean Coal Necessary for Global GHG Reductions

Senators Heidi Heitkamp (D-ND), Joe Manchin (D-WV), Joe Donnelly (D-IN), and Mark Warner (D-VA) told the Coal Technology Symposium March 5 that Environmental Protection Agency greenhouse gas emissions for power plants could significantly harm the coal industry, and may not be a good tool for addressing international climate change. Instead, they contended that meaningful international reductions will depend on the successful development and deployment of clean coal technologies.

House Passes EPA Delay Legislation

The House passed legislation (H.R. 3826) March 6 that would block the Environmental Protection Agency from implementing its greenhouse gas emissions standards for future power plants until carbon capture and sequestration technologies are proven at six sites for at least a year. Senator Joe Manchin (D-WV) has a companion measure in the Senate, but the measure is not expected to move through the chamber. The same day, the House approved another measure (H.R. 2641) that President Obama has already threatened to veto. The bill would streamline the environmental review process in order to hasten federal permitting of construction projects.

ESA Review Sought

Senators David Vitter (R-LA), Mike Crapo (R-ID), and James Inhofe (R-OK) sent a [letter](#) March 6 to the Environmental Protection Agency and the Fish and Wildlife Service asking them to conduct an Endangered Species Act review on the Environmental Protection Agency's proposed greenhouse gas standards for new power plants.

Electric Federal Fleet

Representative Janice Hahn (D-CA) sent a letter to President Obama March 7 asking that the federal fleet be converted to electric vehicles.

All-Night Climate Session

Twenty-eight Democratic and Independent senators will participate March 10 in an all-night session on the Senate floor discussing the need to address climate change. Senator Brian Schatz (D-HI) organized the session, the highest profile event yet from the Senate Climate Action Task Force.

Legislation Introduced

- Senators Mark Udall (D-CO) and Mark Begich (D-AK) introduced legislation (S. 2083) March 5 to amend the Natural Gas Act to promote economic growth and job creation in the United States, and to strengthen strategic partnerships with its allies.
- The same day, Senator Amy Klobuchar (D-MN) introduced legislation (S. 2085) to address shortages and interruptions in the domestic availability of propane and other home heating fuels.
- Representative Ted Poe (R-TX) introduced legislation (H.R. 4155) March 5 to authorize natural gas exports to certain foreign countries.
- Representative Cory Gardner (D-CO) introduced the Domestic Prosperity and Global Freedom Act (H.R. 6) March 6, which would hasten the approval process for exports of liquefied natural gas.
- Senator Ed Markey (D-MA) introduced the American Natural Gas Security and Consumer Protection Act (S. 2088) March 6 to require the Department of Energy to consider factors related to greenhouse gas emissions, cost to domestic natural gas consumers, and potential domestic transportation and industrial sector usage prior to approving liquefied natural gas exports to overseas markets.

Upcoming Hearings

- The House Science, Space, and Technology Environment Subcommittee and Energy Subcommittee will hold a joint hearing March 12 to discuss the Environmental Protection Agency's greenhouse gas standards.

ADMINISTRATION

Veto of House EPA GHG Regulation Curbing Bill Threatened

The White House released a statement of administration policy March 4 saying that the Electricity Security and Affordability Act (H.R. 3826) would undermine the health protections of the Clean Air Act and prevent timely action on greenhouse gas standards for the power sector. Though the measure is unlikely to move through the Senate, if it reached President Obama's desk, he would veto it.

All of the Above Strategy Critiqued

Speaking at the IHS CERAWEEK energy conference March 5, John Deutch, an MIT professor and Carter administration Energy Department official, criticized President Obama's all of the above energy strategy. He said that the strategy implies that you can do everything, but that it is necessary to prioritize energy resources by making resource and financial allocation choices.

CEQ Counsel Named

The White House Council on Environmental Quality announced March 5 that Brenda Mallory would become the agency's general counsel in April. Ms. Mallory previously served as the Environmental Protection Agency's acting general counsel and principal deputy general counsel, among other roles at the agency, and spent 17 years in private practice.

Nominations Continue

The Senate confirmed March 6 Kathryn Sullivan to lead the National Oceanic and Atmospheric Administration. Jane Lubchenco stepped down last February. Meanwhile, President Obama nominated last week Monica Regalbutto as assistant Energy secretary for environmental management and Estevan Lopez as commissioner of the Department of Interior's Bureau of Reclamation.

DEPARTMENT OF AGRICULTURE

Biofuel Export Promotion

Agriculture Secretary Tom Vilsack told the Commodity Classic February 28 that the agency will begin to include biofuels among the agriculture commodities it promotes as exports. The agency will send a trade mission this spring to China, where it will begin promoting biofuel exports, with similar efforts to follow in India and China.

DEPARTMENT OF COMMERCE

Middle East Trade Mission

Commerce Secretary Penny Pritzker led a delegation of 21 U.S. companies on a Middle East trade mission beginning March 7 to promote export opportunities for U.S. businesses in infrastructure, project management and engineering in construction and architectural design, renewable energy, smart grid, energy efficiency, and environmental technologies. The delegation made stops in the United Arab Emirates, Saudi Arabia, and Qatar.

DEPARTMENT OF DEFENSE

Climate Change and the Quadrennial Review

The Department of Defense released a [Quadrennial Defense Review](#) March 4 finding that climate change impacts will lead to increased food prices, exacerbate water scarcity, and increase resource

competition that will place significant burdens on global economies and governments. The report found that climate change is likely to increase the frequency, scale, and complexity of defense missions and potentially compromise the ability of domestic sites to support training missions.

DEPARTMENT OF ENERGY

Methane Emission Data Sought

Department of Energy Principal Deputy Assistant Secretary for Fossil Energy Chris Smith told the IHS CERAWEEK conference March 5 that the agency is working to gather new data on the impacts of methane emissions from natural gas development.

Fracking Advisory Report Released

The Secretary of Energy Advisory Board [recommended](#) March 6 the companies fully disclose all known constituents in fracking fluids. The task force recommends using FracFocus as a reporting website.

Secretary in India

Energy Secretary Ernest Moniz is in India this week to discuss Indian oil investments and operations in countries like Sudan that were sanctioned by the United States, as well as liquefied natural gas and shale oil.

DEPARTMENT OF INTERIOR

Solar Development Study Launched

The Bureau of Land Management San Luis Valley and Taos Field Offices [launched](#) February 26 the San Luis Valley/Taos Plateau Study to use long-term planning as it pursues responsible solar energy on public lands. During the first phase of the study, the field offices will conduct a landscape assessment, which will then be used to develop a Solar Regional Mitigation Strategy, which is intended to help improve the mitigation process for future projects.

DEPARTMENT OF STATE

Climate Change a Factor

Secretary of State John Kerry released policy [guidance](#) March 7 calling on American diplomats to integrate climate change into their every day foreign policy activities, including issues addressing national security, energy, or crosscutting interests. The guidance also found that the United States should lead by example domestically, acting on climate change and working with other countries through climate partnerships.

DEPARTMENT OF TRANSPORTATION

Cape Wind Lawsuit

The Alliance to Protect Nantucket Sound filed a lawsuit February 27 in the U.S. District Court for the District of Columbia against the Federal Aviation Administration, claiming that the agency had failed to comply with a Freedom of Information Act 2012 request seeking information about radar interference from local land-based wind turbines related to Cape Wind.

ENVIRONMENTAL PROTECTION AGENCY

Tier 3 Finalized

The Environmental Protection Agency [finalized](#) March 3 the Tier 3 rule, setting new emission standards for cars and gasoline, tightening tailpipe emissions standards for cars, and requiring refiners to reduce the amount of sulfur in gasoline from 30 ppm to 10 ppm in 2017.

Efficiency Programs Could Encourage CO2 Standards

Harvard Law School released a [report](#) March 4 finding that carbon dioxide emission reductions from energy efficiency programs could be used to craft performance standards for existing power plants.

Ruling on OK Violations

The U.S. District Court for the Eastern District of Oklahoma [dismissed](#) March 4 the Sierra Club's claim for civil penalties against Oklahoma Gas & Electric Company for violating the Clean Air Act by modifying a coal-fired boiler at a generating station without obtaining a permit and installing pollution controls. The judge will allow the group's claims that the plant violated particulate emission standards to continue.

Utility Rule Lawsuit

The Environmental Protection Agency filed a [motion](#) March 5 in the U.S. Court of Appeals for the District of Columbia Circuit asking the court to remand reconsidered emissions limits for mercury and air toxics from new coal and oil-fired power plants, calling into question the methodology the agency used to set the limits. The agency set the standards based on the performance of six sources. The agency filed motions the previous week in cases challenging pollution standards for boilers and incinerators because of the same methodology concerns.

Stringent Coal Ash Rule Sought

As of the middle of last week, more than 100 groups have written Environmental Protection Agency Administrator Gina McCarthy, urging her to finalize strict coal ash management standards in light of Duke Energy's February 2 spill of at least 140,000 tons of coal ash and contaminated water in North Carolina.

CERAWeek Comments

Environmental Protection Agency Administrator Gina McCarthy told attendees at the IHS CERAWeek conference March 6 that she is confident that the agency's greenhouse gas regulations for power plants will be flexible and legally solid. She will issue June 1 a proposed rule to reduce emissions at existing fossil fuel-fired power plants and release by the end of the year a long-term study on fracking's potential risks to drinking water.

Power Plant Comment Period Extended

The Environmental Protection Agency extended March 6 the comment period by 60 days for its proposed greenhouse gas rule for new power plants. The agency is extending also the concurrent comment period for a notice of data availability it released on provisions of the Energy Policy Act of 2005 that some have said could undercut the proposed rule. The comment periods will end May 9.

FEDERAL ENERGY REGULATORY COMMISSION

Grid Security Order Issued

The Federal Energy Regulatory Commission ordered the North American Electric Reliability Corporation March 7 to develop security standards to guard against physical threats. Senate Majority Leader Harry Reid (D-NV) and Senators Ron Wyden (D-OR), Dianne Feinstein (D-CA), and Al Franken (D-MN) commended the commission March 10 on working to secure the grid.

GOVERNMENT ACCOUNTABILITY OFFICE

Infrastructure's Climate Change Vulnerabilities

The Government Accountability Office [outlined](#) March 5 ways the federal government can influence private sector decision-making on how to make energy infrastructure less susceptible to climate change impacts.

INTERNATIONAL

EU UNFCCC Submission

The European Union submitted its 2014 priorities March 3 to the United Nations Framework Convention on Climate Change. The first multilateral climate talks of 2014 are taking place this week in Bonn.

EU Split on 2030 Targets

The European Union's 28 member countries split into two opposing sides March 3 during the first ministerial-level discussion of proposed 2030 climate and energy targets. One group is urging a minimum 40 percent emissions cut from 1990 levels, with renewable energy meeting 27 percent of energy needs by then, while the other cautions against high targets.

Japan's Ambitious RE Goals

Japanese Prime Minister Shinzo Abe's ruling party announced plans March 5 to increase the share of renewable energy to 35 percent of total national electricity generation in 2030, from 10 percent in 2012. The Liberal Democratic Party hopes to have an energy road map included in the government's long-term energy policy, which the cabinet is scheduled to adopt by the end of the month.

EU Airline Emissions

The European Union announced March 5 that it is abandoning a proposal to impose a charge on non European Union airlines that fly through European airspace. European airlines will still have to pay for their emissions under the Emissions Trading Scheme, and all airlines that use European airports will have to pay if not global agreement on airline emissions is reached by 2017.

Mexico to Build Carbon Market

Mexico's Environment Ministry Planning and Environmental Policy Sub-secretary Rodolfo Lacy said March 5 that the nation could have a \$3 billion carbon market by 2019 as it moves to reduce greenhouse gas emissions and adapt to climate change. The country will devise a cap and trade program in the next two years, and hopes to participate in a North American trading market.

China's UNFCCC Submission

China [submitted](#) its 2014 priorities March 6 to the United Nations Framework Convention on Climate Change, saying that developed countries should take the lead in a 2015 climate treaty. The

country's stance, at odds with the United States and European Union, means that it could be difficult to sign a global accord in Paris late next year.

STATES

ME Wind Energy Goals Challenged

Maine Governor Paul LePage (R) said March 2 that Maine's wind power development goals are too difficult to achieve to be meaningful. He introduced legislation recently to get rid of the MW targets and replace them with goals to expand economic opportunities and lower electricity prices.

WY Refinery Files RFS Suit

Hermes Consolidated LLNC, acting as the Wyoming Refining Company [filed](#) a second lawsuit in the U.S. Court of Appeals for the Tenth Circuit March 4 against the Environmental Protection Agency after the agency denied January 31 the company a small refinery exemption from the renewable fuel standard's blending requirements.

CA Truck Standards Eased

The California Air Resources Board unveiled a [proposal](#) March 6 to make it easier for small and low-mileage diesel truck fleets to comply with emissions standards that are being phased in between 2012 and 2023. The amendments would offer more flexible deadlines and provide increased financial incentive opportunities to truck owners. The governing board will consider the amendments at its April 24 meeting.

Record Price for RGGI Allowances

The Regional Greenhouse Gas Initiative [announced](#) March 7 that allowances sold for a record \$4 in its recent auction, 33 percent higher than the \$3 price in the December 2013 auction. The auction was the first since the nine member states lowered the regional cap on carbon dioxide emissions. The March 5 auction raised \$93.9 million.

MISCELLANEOUS

Businesses Must Lead Climate Efforts

Speaking February 26 at the Climate Leadership Conference, Tom Steyer called on the country's business community to spur action in Washington on climate change and clean energy policies. Though climate change poses significant economic risks to businesses, the issue is not high on most companies' priority list. He has begun an effort, Risky Business, to quantify the economic risks of inaction on climate change.

Oil and Gas Well Methane Reductions

The Environmental Defense Fund released a [report](#) March 3 finding that the oil and gas industry could reduce methane emissions by 40 percent using existing and affordable technologies to prevent leaks at gas compressors and reduce gas venting. Controlling methane emissions would cost the industry \$2.2 billion initially, while saving consumers \$100 million a year.

New President for UCS

The Union of Concerned Scientists announced March 4 that Kenneth Kimmell, the commissioner of the Massachusetts Department of Environmental Protection, will become the group's new president in May.

Record Wind Energy Production

The American Wind Energy Association announced March 5 that wind power provided 4.13 percent of U.S. electricity in 2013, the most ever, despite fewer installations. With 61 GW of installed capacity, and another 12 under construction, wind was the fifth largest source of domestic energy last year, behind coal, natural gas, nuclear, and hydro.

Climate Change and Investors

Ceres released a [database](#) March 7 showing that investors are paying more attention to the risks and opportunities that climate change and environmental issues that can cause for their companies and portfolios. Institutional investors have filed 142 climate-related shareholder resolutions in the 2014 proxy season, significantly above the 2013 total of 119 resolutions.