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## ENERGY AND ENVIRONMENT UPDATE March 11, 2013

### ENERGY AND CLIMATE DEBATE

On March 6, the House approved H.R. 933, a bill to continue government spending after the current continuing resolution expires on March 27. The House-passed measure provides funding through September 30, the end of fiscal year 2013. The new continuing resolution now moves to the Senate, where Senate Majority Leader Harry Reid (D-NV) has said the full Senate may take up the bill as soon as March 11. Congressional leaders are working together—including “pre-conferencing” a final bill—in an effort to send the president a bill before the start of a two-week congressional recess on March 25. The bill is expected to reaffirm cuts made by sequestration but also give the administration more flexibility in the how those cuts are made.

On March 8, former Republican Secretary of State George Shultz appeared at an event sponsored by the Partnership for a Secure America. Shultz used the occasion to push for Congress to support the development of hydraulic fracturing and alternative energy. Shultz has been a voice for clean energy and an advocate for a fee-dividend carbon tax.

### CONGRESS

#### *Incremental Energy Measures*

On March 3, Senate Energy Committee Chairman Ron Wyden said that Senate Majority Leader Reid was committed to moving energy legislation in the current Congress. Wyden reiterated his desire to work with Ranking Member Lisa Murkowski to move various energy measures related to energy efficiency, public lands, hydropower, geothermal, biomass, and nuclear waste.

#### **Wyden Letter to FERC**

Senate Energy and Natural Resources Chairman Ron Wyden (D-OR) wrote to the Federal Energy Regulatory Commission on March 5 requesting that it not use the Order 1000 compliance process to

attempt to take away the authority of the Bonneville Power Administration and other governmental power marketing administrations to decide what transmission they build in the Northwest and who pays for it. Wyden pointed out that the majority of power systems in the Northwest are comprised of entities not under the jurisdiction of FERC.

### ***House Energy and Power Subcommittee***

House Subcommittee on Energy and Power Subcommittee Chairman Ed Whitfield (R-KY) presided over a hearing on March 5 that focused on potential impacts of Environmental Protection Agency (EPA) regulations on fuel diversity for power generation. Whitfield and other House Republicans on the Subcommittee expressed concern that the regulations will have dramatic economic impacts. Whitfield also said that he plans to hold a series of hearings on electric grid reliability, the Keystone XL pipeline, and the need to overhaul the Clean Air Act.

### ***Senate Tax Reform***

Senate Majority Leader Reid said on March 5 that he would support moving comprehensive tax reform through the reconciliation process if Senate Budget Committee Chairwoman Senator Patty Murray (D-WA) favored that approach. Murray has reportedly been discussing the idea of using reconciliation with Senate Finance Committee Chairman Max Baucus (D-MT).

### ***Southern CA Edison San Onofre Nuclear Plant***

On March 8, Senate Environment and Public Works Committee Chairwoman Barbara Boxer (D-CA) and House Natural Resources Committee Ranking Member Ed Markey (D-MA) applauded the Nuclear Regulatory Commission's decision to release a redacted version of a report that raised concerns about design decisions at the Southern California Edison's Onofre Nuclear Power plant.

### ***Boxer Request NRC Report***

On March 8, Sen. Barbara Boxer (D-CA) wrote to the Nuclear Regulatory Commission on March 8 requesting a progress report on their efforts to implement a host of safety measures identified in the aftermath of the Fukushima Japan nuclear disaster. Senator Boxer's Senate Environment and Public Works Committee has held seven NRC oversight hearings focused on safety improvements. She is requesting the report in anticipation of an eighth hearing, planned for later this month.

### ***Offshore Revenue Sharing Opposed***

Eight Democratic Senators wrote to Senate Energy and Natural Resources Committee Chairman Ron Wyden (D-OR) and Ranking Member Lisa Murkowski (R-AK) on March 8 to voice their strong opposition to expanding offshore drilling or increasing revenue sharing with states.

### ***Climate Change Action***

Following the release of data showing that atmospheric carbon dioxide levels rose significantly in 2012, Senators Barbara Boxer (D-CA) and Bernie Sanders (I-VT) called on Congress to take action on climate change.

### ***House Tax Reform***

House Ways and Means Committee Chairman Dave Camp (D-MI) is expected to unveil draft tax reform legislation this week. Camp has said he wants to pass comprehensive tax reform legislation this year and House Speaker John Boehner (R-OH) has assigned the high-priority bill number, H.R. 1, to the measure.

### ***Farm Bill***

Both the House and Senate Agriculture Committees are looking to markup a Farm Bill in mid-April. There are rumors it could even happen the same week. The retirements of former Senate Agriculture Committee Chairman Kent Conrad (D-ND) and the defeat of Senator Dick Lugar (R-IN) are considered a setback for the Farm Bill's energy title, as they were two champions of that title. However, Ranking member Thad Cochran (R-MS) is expected to be more favorably disposed to bioenergy programs than his predecessor, Senator Pat Roberts (R-KS).

### ***Shaheen-Portman-Coons Energy Efficiency Bill***

Sens. Jeanne Shaheen (D-NH) and Rob Portman (R-OH)—now joined by Sen. Chris Coons (D-DE) -- are reportedly nearing agreement on a new version of energy efficiency legislation they sponsored in the last congress. The focus of their efforts has been on finding a replacement for a loan guarantee program that was included in last congress's version of the bill.

### ***Energy Tax Provisions***

Sen. Debbie Stabenow (D-MI), the newly appointed Chairwoman of the Senate Finance Subcommittee on Energy, Natural Resources, and Infrastructure, has said that one of her priorities in tax reform would be extending the Advanced Energy Manufacturing Tax Credit, a 30 percent investment tax credit commonly known as the Section 48C program. Stabenow is expected to also use her new subcommittee chair position to expand tax incentives for alternative fuel vehicles.

### ***New Senate Energy Subcommittee Chair***

Sen. Al Franken (D-MN) will succeed Sen. Maria Cantwell (D-WA) as Chair of the Senate Energy and Natural Resource Subcommittee on Energy. Franken is expected to focus his attention on energy efficiency and clean energy issues.

### ***New House Environment Subcommittee***

Rep. Chris Stewart (R-UT) will chair the House Science Committee's Environment Subcommittee.

### ***Bill Approving Keystone XL Pipeline***

Rep. Lee Terry (R-NE) is currently drafting legislation that would provide congressional approval of the Keystone XL Pipeline. Rep. Terry has offer similar legislation in the past and the full House voted several times last congress to approve the pipeline, but those bills were never voted upon in the Senate. Rep. Terry is expected to introduce his latest version of the bill in the coming weeks.

### ***Bills Introduced***

- On March 5, Sen. Mark Pryor (D-AR) and seven other senators introduced S. 463, the Forest Products Fairness Act. The bipartisan legislation opens new market opportunities for American forestry producers by allowing forest products to qualify for the U.S. Department of Agriculture's (USDA) Bio-based Markets Program, also known as the Bio-Preferred Program. The next day, Reps. Glenn 'GT' Thompson (R-PA) and Kurt Schrader (D-OR) and 43 other Members introduced a companion bill in the House.
- The same day, Rep. Ed Whitfield (R-KY) introduced H.R. 959, the Accountability in Grants Act. The bill would prohibit the Environmental Protection Agency from providing Clean Air Act grants to foreign countries. Rep. Whitfield introduced similar legislation in the last Congress that had 26 cosponsors but never advanced out of committee.
- On March 6, Reps. Hank Johnson (D-GA) and Ed Markey (D-MA) introduced H.R. 981, a bill directing the Department of Interior to conduct a global rare earth element assessment.

- The same day, Rep. Frank LoBiondo (R-NJ) and three of his Republican colleagues in the New Jersey House congressional delegation introduced H.R. 1011, a bill that would prohibit the Department of Interior from issuing oil and gas leases on portions of the Outer Continental Shelf located off the coast of New Jersey.
- Also on that day, Rep. Eric Swalwell (D-CA) introduced H.R. 1022, Securing Energy Critical Elements and American Jobs Act. The bill directs the Office of Science and Technology to coordinate the actions of federal agencies in order to develop the technical expertise and production capabilities to assure a long-term, secure, and sustainable supply of energy critical elements. Similar legislation passed the House last Congress but was never considered in the Senate.
- On March 7, Sens. Frank Lautenberg (D-NJ), James Inhofe (R-OK), Tom Udall (D-NJ), and Mike Crapo (R-ID) introduced S. 491, the Brownfields Utilization, Investment, and Local Development (BUILD) Act. The bill, sponsored by four Members of the Senate Environment and Public Works Committee, would expand the federal brownfields cleanup program and authorize \$250 million annually through 2016.
- The same day, Senator Debbie Stabenow (D-MI) introduced S. 488, the Advanced Vehicles Technology Act. The bill, also introduced that day in the House by Rep. Gary Peters (D-MI), passed the House last Congress by a bipartisan vote of 312-114, and was reported out of the Senate Energy and Natural Resources Committee. However, the full Senate failed to act upon it.

#### ***Upcoming Hearings***

- The House Science, Space, and Technology's Subcommittee on Energy has scheduled a March 13 hearing on assessing the costs and benefits of federal funding for energy technology.
- The House Appropriations Subcommittee on Energy and Water will hold a March 14 hearing on the Department of Energy's Applied Energy Development Program (ARPA-E).
- The same day, the House Resources Subcommittee on Energy and Mineral Resources will hold a hearing on U.S. onshore energy resources.

## **ADMINISTRATION**

#### ***OMB Review of Mercury Rule***

On March 5, the Office of Management and Budget (OMB) formally began its interagency review of the final rule to revise mercury and air toxics emissions limits for newly constructed power plants. The standards for new plants are more stringent than existing plants, and the final rule that OMB is reviewing is not expected to change the existing plant standards.

#### ***President Meets with Energy Officials***

President Obama met on March 7 with more than a dozen energy experts and industry officials to discuss a variety of issues—including renewable energy, natural gas, clean energy research and development and energy efficiency. The meeting was touted as largely a listening session, but the president reportedly reiterated his commitment to a cleaner and more secure energy future.

#### ***President to Visit Argonne Nation Lab***

President Obama will travel on March 15 to the Energy Department's Argonne National Laboratory outside Chicago in order to deliver his first climate and energy speech of his second term.

### ***Fiscal Year 2014 Budget***

President Obama is expected to unveil his proposed 2014 budget nine weeks late. Traditionally, the president sends his proposed budget to Congress on the first Monday of February and that begins the annual budget process. However, this year the process will be reversed, with House and Senate Budget Committees expected to release their budget plans this week.

## **DEPARTMENT OF ENERGY**

### ***Moniz Nomination***

As reported in the last edition of this newsletter, on March President Obama formally submitted the nomination of Ernst Moniz to be the next Secretary of Energy. Moniz, who currently serves as director of MIT's Energy Initiative and as a member of the President's Council of Advisors on Science and Technology and of the Energy Department's Blue Ribbon Commission on nuclear waste disposal, served as associate director of the White House Office of Science and Technology Policy and Under Secretary of Energy during the Clinton Administration. He is expected to easily be confirmed by the Senate.

### ***Fiscal Year 2013 Reductions***

The Department of Energy will be required to make across-the-board budget cuts as a result of sequestration. The Office of Energy Efficiency and Renewable Energy will see its budget reduced by \$91 million. The Advanced Research Projects Agency (ARPA-E) will see its budget cut by \$14 million. The Office of Fossil Energy will see its budget reduced by \$25 million. The Office of Nuclear Energy's budget will be cut \$39 million.

### ***Electric Vehicle Solicitation***

The Department of Energy (DOE) announced on March 8 more than \$50 million in funding for new projects aimed at accelerating the development of advanced plug-in electric vehicle (PEV) technology to increase vehicle fuel economy and improve performance. DOE will fund projects in five major areas of research and development: advanced lightweighting and propulsion materials; advanced battery development; power electronics; advanced heating, ventilation, and air conditioning systems; and fuels and lubricants. The Department of the Army will provide \$3.5 million co-funding through the Advanced Vehicle Power Technology Alliance it has with DOE.

### ***RECs Webinar***

The Western Area Power Administration (WAPA) and the Federal Energy Management Program (FEMP) will conduct a Renewable Energy Credit's training webinar on March 14. The webinar is part of WAPA and FEMP's efforts to assist federal agencies in meeting the Energy Policy Act and Section 203 renewable energy goal, as well as Executive Order 13514.

### ***Conservation Standards for Set-Top Boxes***

The Department of Energy (DOE) has completed an initial analysis that estimates the potential economic impacts and energy savings that could result from promulgating a regulatory energy conservation standard for set-top boxes. At this time, DOE is not proposing any energy conservation standard for set-top boxes. However, it is publishing this initial analysis so stakeholders can review the analysis's output and the underlining assumptions and calculations that might ultimately support a proposed standard. DOE encourages stakeholders to provide any additional data or information that may improve the analysis.

### ***PNNL Plug-In Vehicles Technology***

AeroVironment, Inc. has licensed the Department of Energy's Pacific Northwest National Laboratory (PNNL) technology that will allow widespread adoption of plug-in electric vehicles without negatively impacting the electrical grid. The technology tells a vehicle's battery charger when to start and stop charging based upon existing conditions on the electrical grid. The technology may ultimately lower costs to consumers for recharging plug-in vehicles.

## **ENVIRONMENTAL PROTECTION AGENCY**

### ***McCarthy Nomination***

As reported in the last edition of this newsletter, President Obama formally submitted on March 8 the nomination of Gina McCarthy to be the next Administrator of the Environmental Protection Agency. McCarthy, who currently serves as assistant administrator for air and radiation, previously served as a career environmental administrator under Republican governors in Massachusetts and Connecticut. She is expected to be confirmed by the Senate.

### ***Fiscal Year 2013 Reductions***

The Environmental Protection Agency will be required to make \$472 million across-the-board budget cuts as a result of sequestration.

### ***RFS Field Hearing***

On March 8, the Environmental Protection Agency conducted a field hearing on its proposed rule, released January 31, which would require petroleum refiners to blend 16.6 million gallons of renewable fuels into gasoline in 2013. Refining industry representatives said the proposed rule is unworkable and biofuels industry representatives contend that EPA is on the right path.

## **INTERIOR DEPARTMENT**

### ***Jewell Nomination***

President Obama's nominee to be the next Secretary of Interior, Sally Jewell, appeared on March 7 at Senate Environment and Public Works confirmation hearing and told the committee that she supports the president's "all of the above" energy strategy. Jewell also said that she will work to achieve the president's goal of doubling renewable energy by 2020. She is expected to be confirmed, perhaps before the March 25 two-week congressional recess begins.

### ***Fiscal Year 2013 Reductions***

The Interior Department will be required to make across-the-board budget cuts as a result of sequestration. The Bureau of Land Management will have its budget reduced by \$52 million and the Office of Ocean Energy Management will be cut by \$8 million.

## **DEPARTMENT OF COMMERCE**

The Department of Commerce (DOC) is seeking businesses interested in exporting environmental landfill and medical waste technologies. Companies that express such an interest by March 19 will be featured in the DOC International Trade Association's website U.S. Environmental Solutions Toolkit, which is aimed at connecting U.S. companies with potential foreign customers.

## TREASURY DEPARTMENT

### ***Fiscal Year 2013 Reductions***

The Department of the Treasury will see its budget for grants to qualified renewable project developers in lieu of tax credits cut by \$187 million.

## FEDERAL ENERGY REGULATORY COMMISSION

### ***Natural Gas-Electric Technical Conference***

The Federal Energy Regulatory Commission is planning to hold an April 25 natural gas-electric markets technical conference in Washington, DC.

## NUCLEAR REGULATORY COMMISSION

### ***Annual Assessment Letters Issued***

On March 7, the Nuclear Regulatory Commission (NRC) issued its annual assessment letters to the nation's nuclear power plants regarding their performance in 2012. Ninety-nine reactors were in the two highest performance categories.

### ***USC Nuclear Safety Report***

The Union of Concerned Scientist (UCS) issued a report on March 7 calling for more Nuclear Regulatory Commission (NRC) oversight and enforcement of safety regulations of the nation's nuclear power plants. The UCS said that NRC had to send inspectors to investigate 14 safety incidents in 2012. The report said 14 significant investigations have occurred over the past 12 years at nuclear plants in 11 states.

## INTERNATIONAL

### ***EU Solar Panel Import Registration***

Following a March 1 announcement by the EU executive body that it was opening an antidumping investigation into Chinese solar glass imports, the European Commission announced that it will impose registration requirements on all solar panel imports from China. The data will be used to impose retroactive antidumping and anti-subsidy duties if the ongoing investigation determines that the Chinese have benefited from illegal support.

### ***Canadian Shadow Carbon Pricing***

On March 4, the University of Ottawa released a report, entitled Shadow Pricing in the Canadian Energy Sector, which says Canadian energy companies are turning to the use of "shadow" carbon price estimates in the absence of a government imposed carbon tax. This use of shadow pricing may lead to underestimating of carbon costs and may jeopardize Canada's ability to meet its climate change commitments.

### ***EU-Australia Link Carbon Schemes***

On March 5, the European Union and Australia announced plans to link their carbon trading schemes by 2015. The plan is to have an initial one-way trading phase from 2015 to 2018 and a direct two-way link after 2018.

### ***U.K. Retrofit Study***

A United Kingdom Technology Strategy Board study has concluded that retrofitting homes with existing technologies can reduce carbon dioxide emissions by 70 percent or more. The study examined more than 100 homes that had been retrofitted with the goal of helping retrofit professionals understand how to best use existing technologies and practices and support the industry.

### ***Global Geothermal Development Plan***

On March 6, the World Bank announced that it will seek \$500 million for the development of geothermal energy sources in developing countries. The funds raised through the bank's Global Geothermal Development Plan would be used to better manage and reduce exploratory risks.

## **STATES**

### ***MD Offshore Wind Bill***

On March 8, the Maryland State Senate approved, by a 30-15 vote, H.B. 226, a bill that would create a carve-out for offshore wind energy in the state's renewable portfolio standard (RPS), which already requires utilities to obtain 20 percent electricity from renewable sources by 2022. Under the Senate-passed bill, offshore wind could not exceed 2.5 percent of the state's annual electricity sales. The measure must still pass the House.

### ***NY Fracking Bill***

On March 6, the New York State Assembly approved A. 5424, a bill that would establish a two-year moratorium on hydraulic fracturing and require a public health study be taken by one of the State University of New York's public health schools. A similar measure, S. 4046, is still pending in the State Senate.

### ***CO Fracking Ban***

On March 6, the Fort Collins City Council voted 5-2 to ban hydraulic fracturing. The move came despite Colorado Governor John Hickenlooper's opposition to municipalities taking such action. The Governor has consistently argued that the Colorado Oil and Gas Conservation Commission has exclusive authority to regulate fracking.

### ***Los Angeles Port***

On March 7, the Los Angeles Harbor Commission voted unanimously to approve an environmental impact report for a \$500 million rail yard project for movement of container cargo throughout the Port of Los Angeles. Opponents of the project have voiced concerns that the project will increase air pollution. The Los Angeles City Council must now consider the report.

## **MISCELLANEOUS**

### ***Methane Emissions Study***

The Environmental Defense Fund (EDF) is sponsoring a study to be conducted by West Virginia University that will track methane leakage from the normal operations of heavy-duty vehicles fueled by natural gas. The study, part of a two-year, \$10 million effort to measure methane emissions in the natural gas supply chain, is expected to be concluded late this year.

### ***Radiation from Fracking***

A study published in *New Solutions*, a journal of environmental and occupational health policy, found much higher concentrations of naturally occurring radioactive materials in two Texas natural wells using hydraulic fracturing. The study, *Analysis of Reserve Pit Sludge from Unconventional Natural Gas Hydraulic Fracturing and Drill Operations for the Presence of Technologically Enhance Naturally Occurring Radioactive Material*, found higher rates of alpha beta, and gamma radiation in the soil and water at the ponds.

### ***Insurers Survey on Climate Risks***

A survey of 184 insurance companies, sponsored by the National Association of Insurance Commissioners (NAIC), suggests that climate change could threaten the availability and affordability of insurance. The NAIC report recommends that state insurance regulators mandate annual climate change disclosure by insurers.

### ***Sustainability Shareholder Resolutions***

A study of shareholder resolutions, *Proxy Preview 2013*, found that 10 percent of shareholder resolutions specifically focused on climate change. Thirty-eight percent, or 92 of the 365 environmental and social resolutions filed so far during the 2013 proxy season, have dealt with climate change, energy efficiency, sustainability or other environmental issues. The study also found that climate-related resolutions have averaged 23 percent voting support over the last five years.

### ***Navigant Study of Wind PTC Jobs***

A Navigant Consulting report, *Inflating Numbers; Erroneous Conclusions: The Navigant Wind Jobs Report*, takes issue with claims the wind industry has made about losing 37,000 jobs if the wind production tax credit had been allowed to expire at the end of 2012. The Navigant study was released by the American Energy Alliance and the National Center for Public Policy Research.

### ***BNSF to Test Natural Gas***

BNSF Railway Co. (BNSF) announced last week that it plans to begin testing natural gas instead of diesel to power its locomotives. After the Navy, BNSF is the second largest user of diesel in the U.S.

### ***FedEx Fuel Efficiency Goal***

FedEx announced last week that it had already surpassed a fuel efficiency goal that it established in 2008 to make its global fleet 20 percent more efficient than its 2005 performance by 2020. As a result, FedEx is revising its improved fuel efficiency goal to a more aggressive 30 percent by 2020, representing a 50 percent increase over the original goal.

### ***Network Electric Vehicle Charging Stations***

ChargePoint and ECOtality, two companies who together operate networks that serve 90 percent of the public electric car charging facilities in the U.S., are jointly establishing a new venture, Collaboratev, which will allow drivers who sign up with either company to access the combined network of charging stations.