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ENERGY AND ENVIRONMENT UPDATE August 19, 2013

ENERGY AND CLIMATE DEBATE

Despite the August recess, members of Congress have been working steadily on energy and environmental issues the past few weeks.

Last week, Senate Majority Leader Harry Reid (D-NV) held his sixth annual National Clean Energy Summit. Participants included Energy Secretary Ernest Moniz, Interior Secretary Sally Jewell, Federal Energy Regulatory Commission Chairman Jon Wellinghoff, Acting National Oceanic and Atmospheric Administrator Kathryn Sullivan, Governor Martin O'Malley (D-MD), former Environmental Protection Agency Administrator Lisa Jackson, and former Governors Jennifer Granholm (D-MI) and Arnold Schwarzenegger (R-CA). Senate Environment and Public Works Chairman Barbara Boxer (D-CA) spent part of August touring wildfire-ridden parts of California, tying the disaster to global warming. On Monday, Representative Paul Tonko (D-NY) hosted Assistant Energy Secretary for Energy Efficiency and Renewable Energy David Danielson in a roundtable discussion on Energy Department collaboration at Union College.

Liberal, conservative, and government groups have been taking stances on hot button issues like the Keystone XL pipeline and the role of states in climate action. The State Department released the Interior Department's official comments on the Keystone XL pipeline; the latter agency said work should be done to mitigate light and noise impacts on species and environments.

CONGRESS

Markey LNG Letter Sent

In an August 12 letter to the President, Senator Ed Markey (D-MA) expressed concern about approving liquefied natural gas export terminals. He commented that he would prefer natural gas to remain in the U.S. market to reduce reliance on foreign oil. He requested that the Energy Department reexamine the implications of exporting natural gas on the ability to reduce imports. The letter, which mostly focused on instability in Yemen, is attached.

Cardin to Introduce Water Grant Bill

Senator Benjamin Cardin (D-MD) announced August 13 that he plans to introduce a companion bill to H.R. 765, the Water Infrastructure Resiliency and Sustainability Act, when Congress returns from recess. The bill would establish an Environmental Protection Agency grant program to help local community efforts related to drinking water, storm water, and wastewater.

Reid Hosts National Clean Energy Summit

Senate Majority Leader Harry Reid (D-NV) hosted the sixth annual National Clean Energy Summit on August 13, and charged that further action is needed to address climate change. Environmental Protection Agency Administrator Lisa Jackson commented that President Obama's recent climate action announcement has sent a strong signal to businesses that clean energy programs are a priority. Acting NOAA Administrator Kathryn Sullivan promoted funding for extreme weather event research.

Inhofe Alleges OFA, Administration Improper Coordination

Senator Jim Inhofe (R-OK) commented August 14 that he believes improper coordination occurred between Organizing for Action, the successor to President Obama's 2012 campaign, and administration officials. On Tuesday, OFA hosted a "climate denier" event which targeted climate change skeptics in Congress; the next day, Council for Environmental Quality Chairman Nancy Sutley and Environmental Protection Agency Region I Administrator Curt Spalding participated in a climate change event with Senator Sheldon Whitehouse (D-RI), Representative Jim Langevin (D-RI), and Governor Lincoln Chafee (D-RI). Senator Inhofe questioned whether the two events were linked in letters to both Chairman Sutley and Administrator Spalding; the letters can be found [here](#) and [here](#).

Udall Supports Price on Carbon

Speaking at the University of Colorado-Boulder on August 14, Senator Mark Udall (D-CO) expressed support for Congress setting a price on carbon. He said he will work with the Environmental Protection Agency to push Congress to accomplish this goal.

Bills Introduced

- On August 1, Senator Mark Udall (D-CO) and four cosponsors introduced [S. 1423](#), the Toxic Substances and Worker Health Advisory Board Act. The bipartisan bill would strengthen quality control measures for Part B lung disease.
- The same day, Senator John Hoeven (R-ND) and four cosponsors introduced [S. 1482](#), the Empower States Act of 2013. The bipartisan bill would recognize the primacy of states' regulations in natural gas development.
- The same day, Senator Maria Cantwell (D-WA) introduced [S. 1483](#), the Oil Spill Technology and Research Act of 2013, which would establish the Federal Oil Spill Research Committee to conduct research on current and potential oil spill prevention programs.
- The same day, Representative Ed Whitfield (R-KY) introduced [H.R. 2904](#), the Nuclear Workers Compensation Act. The bill would provide payment to survivors or surviving family members of Department of Energy contractor employees who die after application for compensation under the Energy Employees Occupation Illness Compensation Program.
- The same day, Representative Ed Whitfield (R-KY) introduced [H.R. 2905](#), the Nuclear Workers Health Advisory Board Act, with 10 cosponsors. The bill would strengthen quality control measures for Part B lung disease.

- The same day, Representative Bill Shuster (R-PA) introduced [H.R. 2916](#), the Domestic Energy Production Protection Act of 2013. The bipartisan bill would require the Environmental Protection Agency to submit final rules regarding energy production analysis to the Office of Information and Regulatory Affairs.
- The same day, Representative Patrick Murphy (D-FL) and three cosponsors introduced [H.R. 2956](#), the End Welfare for Big Oil Act of 2013, a bill to remove oil tax credits and subsidies for major oil companies in an effort to reduce the national debt.
- The same day, Representative Donald Payne (D-NJ) introduced [H.R. 2962](#), the SMART Grid Study Act of 2013. The bill would require a study of the grid's resilience and reliability.
- The same day, Representative Paul Tonko (D-NY) introduced [H.R. 2971](#), the Innovative Energy Systems Act of 2013. The measure would encourage deployment of combined heat and power.
- The same day, Representative Paul Tonko (D-NY) introduced [H.R. 2972](#), the Heat is Power Act, which would create tax incentives for waste heat to electricity technology.

ADMINISTRATION

WH Solar Panels Installed

The White House announced August 15 that efforts have begun to retrofit the building with solar panels. New building controls and variable-speed fans will also be installed. The administration pledged in 2010 to install 20 to 50 solar panels.

Research Council Workshop on Shale Gas

The National Research Council held a two-day workshop August 15 and 16 to discuss shale gas development risk challenges. Participants said there is tension between the federal and state governments when it comes to regulating fracking; they advocated for collaboration between the two levels. Some participants pushed for wastewater disposal well regulations. The Center for Sustainable Shale Development unveiled its voluntary [standards](#) for Appalachia, which consist of recycling water, double lining wells, and the use of leak detection equipment.

Environmental Groups Praise Startup, Shutdown Emissions Rule

Representatives from the Sierra Club and other environmental groups met with officials from the Council of Environmental Quality and the Environmental Protection Agency in Detroit on August 16. The advocates praised the agency's [proposed rule](#), which requires 36 states to correct their state implementation plans to curb emissions during plant startup, shutdown, and malfunction.

Sutley to NH

White House Council on Environmental Quality Chairman Nancy Sutley is visiting New Hampshire today to promote the President's climate action strategy. She will meet with Senator Jeanne Shaheen (D-NH) and Representative Carol Shea-Porter (D-NH) at the event.

DEPARTMENT OF DEFENSE

Department Opposes SunZia Alternative Route

Acting Deputy Undersecretary of Defense for Installations and Environment John Conger in an August 7 [letter](#) to the Bureau of Land Management said the Defense Department officially objects to a SunZia Southwest Transmission Project proposed route outlined in the final environmental impact [statement](#). The agency believes that the statement does not fully consider implications of an

above ground line that stretches from New Mexico to California on the White Sands Missile Range Northern Extension Area in New Mexico.

McGinn for Biofuels

Assistant Secretary for the Navy for Energy, Installations, and Environment Dennis McGinn said August 15 that he hopes to become the lead advocate for biofuels in the Navy. He posited that military adoption of alternative fuels could promote private sector investment.

DEPARTMENT OF ENERGY

Metal Halide Lamps Rule Signed

Secretary of Energy Ernest Moniz signed the proposed energy efficiency standard rule for metal halide lamps August 13. The standard is expected to reduce carbon dioxide emissions by 65 MT and curb methane, mercury, nitrous oxide, and sulfur dioxide emissions also. The agency will publish the notice tomorrow, and the rule will be finalized in January 2014.

Pantex Wind Farm Breaks Ground

A wind farm attached to the Pantex Plant nuclear weapons facility began construction on August 13. The Texas facility will be the largest wind farm owned by the federal government; \$2.8 million in annual energy savings is expected to be generated. The farm will produce 47 million kWh, supplying the nuclear weapons facility with 65 percent of its power.

Efficiency Project Funding Awarded

The Department of Energy [announced](#) August 14 that twelve heating, cooling, and lighting efficiency projects would receive \$9 million, with a million dollars matched by private sector funding. Nine projects will receive between \$400,000 and \$750,000 to develop efficient systems and products. The remaining \$3 million is allocated to three projects at Carnegie Mellon, UC Berkeley, and Virginia Tech.

Moniz in Brazil

Energy Secretary Ernest Moniz traveled to Brazil August 16 to discuss energy and climate issues. He advocated for more collaboration between the two countries on non-ethanol biofuels, particularly aviation biofuels.

Group Petitions Microwave Rule, Social Cost of Carbon

The Landmark Legal Foundation filed a petition with the Department of Energy August 16, requesting that the agency reconsider its microwave ovens energy efficiency standard rule. The group said the comment period did not allow for a significant number of opinions on how the rule incorporates the social cost of carbon.

DEPARTMENT OF INTERIOR

CA Geothermal Project Gets Green Light, Land Designated for Exploration

Secretary of Interior Sally Jewell announced August 13 that the agency has approved the 40 MW Casa Diablo IV geothermal power plant proposal. The secretary also announced the establishment of the West Chocolate Mountains Renewable Energy Evaluation Area, prioritizing the California area for solar and geothermal exploration and development.

FL Offshore Environmental Assessment Released

The Bureau of Ocean Energy Management released August 13 a revised environmental [assessment](#) for a potential offshore energy project off the coast of Florida, concluding no significant environmental or socioeconomic impacts could be associated with the project. The agency is organizing the first lease sale for nascent technology in the Outer Continental Shelf.

Salerno to Serve as BSEE Director

Coast Guard Vice Admiral Brian Salerno was nominated August 14 to serve as Director of the Bureau of Safety and Environmental Enforcement. He currently serves as the Coast Guard Deputy Commandant for Operations. He will succeed former Coast Guard Admiral James Watson later this month.

DEPARTMENT OF JUSTICE

Luminant Sued Over Clean Air Act

The Department of Justice filed a suit against Luminant Generation Co. in the U.S. District Court for the Northern District of Texas on August 16, saying that the company failed to properly conduct a new source review of two of its plants in Texas under the Clean Air Act. The agency said the Big Brown and Martin Lake plants did not receive proper permits to be modified.

DEPARTMENT OF STATE

Interior Comments on Keystone Released

The State Department released on August 15 the Department of the Interior's official [comments](#) on the Keystone XL pipeline. The comments, which were submitted April 29, urged the final environmental impact statement to include language on mitigation. The Interior Department also said the statement should fully address fracking near stream crossings, lighting and noise impacts, and restrictions near protected species on federal lands.

ENVIRONMENTAL PROTECTION AGENCY

EAB Supports Region 9 BACT Conclusion

The Environmental Appeals Board [ruled](#) August 2 that the Environmental Protection Agency Region 9 followed proper procedures when it issued a prevention of significant deterioration permit to a California natural gas-fired power plant, upholding the decision to reject the standard that requires the best available pollution control technology. The regional office had concluded that the best available emissions controls would have been incompatible with operations at the Pio Pico facility during peak demand periods.

RFS Waiver Filed

The American Fuel and Petrochemical Manufacturers and the American Petroleum Institute filed a Renewable Fuel Standard waiver August 13 with the Environmental Protection Agency, requesting the 2014 ethanol blend requirement be lowered below 10 percent of gasoline demand. The agency is expected to release its targets for 2014 soon. The groups said high ethanol mandates can result in higher costs, reduced supply, and economic harm. The American Petroleum Institute commented that it would prefer a full repeal of the standard, but a waiver could be seen as a short-term solution.

McCarthy on Fracking, Environment

Environmental Protection Agency Administrator Gina McCarthy, in an August 14 speech on President Obama's climate action strategy at the University of Colorado Law School, urged for natural gas extraction to be conducted in an environmentally safe manner. The agency is currently working with state and industry stakeholders to ensure fracking does not harm the environment or public health. She also charged that a decision between protecting the environment and spurring the economy is a false choice.

Boiler, Incinerator Public Comment to be Reopened

The Environmental Protection Agency announced August 14 that it has agreed to reconsider boiler and incinerator air pollution technical standards by reopening the public comment period. While the agency has yet to publish a notice of reconsideration with the full list of topics, it will ask for comments on the carbon monoxide limit, the definition of startup and shutdown periods, and continuous parameter monitor systems. The regulations were finalized in December 2012, and the agency sent letters to petitioning industry groups August 5 saying it was granting reconsideration.

NCSL Policy Directive Adopted

Environmental Protection Agency Deputy Administrator Bob Perciasepe addressed the National Conference of State Legislatures' Legislative Summit on August 12, explaining that states play an important role in implementing President Obama's climate action strategy. Three days later, the conference adopted a [policy directive](#) that included several major energy and environment provisions. The directive promoted a congressionally mandated Department of Energy national energy strategy, state representation in regional transmission organizations, and a state-federal partnership to create new energy planning approaches and to finance state energy projects.

Government Accountability Office

Social Cost of Carbon

Responding to a request from Representatives Duncan Hunter (R-CA) and John Culberson (R-TX) and Senator David Vitter (R-LA) August 14, the Government Accountability Office announced that it would investigate the process and methods employed by the Interagency Work Group for developing Social Cost of Carbon estimates.

NUCLEAR REGULATORY COMMISSION

Yucca Ruling Released

The U.S. Court of Appeals for the District of Columbia Circuit ruled 2-1 on August 13 that the Nuclear Regulatory Commission must resume its review of Yucca Mountain as a potential nuclear waste repository. Senate Majority Leader Harry Reid (D-NV) commented that the ruling does not mean anything because remaining funding for the review is insufficient, but House Energy and Commerce Chairman Fred Upton announced that he would work to ensure the review is completed. Keith Chu, spokesman for Senate Energy and Natural Resources Chairman Ron Wyden (D-OR), said the ruling highlights the need for nuclear waste disposal legislation.

INTERNATIONAL

Chinese Company to Provide PV Panels for US Site

Chinese photovoltaic manufacturer Trina Solar, Ltd. Announced August 13 that it will provide 1.1 million PV panels for Sempra Energy's Copper Mountain Solar 3 project in Nevada. Trina had been

competing against several U.S. companies to supply the panels for the 250 MW facility, which is expected to be one of the largest PV solar stations in the world.

UNDP Sustainability Procurement Initiative Launched

The U.N. Development Program and the U.N. Global Compact launched a new [initiative](#) August 16 to encourage sustainability in UNDP procurement practices. Vendors must now show sustainability commitments, such as through energy efficiency or Fair Trade means. The initiative has ten principles ranging from human rights to environment.

STATES

TX Ad Valorem Tax New Methodology

Texas has adopted a new methodology to appraise solar energy project ad valorem taxes. [H.B. 2500](#) is designed to better determine the market value of solar projects; it will apply to property constructed or installed after January 1, 2014. The bill was approved by the legislature May 25 and was signed into law June 14.

NY Sales Tax Includes EV Charging Stations

The New York Department of Taxation and Finance, in a July 15 [advisory opinion](#), announced that electric vehicle charging station owners must collect sales tax for the electricity transferred to automobiles.

21 State AGs Sign Pro-Keystone Letter

In an August 9 petition, 21 state attorneys general urged Secretary of State John Kerry to approve the Keystone XL pipeline. The group said the pipeline jobs would decrease reliance on oil imported from anti-democratic nations and would create construction and manufacturing. Attorneys general who signed onto the letter represent AK, LA, AZ, CO, FL, GA, ID, IN, KS, LA, MI, MO, MT, ND, OH, OK, SC, SD, UT, VA, and WV.

NYSERDA Energy Efficiency Bond Announcement

The New York State Energy Research and Development Authority announced August 13 that it has raised \$24.3 million for energy efficiency home improvement bonds, representing the first time a Clean Water State Revolving Fund has created clean energy project bonds. The bonds have been issued a top rating of AAA by Standard & Poor's. The announcement sets the precedent that the bonds could be extended to energy generation projects.

Two VT Nuclear Laws Struck Down

The U.S. Court of Appeals for the Second Circuit [ruled](#) August 14 to strike down two Vermont laws related to nuclear energy, finding that the Atomic Energy Act gives the Nuclear Regulatory Commission precedent over state agencies when focusing on nuclear safety. The decision allows the Vermont Yankee nuclear power plant to remain in operation; one of the laws struck down required owner Entergy to receive state approval to continue operations once the original license expired.

NC Sues Duke Energy

Citing coal ash contamination monitoring issues, the North Carolina Department of Environment and Natural Resources filed two suits against Duke Energy Corp. on August 16. The lawsuits, filing complaints against 12 total facilities, said contamination exceeded state standards.