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ENERGY & ENVIRONMENT UPDATE **February 3, 2014**

ENERGY AND CLIMATE DEBATE

President Obama used his annual State of the Union address January 28 to call for a year of action on a broad array of issues, highlighting energy efforts and his climate action plan amongst 12 executive actions he hopes to undertake this year to increase “opportunit[ies] for all.”

Noting that the United States has made more significant reductions in total greenhouse gas emissions over the last eight years than any other country, President Obama promised to move forward with greenhouse gas emissions standards for power plants, and act more urgently to address climate change than ever before, with or without the help of Congress. He clearly stated his position on climate change, saying, “the debate is settled. Climate change is a fact.” At the same time, the president reaffirmed his commitment to an all of the above energy strategy, and vowed to continue work with the fossil fuel industry to “sustain production” and create jobs. He also announced that the administration would set new fuel efficiency standards for trucks soon, and that he would form a partnership with states and cities to reduce carbon pollution through investments in clean energy and efficiency.

While the administration has authority to regulate greenhouse gas emissions under the Clean Air Act, it will need Congress’ cooperation to move on a number of energy proposals, including ending approximately \$4 billion a year in tax breaks for the fossil fuel industry and establishing an Energy Security Trust Fund, both of which the president has urged for years now, and which face uphill battles on Capitol Hill.

Speaking at the 14th National Conference and Global Forum on Science, Policy, and the Environment January 30, Environmental Protection Agency Administrator Gina McCarthy praised the president for restating his commitment to act on climate change during his State of the Union address. She said that acting on climate issues can hasten job creation, economic growth, and technological innovation.

In other news, after House and Senate conferees reached an [agreement](#) last week, the House approved the Agricultural Act of 2014 (H.R. 2642) January 29, and the Senate is scheduled to take it

up this week. Please find attached our analysis of the Farm Bill's energy title provisions. The Senate may also consider this week an extension of unemployment insurance (S. 1845) as well as the nomination of Senator Max Baucus (D-MT) to serve as ambassador to China. The House will consider legislation (H.R. 3964) regarding California's drought and a public land bill (H.R. 2954).

CONGRESS

RFS Needs Legislative Reform

A group of 32 food industry organizations sent a letter to the House Energy and Commerce Committee January 27 saying that the renewable fuel standard is unworkable and needs legislative reformation. The group urged Chairman Fred Upton (R-MI) and Henry Waxman (D-CA) to pursue legislation to reform the standard after the committee conducted an extensive white paper process last year to assess the mandate's effectiveness.

RFS 2014 Level Reconsideration Urged

Senators Ben Cardin (D-MD), Susan Collins (R-ME), Dianne Feinstein (D-CA), and Bill Nelson (D-FL) sent a letter January 28 to Environmental Protection Agency Administrator Gina McCarthy, calling on her to reconsider the agency's Renewable Fuel Standard 2014 biofuels reduction in order to ensure continued growth and investment in the industry. The group contends that the economic and environmental benefits of advanced biofuels must be taken into account when finalizing the standards.

EPA GHG Regs Legislation Advances

The House Energy and Commerce Committee advanced the Electricity Security and Affordability Act (H.R. 3826) January 28. The measure, sponsored by Representative Ed Whitfield (R-KY), would restrict the Environmental Protection Agency's authority to complete greenhouse gas emission regulations for new and existing power plants until carbon capture and storage technologies are further demonstrated at six power plants for at least a year. Senator Joe Manchin (D-WV) has introduced companion legislation (S. 1905), but the bill faces an uphill battle in the upper chamber.

House Efficiency Measure Advances

The House and Energy and Commerce Committee approved legislation (H.R. 2126) January 28 to promote energy efficiency in commercial buildings. Representatives David McKinley (R-WV) and Peter Welch (D-VT) introduced the Better Buildings Act to direct the Environmental Protection Agency to establish a Tenant Star program resembling the existing Energy Star appliance labeling program.

Support for Critical Minerals Legislation

During a Senate Energy and Natural Resources Committee hearing January 28, auto and semiconductor manufacturers and state mining authorities urged senators to pass the Critical Minerals Policy Act of 2013 (S. 1600). The measure, from Committee Chair Ron Wyden (D-OR) and Ranking Member Lisa Murkowski (R-AK), aims to make the United States more self-sufficient with regard to mining and producing critical minerals.

Senate Republican EPA Opposition Continues

Senator James Inhofe (R-OK) said January 29 that he will introduce legislation within a couple of weeks that would require the Environmental Protection Agency to disclose the impact of current regulations on job creation and the economy. The bill will be similar to an amendment (S.A. 2615) Senator Inhofe offered to the Senate's unemployment insurance extension bill.

Power Plant Regs Reconsideration Urged

Senators Roy Blunt (R-MO) and Joe Manchin (D-WV) led 20 of their colleagues in sending a [letter](#) to President Obama January 30 asking him to reconsider the Environmental Protection Agency's greenhouse gas standards for existing power plants. They specifically pointed to the potential burden ratepayers will face as a result of the potential regulations. More than 70 trade and business groups formed the Partnership for a Better Energy Future the same day to ensure that the standards do not cause economic harm.

Legislation Introduced

- Senators Lisa Murkowski (R-AK) and Ron Wyden (D-OR) introduced legislation (S. 1971) January 29 to establish an interagency coordination committee or subcommittee with the leadership of the Departments of Energy and Interior to focus on the nexus between energy and water production, use, and efficiency.
- The same day, Senators Chris Coons (D-DE) and Marco Rubio (R-FL) introduced the America INNOVATES Act (S. 1973) to improve management of the National Laboratories, enhance technology commercialization, and facilitate public-private partnerships.
- Representatives Sam Graves (R-MO) and Lee Terry (R-NE) introduced legislation (H.R. 3937) January 29 to evaluate and report on the feasibility and effectiveness of using natural gas as a fuel source in long haul trucks; legislation (H.R. 2928) to direct the Transportation Secretary to designate natural gas fueling corridors in the United States for long haul truck traffic; and legislation (H.R. 3940) to amend title 23 with respect to weight limitations for natural gas vehicles.

Upcoming Hearings

- The House Natural Resources Subcommittee on Energy and Mineral Resources will hold an oversight hearing on "Energy in America" February 5. Witnesses will discuss the impact of Bureau of Land Management policies on energy production

ADMINISTRATION

Nominations Continue

President Obama nominated Miranda Ballentine to be assistant secretary for installations, environment, and logistics for the Air Force January 30. Ms. Ballentine currently serves as the director of sustainability and renewable energy for Walmart.

DEPARTMENT OF ENERGY

Efficient Lamp Standards

The Department of Energy released January 30 a pre-publication version of its [final rule](#) strengthening efficiency standards for metal halide lamp fixtures. The proposed rule estimated that the nation would save between \$950 million and \$3.2 billion by 2046, but the final standard finds that the standard would save between \$290 million and \$1.1 billion.

\$12 Million for Carbon Fiber

The Department of Energy [announced](#) February 3 up to \$12 million to advance the production of cost-competitive, high-performance carbon fiber material from renewable non-food-based feedstocks including agricultural residues and woody biomass.

External Power Supply Efficiency Standards Released

The Department of Energy unveiled a [final rule](#) February 3 to increase the efficiency of external power supplies used for common household items like laptops and power tools. The standards, which would require compliance by spring 2016, are expected to save consumers between \$1.9 billion and \$3.9 billion by 2044 and reduce CO2 emissions by about 47 MT.

Bioenergy Workshop Forthcoming

The Department of Energy will host a Demonstration and Deployment Bioenergy Workshop March 12-13 at Argonne National Laboratory.

DEPARTMENT OF STATE

Keystone SEIS Released

The Department of State released January 31 the final supplemental environmental impact [statement](#) for the Keystone XL pipeline. The study's findings are similar to the March draft, namely that the project would not significantly increase greenhouse gas emissions. The statement's release signals the completion of TransCanada's application for Keystone XL and the beginning of the State Department's national interest determination. That 90-day period allows eight federal agencies — the Environmental Protection Agency and the departments of Defense, Justice, Interior, Commerce, Transportation, Energy and Homeland Security — to offer their views. The State Department said last year that it would allow a public comment period — likely an additional 30 days — on the national interest question as well. Once that period expires, the full package moves to Secretary of State John Kerry's desk, where he can request any additional information he thinks is necessary. When Secretary Kerry makes a decision, he must first notify the federal agencies that weighed in on the national interest determination of his decision. Those agencies then have 15 days to state any disagreements and request that the application go to President Obama for a final judgment.

ENVIRONMENTAL PROTECTION AGENCY

RFS Blending Reporting Requirements Challenged

Monroe Energy filed a [lawsuit](#) in the U.S. Court of Appeals for the District of Columbia Circuit January 28 challenging the Environmental Protection Agency's rule that requires petroleum refiners and importers to demonstrate compliance with the annual renewable fuel standard blending requirements. The company contends that a new policy interpretation in the agency's 2014 proposed rule creates an opportunity to challenge the 2010 rule, and believes that the obligations should fall to blenders who produce the finished transportation fuels.

Reporting Rule Challenged

Waste Management Inc. filed a [lawsuit](#) in the U.S. Court of Appeals for the District of Columbia Circuit January 28 challenging an Environmental Protection Agency rule that revised the global warming potentials industry must use to report their greenhouse gas emissions. The agency issued a final rule last November to revise the potentials as part of the mandatory reporting rule in order to make them consistent with those used in the United Nations Intergovernmental Panel on Climate Change Fourth Assessment Report.

Coal Ash Rule Deadline Set

The Environmental Protection Agency filed a consent decree with the U.S. District Court for the District of Columbia January 29 in which it agreed to issue a final rule by December 19 for managing ash from coal fired power plants. The agency did not indicate whether it plans to regulate coal ash under the hazardous waste or nonhazardous waste provisions of the Resources Conservation and

Recovery Act, but has previously indicated that regulating it as nonhazardous waste would be adequate.

OK Challenges Regional Haze Plan

Oklahoma asked the Supreme Court January 29 to review the Environmental Protection Agency's plan for reducing regional haze in the state. The plan could cost the Oklahoma Gas and Electric Company \$1.2 billion to implement. The U.S. Court of Appeals for the Tenth Circuit sided with the agency last July, saying that it had the authority to review and reject the state plan, and that the agency lawfully exercised and promulgated the federal plan.

RFA RFS Comments

The Renewable Fuels Association submitted [comments](#) January 29 to the Environmental Protection Agency charging that the agency had misinterpreted its Clean Air Act authority to reduce the annual renewable fuel standard blending requirements for 2014. Renewable fuels producers are concerned that the proposed rule could hinder renewable fuel investment, particularly for advanced biofuels.

Efficient Multifamily Housing Partnership

The Environmental Protection Agency announced January 30 that it would join with Freddie Mac to use the Energy Star program to reduce carbon emissions and lower costs at multifamily housing properties. The agency will provide technical and educational support to Freddie Mac as it explores energy and water performance data during the loan underwriting and asset management processes. A third of Americans live in multifamily housing, spending \$22 billion on energy each year; the agency has found that properties could become 30 percent more efficient by 2020, saving \$9 billion and reducing 35 MMT GHG/year.

Climate Partnerships Report Released

The Environmental Protection Agency released an [annual report](#) January 31 finding that its partnerships with businesses, governments, consumers, and other organizations continued to reduce greenhouse gas emissions and increase clean energy and energy efficiency investment in 2012. The Climate Protection Partnerships prevented more than 365 MMT of emissions in the country in 2012, providing roughly \$13 billion in societal benefits by preventing climate change-associated damages. Partner organizations invested \$125 billion in energy efficient technologies the same year.

FEDERAL ENERGY REGULATORY COMMISSION

FERC Chair Nominated

President Obama nominated Norman Bay to be the Federal Energy Regulatory Commission's next chairman last week. Mr. Bay is currently serving as the commission's enforcement chief, while Cheryl LaFleur serves as acting chair.

INTERNATIONAL

Chinese Concern Over US PV Investigation

China's Ministry of Commerce released a statement January 26 stating its serious concern over the United States' Commerce Department's decision January 23 to open investigations into subsidies and dumping of certain crystalline silicon photovoltaic solar cells, modules, and panels from China. The International Trade Commission will release a preliminary decision by February 14, with a decision on the level of duties expected from the Commerce Department between March and June.

Ethanol Antidumping Circumvention Complaint

European ethanol producer association ePure filed a complaint with the European Commission January 29, finding that United States' ethanol producers are circumventing European Union antidumping duties through exports to Norway. The bloc imposed antidumping duties last February. Since then, U.S. ethanol exports to Norway have substantially increased, and Norway's ethanol exports to the EU have increased tenfold in one year.

Final Piece of IPCC Climate Document Released

The United Nations Intergovernmental Panel on Climate Change released a report January 30 finding that it is clearer than ever that climate change and related extreme weather events are linked to human activity. The report is the final piece of the document, "[Climate Change 2013: The Physical Science Basis](#)," and is the basis for the conclusions in the Summary for Policymakers publication.

Aviation Partially Included in EU ETS

The European Parliament's Environment Committee approved January 30 a plan to partially include international flights in the European Union's Emissions Trading System. The full parliament will vote on the measure April 3, and renew a dispute with the United States over the extent to which the trading system should cover aviation.

STATES

NM Sustainable Building Tax Credit

The New Mexico Energy, Minerals, and Natural Resource Department issued [regulations](#) January 28 reflecting 2013 legislative changes to the sustainable building tax credit. The regulations replaced repealed standards and provide administrative procedures under which the credit will be governed, including the application process, guidelines for eligibility certificates, and credit calculations.

CARB Issues Reporting Fines

The California Air Resources Board levied fines January 27 totaling nearly \$1 million against three companies for late or inadequate reporting of their 2011 greenhouse gas emissions. The cases come in the second batch of penalties the board has issued for violating the state's Mandatory Greenhouse Gas Emissions Reporting regulation. The board fined nine companies a total of \$295,000 for similar violations last July.

NY Fracking Action Not Anticipated This Fiscal Year

Testifying before the joint fiscal committees of the New York Legislature on the environmental portion of Governor Andrew Cuomo's (D) budget January 29, New York State Department of Environmental Conservation Commissioner Joseph Martens said that the agency is not expected to take any action during the 2014-2015 fiscal year to permit fracking or finalize a long-awaited environmental impact statement on fracking within the state.

MISCELLANEOUS

\$9 Million for Building Efficiency

The Natural Resources Defense Council and the Institute for Market Transformation announced January 29 a \$9 million initiative to help ten American cities make their buildings more energy efficient. The City Energy Project will allocate \$3 million per year for three years to help Atlanta,

Boston, Chicago, Denver, Houston, Kansas City, Los Angeles, Orlando, Philadelphia, and Salt Lake City make their buildings more efficient.

Foundations to Invest in Clean Energy

A coalition of 17 foundations, representing almost \$1.8 billion, [announced](#) January 30 that it plans to divest from fossil fuel companies in its portfolios and invest more in clean energy. The foundations, led by the Wallace Global Fund, the Ben & Jerry's Foundation, and the Educational Foundation of America hope that their divest-invest effort will encourage other philanthropies to follow suit. Many of the foundations offer grants focused on addressing climate change.