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ENERGY & ENVIRONMENT UPDATE February 24, 2014

ENERGY AND CLIMATE DEBATE

Energy issues will take center stage this week as the Supreme Court addresses the Environmental Protection Agency's greenhouse gas regulations and Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) reintroduce their energy efficiency package.

The U.S. Supreme Court heard oral arguments for an uncommon 90 minutes February 24 in a case over the Environmental Protection Agency's implementation of its greenhouse gas emissions regulations. The case, *Utility Air Regulatory Group v. EPA*, hinges on whether the agency's decision to regulate mobile emissions triggers regulations under the agency's prevention of significant deterioration permitting program, which requires permits for new stationary facilities and those undergoing major modifications, and, if so, whether the agency was legally justified in its efforts to narrow the regulated scope.

Justices seemed to lean toward deferring to the agency to do what it considered best under the statute, but appeared split on whether the agency's course of action was the best choice. The court's decision is not expected to undermine the agency's overall authority to regulate greenhouse gases, but the lawsuit could provide an opportunity for the court to issue guidance on how federal agencies should interpret federal statutes.

Senators Jeanne Shaheen (D-NH) and Rob Portman (R-OH) are expected to introduce a new version of their energy efficiency legislation (S. 1392) this week. The measure will incorporate a series of at least ten bipartisan amendments, many of which have already been vetted by the Senate Energy and Natural Resources Committee. It remains unclear when, or even whether, Senate Majority Leader Harry Reid (D-NV) will bring it to the floor, though there is renewed interest in addressing the energy efficiency issue in both the Senate and the House. The House Energy and Commerce Committee approved January 28 similar bipartisan legislation (H.R. 2126) from Representatives Peter Welch (D-VT) and David McKinley (R-WV).

House Majority Leader Eric Cantor (R-VA) released a memo February 21 outlining the GOP agenda for the next month. Among other issues, Representative Cantor said that the House would consider

a package of energy bills the first week of March, including measures to expedite permitting for new power plants and ease propane transportation to areas with shortages. Though he did not mention it, Ways and Means Committee Chair Dave Camp (R-MI) is expected to release his rewrite of the tax code this week as well, though comprehensive tax reform is unlikely to be completed this year.

In other issues this week, the Senate will debate judicial nominations and resume efforts on a veterans' benefits bill (S. 1982), while the House will consider a flood insurance measure and Internal Revenue Service exempt organizations definitions (H.R. 3865). The House will also debate a bill (H.R. 2804) that would require proposed Environmental Protection Agency rules to be published on the internet for at least six months before going into effect.

CONGRESS

Environmental Provisions in TPP Urged

A group of 122 House Members led by Representatives Earl Blumenauer (D-OR) and Peter DeFazio (D-OR) sent a [letter](#) February 20 to U.S. Trade Representative Michael Froman encouraging him to continue to push for strong environmental provisions in the Trans-Pacific Partnership negotiations.

Dingell to Retire

Representative John Dingell (D-MI), the longest serving lawmaker in congressional history, announced February 24 that he would not seek reelection. Representative Dingell, 87, has served in the House since 1955, and served as chair of the House Energy and Commerce Committee for 15 years before Congressman Henry Waxman (D-CA), who is also retiring at the end of the 113th Congress, assumed the post in 2008.

Legislation Introduced

- Representative Ed Whitfield (R-KY) introduced legislation (H.R. 4066) February 18 to modify the efficiency standards for grid-enabled water heaters.

Upcoming Hearings

- The Senate Environment and Public Works Oversight Subcommittee will hold a hearing February 25 to consider natural resource adaptations.
- The same day, the same committee will hold a hearing to discuss healthy ecosystems, and specifically their value to commercial and recreational fishing industries, and how the administration can protect and maintain these systems in a changing climate.
- The House Natural Resources Committee's energy and mineral resources panel will hold a hearing February 26 to consider energy job opportunities for veterans.
- The Senate Homeland Security and Governmental Affairs Committee will hold a hearing February 27 on recycling electronics.
- The same day, the Senate Energy and Natural Resources Committee's water and power subcommittee will hold a hearing to consider hydropower legislation.
- The same day, the House Energy and Commerce Committee's energy and power subcommittee will hold a hearing on energy access issues.

ADMINISTRATION

Final Speech as CEQ Chair

Speaking at the Center for American Progress on February 14, her last day as chair of the White House Council on Environmental Quality, Nancy Sutley said that the United States might consider

reductions in methane and hydrofluorocarbons as it prepares its post-2020 pledge for reducing greenhouse gas emissions. Mike Boots, the council's chief of staff, was named acting chair earlier this month to run the office until President Obama finds a permanent replacement. The country has already pledged to reduce its emissions 17 percent by 2020 from 2005 levels.

President Orders Truck Standards

Speaking at the Safeway Distribution Center in Maryland February 18, President Obama [directed](#) the Environmental Protection Agency and the National Highway Traffic Safety Administration to propose corporate average fuel economy and greenhouse gas emission standards for medium- and heavy-duty trucks beyond model year 2018 by next March, with a final rule to follow the following March. The standards would follow similar requirements already issued for model years 2014-2018 for heavy-duty vehicles. To bolster investment in advanced vehicles, infrastructure and biofuels, President Obama also proposed \$200 million for a new tax credit and an extension of the cellulosic biofuel producer credit that expired at the end of last year.

Third Climate Assessment Forthcoming

Speaking before the committee that oversees the development of the third National Climate Assessment February 21, White House Office of Science and Technology Policy Director John Holdren said that President Obama is eagerly awaiting the release of the report. The report, to be released in late April, will focus on climate change impacts and response efforts, and will help guide the administration's climate change planning.

DEPARTMENT OF COMMERCE

Trade Mission Announced

The Department of Commerce announced February 20 that Dow Chemical, General Electric, and 19 other large American companies will join Commerce Secretary Penny Pritzker on a trade mission to Saudi Arabia, the United Arab Emirates, and Qatar March 8-14 to promote the export of U.S. energy products and services. Secretary Pritzker will also travel to Ghana and Nigeria to focus on energy trade in May.

DEPARTMENT OF ENERGY

Shale Gas Zones Focus on Economics

Department of Energy Deputy Assistant Secretary for Oil and Gas Paula Gant said February 18 that the plan to create sustainable shale gas growth zones would center on economic development for areas where the natural gas boom is already occurring. Zones are likely to be implemented, for example, in the Utica and Marcellus shale gas plays, but the concept is still under development.

More Data Needed on Methane Leaks

Secretary of Energy Ernest Moniz announced February 19 that more data is necessary to determine how much methane leaks through the natural gas production process. An interagency methane emissions working group, comprised of individuals from the Departments of Agriculture, Energy, and Interior, the Environmental Protection Agency, and the White House, will consider the issue.

Nuclear Loan Guarantees Announced

Energy Secretary Ernest Moniz announced February 19 that the agency will finalize \$6.5 billion in loan guarantees to support Southern Company's Vogtle nuclear power plant expansion in Georgia. The project, overseen by the Southern Company and Oglethorpe Power, is already under

construction. The agency conditionally approved \$8.33 billion for the project in February 2010, but final negotiations stalled.

Grid Resiliency State Collaboration

During remarks to the Innovative Smart Grid Technologies conference February 19, Secretary of Energy Ernest Moniz said that the agency has increased its outreach efforts to states and regions as it continues to improve electric grid resiliency. Threats to the national grid include cybersecurity attacks, extreme weather linked to climate change, physical attacks, space weather, and interconnection issues.

Computer System Efficiency

The Department of Energy released a pre-publication [determination](#) February 21 announcing that it has reconfigured its approach for future energy efficiency regulations, incorporating its earlier computers and servers determination into one process and expanding the scope to include backup battery systems. The agency issued a pair of proposals on computers' and servers' efficiency in July.

Smart Grid Lessons

Public and private officials began to assess the Department of Energy's smart grid investment program during an Institute of Electrical and Electronics Engineers conference last week. As the \$3.4 billion stimulus program winds down, industry leaders find that while consumer resistance to smart grid devices was smaller than anticipated, they still have an impact, and beneficial grid standards would help the industry grow more rapidly.

Loan Guarantee Support Affirmed

Speaking to the National Governors Association February 23, Department of Energy Secretary Ernest Moniz restated his support for the agency's loan guarantee program, despite critics' attempts to discredit it the last three years in the wake of the Solyndra incident. The agency still has \$40 billion of existing authority under the program and plans to use it.

\$10 Million for Geothermal

The Department of Energy [announced](#) February 24 \$10 million to improve subsurface characterization for enhanced geothermal systems by developing methods that quantify underground reservoir properties as they change over time. The funding will support up to ten three-year collaborative research and development projects to apply innovative technologies to obtain and process precise data to better target and explore potential geothermal sites.

DEPARTMENT OF INTERIOR

MD Offshore Wind Bids Forthcoming

Dominion Resources filed with the Bureau of Ocean Energy Management February 18 to be among the bidders for almost 80,000 acres off the coast of Maryland set aside for wind farm development. The auction is likely to take place this year.

Two Public Land RE Projects Approved

The Department of Interior approved February 19 two large solar projects in California and Nevada, marking approval of the 49th and 50th utility-scale renewable energy projects on public lands since 2009. All combined, the projects add up to 14GW, inching the administration closer to its 20GW renewable power on public lands goal by 2020. The 300MW Stateline solar farm in San Bernardino County, CA, sits on 1,685 acres, while the 250MW Silver State South solar project in Primm, NV, will be located near the first solar project on public lands to come online, the Silver

State North project; the First Solar projects will produce enough electricity to power 170,000 homes and have 20-year power purchase agreements with Southern California Edison.

DEPARTMENT OF STATE

Kerry Praises Administration's Climate Efforts

Speaking in Jakarta February 17, Secretary of State John Kerry praised President Obama's efforts to reduce the nation's greenhouse gas emission sin the face of Congressional inaction, saying that pending Environmental Protection Agency greenhouse gas standards on new power plants will make it difficult to build new coal-fired power plants. Secretary Kerry focused much of the trip on the need for global attention to address climate change.

DEPARTMENT OF TRANSPORTATION

Alternative Vehicle Labels Proposed

The National Highway Traffic Safety Administration [proposed](#) February 20 a vehicle labeling system that highlights a vehicle's ability to use alternative fuels. The proposal would also require relevant owners' manuals to include text promoting alternative fuels, and alternative fuel information to be included in the fuel compartment. The labeling and information would be required for new passenger cars, low-speed vehicles, and light-duty trucks.

ENVIRONMENTAL PROTECTION AGENCY

Alternate Calculations Over for Oil and Gas Producers

The Environmental Protection Agency [proposed](#) February 21 eliminating an option for oil and natural gas producers to use alternative greenhouse gas calculations, or best available monitoring methods as part of the annual reporting requirements beginning January 1, 2015. [Systems](#) that emit at least 25,000 MT/year CO₂e are required to collect and report annual emissions data.

GHG Inventory Recommendations

The Environmental Protection Agency published a [notice](#) February 24 asking for recommendations to improve the overall quality of its Draft Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2012. The agency will accept comments until March 26 and will finalize the annual report in April.

FEDERAL ENERGY REGULATORY COMMISSION

Cold Weather Impacts on Grid

Acting Federal Energy Regulatory Commission Chair Cheryl LaFleur announced February 20 that the commission will hold a technical conference April 1 to review the operational and market impacts of the cold weather that continues to test grid operators and utilities.

Energy Storage Rule Clarification

The Federal Energy Regulatory Commission proposed to clarify February 20 a rule that expands opportunities for generators, energy storage providers, and third parties that provide additional grid services. At the same time, the commission announced that it would move forward with examining third-party sales of reactive supply and voltage control as well as regulation and frequency response. The commission will hold a technical conference on the issue April 22.

INTERNATIONAL

US-China Discussions over 2015 Climate Agreement

As preparations for the 2015 international climate conference in Paris continue, Secretary of State John Kerry and top Chinese leaders discussed potential actions February 13 that both countries could take to address climate change. Secretary Kerry praised the working group's efforts thus far, but said that both countries needed to do more ahead of the conference, and called on both to meet their goals to phase down the use of hydrofluorocarbons.

China's Low-Carbon Projects

The National Development and Reform Commission and the National Energy Administration announced February 14 that China has designated 42 cities and provinces as low-carbon pilot areas, and 81 cities and eight industrial parks as new-energy demonstration areas. The commission updated progress on its 2010 low-carbon pilot program, finding that through 2012, the first ten cities and provinces reduced their carbon intensity by 9.2 percent compared to 2010 levels.

China Calls for Solar Trade Dialogue

Responding to a February 14 preliminary conclusion by the International Trade Commission that the United States solar industry is harmed by Chinese and Taiwanese dumping and subsidy benefits, China's Ministry of Commerce issued a statement February 17 calling for a forthright dialogue on the issue in order to resolve the trade disputes.

Chinese Methods of Cleaner Production

China's National Development and Reform Commission and the Ministries of Environmental Protection and Industry and Information Technology released February 17 drafts of evaluation methods and strategies for ensuring cleaner and less polluting production techniques for nine industries. Comments will be accepted on the drafts, which cover issues including evaluating energy consumption, production facilities and techniques, pollutant levels, product features and uses, management techniques, and resource utilization.

German Energy Subsidies Considered

European Competition Commissioner Joaquin Almunia said February 17 that low energy prices in the United States will be a significant factor in determining whether the German government must reduce significantly, and potentially pay back some of the \$7 billion in subsidies it provides to energy intensive industries. The European Union Council of Ministers met to consider the issue later in the week, and will hold a summit on renewable energy goals for 2030 in late March. The commission will make a determination on German subsidies by April, at which point European Union state aid energy and environment guidelines will also be released.

Methane Leak Investments to Be Requested

The Climate and Clean Air Coalition, comprised of the United States, Canada, Australia, Denmark, France, Italy, the United Kingdom, Norway, the World Bank, and the United Nations Environment Program announced February 18 that it plans to launch an initiative in September asking oil and gas companies to commit to making substantial investments in plugging methane leaks. The Oil and Gas Methane Partnership would operate similarly to a previous Environmental Protection Agency voluntary program, Natural Gas Star.

NA Leaders Pursue Trilateral Energy Goals

President Obama, Canadian Prime Minister Stephen Harper, and Mexican President Pena Nieto pledged February 19 to hold a meeting of North American energy ministers this year, to continue

collaborations under the Montreal Protocol, and to coordinate efforts to address climate change and improve emissions standards, fuel efficiency, and fuel quality for heavy-duty vehicles.

STATES

NE Court Strikes Down Keystone Law

The Nebraska District Court struck down a 2012 law (LB 1161) February 19 that paved the way for the state to approve a route for the proposed Keystone XL Pipeline. The law created an expedited method for evaluating and approving proposed routes through the state, vesting in the governor at the Department of Environmental Quality the power to grant final approval. The court ruled that that power falls within the constitutionally enumerated powers of the state Public Service Commission instead, and thus the law is unconstitutional.

MISCELLANEOUS

Global Advanced Energy Industry Growth

The Advanced Energy Economy released its Advanced Energy Now 2014 Market [Report](#) last week, concluding that the global advanced energy industry had a global revenue of \$1.13 trillion last year, an increase from 2012, but down slightly from the 2011 high. In the United States, most of the market grew substantially, save for the wind industry, which dropped of by \$23 billion due largely to uncertainty about the renewable energy production tax credit.

\$100 Million for Climate Politics

Retired billionaire investor Tom Steyer pledged February 18 to spend at least \$50 million making climate change an election issue this year, and is encouraging others to put up another \$50 million. Thus far, he has written checks solo to his NextGen Climate Action Committee. He made a pitch recently to about 20 prospective donors and fundraisers earlier this month, and is hoping to support candidates in federal and state elections who want to address climate change impacts, as well as those who oppose the Keystone XL pipeline.

ECOS Announces New Director

The Environmental Council of the States named Alexandra Dunn to serve as the council's executive director and general counsel February 19. Ms. Dunn currently serves as executive director and general counsel for the Association of Clean Water Administrators, and will assume the post in April.

Natural Resource Value Hub Launched

Disney, Microsoft, Shell, and 38 other companies representing more than \$1.4 trillion in revenue launched February 21 an [online hub](#) to make the business case for valuing natural resources. The Natural Capital Business Hub is intended to foster collaboration among participating companies on natural capital issues, and will eventually track participating companies' related project progress.