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## **ENERGY AND ENVIRONMENT UPDATE** **January 15, 2012**

### **Energy and Climate Debate**

With the House and Senate preparing to return to DC to begin the second session of the 112th Congress on January 17 and 23, respectively, Congressional and Administrative leaders are jockeying for position on energy issues across the board.

President Obama sent a letter to House and Senate leaders last week, notifying them that federal debt has moved within \$100 billion of its limit and so the government's legal debt limit will need to be raised soon. The notice gives lawmakers 15 days to weigh in on the issue before the president hikes the limit by \$1.2 trillion, which will consume much of the first days back in session. House Majority Leader Eric Cantor has a January 18 vote scheduled on a symbolic resolution of disapproval to raise the debt limit. Shortly thereafter, Congress will need to begin hashing out a deal on the payroll tax extension by February 29.

U.S. Chamber of Commerce President Thomas Donahue and Business Roundtable President John Engler called separately on President Obama January 12 to approve the proposed \$7 billion Keystone XL crude oil pipeline. As part of the end of the year payroll tax extension agreement, President Obama is required by a congressional mandate to approve the permit by February 21 unless he decides that it is not in the national interest. He has indicated that he will deny the permit if forced to make a decision now, but a denial would not preclude approval at a later date after further study. The American Petroleum Institute and a diverse coalition of more than a hundred business trade groups sent a letter January 11 to President Obama urging him to act swiftly to approve the permit.

Meanwhile, Senator John Hoeven (R-ND) is drafting legislation that would allow some construction to begin even if the president denies a permit. The senator may introduce a bill, contingent on the president's actions in February, that would authorize construction to begin along the rest of the 1,700 mile pipeline route outside of Nebraska, which is still working on an alternate route to avoid the environmentally sensitive Sand Hills and Ogallala Aquifer.

Senate Foreign Relations ranking member Dick Lugar (R-IN), who authored the measure that requires President Obama to make a decision on the pipeline, sent a letter recently contending that uncertainty with Iran and rising oil prices should compel an approval now.

For a broader look at energy policy, as gas prices rise this summer, Senate Majority Leader Harry Reid (R-NV) is expected to push energy legislation that focuses on clean-energy jobs. Potential language may include legislation promoting energy efficiency and electric vehicles. Additionally, Senate Energy and

Natural Resources Committee Chairman Jeff Bingaman (D-NM) is planning to unveil clean energy standard legislation in the coming weeks.

## **Congress**

### Sulfur Standards Opposed

Senate Environment and Public Works ranking member Jim Inhofe (R-OK) is circulating a draft letter that argues that a forthcoming Environmental Protection Agency rule requiring stronger sulfur standards for gasoline could add 25 cents per gallon at the pump. A group of 68 House members sent a similar letter to the agency last month.

### DOE Assistance Sought by House Republicans

House Republicans sent a letter to Energy Secretary Steven Chu January 13 asking him save USEC's multibillion dollar American Centrifuge uranium enrichment projects in Piketon, Ohio, and Paducah, Kentucky. After legislators in both chambers failed to insert measures into last month's omnibus spending bill to help the project, the group, many of whom have spent the last several months criticizing Secretary Chu for the agency's \$535 million loan guarantee to Solyndra, is arguing that it is within the secretary's power to save the projects by generating funds through orders for re-enriching tails of depleted uranium at both sites.

### CARB Role in Federal Fuel Standards Examined

The California Air Resources Board released documents January 10 in another attempt to explain to the U.S. House Oversight and Government Reform Committee its role in developing a national program to harmonize the state's vehicle-related GHG emissions regulations with federal emissions and fuel economy standards. Responding to an inquiry from the committee's chairman, Representative Darrell Issa (R-CA), CARB chair Mary Nichols said that the federal rulemaking process for the 2009 fuel economy standards and GHG regulations were transparent and adhered to the law. Congressman Issa has accused the administration of negotiating standards in violation of the Administrative Procedure Act and proposing standards without studying their potential impact of vehicle safety.

### House Oversight Expands DOE Loan Guarantee Investigation

The House Oversight and Government Reform Committee's on-going investigation of the Energy Department's loan guarantee program is expanding its focus to include guarantees made to Beacon Power Corp. of Tyngsboro, MA, which received a \$43 million guarantee for building a fly-wheel energy storage plant, and Nevada Geothermal Power Inc., which received \$78.8 million from DOE in 2010. The committee sent a January 11 letter to Secretary Steven Chu asking why the Nevada company with "well established financial difficulties" received a loan guarantee. This is a clear sign that House Republicans' scrutiny of the department's loan guarantee program will not disappear in 2012.

## **Administration**

### Ocean Policy Implementation Plan

The White House released a draft implementation plan for its National Ocean Policy January 12. The policy was first ordered last summer by President Obama in an attempt to organize offshore efforts, including some 140 laws governing ocean activities like oil and gas exploration, renewable energy projects, and conservation efforts. The implementation plan, which is open for public comment through February 27, outlines specific actions for regional planning bodies and federal agencies to coordinate efforts on nine major marine objectives by 2015. Additionally, federal agencies must post all non-confidential maps and research on oceans to a new central ocean data website over the next three years.

### Agency Consolidation Proposed

President Obama announced January 13 that he will ask Congress for the power to merge agencies to streamline government and improve efficiency. In the first phase, the president plans to merge the Commerce Department's core business and trade functions, the Small Business Administration, the Office of the U.S. Trade Representative, the Export-Import Bank, the Overseas Private Investment Corporation, and the U.S. Trade and Development Agency into a new Cabinet agency to create a more

efficient agency to promote competitiveness, exports, and American business. The consolidation would also move the National Oceanic Atmospheric Administration to the Interior Department.

## **Department of Defense**

### Solar Array in Quantico

Suniva, Inc., announced January 10 that its panels will be used to power the newest and largest solar array installed by FLS Energy at the Marine Helicopter Squadron 1's greenside hangar in Quantico, home to the president's Marine One helicopter. The 120 kWh rooftop system will reduce the site's electric bills by \$10,500 each year and help to meet rigorous Department of Navy alternative energy targets: 50 percent of energy used to meet the Navy's demand must come from alternative energy sources by 2020.

## **Department of Energy**

### 10K Efficient Homes

The Department of Energy announced January 12 that more than 10,000 homes have been constructed to meet the energy efficiency specifications of the voluntary Builders Challenge initiative. Homes built under the initiative have generated an estimated energy cost savings of nearly \$15 million and reduced 71,000 MT of CO<sub>2</sub> since 2008.

### Some State Emissions Increase

The Energy Information Administration released a report January 9 that found that while national energy related emissions dropped over the past decade, they increased in 13 states. The report, State-Level Energy-Related Carbon Dioxide Emissions, 2000-2009, concluded that national emissions declined from 5.83 billion MT in 2000 to 5.4 billion MT in 2009, a 7.4 percent reduction. At the same time, Nebraska's emissions were 13.3 percent higher; Colorado recorded a 10.5 percent increase, and Arizona, Iowa, South Dakota, Missouri, Oklahoma, Montana, South Carolina, Wyoming, North Dakota, Hawaii, and Oregon increased state-wide emissions. On the other end of the spectrum was Delaware, whose 2009 emissions were 29.7 percent below 2000 emissions.

### RE Supply Declines

The Energy Information Administration unveiled a report January 10 that projected a 2.3 percent decline in domestic renewable energy supply this year due to a complex political and economic landscape. The anticipated decline, which comes after an increase of 12 percent in 2011, is led by a 13 percent drop in hydropower that is expected to offset growth in other renewable energy supplies. The Short-Term Energy Outlook also predicted an increase of 2.1 percent in renewable energy supply in 2013.

### Electric Vehicle Goal

During a tour of the Detroit auto show January 11, Energy Secretary Steven Chu said that the administration's goal of having one million electric vehicles on US roads by 2015 is still possible. Secretary Chu said that electric vehicle sales will depend on how quickly the price of their batteries decreases. While at the Detroit Economic Club, Secretary Chu reiterated that domestic automakers could regain their global leadership if they innovate and develop better, more fuel-efficient vehicles for consumers around the world.

### Third Design Guide Released

The Department of Energy released January 10 the third installment in a series of four 50 percent Advanced Energy Design Guides. The latest guide will help architects, engineers, and contractors design and build highly efficient retail buildings. The series, which support President Obama's goal to reduce energy use in commercial buildings 20 percent by 2020, provides a practical approach for designers and builders of commercial buildings to achieve 50 percent energy savings compared to the building energy code used in many parts of the country.

### Battery Hub Announced

Department of Energy Secretary Steven Chu established January 11 a new Energy Innovation hub for better electric car batteries. The multidisciplinary research site will bring together scientists, engineers,

and industry leaders in an approach modeled after the Manhattan Project. The latest center is the agency's fourth Hub; in fiscal 2010, Congress provided the agency with \$22 million for each of the first three hubs – on nuclear energy modeling and simulation, fuels from sunlight, and energy efficient buildings and system design.

## **Department of Interior**

### Partnership with State of California on RE Projects

On January 13, Interior Secretary Ken Salazar and Gov. Jerry Brown (D) signed a memorandum of understanding to expand a 2009 agreement, signed by Salazar and then-Gov. Arnold Schwarzenegger (R) that calls for expedited DOI review and processing of CA renewable energy projects. The original agreement included provisions about increased cooperation and the creation of a senior-level Renewable Energy Policy Group. The new MOU includes language about transmission projects related to renewable energy power generation among the projects receiving accelerated treatment and now involves the input of the California Independent System Operator, the California Public Utilities Commission, and the California State Lands Commission.

## **Environmental Protection Agency**

### Court Decision Does Not Impact Boiler MACT Sources

The Environmental Protection Agency said January 12 that no sources will be affected by a U.S. District Court for the District of Columbia order vacating the agency's decision to delay the date of the Boiler MACT rule. On January 9, the court vacated the agency's delay of the May 20, 2011, effective date of the rule, saying the agency's actions were unlawful. The agency also said that the court's decision does not change its current rulemaking process to repropose the standards. In late December, the agency proposed changes, and the final rules are expected by April 30.

### CAFE Standard Assessment

The Consumer Federation of America released an assessment January 12 that found that more stringent fuel economy standards for cars and light-duty trucks would provide drivers a net savings of \$800 over the life of a five year vehicle loan. The proposed increased fuel economy requirement of 54.5 mpg by 2025 would save consumers \$3,000 over the course of 10 years, according to the CFA's assessment of the Environmental Protection Agency and the National Highway Traffic Safety Administration's joint proposed fuel economy and GHG emissions standards for cars and light trucks of model years 2017 through 2025. The two agencies will hold a public hearing in Detroit January 17, one in Philadelphia January 19, and one in San Francisco January 24 on the December 1, 2011 jointly proposed rules.

### Tier 3 Standards Elicit Letters

The Natural Resources Defense Council, Union of Concerned Scientists, Sierra Club, and Environmental Defense Fund sent a letter January 11 to Environmental Protection Agency Administrator Lisa Jackson urging her to immediately propose stronger standards for gasoline and vehicle emissions and to finalize them by the summer. They contend that Strong Tier 3 standards for cars and light trucks are necessary to help states meet the 2008 air quality standards for ozone. The following day, Senators Jim Inhofe (R-OK), Lisa Murkowski (R-AK), David Vitter (R-LA), John Barrasso (R-WY), Mary Landrieu (D-LA), and Mark Begich (D-AK) sent a letter to Administrator Jackson, saying that stringent Tier 3 standards could add 12 to 25 cents to the cost of every gallon of gasoline. The agency plans to propose the Tier 3 rule this year, though it has not set a timeline for doing so.

### Emissions Report Unveiled

The Environmental Protection Agency released the first set of greenhouse gas emissions data from industrial emissions sources under its mandatory reporting rule January 11. The data are for GHG emissions from industrial sources for the 2010 reporting year; the agency's 2009 mandatory reporting rule requires sources with emissions more than 25,000 MT per year to report their emissions annually. The agency has estimated that 10,000 facilities, which account for about 85 percent of all emissions in the country, would be required to report their emissions beginning January 1, 2010. Covered entities include suppliers of coal-based liquid fuel, petroleum products, natural gas, industrial greenhouse gases, and

CO2 in addition to facilities that use those resources. More than 6,700 entities reported the emissions to the EPA, and the data collected represent 80 percent of all U.S. emissions, 2.3 billion MT CO<sub>2</sub>e of which, or 72.3 percent, are emitted by power plants.

#### Confidential Information in Reporting Program

The Environmental Protection Agency issued a proposed rule January 10 outlining the type of information submitted to the agency by six industries under a mandatory reporting program for GHG emissions that would be considered confidential. The proposal covers fluorinated gas production, electricity transmission, geological sequestration of CO<sub>2</sub>, electrical equipment manufacturing, injection of CO<sub>2</sub>, and import and export of fluorinated GHGs. The new proposal would require the six industries to disclose their emissions, facility, and unit identification information, calculation and test methods, and some unit and process characteristics, but production and throughput data; raw materials consumed; emissions factors; and supplier, customer, and vendor information would be treated as confidential. The agency will accept comments on the proposed rule until March 12.

#### Presidential Visit

During a January 10 visit to the Environmental Protection Agency, President Obama applauded the agency's efforts to protect air, water, and food, and to clean up contaminated sites. The president specifically mentioned air standards the agency released in December to reduce mercury and other harmful pollutants from power plants as an example of successful work this year, and said that stronger environmental protection strengthens the economy.

#### Toxic Substances Collaboration

The Environmental Protection Agency and California's Department of Toxic Substances Control agreed January 12 to collaborate on efforts to eliminate the use and generation of toxic chemicals in the production of consumer products. The two parties signed a memorandum of understanding outlining a strategy for sharing information and processes to advance each agency's green chemistry program, and efforts are likely to focus on evaluating safer alternatives to toxic chemicals, development of chemical information databases, and training and educational opportunities.

### **Federal Highway Administration**

#### New Emissions Policy Analysis Tool

On January 9, the Federal Highway Administration unveiled "The Energy and Emissions Reduction Policy Analysis Tool" (EERPAT), a new tool to help states assess different policy scenarios for reigning in surface transportation emissions. This comes ahead of a new tool the FHWA is developing for release early this year, to be called "Reference Sourcebook for Reducing Greenhouse Gas Emissions from Transportation Sources", which will complement the EERPAT.

### **Government Accountability Office**

#### Additional Cybersecurity Guidance Necessary

The Government Accountability Office released a report January 9 finding that the Department of Homeland Security and other sector-specific agencies have failed to identify the most applicable and effective cybersecurity guidance for each critical private-sector infrastructure industry. The report, Critical Infrastructure Protection: Cybersecurity Guidance Is Available, But More Can Be Done to Promote Its Use, suggested that both required and voluntary cybersecurity guidance is generally available to owners and operators of critical infrastructures. Additionally, the agency said that the guidance available to three subsectors, banking and finance, energy, and nuclear power, are similar to guidance applying to federal agencies because they addressed many of the risk management framework steps and recommended security controls of the National Institute of Standards and Technology.

### **Nuclear Regulatory Commission**

#### Regulators May Not Compel Yucca Decision

The Nuclear Regulatory Commission filed a preliminary response brief in the U.S. Court of Appeals for the District of Columbia Circuit January 11 saying that utility regulators and states lack standing to seek an order requiring the Commission to approve or disapprove a license for Yucca Mountain within 14 months. In a response to a brief filed in December 2011 by the National Association of Regulatory Utility Commissioners; South Carolina; Washington state; Aiken County, SC; Robert L. Ferguson; William Lampson; Gary Petersen; and Nye County, NV, the commission also said that congressional appropriations have dried up, which prevents moving forward with the license proceeding.

## **Personnel**

White House Chief of Staff Bill Daley announced January 9 that he would return to Chicago and serve as a co-chairman to the president's reelection campaign. Bringing significant economic experience with him, OMB Director Jack Lew will step into the role.

The White House announced January 10 that current Director of Intergovernmental Affairs Cecilia Muñoz will become director of the president's Domestic Policy Council.

## **State**

### CA Power Purchase Agreement Finalized

The California Public Utilities Commission granted approval January 12 to American renewable power developer Pattern Energy for a 20 year power purchase agreement with San Diego Gas and Electric for a 315 MW wind farm in the state.

### CA Battery Charger Efficiencies

The California Energy Commission approved January 12 tough new regulations to improve efficiency in battery chargers for portable devices. The commission voted 3-1 on efficiency standards that aim to reduce the energy wasted through battery chargers by 40 percent.

### CA Cap and Trade to Ease Budget Concerns

California Governor Jerry Brown (D) announced January 11 that the state will use its cap and trade revenue to ease budget woes. Governor Brown plans to partly ease the state's \$9.2 budget deficit by funneling some of the revenue from the nation's first greenhouse gas emissions cap and trade program.

### WI Surpasses Efficiency Goal

The Department of Energy announced January 6 that Wisconsin has surpassed its energy efficiency goal established with the agency under the Recovery Act. Through its weatherization program, the state has helped more than 30,500 Wisconsin households improve the energy efficiency of their homes over the last three years, saving the average household more than \$400 each year on utility bills.

## **International**

### WTO May Examine Ontario FIT

On January 20, the European Union will request the establishment of a World Trade Organization dispute panel to determine whether the domestic content requirements of Ontario's Feed-In Tariff unfairly discriminates against foreign firms. Canada, which represents the country's provinces in WTO dispute proceedings, may block the panel request, but any subsequent demand for a panel from the Union would automatically be accepted by the Dispute Settlement Body. The EU and Japan are challenging domestic content requirements under Ontario's Feed-In Tariff.

### Chinese Carbon Intensity Reductions

Guangdong, a province in southern China, and the country's most populous province, announced January 11 that it plans to reduce its carbon intensity 19.5 percent from 2005 levels by the end of 2015. The National Development and Reform Commission, the nation's top planning body, has approved the low-carbon development blueprint for the province, which will soon begin implement the plan. Guangdong

is the first of five provinces and eight cities chosen to test low carbon development in the 12th Five Year Plan period to have its draft plans approved by the commission.

#### Positive Results from Tax Reevaluation

The European Environment Agency published a study January 9 concluding that households in some European Union countries could see their incomes rise by up to 6.5 percent by 2020 if the EU increases environmental taxes and reduces income taxes. The report, Environmental Tax Reform in Europe: Implications for Income Distribution, found that the move would have a positive impact in all cases from raising household incomes, job creation, eco-innovation, and reduced pollution.

#### Chinese Carbon Tax

China's National Development and Reform Commission's Energy Research Institute and the Institute of Fiscal Science at the Ministry of Finance released a report January 5 that showed that a carbon tax of \$1.58 per metric ton under consideration by the nation's Ministry of Finance is lower than previously floated amounts because of economic pressures. The proposal would target emissions by 2015 from companies that use large amounts of coal, crude oil, or natural gas as part of the 12th Five-Year Plan.

#### Rio+20 Topics

Rio+20 Organizers released a document last week selecting 15 priority topics for the June 20-22 U.N. Sustainable Development Conference. The initial draft, The Future We Want, identified food security, water, energy, cities, green jobs/social inclusion, oceans and seas, natural disasters, climate change, forests and biodiversity, land degradation and desertification, mountains, chemicals and waste, sustainable development and production, education, and gender equality as areas of focus for June. The original Rio summit in 1992 created U.N. conventions on climate change, desertification, and biodiversity, and this year, organizers will reassess the three and try to make them more effective.

#### Brazilian Ethanol Credit Line

Brazil's Development Bank announced last week a 4 billion real credit line that agribusinesses can use to expand or renew sugar cane plantations to produce more ethanol. The country's ethanol industry anticipates sales to the United States to grow exponentially in future years because of a recent expiration of a duty on ethanol imports. The loans could help Brazil increase annual ethanol output by 528.3 million to 1.06 billion gallons by 2014.

### **Miscellaneous**

#### Health Advocates Call for Fracking Research

Speaking at a forum sponsored by Physicians, Scientists, and Engineers for Healthy Energy and the Mid-Atlantic Center for Children's Health and the Environment January 9, public health advocates called for more research into the health and environmental impacts of fracking. They said that the fracturing process can contaminate groundwater and surface water as well as contribute to air pollution. Exposure to the chemicals and naturally occurring radioactive materials brought up by the fracturing process has been associated with a variety of health impacts.

#### Shale Gas Boom Undermines RE Investments

World Resources Institute president Manish Bapna said January 10 that the shale natural gas boom and uncertain domestic support for clean energy are threatening additional gains in renewable energy investments in 2012. The shale natural gas boom has the potential to divert investments from fossil fuels and renewables, and U.S. clean energy policies, including the uncertainty surrounding federal renewables subsidies, further threaten renewable energy gains. According to the Department of Energy, shale gas accounts for 30 percent of U.S. natural gas production, and the increase in shale gas production has depressed natural gas prices overall, which makes it competitive with dropping renewable energy prices.

#### Global RE Investment Up

According to a Bloomberg New Energy Finance report released January 12, global investment in clean energy reached a record high of \$260 billion in 2011. The investment, a 5 percent increase over 2010, occurred even as the profit margins of clean technology manufacturers contracted, some notable

companies filed for bankruptcy, bank financing remained difficult to obtain, and European governments trimmed renewable energy subsidies. The United States invested \$55.9 billion in clean energy, while China invested 47.4 billion in 2011.

#### Significant Energy Consumption Reduction Possible

The American Council for an Energy Efficient Economy released a report January 12 that concludes that the United States could reduce energy consumption by 60 percent by 2050 if significant investments and energy-efficiency advances in the residential, commercial, industrial, electric power, and transportation are made. The report, *The Long-Term Energy Efficiency Potential: What the Evidence Suggests*, identifies an aggressive policy scenario in which the nation's overall energy requirements could be lowered from a projected 122 quadrillion Btus of energy in 2050 to 50 quads, an improvement that would generate 2 million jobs and save consumers \$400 billion per year. According to the report, achieving a 60 percent energy savings by 2050 would cost over \$5 trillion but would result in as much as \$16 trillion in energy savings.

#### Environmental Impact Statements Vary

Columbia Law School's Center for Climate Change Law recently released a report that finds that federal agency actions vary widely in the scope and methodologies used to estimate GHG emissions and the climate change-related impacts of their projects when writing environmental impact statements. The analysis, which included a database of 196 impact statements prepared by federal agencies between January 2009 and November 2011 concluded that while some agencies calculated specific emissions, others provided only general estimates. Furthermore, some agencies discussed indirect climate change impacts from projects like transportation and purchased electricity emissions, but many did not. The White House Council on Environmental Quality is finalizing guidance for agencies.

#### WCI to Link Trading Programs

The Western Climate Initiative outlined steps January 12 to link the multi-sector greenhouse gas emissions cap and trade programs California and Quebec launched at the start of the year. Though both trading programs are in a test mode for 2012, the state and province are planning to hold two emissions allowance auctions in the last half of the year.

#### RGGI Exceeds Forecasted Emissions Cuts

On January 11, Environment Northeast released a report showing carbon dioxide emissions from power plants in the Regional Greenhouse Gas Initiative (RGGI) states were projected to be 124 million tons in 2011 which is considerably below the original target reduction, although full data will not be available until mid-2012. The report attributes the drop to mild weather and weak economic conditions, decreased use of coal and oil fired plants relative to natural gas and renewable energy, and increased energy efficiency.