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## ENERGY & ENVIRONMENT UPDATE October 1, 2013

### ENERGY AND CLIMATE DEBATE

Yesterday the House and Senate failed to pass a continuing resolution that would have averted a government shutdown. As they enter the new fiscal year without funding, Washington's federal agencies and departments are grinding to a standstill. According to their contingency plans, the [Department of the Interior](#), the [Environmental Protection Agency](#), and the [Federal Energy Regulatory Commission](#) will all experience furloughs and the halting of programs. The [Department of Energy](#) reported that multi-year and no-year appropriations will sustain certain work through the shutdown. The [Nuclear Regulatory Commission](#), which has leftover appropriations, can survive for about a week at relatively normal operations.

The energy and environment event leading the news this past week was the release of the International Panel on Climate Change's [summary](#) of its *Fifth Assessment Report* on Friday. The report found that average surface temperatures have risen 1.5 degrees Fahrenheit since the industrial revolution, and scientists writing the report said that they are 95 to 100 percent certain that human activity is the driver of this increase. The *Fourth Assessment Report*, released in 2007, concluded that temperatures had risen 1.3 degrees Fahrenheit with 66 to 90 percent certainty. The September 27 summary also tracked arctic ice levels, greenhouse gas emissions, sea levels, and severe weather events. While there has been a slowdown in the rate of global warming, the report's authors said that global warming has not ended. On September 30, the panel released the first part of the report, which detailed the scientific assessments. The second part, on adaptation and vulnerability, and the third part, on mitigation, will be released next year.

Response to the summary report was mixed. On the international side, World Bank President Jim Yong Kim, addressing a Climate Week NYC event three days prior to the release of the draft report, said the report reinforces the need for quick action on climate change. U.N. Framework Convention on Climate Change Executive Secretary Christiana Figueres said the report shows the need for greater climate action. Domestically, many Democratic congressmen said the draft report highlighted the need to implement President Obama's climate action plan while many Republican

members said the report was skewed by political agendas. Senators David Vitter (R-LA), Jeff Sessions (R-AL), John Barrasso (R-WY), and Jim Inhofe (R-OK) sent a [letter](#) to Special Envoy for Climate Change Todd Stern asking about lobbying efforts by the U.S. government to the IPCC. A Senate Environment and Public Works Committee aide said on Friday that the committee will hold a hearing on the Environmental Protection Agency's proposed greenhouse gas emission regulations for new power plants as well as on the IPCC report.

After many members of the Senate Energy and Natural Resources Committee, including most Republicans and some Democrats, came out against the nomination of Ron Binz as Federal Energy Regulatory Commission Chairman., he has withdrawn his name from consideration. The White House is considering other candidates. On Tuesday, President Obama nominated Catherine Ann Novelli to serve as Under Secretary of State for Economic Growth, Energy, and Environment. It is rumored that the president will nominate Neil Konze to serve as Bureau of Land Management. Konze currently serves as Principal Deputy Director of the bureau.

## CONGRESS

### **Black Carbon Hearing Held**

The Senate Environment and Public Works Subcommittee on Clean Air and Nuclear Safety held a hearing September 24 to examine solutions to curbing black carbon emissions. Panelists and members praised the role of the Diesel Emissions Reductions Act, and many, including Chairman Tom Carper (D-DE) and Ranking Member Jeff Sessions (R-AL), advocated for continued funding of the program. Chairman Carper also advocated for extending the program to diesel engines used in construction.

### **Stabenow Letter on RIN Market Manipulation**

A September 24 [letter](#) from Senate Agriculture Chairman Debbie Stabenow (D-MI) to Commodity Futures Trading Commission Chairman Gary Gensler asked the commission to investigate possible manipulation of the renewable identification number market. She asked if outside forces have caused RIN prices to become volatile and, if so, to what extent.

### **Markey Joins Climate Change Clearinghouse**

The Senate Environment and Public Works Committee announced September 25 that Senator Ed Markey (D-MA) has joined the Senate Climate Change Clearinghouse as co-chairman. The clearinghouse, created in December 2012 in the wake of Hurricane Sandy, is designed to discuss climate science and to craft potential legislation to curb CO2 emissions. Senators Barbara Boxer (D-CA) and Ron Wyden (D-OR) serve as the other co-chairman.

### **Congress Passes Helium Bill**

The House approved changes to [H.R. 527](#), the Responsible Helium Administration and Stewardship Act, on September 25 and the Senate followed suit the next day, sending the bill to the president. The House had approved the bill 394-1 in April, and the Senate approved it 97-2 on September 19. The bill would extend the Federal Helium Program by one year.

### **Debt Ceiling Bill to Target New Source Rules**

The Joint Economic Committee Republican staff released September 26 an [analysis](#) of the upcoming debt ceiling bill, and it said the new source performance standards are part of the rules targeted by the bill. The Spending Control and Economic Growth Act will prohibit the Environmental Protection Agency from releasing rules for new power plants with an estimated cost of over \$1 billion.

### Members on GHG Rules

At a September 26 press conference, House Energy and Commerce Subcommittee on Energy and Power Chairman Ed Whitfield commented that members will work to prevent implementation of the recently announced Environmental Protection Agency greenhouse gas standards for new power plants. The committee will hold hearings on this issue, and members will introduce legislation. In the Senate, members will call for a Congressional Review Act vote.

### Bills Introduced

- On September 23, Senators Jeff Flake (R-AZ), Deb Fischer (R-NE), Dean Heller (R-NV), and John McCain (R-AZ) introduced [S. 1536](#), the Agency PAYGO Act of 2013. The bill would require the Environmental Protection Agency to offset greenhouse gas regulation costs via agency spending reduction.
- On September 25, Representatives David McKinley (R-WV) and Nick Rahall (D-WV), along with 34 cosponsors, introduced [H.J.Res. 64](#), a resolution to disapprove of the Environmental Protection Agency's recent greenhouse gas emissions rule for new power plants.

### Upcoming Hearings

Hearings currently scheduled for this week are as follows, though the schedule remains uncertain while we await news of a potential government shutdown. The Senate Energy and Natural Resources Committee and House Oversight and Government Reform Committees have confirmed that the October 1 hearings will take place regardless of what occurs tonight.

- On October 1, the Senate Energy and Natural Resources Committee will consider [S. 812](#) and [H.R. 1613](#), the Transboundary Hydrocarbon Agreement.
- The same day, the House Oversight and Government Reform Committee will hold a hearing to examine the Environmental Protection Agency Office of the Inspector General investigation of former agency policy advisor John Beale.
- On October 2, the House Energy and Commerce Subcommittee on Energy and Power will hold a hearing to examine the North American Energy Infrastructure Act [discussion draft](#), introduced by full committee Chairman Fred Upton (R-MI) and Representative Gene Green (D-TX). The bill would consolidate the cross-boundary permitting process for pipelines and transmission lines.
- The same day, the House Oversight and Government Reform Subcommittee on Energy Policy, Health Care, and Entitlements will hold a hearing to examine the wind production tax credit.
- On October 3, the Senate Agriculture, Nutrition, and Forestry Committee will hold a hearing on advanced biofuels and rural economies.
- The same day, the Senate Commerce, Science, and Transportation Committee will consider the nominations of Dr. Jo Emily Handelsman to serve as Associate Director for Science in the Office of Science and Technology Policy, Dr. Robert Simon to serve as Associate Director for Environment and Energy in the Office of Science and Technology Policy, and Dr. Kathryn Sullivan to be Under Secretary of Commerce for Oceans and Atmosphere and Administrator of the National Oceanic and Atmospheric Administration.
- The same day, the House Natural Resources Subcommittee on Public Lands and Environmental Regulation will consider public lands bills including a draft bill to implement salvage timber sales as part of the Interior Department's rehabilitation activities.

## ADMINISTRATION

### OMB Receives EPA Fracking Rule

The Office of Management and Budget received draft guidance on fracking using fluid containing diesel from the Environmental Protection Agency on September 21. The guidance was proposed in May 2012, and it defines diesel fuels and establishes technical considerations. Industry and environmental stakeholders have argued that they would prefer a formal rulemaking over guidance on this issue.

### Zichal on GHG Rules

Addressing a September 26 Bipartisan Policy Center event, Deputy Assistant to the President for Energy and Climate Change Heather Zichal praised the recently proposed greenhouse gas regulations for new power plants. She commented that the Environmental Protection Agency has begun a similarly robust engagement process for emissions rules for existing plants. She praised agency efforts to meet goals set up by the president's Climate Action Plan, including the Interior Department holding its first competitive offshore wind lease sale and the Energy Department proposing energy efficiency standards.

### US-India Climate Change Working Group

In a September 27 [joint statement](#), President Obama and Indian Prime Minister Manmohan Singh announced that the two countries would form a working group to address climate change. The India-U.S. Climate Change Working Group will focus on post-2020 actions. The two leaders also agreed to form a task force to address the immediate phasedown of hydrofluorocarbons consumption and production.

## DEPARTMENT OF DEFENSE

### Biomass MATOCs Awarded

The Army Energy Initiatives Task Force [announced](#) September 23 it had granted multiple award task order contracts (MATOCs) to 13 biomass companies. The companies are now eligible to compete for future requests for proposals; the acquisitions will be financed by third-parties, not Army or Defense Department capital. The Army previously announced MATOC awards to geothermal, solar, and wind companies.

## DEPARTMENT OF ENERGY

### Western Wind, Solar Report Released

The National Renewable Energy Laboratory released the [The Western Wind and Solar Integration Study](#), a report examining how increasing wind and solar generation could impact coal and gas plants in the West, September 24. It found that cycling to accommodate wind and solar generation could increase fossil fuel-fired plants' operational costs by 2 to 5 percent. The study was the joint effort between the Office of Energy Efficiency and Renewable Energy and the Office of Electricity Delivery and Energy Reliability.

### Rapid Response Technologies Funding Announced

The Department of Energy [announced](#) September 26 that it will provide up to \$9 million in cost-share agreements for projects developing electric grid rapid response technologies. The Pre-Commercial Synchrophasor Research and Demonstration funding is designed to improve grid reliability. Applications will be accepted through November 5.

## DEPARTMENT OF STATE

### Climate Action Report Released

The State Department released its draft [Sixth Climate Action Report](#) September 26, highlighting climate change policy initiatives. It found that the Obama Administration's policies, including fuel efficiency standards and renewable energy projects, will help reduce carbon emissions 17 percent below 2005 levels by 2020. The day before, Deputy Assistant to the President for Energy and Climate Change Heather Zichal commented that the report will serve as a benchmark for other countries. Public comment will be accepted through October 24.

## ENVIRONMENTAL PROTECTION AGENCY

### Effluent Guideline Comments Posted

The comment period for the Environmental Protection Agency proposed effluent guidelines for power plants ended September 20, and the agency continues to [post](#) public comments online. Published June 7, the guideline contains four preferred alternatives to reduce water use and annual pollutant discharges. Industry and electric utility stakeholders commented that they preferred Subtitle D option which would allow coal ash surface impoundments without liners to continue use with certain engineering standards through the end of their useful lives.

### CSAPR Brief Filed

The Sierra Club, the National Parks Conservation Association, and the Natural Resources Defense Council filed a brief against the Environmental Protection Agency in the U.S. Court of Appeals for the District of Columbia Circuit on September 23, asking the court to vacate recent agency actions in response to a court ruling. The groups said the agency, which released a memorandum on how to respond to a Cross State Air Pollution Rule decision, put out a final agency action without a comment period. The court had vacated the rule in August 2012. The agency has until November 22 to reply.

### Existing Power Plant Considerations Sheet Released

The Environmental Protection Agency published on September 23 a series of [questions](#) to consider when creating greenhouse gas regulations for existing power plants. The agency wishes to know what has been done in the past to reduce carbon dioxide emissions, how it should set performance standards for state plants, what requirements states should plan to meet, and what it can do to facilitate state plan development and implementation.

### McCarthy on Upcoming Power Plant Rules

Addressing a September 23 Christian Science Monitor breakfast, Environmental Protection Agency Administrator Gina McCarthy said the agency is beginning discussions about greenhouse gas regulations for existing power plants. She said the rule, set to be released in the summer of 2014, will not require carbon capture and sequestration technology; rather, the regulation will focus on energy efficiency. Administrator McCarthy commented that the recently released rule for new power plants would ensure coal's viability in a low-carbon economy.

### ND Haze Implementation Plan Reconsideration

In a September 23 [ruling](#), the U.S. Court of Appeals for the Eighth Circuit ordered the Environmental Protection Agency to reconsider part of its haze implementation plan for North Dakota. The court said the agency did not consider already installed emissions control technology at the Coal Creek generating station. The court declined to consider other plants in the plan.

### **Heating Oil RFS Final Rule Released**

The Environmental Protection Agency released September 24 a [final rule](#) to amend the definition of heating oil under the Renewable Fuel Standard, allowing additional renewable heating oil fuels to buy renewable identification numbers. It expanded the definition from certain renewable fuels for heating that met certain chemical requirements to all fuel oils used for heating purposes. Following the announcement, the Advanced Biofuels Association praised the rule, saying it would strengthen the cellulosic biofuels market.

### **Navajo Generating Station Supplemental Proposal**

The Environmental Protection Agency opened a public comment period September 25 on a [supplemental proposal](#) to reduce emissions at the Navajo Generating Station in Arizona. The agency originally proposed a federal implementation plan on February 5, and an alternative to create a lifetime cap on nitrogen oxide emissions was submitted. Public hearings are scheduled for the week of November 12 in Arizona, and comments will be accepted through January 6.

### **TX Emergency Orders Program Disapproval**

An Environmental Protection Agency [final rule](#) published on September 26 disapproves of the Texas Commission on Environmental Quality's emergency orders program. The agency said the program does not meet Clean Air Act and new source performance standards requirements.

### **Tier 3 Final Rule Delayed**

In a September 27 statement, the Environmental Protection Agency announced that the Tier 3 rule will not be released until February 2014 at the earliest. The agency was scheduled to release the final rule by the end of the year, but said it needed more time to review the 200,000 public comments. The adjusted schedule will not impede the proposed 2017 start date.

## **FEDERAL ENERGY REGULATORY COMMISSION**

### **Order 1000 Brief Filed**

The Federal Energy Regulatory Commission filed a brief in the U.S. Court of Appeals for the District of Columbia Circuit September 25, defending Order 1000, its 2011 cost allocation and transmission planning rule. The commission cited the Federal Power Act and said the legislation provides the authority to mandate regional transmission planning. Compliance filings are already being considered for the rule, which was designed to improve integration of renewable energy and storage technology into the electric grid.

### **FERC Eastern Regional Markets Conference**

The Federal Energy Regulatory Commission held a conference on wholesale electricity markets in the eastern portion of the U.S. September 25. The event was designed to address a number of issues including coal plant retirements, environmental regulations, natural gas generation, and renewable energy policies. The event focused on the ISO New England Inc., the New York Independent System Operator Inc., and the PJM Interconnection LLC markets.

### **Environmental Groups Urge Full EIS for LNG Terminal**

In a September 26 [letter](#), environmental groups urged the Federal Energy Regulatory Commission to conduct a full environmental impact statement for the Dominion Cove Point LNG export terminal. The groups, including EarthJustice and the Sierra Club, said an environmental assessment for the terminal, which received a conditional approval September 11, is not adequate.

## **NUCLEAR REGULATORY COMMISSION**

### **Nuclear Waste Fund Oral Arguments Begin**

Oral arguments for a case involving the Nuclear Waste Fund were heard September 25 in the U.S. Court of Appeals for the District of Columbia Circuit. The National Association of Regulatory Utility Commissioners asserted that collection for the fund should be suspended because a spent fuel waste program, the purpose of the fund, is not in place.

### **NV Files Rehearing Petition for Yucca**

The State of Nevada asked the U.S. Court of Appeals for the District of Columbia Circuit September 26 to rehear the August 13 ruling that required the Nuclear Regulatory Commission to restart the review of the Yucca Mountain nuclear waste repository. The state requested an en banc hearing, saying the majority opinion conflicted with controlling precedent.

## **INTERNATIONAL**

### **China to Phase Out HCFCs**

On September 17, China's Ministry of Environmental Protection announced that, in order to comply with the Montreal Protocol on Substances that Deplete the Ozone Layer, it has initiated a plan to phase out the production of hydrofluorocarbons. In order to undertake this effort, China will receive a \$385 million grant from the Montreal Protocol executive committee.

### **SEIA Proposes Compromise on US-China Solar Trade Dispute**

On September 23, the Solar Energy Industries Association offered an industry compromise between U.S. and Chinese solar industries. According to the group, the governments should negotiate a five-year agreement affirming that the negotiation is the best solution, establishes an American settlement fund and solar development institute, revokes U.S. orders on Chinese imports as well as Chinese duties on U.S. polysilicon, terminates existing judicial proceedings, and prohibits new trade remedy investigations.

### **ICAO Meeting Begins**

The International Civil Aviation Organization Assembly began its 38<sup>th</sup> meeting in Montreal on September 24. The 191 member states are expected to consider a global market-based approach to curb greenhouse gas emission. The meeting will run until October 4.

### **Putin on Arctic Development**

Russian President Vladimir Putin, addressing the September 25 International Arctic Forum, said the country will expand Arctic development while ensuring environmental protections. The government is drafting requirements for offshore projects, including rules on oil spill cleanup.

### **World Bank Low-Carbon Initiative Announced**

In a September 25 announcement, the World Bank unveiled its Low-Carbon Livable Cities (LC2) Initiative, which is designed to assist infrastructure financing in growing cities with a particular focus on low-carbon planning. More than \$1 trillion per year is needed to support infrastructure in these cities. President Jim Yong Kim said the projects will help tackle climate change. The initiative includes a creditworthiness program that will hold its inaugural session October 14-19 in Nairobi.

### **EU Renewable Energy Legislation Compliance**

The European Commission announced September 27 that it would add Italy and Spain to the list of 17 other countries that could face legal action if they do not implement renewable energy legislation requiring 20 percent renewable energy production by 2020.

## **STATES**

### **CA Fracking Permit Bill Signed into Law**

Governor Jerry Brown (D-CA) signed [S.B. 4](#), a bill requiring first time permits for fracking, into law September 20. The bill requires disclosure, groundwater and air quality monitoring, and advance notice of operations regulations. Environmental groups initially praised the bill, but withdrew their support when amendments to streamline the permitting process were added.

### **AK Fracking Regulation Public Hearing**

The Alaska Oil and Gas Conservation Commission held a public hearing September 23 to consider a new version of fracking regulations. Released August 7, the regulations specified requirements for chemical disclosure and expanded the notification geographic scope. Industry stakeholders expressed concerns about chemical disclosure and freshwater provisions. Chairman Cathy Foerster commented that the commission will extend the public comment period for three additional weeks.

### **LA Solar Tax Credit Bulletin Released**

The Louisiana Department of Revenue, in a September 24 [bulletin](#), said only solar electric, solar thermal, or a combination thereof would qualify for the recently approved solar energy systems tax credit. Signed into law in June, the act replaced the former wind or solar tax credit. The systems under the new law must be installed or purchased by a Louisiana State Licensing Board for Contractors licensed individual and must comply with the American Recovery and Reinvestment Act.

### **Bloomberg Touts Clean Air**

Addressing a September 26 Climate Week NYC event, Mayor Michael Bloomberg (D) said air quality for the city has reached its best level in 50 years. He tied the improvement to a phase out of heavy polluting heating oils under the 2007 PlaNYC initiative. Since 2008, sulfur dioxide levels have fallen 69 percent, nickel levels have dropped 35 percent, and small particulate matter levels have dropped 23 percent.

## **MISCELLANEOUS**

### **Oxfam Report on Climate Change, Food Production**

[\*Growing Disruption: Climate Change, Food, and the Fight Against Hunger\*](#), a September 20 report by Oxfam International, found that climate change impacts are expected to damage crop production and, as a result, harm food quality and human health. 2012 droughts led to a 25 percent cut in grain harvest in Russia and 25 percent cut in corn production in the U.S. Midwest. The report advocated for work to cut emissions and to create a sustainable food system.

### **Climate Leader Report Released**

The CDP S&P 500 Climate Change Report 2013, released September 23, found that the number of companies identified as climate leaders rose to 36 in 2013, up 20 from the previous year. The report also found that the Climate Performance Leadership Index average performance score increased 21 percent over the same time period. The study surveyed 722 investors.



### **Environmental Groups Oppose U.S.-Canada Keystone Deal**

Leaders from 25 environmental groups sent a [letter](#) to President Obama September 24, expressing opposition to any deal between the U.S. and Canada that could result in the approval of the Keystone XL pipeline. Canadian Prime Minister Stephen Harper and other officials had hinted that they were open to a deal to reduce carbon emissions if the U.S. approves the project. Groups represented include Bold Nebraska, the Center for Biological Diversity, Greenpeace, the League of Conservation Voters, Natural Resources Defense Council, and 350.org. The same day, the Sierra Club sent a similar letter to the president.

### **Groups Oppose PTC Extension**

In a September 24 [letter](#) to Congress, a coalition of 24 conservative groups expressed opposition to extending the production tax credit for wind projects. The group does not support a phase-out to the tax credit, saying it would still act as an extension and would not address underlying wind energy problems. Signers included the American Energy Alliance, Club for Growth, and Taxpayers for Common Sense.

### **Toyota Chairman Promotes Hybrids**

Toyota Motor Corporation Chairman Takeshi Uchiyamada, in a September 30 speech, said automakers should work collaboratively to sell 5 million hybrid cars by the end of 2016; 5 million hybrids have been sold as of March 2013.