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## **ENERGY & ENVIRONMENT UPDATE** **October 21, 2013**

### **ENERGY AND CLIMATE DEBATE**

Despite coming to an agreement to reopen the government and raise the debt ceiling last week, Congress will continue to address these issues over the next three months through the fiscal year 2014 appropriations and yet another debt limit increase. Now that the immediate crisis has passed, however, other issues, such as immigration reform and the farm bill, are beginning to receive renewed attention. The farm bill could be brought into the sequestration debate since the House version cuts \$54 billion from the deficit over 10 years and the Senate bill cuts \$23 billion, while also including an energy title. The conference committee could have its first formal meeting as early as October 28. Should the bill not pass, the 1949 farm bill would take effect automatically. The House is also expected to spend this week focusing on the Water Resources Reform and Development Act, with a vote on final passage on Thursday; the Senate approved its version, S. 601, in May.

In the Senate, the Shaheen-Portman energy efficiency legislation is still on deck, and the future of tax extenders is uncertain. Though we cannot expect to see a comprehensive energy package move forward anytime soon, Congress may pass a series of targeted bills, such as the hydropower legislation effort earlier this year. Even so, most energy developments will take place at the agency level on issues ranging from liquefied natural gas export permits, to Keystone XL, to greenhouse gas regulations.

The Supreme Court announced last Wednesday that it would hear cases concerning the Environmental Protection Agency's greenhouse gas regulations. Specifically, the court will consider whether the agency can regulate stationary sources' emissions under the Clean Air Act. Administrator Gina McCarthy said later that day that the agency will continue to advance the President's climate change agenda. She said the narrow focus of the court's questioning confirmed the agency's authority to protect public health and to regulate greenhouse gas emissions from mobile sources.

## CONGRESS

### **Senate Confirms Crowell**

The Senate confirmed Bradley Crowell to serve as Assistant Energy Secretary for Congressional and Intergovernmental Affairs by voice vote on October 16. Crowell, who has been with the agency since 2010, has previously worked as a senior policy advisor to Senator Sheldon Whitehouse (D-RI), a policy advisor to former Representative Chris Bell (D-TX), and a legislative advocate at the Natural Resources Defense Council.

### **Republican Letter on CA Fracking Law**

In an October 17 letter, Republican Californian members of Congress urged Governor Jerry Brown (D) to assess the impact of the September 20 fracking regulation law on the oil and gas industry. The letter, led by Representative Kevin McCarthy (R-CA), said the members are concerned that production will be curbed because the program does not adequately consider how the industry already conducts business.

### **Waxman, Rush Request Hearing on IPCC Report**

House Energy and Commerce Ranking Member Henry Waxman (D-CA) and Energy and Power Subcommittee Ranking Member Bobby Rush (D-IL) sent a [letter](#) to their Republican counterparts October 21, urging the committee to hold a hearing on the recent Intergovernmental Panel on Climate Change report. The September 27 report concluded with 95 percent certainty that climate change is anthropogenic. The members said the committee, which had a hearing in September with Energy Secretary Ernest Moniz and Environmental Protection Agency Administrator Gina McCarthy, should continue to address the issue of climate change.

### **Bills Introduced**

- On October 16, Representative Don Young (R-AK) introduced [H.R. 3294](#), a bill to create a streamlined process for states to claim authority over federal lands within their borders without claiming ownership.
- The same day, Representative Adam Kinzinger (R-IL) introduced [H.J.Res. 95](#), a joint resolution providing continuing appropriations for the Nuclear Regulatory Commission for FY14.
- The same day, Representatives David McKinley (R-WV), Nick Rahall (D-WV), Shelley Moore Capito (R-WV), and Bill Johnson (R-OH) introduced [H.J.Res. 96](#), a joint resolution providing continuing appropriations for Department of Energy fossil research and development for FY14.

## ADMINISTRATION

### **Ralls Corp. Appeals District Court Ruling**

After the U.S. District Court for the District of Columbia dismissed a case against the Obama Administration over a 2012 action to prevent the company from acquiring four wind farms on October 9, Ralls Corp. appealed the decision with the U.S. Court of Appeals for the District of Columbia on October 16. Last September, President Obama issued an order preventing the acquisition. Ralls, a company owned by Chinese nationals, challenged the action, saying the president should have disclosed the information he used when issuing the order.

## DEPARTMENT OF ENERGY

### **First U.S. Energy and Manufacturing Summit Announced**

The Office of Energy Efficiency and Renewable Energy and the Council on Competitiveness will hold the first American Energy and Manufacturing Competitiveness Summit December 12 in Washington, DC. The event is open to academic, industry, government, labor, media, and national laboratory stakeholders. It will address current manufacturing challenges and opportunities, American competitiveness, and concrete actions to spur growth.

## DEPARTMENT OF INTERIOR

### **CBD Letter on Mining during Shutdown**

The Center for Biological Diversity, in an October 15 [letter](#) to Secretary Sally Jewell, urged the Department of the Interior to halt drilling and mining practices on federal lands until the shutdown ends. The group said it is contradictory to close parks and refuges while still allowing private activities such. The organization plans to file a suit against the agency if the practices continue.

## DEPARTMENT OF TREASURY

### **Lew on World Bank Climate Action**

Secretary of the Treasury Jack Lew, addressing a joint International Monetary Fund and World Bank panel on October 12, praised the World Bank Group's leadership on promoting a low-carbon future. He said other groups should model their policies after the group's new energy strategy. Secretary Lew urged the bank to ramp up climate change mitigation efforts. He promoted fossil fuel subsidy reductions and clean energy investment.

## ENVIRONMENTAL PROTECTION AGENCY

### **SCOTUS to Hear GHG Regulation Cases**

The Supreme Court announced October 15 that it will consider several lawsuits that question whether the Environmental Protection Agency can regulate greenhouse gas emissions from stationary sources under the Clean Air Act. While nine petitions were filed, the court decided to hear cases submitted by the American Chemistry Council, the Southeastern Legal Foundation, the state of Texas, the U.S. Chamber of Commerce, the Utility Air Regulatory Group, and a group of manufacturers.

### **API Announces Intent to Sue Over 2014 RVOs**

The American Petroleum Institute sent a formal notice of intent to sue October 17 to the Environmental Protection Agency over the 2014 Renewable Fuel Standard requirements. The group said it would sue the agency if it misses the November 30 statutory deadline to release the renewable volume obligations. The agency missed the deadline for the 2013 requirements by several months.

### **RGGI Chair on Proposed EPA Rules**

Addressing the October 17 annual meeting in Connecticut, Regional Greenhouse Gas Initiative Outgoing Chairman Collin O'Mara said the group believes the cap-and-trade program complies with recently proposed Environmental Protection Agency emissions regulations for new power plants. Many states are working to approve a new model rule to lower the regional cap by 45 percent by the end of the year.

### **Navistar Case Dismissed**

The U.S. Court of Appeals for the District of Columbia Circuit on October 18 dismissed a case over a 2012 Environmental Protection Agency decision to allow Navistar Inc. to pay nonconformance penalties for diesel engines for nitrogen oxide standards. Several automobile groups filed a suit against the agency, asking the court to retroactively void the certificates which had expired in December. The court determined that the issue was moot.

### **EPA Reschedules Boston, Philadelphia Sessions**

Due to the government shutdown, the Environmental Protection Agency rescheduled October 18 two listening sessions on forthcoming emissions rules for existing power plants. The Boston event will be held November 4, and the Philadelphia session will be on November 8.

### **PA Coal Plants Suit Filed**

Earthjustice and the Sierra Club filed a suit in the U.S. District Court for the Eastern District of Pennsylvania on October 21 against the Environmental Protection Agency over seven coal-fired power plants. The groups said the agency has not addressed petitions that challenged air pollution permits for the facilities.

## **FEDERAL ENERGY REGULATORY COMMISSION**

### **Wellinghoff on Energy Efficiency, Shutdown**

Keynoting the October 15 National Summit on Integrating Energy Efficiency and Smart Grid, Federal Energy Regulatory Commission Chairman Jon Wellinghoff said the term “all-of-the-above” is being overused. He instead promoted energy efficiency, saying it is the most cost-effective way to improve energy usage.

### **FERC Changes Footnote B Reliability Standard**

The Federal Energy Regulatory Commission approved a final rule October 17 to change transmission planning reliability standards to include non-consequential load loss factors. Commissioner Cheryl LaFleur praised the action, saying the standard, [listed](#) as item E-2, was substantially approved.

## **INTERNATIONAL**

### **EU Environment Ministers to Reopen Car Emissions Talks**

At an October 14 European Union environment ministers meeting, members agreed to reopen negotiations on draft emissions limits legislation with the European Parliament. A June joint EU Council and European Parliament informal agreement would have limited private car carbon dioxide emissions at 152 grams per mile beginning in 2020, but Germany blocked the ratification by the Council.

### **China Investigation of Polluting Companies**

The Chinese Ministry of Environmental Protection released October 14 information from an investigation of 72 companies that were found to have committed 91 environmental infractions. The infractions ranged from excessive air pollutant emissions to failure to pay pollution discharge fees in a timely manner. Three companies have been ordered to end operations.

### **European Air Quality Assessed**

The European Environment Agency released the [Air Quality in Europe 2013 Report](#) October 15, measuring air quality standards across the continent from 2002 to 2011. The study reported that

Bulgaria has the highest concentrations of carbon monoxide, sulfur dioxide, and two types of particulate matter. Poland and northern Italian cities also report poor air quality, while Estonia has the cleanest air.

### **IPCC Meeting Adopts Methodology Reports**

At the conclusion of the Intergovernmental Panel on Climate Change Task Force on National Greenhouse Gas Inventories' October 15-18, meeting in the Republic of Georgia, the group approved two methodology reports. The United Nations will use the reports for terms of reference for future global climate change agreement talks over the next two years.

### **IEA on Energy Efficiency Market**

Addressing the 22<sup>nd</sup> World Energy Congress October 16, International Energy Agency Executive Director Maria Van der Hoeven said governments should better engage with private sector investors in order to increase knowledge about the energy efficiency market. The Congress released an associated [report](#), stating that the global energy efficiency market in 2011 had investment of up to \$300 billion, on par with renewable and fossil energy investment.

### **WHO Recognizes Air Pollution as a Carcinogen**

The World Health Organization's International Agency for Research on Cancer [announced](#) October 17 that it will consider air pollution as a carcinogen. While individual risk is low, sources of the gases and particulate matter can be found in multiple sectors, including transportation and agriculture. The pollution, previously considered to increase the risk of heart and lung disease, has been identified as the highest priority environmental carcinogen, ahead of secondhand smoke. Following the report's release, Senate Environment and Public Works Chairman Barbara Boxer (D-CA) [announced](#) that the committee would hold a hearing on air pollution.

### **Report on Climate Change Impacts on East Asia**

The Asian Development Bank released its report [Economics of Climate Change in East Asia](#) October 17, finding that the impacts of climate change could negatively impact 12 million people, 23 cities, and \$864 billion in assets in East Asia. The report recommended strong investment in agriculture, coastal protection, and infrastructure to better handle rising sea levels, stronger storms, and severe droughts associated with climate change.

## **STATES**

### **IA Unveils E30 Program**

Iowa Governor Terry Branstad (D) unveiled the "Fueling Our Future" program October 14 to install more E30 pumps at gasoline stations in the state. The initiative, overseen by the Iowa Renewable Fuels Infrastructure Board, is a public-private partnership spurred by \$250,000 in existing U.S. Department of Transportation anti-pollution funds.

### **NJ Power Plant Proposal Unconstitutional**

The U.S. District Court for the District of New Jersey ruled October 14 that the state's Board of Public Utilities cannot require ratepayers to subsidize the costs of proposed natural gas-fired power plants. The Long Term Capacity Pilot Program Act was passed in January 2011, and it has been estimated to cost ratepayers \$3 billion over 15 years. Judge Peter Sheridan concluded that while the state can incentivize plant construction, regulating an area overseen by the Federal Energy Regulatory Commission is unconstitutional.

### **CA Approves Energy Storage Requirement**

The California Public Utilities Commission approved a [proposal](#) October 17 to require utilities to purchase energy storage capacity by 2020. Under the plan, Pacific Gas and Electric Company, San Diego Gas & Electric, and Southern California Edison must buy 1.324 GW by 2020 and must submit a proposal on how they plan to purchase the first 200 MW by this March.

### **WA Environmental Groups' Case Found to Lack Standing**

The U.S. Court of Appeals for the Ninth Circuit ruled October 17 that environmental groups do not have the standing to sue Washington state agencies over federal greenhouse gas regulations for oil refineries. In April 2012, the Washington Environmental Council and the Sierra Club filed the suit against the Washington Department of Ecology, urging the agency to regulate greenhouse gas emissions as air pollutants. While the U.S. District Court for the Western District of Washington ruled in favor of the environmental groups, the appeals court remanded the case back to dismiss for a lack of jurisdiction.

### **NY Renewable Power Capacity RFP Released**

The Long Island Power Authority released a request for proposals October 18 for up to 280MW of new, on-island renewable power generation capacity. Projects can range from 2 to 280MW, but biomass-based projects must have a maximum capacity of 40MW. Proposals are due by March 31, and projects must be placed in service before December 31, 2018.

## **SUSTAINABILITY**

### **Report on Supermarket HFC Emissions**

The Environmental Investigation Agency released [The Dirty Dozen: How Your Local Supermarket is Killing the Climate](#) October 17, finding that eleven of the largest U.S. supermarkets have not worked to phase out hydrofluorocarbons emissions from refrigeration units. Only a handful of the eleven companies surveyed have installed systems without HFCs. The report urged the companies to take meaningful steps to reduce emissions.

## **MISCELLANEOUS**

### **Momentum of CCS Development Report**

The Global CCS Institute's October 10 [report](#) found that the momentum of development of carbon capture and storage technology is too slow to adequately mitigate the impacts of climate change. The report tracked the number of CCS projects under construction or entering operation over the past several years: 12 projects in 2010, 16 projects in 2011, and 20 projects in 2012. The study advocated for increased public acceptance and for global cooperation on research and development.

### **BNEF Projects Clean Energy Investment Decline**

Bloomberg New Energy Finance [projected](#) October 13 that clean energy investment will decline again in 2013. Global investment dropped 14 percent from the second to the third quarter of this year, and the group said fewer European subsidies and the U.S. shale gas boom were the reasons investments chilled. Compared to the same time last year, third quarter investment fell 20 percent. 2012 saw a decline in global investment, totaling only \$281 billion.

### **Renewable Energy Patent Report Released**

Santa Fe Institute, Massachusetts Institute of Technology, and University of North Carolina-Chapel Hill professors released [Determinants of the Pace of Global Innovation in Energy Technology](#), a

report that tracked innovation in the renewable energy market, October 14. It found that by 2009 over 1,000 renewable energy technology patents were filed annually compared to the approximate 200 filed each year between 1975 and 2000. These numbers were compared to the 300 fossil fuel technology patents filed in 2009 and the 100 fossil fuel patents filed in the earlier period.

### **Landowners Sue FirstEnergy Coal Ash Impoundment**

Pennsylvania and West Virginia landowners filed a suit in the U.S. District Court in Wheeling on October 14 against FirstEnergy over groundwater pollution. The group said the coal ash impoundment at the Little Blue Run residual waste disposal facility is unlined and has leaked arsenic, hydrogen sulfide gas, and other substances.

### **USESC Transportation Fuel Report Released**

The U.S. Energy Security Council released its report [\*Fuel Choice for American Prosperity: Recommendations to the Nation on Opening the Transportation Fuel Market to Competition\*](#) October 15, advocating for the open fuel standard as a way to improve competition in the transportation fuel market. The report recommended an alcohol fuels initiative with Brazil and China in order to share best practices.

### **Hywind Maine Project Pulled**

Norwegian energy company Statoil announced October 15 that it had decided to not pursue its Hywind Maine project. The \$120 million project would have erected four floating wind turbines on the Maine coastline. Following the passage of a state law reopening the bidding process for the project, the company told the Maine Public Utilities Commission that it was placing it on hold.

### **GM Developing CNG Impalas**

General Motors CEO Daniel Akerson announced October 16 that the company would begin selling Impala passenger sedans capable of running on both gasoline and compressed natural gas next summer. The effort will begin small because the infrastructure is small.

### **TransCanada Exec on Keystone Schedule**

Addressing an October 16 conference in Calgary, TransCanada President of Energy and Oil Pipelines Alex Pourbaix said he expects the U.S. to reach a decision on the Keystone XL pipeline in the first quarter of 2014. He also said he expects the State Department's final environmental impact statement to be released this fall.