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## **ENERGY AND ENVIRONMENT UPDATE**

### **February 24, 2013**

#### **Energy and Climate Debate**

Congress returns to Washington this week after the Presidents' Day recess, and, while facing the March 1 sequestration deadline, will continue to address energy issues in several committees. Meanwhile, issues of natural gas exports and new agency leadership will continue to hold the attention of the administration on the energy front.

Erskine Bowles and Alan Simpson, co-chairs of a 2010 deficit commission created by President Obama, unveiled an updated version of their original plan February 19, calling for \$900 billion more in deficit reduction than the president has said is needed. The plan also includes using some revenues from tax reform to reduce the deficit, and proposes a 3-1 ratio of spending cuts to new revenues, including \$600 billion in new revenues and \$600 billion in savings from health care spending. Other reductions include some mandatory outlay cuts, tighter discretionary spending caps, adopting a new measure for indexing inflation, and a reduction in interest costs. Though the chances of Congress reaching a deal before Friday are uncertain, the Senate is expected to debate several plans this week aimed at preventing the automatic spending cuts from taking effect.

Senate Majority Leader Harry Reid (D-NV) and Minority Leader Mitch McConnell (R-KY) are expected to introduce competing plans to replace the sequester.

#### **Congress**

##### **Tar Sands Reversal Challenged**

Representative Chellie Pingree (D-ME) circulated a Dear Colleague letter last week urging the State Department to require a new Presidential Permit and full environmental impact statement for the reversal of the Portland-Montreal Pipeline. The decades-old pipeline was designed to carry traditional crude oil, and signatories are concerned that the transportation of heavier, more viscous, and acidic tar sands crude may pose an elevated risk of spills and other pipeline problems. As of the February 22 deadline, Congressmen Ed Markey (D-MA), Mike Michaud (D-ME), Carol Shea-Porter (D-NH), Charles Rangel (D-NY), Steve Cohen (D-TN), John Tierney (D-MA), and Peter Welch (D-VT), and Senators Bernie Sanders (I-VT) and Patrick Leahy (D-VT) had signed the letter.

##### **Wyden's Agenda**

As he begins his tenure as chairman of the Senate Energy and Natural Resources Committee, Senator Ron Wyden (D-OR) is considering a range of clean energy proposals and plans to prioritize ways to reduce GHG emissions and address climate change. Working in a bipartisan fashion with Senator Lisa

Murkowski (R-AK), ranking member of the committee, among the measures Senator Wyden is most likely to bring forward in the 113th Congress include targeted, bipartisan pieces related to financing clean energy technologies, specifically via technology neutral tax policy, promoting alternative fuel vehicles, energy efficiency, natural gas, an Energy Security Trust fund, and potentially reintroducing a Clean Energy Standard. In an attempt to clear the docket from last year, Senator Wyden plans for the committee to get through a number of public lands and hydropower bills. He is also interested in exploring the role of Department of Energy programs, particularly how the budget will impact research and development.

#### Upcoming Hearings

The House Energy and Commerce Subcommittee on Energy and Power will hold a hearing February 26 to consider energy efficiency. With a heavy focus on private-sector successes and opportunities for energy efficiency technologies, Senator Lisa Murkowski (R-AK) is scheduled to testify about the efficiency provisions included in her energy blueprint. Other witnesses on the three panels include Senator Jeanne Shaheen (D-NH); Department of Energy Deputy Assistant Secretary for Energy Efficiency Kathleen Hogan; Kevin Kosisko, Vice President Service, North America ABB on behalf of the National Electrical Manufacturers Association and Industry Energy Efficiency Coalition; Britta MacIntosh, Vice President of Business Development for NORESO on behalf of the Federal Performance Contracting Coalition; James Crouse, Executive Vice President of Sales and Marketing for Capstone Turbine Corporation on behalf of the U.S. Combined Heat and Power Association; Helen Burt, Senior Vice President and Chief Customer Officer for Pacific Gas and Electric Company; R. Neal Elliott, Associate Director for Research at the American Council for an Energy Efficient Economy; and Ted Gayer, Co-Director of Economic Studies and a Joseph A. Pechman Senior Fellow at the Brookings Institution.

The House Science, Space, and Technology's Subcommittee on Environment will hold a hearing February 26 on the consumer and technical research needs for mid-level ethanol blends.

The House Energy and Commerce Environment and Economy Subcommittee will hold a hearing February 28 to consider the Nuclear Regulatory Commission's post-Fukushima safety reforms, nuclear waste, and NRC operating procedures. All five commissioners are scheduled to testify.

#### **Administration**

##### Arctic Research Plan

The National Science and Technology Council released a five-year research plan February 19 to assist in better understanding and predicting environmental changes in the Arctic. The *Arctic Research Plan* outlines seven areas of governmental and nongovernmental research for 2013-2017: sea ice and marine ecosystems; terrestrial ice and ecosystems; atmospheric studies of surface heat, energy, and mass balances; observing systems; regional climate models; adaptation tools for sustaining communities; and human health.

##### Japanese PM Visits WH

President Obama hosted Japanese Prime Minister Shinzo Abe February 22 for bilateral talks on Japan's territorial disputes with China, North Korea's nuclear test, economics, energy, and cybersecurity. During the talks, Prime Minister Abe asked President Obama to approve U.S. natural gas exports to Japan, as Japanese government officials continue to lobby the administration and Congress to approve domestic liquefied natural gas exports to Japan to help offset the loss of nuclear generation following the 2011 Fukushima nuclear disaster. Michael Froman, White House deputy national security adviser for international economic affairs, reiterated February 21 that the Department of Energy is in the middle of a public comment period for two economic studies that examine the impacts of liquefied natural gas exports on natural gas prices and American businesses.

#### **Department of Energy**

##### Chu to Return to Stanford

The Department of Energy confirmed February 22 that outgoing Energy Secretary Steven Chu would return to Stanford University once his successor is confirmed. Secretary Chu taught physics at Stanford from 1987-2008, and he will return as the William R. Kenan, Jr. professor of humanities and sciences, holding a joint appointment in the school's physics department and the School of Medicine's molecular and cellular physiology department. He will focus on energy efficiency policy and help launch an initiative in advanced bio-imaging. President Obama has not yet nominated a replacement for Secretary Chu, but Ernest Moniz, a physicist at the Massachusetts Institute of Technology has emerged as the front-runner.

#### \$20 Million for Cybersecurity

The Department of Energy announced February 21 that it will award \$20 million through cost-share agreements to develop ways to protect the control systems of the country's electric grid and oil and natural gas networks from cyber attacks. The agency hopes to demonstrate and ultimately commercialize cost-effective, scalable technologies and techniques that would protect energy infrastructure and remote access capabilities without interrupting service.

#### \$8.33 Billion Loan Guarantee

Southern Company announced February 21 that it is optimistic that it will close on an \$8.33 billion Energy Department loan guarantee for its Vogtle nuclear plant expansion sometime in the middle of the year.

### **Department of Health and Human Services**

#### Weather's Impact of Device Safety

The Food and Drug Administration announced February 20 that it is seeking comments from industry and the public ahead of an April 11 Device Good Manufacturing Practice Advisory Committee meeting on the impacts of extreme weather and natural disasters on medical device production and supply. The call for comments and meeting are part of the agency's ongoing federal disaster preparedness efforts.

### **Department of State**

#### Keystone Support

During a February 19 briefing at the National Association of Manufacturers, Alex Pourbaix, president of TransCanada's oil pipelines and energy division, called on President Obama to approve the Keystone XL pipeline and rejected concerns that Canadian oil sands production would hasten climate change. Canada will pursue unconventional oil sands development in Alberta irrespective of the Obama Administration's approval of a permit for the 1,700-mile pipeline.

#### CRS Keystone XL Report

On February 22, the Congressional Research Service release the latest in a series of reports focused on different aspects of the pipeline project. The report, Oil Sands and the Keystone XL Pipeline: Background and Selected Environmental Issues, claims the State Department has broad discretion to determine whether issuing a permit for the proposed pipeline would be in the national interest.

### **Environmental Protection Agency**

#### Existing Authority Could Reduce GHGs

The Institute for Policy Integrity petitioned the Environmental Protection Agency February 19 to use existing authority under the Clean Air Act to address climate change. The institute contended that the agency should use its authority under Section 115 to address pollutants that cross international boundaries and authority under Section 615 to protect the stratosphere to require states to reduce GHGs. The institute claims that taking action under the two provisions would reduce emissions more quickly than regulating sectors individually.

#### Uncertainties Prevented NOx, SOx Revisions

The Environmental Protection Agency filed a brief February 19 in the U.S. Court of Appeals for the District of Columbia Circuit saying that substantial scientific uncertainties surround the NOx and SOx air

standards intended to protect the environment. The agency determined that the uncertainties were too great for it to determine whether a revised standard would be stringent enough or too stringent, and the Clean Air Act does not require it to revise standards under those circumstances.

#### McCarthy Praises Climate Efforts

Speaking at a clean energy summit at the Georgetown Climate Center February 21, Gina McCarthy, Environmental Protection Agency assistant administrator for air and radiation and one of two leading candidates to replace former Administrator Lisa Jackson, praised state officials for their work to address climate change and expressed her continued appreciation of and support for regional greenhouse gas initiatives and climate change efforts. She promised that the agency would improve its cooperation with state and local governments as they address climate change through energy efficiency and renewable energy programs. In addition to highlighting the need to strengthen electric vehicle infrastructure, she also expressed excitement over cellulosic biofuels.

#### Annual GHG Report Released

The Environmental Protection Agency published a notice February 22 seeking comment on revised methodologies to calculate GHG emissions as part of its annual *Inventory of U.S. Greenhouse Gas Emissions and Sinks: 1990-2011*. The agency will accept comments until March 25.

#### E15 Challenge Continues

The American Petroleum Institute and the Grocery Manufacturers Association asked the Supreme Court February 21 to review a U.S. Court of Appeals for the District of Columbia Circuit ruling that the groups lacked standing to challenge Environmental Protection Agency waivers that increased the amount of ethanol permitted in gasoline for newer vehicles.

#### RFS Hearing Scheduled

The Environmental Protection Agency announced February 21 that it will hold a public hearing March 8 in Ann Arbor, Michigan, on its proposed renewable fuel standard volume requirements for the country's fuel supply this year. The same day, the agency said that it will extend the comment period on the proposed volume requirements from March 25 to April 7.

#### RIN Quality Assurance Program

The Environmental Protection Agency published February 21 its proposed quality assurance program for renewable identification numbers. The agency informally released a proposed rule January 31 under which it would establish qualifications for third-party auditors who would determine the validity of the RINs.

#### States And locals File MATS Brief

On February 21, sixteen states and five local intervenors filed a brief with the U.S. Court of Appeals for the District of Columbia that defends the Environmental Protection Agency's authority to regulate mercury and air toxics standards (MATS) for existing power plants. The intervenors brief also argues that the experience of states demonstrates that such standards can be met with the existing technology that is widely used in the utility sector.

#### Landfills Suitability for Solar

The Environmental Protection Agency and the Energy Department's National Renewable Energy Laboratory (NREL) unveiled a report February 22 that identifies the benefits of siting solar projects at solid waste landfill sites. The EPA-NREL report, *Best Practices for Siting Solar Photovoltaics on Municipal Solid Waste Landfills*, identified several benefits: landfills are often located near critical infrastructure, landfills are often located in areas with large populations and high energy demands, landfills offer lower land costs, and landfills are often able to accommodate utility-scale projects.

### **Federal Energy Regulatory Commission**

### First Order 1000 Filings

In what will be a multiyear Federal Energy Regulatory Commission initiative to improve coordination between regions and share the cost of building long-distance transmission lines, the commission acted February 21 on the first compliance filings to the Order 1000 transmission planning rule. The commission rejected a proposal by Duke Energy and Alcoa Power Generating Inc. to form a single transmission planning region, saying that Duke should look beyond the North Carolina border to involve other regions in the Mid-Atlantic and Southeast, and submit a revised compliance filing within 90 days. The commission approved a waiver of the transmission planning requirements for Maine Public Service Company, a utility that is geographically isolated and does not have significant connections to other regions, and granted a request to vacate a proposal to build a liquefied natural gas import terminal in Calhoun County, Texas.

### Increased RE Generation

The Federal Energy Regulatory Commission's Office of Energy Projects released an Energy Infrastructure Update February 20 in which it found that the country had 1,231 MW of new in-service generating capacity come online this January, all from renewable sources. The new capacity represents a three-fold increase from the 431 MW of new renewable generating capacity that came online last January, with six wind units providing 958 MW, 16 solar units generating 267 MW, and six biomass units contributing 6MW to the grid.

## **Securities and Exchange Commission**

### Financial Industry's Climate Impact

Boston Common Asset Management announced February 19 that the Securities and Exchange Commission will allow investors to seek information about the finance sector's contribution to climate change through shareholder resolutions. The company filed a shareholder resolution with the commission requesting that PNC Financial assess its exposure to climate change risk in order to remain on the 2013 proxy ballot.

## **Personnel**

Sarah Bittleman will soon depart the Department of Agriculture, where she serves as senior advisor to the Secretary of Agriculture, to lead agriculture issues at the Environmental Protection Agency.

## **International**

### Chinese Combustion Engine Standards

China's State Council released a policy document February 17 regarding the implementation of future requirements related to energy savings and emissions for internal combustion engine manufacturing. The requirements would establish limits on oil consumption in combustion engines running on gasoline and diesel fuel and provide technical standards for energy savings and emission reductions.

### China LEDs Support

China's National Development and Reform Commission (NDRC) and six other ministries February 17 announced a plan to boost LED lighting's share of China's lighting market to 20 percent by 2015. The plan is aimed at upgrading technology, supporting consolidation of the LED industry and controlling overcapacity of production. By 2015, China's LED lighting industry is expected to reach \$72 billion.

### 2020 GHG Reduction Agreement Needs Specifics

Co-chairmen of the United Nations Ad Hoc Working Group on the Durban Platform for Enhanced Action issued a memorandum February 18 urging developed and developing countries to hasten their efforts and offer more specifics on the scope and structure of an international global agreement to reduce GHG emissions that needs to be in place by 2020. The group is coordinating international climate negotiations launched at the 2011 climate summit, under which the 190 participating countries agreed to take action to address climate change by adopting a deal in 2015, giving nations five years to ratify it. The co-chairmen

have requested proposals by March 1 that can provide the largest potential for mitigating emissions; address the need for pre-2020 emissions reduction actions; and suggest ways to build climate impact resilience.

#### Chinese Environmental Tax Reform

China's Ministry of Finance February 18 has placed environmental tax reform--including a carbon tax--on the list of tax reform policies that China will seek to implement over the next five years. Such tax reforms have been under discussion since the 11th Five-Year Plan.

#### EU Tariffs on U.S. Ethanol

Growth Energy and the Renewable Fuels Association pledged February 19 to challenge the European Union's new \$83 million/MT tariff on American ethanol. The EU imposed a five-year tax on U.S. bioethanol after European manufacturers complained that U.S. exporters were dumping it in the region, or selling it below cost. The EU already imposes anti-dumping duties on U.S. biodiesel imports.

#### EU ETS Allowance Backloading

The European Parliament's environment committee voted February 19 to defer emission allowance auctions in the European Union's emissions trading system in order to increase carbon prices. If ratified, the measure would backload allowances, deferring auctions of 900 million emission allowances from 2013-2015 to 2019-2020. The committee will vote February 26 on whether to seek agreement with the EU Council ahead of a full parliament vote, or go straight to the vote.

#### China Emission Standards

China's Ministry of Environmental Protection (MEP) plans for implementation of stricter emission control policies appear to be proceeding. Starting March 1, any proposed projects in thermal power, iron, steel, petrochemicals, chemicals, nonferrous metals, cement, and coal-fired industrial boilers within key control areas must have environmental impact assessments that take into account the emission requirements of MEP's plan.

#### EU 2030 Climate Objectives Forthcoming

The European Commission announced February 20 that it would publish before the end of next month a consultation paper on potential European Union climate and energy objectives for 2030. The block already has binding 2020 targets that require it to reduce GHG emissions by 20 percent compared to 1990 levels, and to increase renewable energy in its overall energy supply to 20 percent.

#### EU-Chinese Solar Trade Case

The European Union confirmed February 21 that it will consider European solar panel manufacturers' request for the registration of Chinese solar panel imports as part of an ongoing antidumping investigation, but reiterated that countervailing duties are not necessarily imminent. The confirmation comes a day after China delayed a preliminary determination of tariffs on polysilicon from the European Union, South Korea, and the United States that it began investigating last November. Citing an independent study from the Swiss economic institute Prognos, the Alliance for Affordable Solar Energy said February 19 that a punitive 60 percent tariff on Chinese solar panel imports could kill 193,700 jobs in the region, but ProSun, which filed the complaint, insists that the report's methodology is flawed.

#### UK's Reduced VAT Challenged

The European Commission filed a challenge February 21 before the European Court of Justice to have the United Kingdom's reduced value added tax rates for the supply and installation of energy saving material overturned. The commission had warned the country twice to repeal the rates, finding that the EU VAT law does not allow member states to apply reduced rates, and that the U.K. law goes beyond the scope of what is permitted. The nation adopted the lower rates to increase energy efficiency and renewable energy and reduce GHG emissions.

#### China Pollution Liability Guidelines

The Ministry of Environmental Protection (MEP) and the China Insurance Regulatory Commission (CIRC) February 21 announced the first set of guidelines for a mandatory pollution liability insurance pilot program in China.

#### Canadian Carbon Contest

Alberta's Climate Change and Emissions Management Corp. (CCEMC) February 21 announced a global contest to identify innovative uses of carbon emissions. The CCEMC Grand Challenge: Innovative Carbon Uses will award up to \$34.3 million in grants through three rounds of funding over a five-year period.

#### EU Bioethanol Duties

European Union trade officials February 22 concurred with European ethanol producers complaints that U.S. producers were selling their exports for less than they were charging domestically. As a result, U.S. bioethanol exports to the EU will be subject to \$83.65 a ton anti-dumping duty. The new EU anti-dumping went into effect February 23.

### **States**

#### SC Coal Ash Leakage

The Southern Environmental Law Center sent a letter to Santee Cooper February 21 informing the public utility of its plans to sue over leaks from coal ash lagoons at its Grainger power plant in Conway, South Carolina unless it enters into a binding agreement within 60 days to stop the violations. The lagoons are releasing unauthorized discharges of arsenic and other pollutants into the Waccamaw River and nearby wetlands in violation of the Clean Water Act.

#### CA Draft Fracking Rule Criticized

Environmental advocates led by the Center for Biological Diversity criticized February 19 California's December 2012 proposal to regulate fracking. During a public workshop at the Department of Conservation's Division of Oil, Gas, and Geothermal Resources, the groups claimed that the disclosure, advance notification, enforceability, and other requirements in the draft regulations do not go far enough to protect the public, water supplies, and the environment.

#### IL Fracking Bill

Illinois Governor Pat Quinn (D) expressed support for a bill (H.B. 2615) that would impose some of the strongest safeguards on hydraulic fracking. The bill would grant broad authority to the Illinois Department of Natural Resources to write rules, issue permits, inspect sites and enforce the proposed law.

### **Miscellaneous**

#### Wal-Mart Quietly Greens Supply Chain

Speaking February 20 at the GreenBiz Forum, Jeff Rice, Wal-Mart's senior director of sustainability, said that the company is focused on making products more sustainable by working with its supply chain and buyers, but that it is not yet actively advertising the green attributes of its products to consumers. He reiterated that Wal-Mart customers are interested in sustainable products, but not in sacrificing cost or quality to purchase them.

#### NGOs Encourage Sustainability Effectively

Ernst & Young and GreenBiz Group released February 20 the results of a sustainability risk management and reporting study that will be published this spring finding that nongovernmental organizations are playing a more significant role in urging companies to be sustainable than governments or multilateral organizations. Ernst & Young surveyed more than 360 corporate executives last fall for the study.

#### McDonald's Sustainability Efforts

Bob Langert, McDonald's vice president of corporate social responsibility, said February 21 that the company is increasing the resources it devotes to sustainability. The company has increased the size of its sustainability team and the financial resources devoted to sustainability work within the company, made its chief financial officer more involved in sustainability initiatives, and begun to more sustainably source its beef. McDonald's is collecting more data about its environmental and social performance from

its franchise owners and operators, and has found that its most significant environmental issue is its energy use; in the United States, the company spends \$800 million per year on energy.